HOUSE OF ASSEMBLY

Wednesday 14 November 2012

The SPEAKER (Hon. L.R. Breuer) took the chair at 11:02 and read prayers.

STATUTES AMENDMENT (NATIONAL ENERGY RETAIL LAW IMPLEMENTATION) BILL

The Hon. T.R. KENYON (Newland—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport) (11:04): I move:

That the sitting of the house be continued during the conference with the Legislative Council on the bill.

Motion carried.

STATUTES AMENDMENT AND REPEAL (TAFE SA CONSEQUENTIAL PROVISIONS) BILL

The Hon. T.R. KENYON (Newland—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport) (11:04): I move:

That the sitting of the house be continued during the conference with the Legislative Council on the bill.

Motion carried.

GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT BILL

The Hon. T.R. KENYON (Newland—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport) (11:04): I move:

That the sitting of the house be continued during the conference with the Legislative Council on the bill.

Motion carried.

RIVERBANK FOOTBRIDGE

Ms SANDERSON (Adelaide) (11:04): I move:

That the regulation made under the Development Act 1993, entitled Riverbank Footbridge, made on 12 July 2012 and laid on the table of this house on 4 September, be disallowed.

This regulation is in addition to schedule 1A of the Development Regulations 2008 where 'development that does not require development plan consent' are listed. Detailed in this section are a number of residential improvement items, for example, brush fences, garden sheds, carports, verandahs, swimming pools, shade sails, rainwater tanks, bushfire shelters and solar panels. However, tacked on at the bottom at No. 16 is the Riverbank footbridge and it states:

The construction of a bridge over the River Torrens, and any excavation, filling, or other works incidental to such construction, for use by pedestrians connecting the Institutional (Riverbank) Zone with the land in the Park Lands Zone of the Corporation of the City of Adelaide that falls in, or within 500 metres, of the Adelaide Oval Core Area within the meaning of the *Adelaide Oval Redevelopment and Management Act 2011*.

This is quite a contrast to your humble backyard veranda, as the bridge is estimated to cost $40 million and is built on Parklands. This regulation has been used as a loophole to avoid a very specific clause in the Development Act 1993 that states that capital works on Parklands are subject to assessment.

Given the current level of state debt and the loss of our AAA credit rating, I think it is imperative that any project, especially one that costs $40 million, should be exposed to some level of scrutiny, yet we see this government using somewhat of a loophole to avoid any form of scrutiny. There is no chance for parliament to have input over what is a considerable spend and what will also have a considerable impact on an area that has become an iconic vista associated with the City of Adelaide.

When the Adelaide Oval legislation was passed last year, the Liberal opposition passed an amendment to cap the costs of the entire project at $535 million. We did this because we just could not trust Labor to stick to their word. Lo and behold, Labor has found a way to spend more of our money. Mike Rann is quoted as stating:

It's $450 million and not a bottomless pit. There are other partners, football and cricket. We, the government, are prepared to put in $450 million but they, the sporting codes, have to kick into the tin as well, after all, it is for their benefit.

The original plan was to include parking and a footbridge, but since that famous $450 million promise, we have seen $85 million added to pay off SACA debt, a $30 million grant from the commonwealth government—more taxpayers' money—and now, $40 million for a footbridge. A total cost of over $600 million to taxpayers.

We have seen very little tin-kicking from football and cricket. The AFL has promised $5 million which will all go into retrofitting the newly built western grandstand to meet their own requirements, such as a media area, as filming must be done from the western side of the grandstand to avoid filming into the afternoon sun.

We see this government handing out huge infrastructure projects with one hand and penny pinching from essential services with the other. Just this year we have seen attempted cuts of $400,000 for the Cadell Ferry, $100,000 for St John Ambulance service and $43,000 for the Breastfeeding Association. All of these ill-advised moves from the government were met with extreme outcry and were all reversed. I am sure the latest cut of $60,000 for the emergency on-call services for the Snowtown hospital and the Snowtown clinic will be met with the same public outcry.

An issue that worries me almost as much as the cost and the questionable way in which this project was approved is whether there is a definite need for it. The Adelaide Bridge on King William Street, when constructed in 1931, was designed to accommodate crowds of in excess of 50,000 spectators and has done so on many occasions since. In 1946, the SANFL grand final between Norwood and Port Adelaide drew a crowd of 53,473; 50,480 people watched the 1950 SANFL grand final; and in 1953, 52,632 people unfortunately saw Victoria defeat South Australia by 99 points in the Australian National Football Carnival.

However, all of these people managed to go to and from the game without any trouble. It seems funny now that all of a sudden we need a footbridge. Does this government believe that people have changed so much that the Adelaide Bridge is no longer sufficient? Maybe they believe South Australians have become lazy. If so, that may be another case to not build the footbridge. It is just over 200 steps to King William Street from the train station, not to mention the five bridges, including the weir, the Morphett Street bridge, the King William Street bridge, the university footbridge and the Frome Road bridge that are all within one kilometre of the proposed new footbridge.

The government commissioned a report by the construction consultancy firm Atkins to produce some pedestrian modelling for a potential footbridge. The report recommends that a 14-metre wide bridge would provide optimal dissipation of peak crowds so, naturally, the government ignored the report and committed to an eight to 10-metre wide bridge. According to the Atkins report, with an eight-metre wide bridge, some spectators would spend as long as 36 minutes queueing after the game. Atkins says that 'the reality would be a potentially dangerous situation that would require management on large event days'.

Atkins goes on to make suggestions as to what this management could be, suggesting the following: lane closures of King William Road and relaxation of on-street parking restrictions in North Adelaide, which will have a very negative effect on residents and businesses in North Adelaide. Let's not forget that War Memorial Drive will also have to be closed for every major event because the proposed bridge was not able to be engineered across the road as we were first promised.

This is also the major access road to the Women's and Children's Hospital from the western suburbs. Not only will the road be blocked but also one lane of King William Street will need to be closed off. Why not just block off two lanes of King William Street, as we do now, and save $40 million? It seems ridiculous that you would build a bridge at a huge cost and, after building it, you would have to implement other measures to ensure that not too many people use it.

The report also highlights some other areas of concern with the south landing in the Riverbank Precinct. Accessibility was earmarked as a key issue, as the current design lacks width from the surrounding roadways and also has numerous steps, ramps and barriers that drastically limit access. Atkins also flags a number of amendments that would need to be made to the existing area to allow for effective flow of pedestrians from the footbridge, the most notable of which was the existing 2.9-metre wide glass footbridge across Festival Drive. This would need to be widened

to eight metres to effectively disperse the crowds. There has been no mention of this reconfiguration from the government, so one can only assume that it is not yet costed or included.

Another suggestion from Atkins was to remove temporary obstructions such as cafe seating along Station Road, so now we are invigorating our city by removing alfresco dining. Remember that we were sold football at Adelaide Oval as a way to invigorate the city, with people heading to the mall to shop or going out to restaurants, cafes and bars before and after the game to stimulate the economy that desperately needs help. This bridge seeks to get people directly from the Oval and straight into the train station, Casino or InterContinental. How does that help our struggling businesses in the city?

This regulation should be disallowed, as it has been implemented to avoid necessary scrutiny for a project that is expensive, ineffective, poorly thought out and we cannot afford. It shows just how out of touch this Labor government really is with what the public want. Let's first build a strong economy so that we can afford such luxuries. I urge members to support this motion.

Mr PEDERICK (Hammond) (11:13): I rise to support the member for Adelaide in her quest to see that the regulation made under the Development Act 1993, entitled Riverbank Footbridge, be disallowed. She has given an excellent overview of how foot traffic can be managed and also how the finances of this state just cannot stand it. We have recently seen the discussion culminate in the forward sale of three rotations of the state's forests. It is interesting that those three rotations will, essentially, pay for the Adelaide Oval upgrade.

Ms Sanderson: Shame!

Mr PEDERICK: It is a shame. It is a real shame for this state and for the many hundreds of homes—in fact, some people have said well over a thousand homes—that are on the market in the region of Mount Gambier and the surrounding towns. It is a bloody disaster, quite frankly. Here we go, building monuments in the city and killing our regions. That is exactly what has happened here. This proposed footbridge is just the icing on the cake—

An honourable member: That we can't even afford to pay for.

Mr PEDERICK: That's it—that is proposed to cost $40 million. The bridge that is being built at McLaren Vale in the seat of Mawson will cost $18 million, and that is quite a construction. It is a road bridge. It has some entrance roadways—half cloverleaf, I think is the term—to access that bridge, and that is well on the way to being finalised. I cannot even think how a bridge like that, that will support heavy trucks, many vehicles a day, many hundreds of vehicles, if not thousands, can cost $18 million, yet something as simple as a footbridge will cost $40 million. I will tell you what: whoever is in the footbridge building industry, good luck to you. I think it would be a great job to have, whenever I leave this place, because it sounds very profitable. In fact, it would be handy as a sideline. But it just does not add up when you see a road bridge being built for $18 million, which is still a large sum of money, and then you compare it to what looks like the proposal of an eight metre footbridge across the Torrens to the oval.

Getting back to the constituents of this state and of the regions, and I have mentioned the people in the South-East, we have seen funding cut from private hospitals, we have seen the Cadell ferry debacle, where the proposal to save $400,000 is such a flawed proposal, and then the government doing backflips on that. We now see funding for the Snowtown hospital being cut. Where does it end with this lot? Where does it end with the Labor Party, the Jay Weatherill government of this state, in how they run this state? They do not see very far outside the central part of Adelaide, I can assure you, because that is where all the cuts are and that is where all the large economic effect is in this state as far as these bad decisions go and the impact they have on regional communities.

But it also has an impact on our urban community. The urban community pay taxes as well and not only that, the urban community rely on a thriving regional economy to make sure we do have that thriving economy, that there is money generated throughout the state, because I can tell you that the more money generated in the regions, it will get spent. I come from a farming background, as people know, and if farmers make money, in particular, they will spend it and that money will flow right through to the central business district in the middle of Adelaide.

Then there are the logistics of moving people away from Adelaide Oval after a big event. I had a great time attending the AC/DC concert on 3 March 2010, and 43,000 fans had a great night at that concert—apart from the ones sitting out in the parklands taking it in. It was interesting how everyone quite easily got back to the city when they closed off a few lanes on King William Road. It

was a very simple procedure, and there is no reason that that could not happen into the future with football played at Adelaide Oval.

I am sure when we get a huge crowd there for the Port games there might be a struggle, but we will just close off another lane on King William Road. That is easy. We can cope with that when the Port Adelaide games are on there. Absolutely. We can make it work and Port Adelaide supporters will not mind walking those few extra steps—

Mr van Holst Pellekaan interjecting:

Mr PEDERICK: Yes, we are loyal. But let me not be too focused on the team I support. I am sure that Crows supporters, just as well, in a sporting fashion, can also walk those couple of hundred steps and get back into the city, because the simple thing with this is that not everyone is going to commute by public transport into the oval as well. So there will be people seeking parking spots. Certainly many regional people from right throughout the state come up to football games, or cricket games, or whatever event will be at the new Adelaide Oval. There has to be access made for them anyway, so in no way, shape or form will the whole 40,000 or 50,000 people be seeking to walk their way back into the city.

I think this is a flawed proposal. I fully support the member for Adelaide. Everything is put in place: the police cooperate, everyone cooperates so that people can enter Adelaide Oval as it is and leave it as it is, especially for the big functions as I indicated—the AC/DC concert—and it can happen. Let's get the financial focus in this state in the right places.

Mr WILLIAMS (MacKillop) (11:20): I rise to support the motion as moved by the member for Adelaide, and the member for Adelaide is obviously very concerned about her electorate and what is going on.

Mrs Geraghty interjecting:

Mr WILLIAMS: The city does indeed belong to us all. The Government Whip makes a very good point: the city, indeed, does belong to us all, and that is why it is important that we adhere to the processes. That is why it is important that the people South Australia, through the processes as per the Development Act, are allowed to have some input into this, are allowed to understand what is being developed here, are allowed to enter the debate.

The reality is that this government is the most secretive government this state has ever seen, and it wants to push ahead with this matter in a very secretive way. It wants to circumvent the normal development processes so that the people of South Australia are kept in the dark. It wants to hand us a fait accompli. We are reading day by day the changes. Some of my colleagues have already pointed out the amazing amount of money—$40 million to build a footbridge across the River Torrens, when the state is broke.

There are two issues here; one is the fact that the state is broke and we are going to spend $40 million on a footbridge whilst we are withdrawing services from people all over the state, and some of those have been alluded to. I have been through that in my electorate with the episode with this government and the Keith hospital, which is an essential service in an important part of the state, and the government cannot afford a few hundred thousand dollars but wants to spend $40 million on a footbridge.

Now we are learning that the government cannot even deliver the footbridge the report suggests should be delivered (if we are going to go down that path) with the $40 million. The government continues to compromise because the $40 million will not deliver the footbridge that has been recommended by the various reports. The secrecy of this government and the ability of this government to do backdoor deals, underhand deals and behind-closed-doors deals continue, but the important thing is the circumvention of the processes under the Development Act—processes which have been developed to give the community some say in what is happening.

I am reminded of the words of former premier Rann. I will have to paraphrase, but he said something along these lines in regard to the Parklands. He said that the Parklands should not be seen as a source of cheap land; in fact, the Parklands should be seen as land that is priceless. That is what premier Rann said some years ago about the city Parklands.

The one thing totally unique to this city and to this community of South Australia is the development of the city in a very planned fashion; an integral part of that is the Parklands, yet we have this government from time to time saying, 'How wonderful it is to have these Parklands, and we are going to go and plonk some project on them, as an edifice to ourselves.' That is what this is.

Worse still, in this circumstance, they are doing it via the back door. That's what the member for Adelaide is trying to address with this motion. It's trying to hold the government to account. It's trying to tell the people of South Australia that this is your city, these are your parklands, and you should be entitled to have some say. You should be entitled to understand what is going on.

That is why I am very pleased to be able to stand here and support the member for Adelaide in her call to have this process go through the normal channels. These are very valuable—indeed, to paraphrase the former premier, invaluable—parts of our state, yet this government wants to run roughshod over the development processes.

Another thing about this government is that it is really good on that sort of rhetoric. It is really good. That has been one of the hallmarks of this government, to come out and say the things that they know, that they have decided that the community wants to hear. What I have just said, what the former premier said about the parklands, is the sort of thing that resonates with the public. The trouble is, the government never lives up to its words.

I come to the current Premier. The current Premier said we have to change from this culture of announcing and defending a position to one where we consult and then decide. Here is an exact example of where the culture of announcing and defending is continuing under the premiership of this Premier. He does not want to go through the normal processes, because those processes ensure accountability. He wants to circumvent that, because he wants to be able to announce and then if necessary defend the position.

The processes under the Development Act are about consultation. They are about having decisions made in the full knowledge of the community which is affected by those decisions. It is a consult and decide process. It is one which the Premier says that he believes in, but the very actions of his government show that the Premier is just like his predecessor. It is all about the rhetoric; it is nothing to do with actually delivering. I commend the motion of the member for Adelaide and I hope that the house supports it.

The SPEAKER: It is a very popular motion. The member for Fisher.

Members interjecting:

The SPEAKER: Order! The member for Fisher.

The Hon. R.B. SUCH (Fisher) (11:27): I think that is why we need a very wide bridge, judging by the number who want to speak on the topic. I think the first question is, do we need the footbridge? Do we need any footbridge? I personally question the need for a footbridge at all. The original King William Street bridge was designed to accommodate crowds from the Adelaide Oval and, as I understand it, it is only approximately another 100 metres if you use the existing road bridge.

The question is, if you need a bridge, what size should it be, and there has been argument about it. If it is too wide, then it is going dominate the landscape and look out of place. There is another aspect. I understand it has been designed by people overseas. I am getting a little bit annoyed by people running to so-called experts overseas all the time. We have people here. Some of the students at Adelaide Uni could design a fantastic footbridge, I am sure. People might recall the Sydney Harbour Bridge was actually designed by an Australian engineer. We are quite capable of designing bridges. We do not need to go overseas. If that is the case, that it has been designed by someone overseas, then I am absolutely appalled.

I have never been a great fan of the oval upgrade, and a lot of people in my electorate are very hostile about the amount of money being spent. I am not against having a central playing area for AFL and cricket. I think it makes a lot of sense, but I do not believe there was any need to spend hundreds of millions of dollars upgrading that oval. It was a beautiful oval and now I think it is being destroyed to cater in a privileged way for a small number of blue bloods and silver spooners who are going to have a facility largely paid for by the working people of South Australia. They are going to be able to indulge themselves there courtesy of the poor taxpayer, who has paid for most of it.

You are unlikely, in my view, to get large crowds there for a Port Power/Crows match if recent attendance figures are anything to go by—you will get a big crowd supporting the Crows, and a lesser crowd for Port. It will still be less than what used to occur there with the SANFL finals years ago. I think over 60,000 at one time attended one of the grand finals there. The facility, which I understand will cater for 50,000, is actually going to be smaller in capacity than what the old oval could cater for for an SANFL grand final.

One suggestion that I have made—and I raised this informally with the Minister for Transport—was to extend the tramline down at least to the Oval, and preferably in the longer term out to North Adelaide and Prospect. He said it would cost $100 million. I do not know whether that is a firm quote from anyone to build it. I would be surprised if it cost that much to run the tram from the intersection at King William Street/North Terrace down to the Oval. Trams can move a lot of people very quickly, and I think it would be a better solution than to spend money on a pedestrian bridge.

Regarding this business about people going to the Casino after the football, half of the people will be in a distressed state because they have lost, and I do not see many of them heading for the Casino. I am not a great fan of casinos anyway. I think we have plenty of gambling opportunities now, in fact, to a point where I think it is excessive in the overall picture with online gambling and the whole thing. I am a bit like Tom Playford, I do not think it is a good activity for people to be spending a lot of their time or money on. I am not against some gambling but I cannot see people flocking to the Casino after a football or cricket match to gamble.

The other point is, with the Riverbank concept, I think some people in Adelaide suffer from delusions of grandeur. We are not Sydney, we are not Melbourne, and we do not have the population to support what they can support in Melbourne on the Southbank, or Sydney around the harbour. You are talking about cities that are four or five times the population. We have this silly view that somehow we have to be the same as everyone else. A lot of people come to Adelaide and like Adelaide because it is not the same as everywhere else. They come here because it has lovely heritage buildings, it has a good design, it has a lot of features that are lacking in other cities. Why we want to become like Melbourne or Sydney, I do not know; and we are not going to match them anyway because we do not have the basic population.

I think this concept that people are going to come out of the footy and race up and buy a lounge suite in Rundle Mall is nonsense. People from the country may come down for a footy match or cricket match and do a bit of shopping the day before or the day after (if they can with our restricted shopping hours), but I cannot see the average person going to the footy or cricket, and racing up to get a bargain in Rundle Mall. I do not think it works that way. I tend to come down on the side of the member for Adelaide. I am an optimist by nature but I think in South Australia things are going to get worse before they get better economically.

People put a lot of faith in Roxby Downs. That is not a sure thing yet, not in the short term. I believe in South Australia, economically, we are going to be heading for a pretty rough patch for the next four or five years. To me, building a footbridge for $40-odd million—whatever the cost is but around about that—is unjustified when I noticed that at the school I went to, Coromandel Valley, they have bulldozed their swimming pool, and Belair is bulldozing theirs apparently because the Department for Education and Child Development will not support schools having swimming pools.

We hear all this talk about how every child should learn to swim—well, you need a pool first of all to teach them. We are losing the one run by Bedford Industries; that pool is going to close. I am told the private one at Blackwood is going to close because it cost too much to run. I am told the National Trust has had its grant cut and the government wants to cut the funding to the breastfeeding association.

All these organisations, which are fundamental community groups, are being cut at the moment, and yet here we are going to build a bridge that is not really necessary. If we had money coming out of our ears, fine, but we do not, and we are in for a tough patch and the government will need all of its ability and more to manage the financial situation we will find ourselves in.

Overall, I do not think a bridge is necessary, certainly not at this point in time. I have always thought that the Oval was an unnecessary expenditure to the point of hundreds of millions of dollars—a bit of an upgrade, sure, and focus on using Adelaide Oval but do not spend hundreds of millions of dollars when we still have facilities throughout the state, such as roads, many of which are in need of major repair. We also have state schools that still need a lot of money spent on them. So, in terms of priorities, I think it is in the wrong order of things.

Mr PENGILLY (Finniss) (11:35): I support the member for Adelaide's motion. I think it is a good motion and a common-sense motion. I believe that the vast majority of people, particularly those in rural South Australia, support the thrust of the motion.

As has been indicated by other speakers, rural South Australians are sick of being screwed to the wall and they are sick of everything being poured into Adelaide. I am told in no uncertain

terms that they believe that the idea of a footbridge across the Torrens that is going to cost $40 million is absolutely absurd. This is at a time when their school funds are being cut back, their health services are being cut back, and they are getting a rough deal from the Weatherill Labor government on a regular basis.

The idea of putting in a footbridge at a time when we cannot afford it just seems absolutely abhorrent to them. It may well be that at sometime in the future the state will be in a position when it can afford a footbridge, but at the moment we are in parlous economic times. One only has to read the weekend papers to see where China is at the moment and to realise just where things are going internationally: Europe is in a mess, the United States is barely chugging along, and China is showing signs of going backwards.

It was interesting to read in the weekend press that the middle class in China, which has been the beneficiary of an enormous economic boom there over the last decade or so, has suddenly been hit with the fact that they do not have any more money to spend and the economy has slowed down. Yet, here we are, in tiny South Australia with a population of just over a million, wanting to spend $40 million on a bridge across an artificial lake. It is just absurd.

We are not Melbourne and we are not Sydney, as others have pointed out. It is easy enough to walk up the footpath from the Adelaide Oval to the city if you are in such a desperate need to get back up there or if you need to go to the Railway Station or wherever. However, I think that, at a time of gross economic concern for the nation and for the world, this is a foolish move.

We are yet to see this bridge at the Public Works Committee. No doubt this sneaky government will try to run it through at a time when there is minimum accountability in parliament. After the final sitting week for the year when we have eight weeks off they will probably try to run it through in the last week before Christmas. This is the government's style; it seems to do this on a regular basis. When that happens, the member for Waite and I, as the Liberal members, will be having a good close look at it.

I can tell you that even yesterday I received another letter from a constituent of mine from Encounter Bay seriously questioning the sanity of this government in spending money it does not have on a footbridge crossing an artificial lake. People down there are furious—they are furious about a number of issues. A speaker here a while ago (I think it was the member for Hammond) talked about the McLaren Vale overpass and the fact that that has been built for $18 million and the 'save Bignell' campaign.

How can $40 million be found at this time, when the Treasurer is regularly telling us that we have to cut this back and cut that back and we do not have money for something else and crying poverty. The government let the BHP deal slip through its hands, and the finance minister is running around trying to cut everything here, there and everywhere to balance the budget. They do not have a single solitary idea about how to run the state, and it is time that they were consigned to electoral history.

The simple fact is that we should put this bridge on the backburner and just forget about it, and let's get on with the real things in this state and the real things in this nation that need critical spending on them, not a bridge for a few people to walk up to the city after a game of football, with crowds where maybe there is some question about the numbers. The cost of going to AFL football is prohibitive to the people in the street and to families, they just cannot afford to go; it is as simple as that. You wonder why Port Power supporters cannot go to the football; they cannot afford to go. Even the Adelaide Crows' fans this year—

Mr Griffiths interjecting:

Mr PENGILLY: Well, they can't; that is the reality of it. The number of Adelaide Crows fans are down. It is simply getting out of the reach of people to go to these grandiose stadiums to watch a game of football. If you are in Melbourne, with a population of four million people, they can afford to have stadiums, they can afford to have walk-overs—the one to Docklands is terrific—but they walk everywhere, or they jump on the tram, as the member for Fisher pointed out a few minutes ago. We really do not need to spend $40 million on a bridge to cross an artificial lake at a time when the state is bleeding financially, and there is not much promise of its coming good for many years to come.

Mr VAN HOLST PELLEKAAN (Stuart) (11:41): I will be quite brief. I certainly do support the member for Adelaide. She is an excellent local member, and she works very hard on all issues affecting the electorate of Adelaide, and this is another fine example of that. Her desire to stop the

Adelaide Oval footbridge from being built without normal development approval is quite straightforward. We had a promise from this government initially that this oval would cost us $450 million and not a cent more. Then it was $535 million and a cent more, and then it was $535 million plus $40 million for the footbridge and not a cent more. Now we have $535 million for the oval, $40 million for the footbridge and not a cent more—and no development approval.

It is just getting worse and worse, and I think the member for Adelaide is quite right to try to put a stop to this silliness, particularly in the light of the fact that yesterday we were here debating an amendment bill about private certifiers and all of the issues that go along with building and construction all around this state. To try to sneak this through without development approval is absolutely crazy.

Imagine if in country South Australia somebody put forward a proposal for $40 million, or even significantly less—imagine if it was just $5 million—for some piece of infrastructure but then said, 'By the way, we don't want and don't need development approval for it.' There is no way that would get through this government. The government is actually cutting spending in country areas, and we are seeing very poor decisions, such as selling the forward rotations of the forests in the South-East.

For the same amount of money, we could upgrade Yorkeys Crossing around Port Augusta, which is not a footbridge over an artificial lake, as the member for Finniss quite rightly put it. That would be an upgrade that would support a national freight route from Sydney to Perth and Adelaide to Darwin. We could do the upgrade for the same amount of money, yet it is going towards a footbridge in Adelaide. I think it is a waste of money. But the member for Adelaide's main point, of course, is the lack of development approval.

To give the government a little bit of credit here, the government has recently spent $16 million upgrading the Port Augusta Prison—an extra 90 beds in a latest state-of-art development in Port Augusta Prison. This same money for a footbridge could have done 2½ times that—it could have done 2½ times more of those 90-bed upgrades to prisons, and we know that is very important all around our state. So, to be spending the money in this way when it could be spent far more efficiently on far more important projects, like upgrading our prisons or like the Yorkeys Crossing upgrade, I think is a great shame. But the main point from the member for Adelaide is that it should certainly not be done without the normal, appropriate, correct development approval, and I support the member for Adelaide wholeheartedly.

Mr PEGLER (Mount Gambier) (11:44): I rise in support of this motion, for two reasons. First of all, I feel that the development approval process is wrong. There is no scrutiny for the people to decide whether or not it is a good development, and I do not think that is a proper way to go. The main reason is that I believe this $40 million could be better spent on health, education, social services and, of course, vital rural infrastructure. I feel that there will not be enough people to warrant using a bridge like this when there is a perfectly good bridge just down the road, so I will be supporting this motion.

Mr VENNING (Schubert) (11:45): I support the member for Adelaide and congratulate her for finding this. As she said, it is a very sneaky way to stick a major project like this on the bottom of an ordinary regulation. Really, the government has been trying to circumvent the processes of the Development Act and cut out scrutiny. The whole Adelaide Oval upgrade, as we have heard, has been badly managed. As the member for Hammond said, people in the country are very cynical about all of these monuments we are building in the city when they cannot get basic services and our regions are being totally ignored.

The total price of this project, and I will not go through the detail, is continually escalating, with the latest price of $535 million for the oval and $40 million for this, which is $575 million. So, we are looking at $600 million, and still going. Forty million dollars for a footbridge is ludicrous in the state's current economic climate. The government penny-pinches everywhere, and we have heard from speakers before me of how it is cutting funds, particularly now with the Snowtown hospital, and I would speak very strongly against that because it is regionally very important, it is on the main highway.

There have been cuts to St John, cuts to the Breastfeeding Association. The list goes on and on. There are cutbacks everywhere and yet here we have $40 million for a footbridge. Forty million dollars would have almost built a new hospital in the Barossa. Where are this government's priorities? What is more important, three-quarters of a new hospital or a footbridge? It is just a

matter of where it is, and that is how this government will be remembered: totalling ignoring essential services in the country and building a footbridge like this. It is ridiculous.

How many times will this bridge be used? Yes, it will be used every second Saturday, or every Saturday for the football, but as the member for Adelaide said: what about the glass bottom bridge further along the footpath? Are you going to widen that out too? It came before the Public Works Committee and, from memory, it is about 1½ to 2 metres wide. Where will the surging crowd go? Will they fit along Station Road? You go and have a look. It is a very narrow access. Are you going to remove the outside restaurant that is there?

When you look at the design of this, and I wonder if the members have seen this, on the northern side there are steps down from this bridge and they come down before the road. So, what about the surge of people coming across War Memorial Drive? Have people thought of that? What sort of a restriction is that going to be? It is just like the new airport. When the new airport was built, some whiz bang architect did not think of that and he put the taxi rank right by the pedestrian crossing, so the taxis could get out because of the people walking across. We can see what they have done now, they have spent millions more to put in an overpass. So, I question why it does not go across War Memorial Drive so that people do not block up the road.

I do question the tender process, very much so, and I will be very careful here. We were told it was going to cost $39 million before the tenders were closed, so any tenderer knew what the expectation was, and we would know that it would cost that amount. I inspected the site with Mr Bob Ahrens, the general manager, or owner, of Ahrens Limited (without putting him in) over a year ago. We went for a casual walk down there, and we had an expectation. Without a doubt, a much cheaper bridge could have been built, maybe with less sexy curves and architectural extravagance. Yes, it would have been very much a straight functional bridge. We are paying top dollar for a sexy bridge, which it does not need to be.

I look forward to this coming before the Public Works Committee because I will certainly be asking to appear and will be asking questions in relation to the tender process because Ahrens Limited was never asked for a tender price. If this footbridge was going to assist the state economy it could be justified. Forty million dollars would be much better spent on our main roads. If the economy was buoyant the bridge would be okay. I commend the motion to the house and the member for Adelaide, she has proved that she is on the ball and that is why the people of Adelaide support her.

Dr McFETRIDGE (Morphett) (11:49): I rise to support the member for Adelaide's motion that regulations made under the Development Act 1993, entitled Riverbank Footbridge, made on 12 July 2012 and laid on the table of the house on 4 September, be disallowed. I cannot believe that this government has this bridge as a top priority for spending in South Australia at the moment. Recently, we saw $100,000 cut from St John Ambulance—and remember what they will be doing at schoolies week over the next few days, this weekend and next week—and the other day we saw the funding being cut for the New Year's Eve celebrations at Glenelg.

How broke is this state when we have to cut funding for those sorts of organisations, and what are the priorities of this government when we can spend $40 million on a bridge from where to where? It does not go over War Memorial Drive (and that may be because it is a war memorial), and the bridge does not go from Adelaide Oval to the Railway Station; it goes from where to where? I ask people to take a good look at where the bridge goes from. It is going to be narrower than we were told, so what are we getting for $40 million?

As the member for Hammond said, we are building an overpass down at McLaren Vale that will take massive trucks for far less cost than this. We know the spending priorities and the whole agenda of this government: it is just to do whatever they can to try to buy themselves into government at the next election, while what they are doing is sending this state broke in the process and doing it any way they can.

The devious way they are getting planning approval for this bridge is highlighted by the member for Adelaide's motion. It is wrong, the spending is wrong, the way they are doing it is wrong, the whole agenda of this government is wrong. The member for Adelaide should be commended for raising this in this place and I hope the government sees for once in their career of 10 years that they can do the right thing by this state.

The Hon. S.W. KEY (Ashford) (11:53): I move:

That the debate be adjourned.

The house divided on the motion:

AYES (24)

Atkinson, M.J.	Bedford, F.E.	Bettison. Z.L.
Bignell, L.W.	Caica, P.	Close, S.E.
Conlon, P.F.	Fox, C.C.	Hill, J.D.
Kenyon, T.R.	Key, S.W.	Koutsantonis, A.
O'Brien, M.F.	Odenwalder, L.K.	Piccolo, T.
Portolesi, G.	Rankine, J.M.	Rau, J.R.
Sibbons, A.J. (teller)	Snelling, J.J.	Thompson, M.G.
Vlahos, L.A.	Weatherill, J.W.	Wright, M.J.

NOES (18)

Chapman, V.A.	Evans, I.F.	Gardner, J.A.W.
Goldsworthy, M.R.	Griffiths, S.P.	Marshall, S.S.
McFetridge, D.	Pederick, A.S.	Pegler, D.W.
Pengilly, M.	Pisoni, D.G.	Sanderson, R. (teller)
Such, R.B.	Treloar, P.A.	van Holst Pellekaan, D.C.
Venning, I.H.	Whetstone, T.J.	Williams, M.R.

PAIRS (2)

Geraghty, R.K.	Redmond, I.M.

Majority of 6 for the ayes.

Motion thus carried; debate adjourned.

FINANCIAL TRANSACTION REPORTS (STATE PROVISIONS) (MISCELLANEOUS) AMENDMENT BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (12:00): Obtained leave and introduced a bill for an act to amend the Financial Transaction Reports (State Provisions) Act 1992. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (12:00): I move:

That this bill be now read a second time.

The South Australian Financial Transaction Reports (State Provisions) Act 1992 is part of a national regulatory regime set up by the Financial Transaction Reports Act 1988 of the commonwealth to monitor suspicious financial transactions. The South Australian act complements the Financial Transaction Reports Act.

In 2006 the commonwealth government upgraded this regime. The Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Commonwealth) was enacted to combat changes in how financial transactions are conducted as a result of an increase of cashless, non face-to-face electronic transactions and global development in value transfer technology. The new regime is designed to combat organised and serious crime, including major drug dealing and terrorism financing. I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The Australian Transaction Reports and Analysis Centre (*AUSTRAC*) was established by the Financial Transaction Reports Act. AUSTRAC's function is to retain, compile, analyse and disseminate information concerning financial transactions.

Under the Financial Transaction Reports Act, 'cash dealers' are required to report certain significant cash transactions to AUSTRAC and to maintain exemption registers of those transactions not reported. The term 'cash dealer' is defined to include financial institutions and organisations such as authorised deposit-taking institutions (banks), insurers, casino operators, trustees and managers of unit trusts and financial service licensees. Cash

dealers are also required to report suspect transactions. Certain significant cash transfers must be reported by solicitors and certain transfers of currency must also be reported to AUSTRAC.

However, the Financial Transaction Reports Act has now mostly been superseded by the Anti-Money Laundering Act.

AUSTRAC is now governed by the Anti-Money Laundering Act, which has extended the regulatory regime imposed by the Financial Transaction Reports Act. Under the Anti-Money Laundering Act a far broader range of entities are required to make reports to AUSTRAC, referred to in that Act as 'reporting entities'.

While most of the provisions of the Financial Transaction Reports Act have been superseded by the Anti-Money Laundering Act, there remain some cash dealers who are not covered by the Anti-Money Laundering Act and continue to be obliged to report to AUSTRAC under the Financial Transaction Reports Act.

The Bill amends the SA Act in light of changes made to this national regime by the Anti-Money Laundering Act.

Updating terminology

The Bill amends the SA Act to reflect the new Commonwealth regime that now includes both the Financial Transaction Reports Act and the more recent Anti-Money Laundering Act.

Terminology in the SA Act is changed to reflect the new Commonwealth terminology. For example, both the Financial Transaction Reports Act and the Anti-Money Laundering Act now refer to reports being made to the 'AUSTRAC CEO'. The SA Act, however, uses outdated terminology and refers to reports being made to the 'Director'. The SA Act is being updated to reflect such changes in terminology.

Further information regarding suspect transactions

If a cash dealer communicates information to AUSTRAC in accordance with the requirements of section 16(1) of the Financial Transaction Reports Act, the Commissioner of Police (or a member of the police carrying out an investigation arising from, or relating to matters referred to in, the information) may, under section 5 of the SA Act, request certain further information from the cash dealer.

As currently enacted, section 5(2) of the SA Act requires this 'further information' to be information that may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State, or information that may be of assistance in the enforcement of the *Criminal Assets Confiscation Act 2005* (SA) (the *Criminal Assets Confiscation Act*).

It is an offence under the SA Act for a cash dealer not to comply with the request.

The requirement in section 5 for the 'further information' to be information that may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State, or information that may be of assistance in the enforcement of the Criminal Assets Confiscation Act, appears to limit unnecessarily what further information South Australia Police (*SAPol*) may seek.

Under the Anti-Money Laundering Act, reporting entities are required to report suspicious matters if they suspect that the information they have may be relevant to the investigation of, or prosecution of a person for, an offence against a law of a State of Territory, or may be of assistance in enforcing State and Territory laws that are the equivalent of the *Proceeds of Crime Act 2002* (Cth). In SA, both the Criminal Assets Confiscation Act and the *Serious and Organised Crime (Unexplained Wealth Act) 2009* (SA) (the *Unexplained Wealth Act*) are equivalent to the *Proceeds of Crime Act 2002* (Cth).

It is, therefore, appropriate under section 5 that a cash dealer should be reporting further information that would be of assistance in the enforcement of both the Criminal Assets Confiscation Act and the Unexplained Wealth Act.

Furthermore, suspicious matters should be reported under section 5 regardless of whether an investigation or prosecution has commenced.

The Bill, therefore, makes amendments to section 5 of the SA Act so that the Commissioner of Police, or an investigating officer, may request such further information from that cash dealer that is directly or indirectly related to the original report that:

- may be relevant to the investigation of, or prosecution of a person for, an offence against a South Australian law; or
- relates to any purpose, power or function of SAPol under any Act or law; or
- may be of assistance in the enforcement of the Criminal Assets Confiscation Act or the Unexplained Wealth Act.

Under sections 41, 43 and 45 of the Anti-Money Laundering Act, reporting entities are required to communicate certain information to AUSTRAC. There is no provision in the SA Act that allows for investigating officers in SAPol or the Commissioner of Police to then seek further information from the reporting entities.

A new section 5A is, therefore, to be inserted into the SA Act to ensure that, when a reporting entity reports information to AUSTRAC under section 41, 43 or 45 of the Anti-Money Laundering Act, the Commissioner of Police or an investigating officer may request such further information from that reporting entity that is directly or indirectly related to the original report that:

- may be relevant to the investigation of, or prosecution of a person for, an offence against a South Australian law; or
- relates to any purpose, power or function of SAPol under any Act or law; or
- may be of assistance in the enforcement of the Criminal Assets Confiscation Act or the Unexplained Wealth Act.

Reporting of suspect transactions relevant to SA

Under section 6 of the SA Act, a cash dealer who is a party to a transaction and has reasonable grounds to suspect that information it has concerning the transaction may be relevant to the investigation or prosecution of an offence against a law of South Australia or may be of assistance in the enforcement of the Criminal Assets Confiscation Act, must prepare a report of the transaction and communicate the information to the Director (which is outdated terminology and will be updated as a report to AUSTRAC).

Currently, this obligation does not apply if the cash dealer is obliged to report the transaction under section 16 of the Financial Transaction Reports Act.

The Bill amends the SA Act to take into account any obligation that a cash dealer who is also a reporting entity has to report under the Anti-Money Laundering Act.

Under section 6 of the SA Act, once such a report is made to AUSTRAC, SAPol and the Commissioner for Police may request further information and the cash dealer must provide it.

As currently enacted, the SA Act requires that this further information must be information that may be relevant to the investigation of, or prosecution of a person for, an offence against the law of the State, or information that may be of assistance in the enforcement of the Criminal Assets Confiscation Act.

The Bill amends this provision such that SAPol can request further information that is directly or indirectly related to the original report that:

- may be relevant to the investigation of, or prosecution of a person for, an offence against a South Australian law; or
- relates to any purpose, power or function of SAPol under any Act or law; or
- may be of assistance in the enforcement of the Criminal Assets Confiscation Act and the Unexplained Wealth Act.

This amendment provides consistency across the SA Act and ensures SAPol have appropriate access to information.

Section 9 of the SA Act provides that a person who obtains information under the SA Act must not make a record of the information and must not divulge or communicate that information except in the performance of their duties relating to the enforcement of a law of the State, the Commonwealth or another State or Territory.

However, currently, section 9 applies only to persons who are or have been a Commissioner of Police or a member of SAPol. Given that other persons, such as lawyers acting for SAPol who are public servants, may also access the information, the Bill amends this section to ensure it also applies to such persons.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Financial Transaction Reports (State Provisions) Act 1992*

4—Amendment of long title

This proposed amendment inserts a reference to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (the *AMLCTF Act*) of the Commonwealth so that the principal Act will now make provision for reporting under both the *Financial Transaction Reports Act 1988* (the *FTR Act*) of the Commonwealth and the AMLCTF Act.

5—Amendment of section 3—Interpretation

These proposed amendments insert definitions of the 2 Commonwealth Acts referred to in the long title of the principal Act and make other amendments consequential on the inclusion of provisions in the principal Act relating to reporting under both of those Acts.

6—Amendment of section 5—Further reports of suspect transactions under FTR Act

This amendment proposes to repeal current subsections (1) and (2) and to substitute subsections that provide that if a cash dealer communicates information to the AUSTRAC CEO under section 16 of the FTR Act, the cash dealer must, if requested to do so by the Commissioner of Police or a police officer, give the Commissioner or police officer such further information, within the period specified in the request, as is specified in the request. Further information that may be specified in such a request is information directly or indirectly related to the original communication that—

- may be relevant to the investigation of, or prosecution of a person for, an offence against a law of the State; or
- relates to any other purpose, function or power of South Australia Police under any Act or law; or
- may be of assistance in the enforcement of the *Criminal Assets Confiscation Act 2005* or the *Serious and Organised Crime (Unexplained Wealth) Act 2009*.

The other amendment to this section updates the penalty provision for an offence against subsection (3).

7—Insertion of new section

New section 5A (*Further reports of suspect transactions under AMLCTF Act*) provides that if a reporting entity communicates information to the AUSTRAC CEO under section 41, 43 or 45 of the AMLCTF Act, the reporting entity must, if requested to do so by the Commissioner of Police or a police officer, give the Commissioner or police officer such further information, within the period specified in the request, as is specified in the request. Further information that may be specified in such a request is information directly or indirectly related to the original communication that—

- may be relevant to the investigation of, or prosecution of a person for, an offence against a law of the State; or
- relates to any other purpose, function or power of South Australia Police under any Act or law; or
- may be of assistance in the enforcement of the *Criminal Assets Confiscation Act 2005* or the *Serious and Organised Crime (Unexplained Wealth) Act 2009*.

It is an offence if the reporting entity does not comply with the request for further information to the extent that the reporting entity has the further information.

8—Amendment of section 6—Reports of suspect transactions not reported under a Commonwealth Act

One of the amendments proposed to this section will repeal current subsections (1) and (2) and substitute those subsections. New subsection (1) provides that a cash dealer who is party to a transaction and has reasonable grounds to suspect that information the cash dealer has concerning the transaction—

- may be relevant to the investigation of, or prosecution of a person for, an offence against a law of the State; or
- relates to any other purpose, function or power of South Australia Police under any Act or law; or
- may be of assistance in the enforcement of the *Criminal Assets Confiscation Act 2005* or the *Serious and Organised Crime (Unexplained Wealth) Act 2009*,

must, as soon as reasonably practicable after forming the suspicion, prepare a report of the transaction and communicate the information to the AUSTRAC CEO.

That subsection does not, however, apply if the cash dealer is required to report the transaction under—

- Division 2 of Part II of the FTR Act; or
- if the cash dealer is a reporting entity—Division 2 of Part III of the AMLCTF Act.

Further amendments proposed to this section reflect the proposed amendments to current section 5 and new section 5A, or are consequential.

9—Amendment of section 7—Protection of cash dealers and reporting entities etc

These proposed amendments are consequential.

10—Amendment of section 8—False or misleading statements

This proposed amendment is to update the penalty for the offence relating to false or misleading statements.

11—Amendment of section 9—Secrecy

The amendments proposed to this section update the penalty and the references in the section to include any other person who has access to protected information in the course of official duties.

Debate adjourned on motion of Mr Pederick.

STATUTES AMENDMENT (REAL ESTATE REFORM REVIEW AND OTHER MATTERS) BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (12:02): Obtained leave and introduced a bill for an act to amend the Conveyancers Act 1994, the Land Agents Act 1994 and the Land and Business (Sale and Conveyancing) Act 1994. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (12:03): I move:

That this bill be now read a second time.

The government has always supported a real estate framework which promotes and protects the interests of consumers while at the same time enabling agents to conduct their business as expeditiously and efficiently as possible. Buying a property is probably the biggest financial investment most people will ever make and it is essential that the government gets this balance right.

The government can only do this by listening to the concerns of vendors and purchasers in the marketplace as well as those within the industry working at the coalface. To this end, the government acknowledges the support and cooperation of members of the public and those within the industry for their comments and insights which have proved invaluable in developing these reforms. The government has got the balance right and the bill is a reflection of the government's commitment to ensuring that its real estate legislation is as robust and effective as possible. In particular, the government has listened to ongoing concerns about the practices of underquoting and bait pricing. I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Consumer and Business Services continues to receive complaints from prospective purchasers about properties selling at auction far in excess of marketed prices and more disturbingly, being passed in at prices well above those marketed. Prospective purchasers are outlaying money for building inspection reports based on a marketed price for a property and then finding that the property was never intended to be sold for that price. This is due to the fact that the setting of a reserve price is unregulated.

This situation also facilitates collusion between the agent and the vendor. The agent and vendor can easily collude to specify a low price in the sales agency agreement and market the property at that price with the full knowledge that the vendor can set a reserve at any figure above that marketed price at any time prior to the auction.

It is not a question of the Government failing to enforce underquoting provisions in the legislation. It is almost impossible to prove that the estimate of an agent is not genuine or that the property was sold well above the advertised price as a result of deliberately disingenuous estimates rather than market forces.

The Government made it quite clear to stakeholders that if they were unable to provide a satisfactory solution to this problem, then the Government would intervene with legislation which would.

Most submissions that tackled this issue referred to the unwillingness of the Government to enforce the current provisions rather than proffering a strategy to fix the problem. The one strategy suggested to the Government in no way resolved the issues of proof and collusion that the legislation is unable to currently address.

The Government believes that the most effective way of eliminating the practice of underquoting once and for all is to create a nexus between the price sought by, or acceptable to, the vendor and the reserve price set by the vendor. In this way, the expectations of the purchaser will be realistically met when the auction of a property is based on advertising that reflects the genuine selling price of the vendor.

The proposals contained in the Bill will accomplish three main objectives:

- To strengthen the rights of consumers;
- To increase the level of transparency of real estate transactions, in particular, auctions; and
- To reduce the administrative burden on real estate agents and auctioneers.

The Bill implements the recommendations of the review into Parts 4 and 4A of the *Land and Business (Sale and Conveyancing) Act 1994* and addresses other issues raised during consultation with Consumer and Business Services, industry stakeholders and the public.

In late 2007, Parliament passed the *Statutes Amendment (Real Estate Industry Reform) Act 2007* (the *Real Estate Reform Act*) which commenced on 28 July 2008. The reforms contained in the Real Estate Reform Act were significant and established much higher standards for land agents in their professional conduct. Included in the legislation was a provision requiring that Parts 4 and 4A of the *Land and Business (Sale and Conveyancing) Act 1994* be reviewed with a report to be tabled in Parliament. Part 4 regulates the way properties are advertised and sold and the manner in which consumers engage the services of an agent, while Part 4A regulates the manner in which auctions are conducted.

Extensive consultation on the review took place with industry and consumer associations which culminated in a report that was tabled in Parliament on 16 September 2010. During consultation on the review, many observations and comments were made on provisions that were not within Parts 4 and 4A. However, these have also been considered and form part of the complete set of reforms that are contained in the Bill and the regulations that will be made following passage of the Bill.

The Bill implements the following key measures which arose from the review of Parts 4 and 4A:

- agents will be required to provide details of sales of comparable land or other information on which the agent will rely in support of his or her estimate of the selling price which they must include in the sales agency agreement. This provision will further strengthen the requirement included in the *Real Estate Reform Act* that agents specify in the sales agency agreement their genuine estimate of the likely selling price of the property being sold;
- agents will be able to extend a sales agency agreement for one further period of 90 days provided that the vendor agrees to an extension within 14 days of the expiration of the original agreement and that the vendor has the right to terminate the extension with seven days' notice;
- agents will now have a more flexible time limit of 48 hours in which to deliver a copy of the verification of vendor's statement certificate to the vendor and 48 hours (if agreed by the vendor) in which to deliver a copy of the sales agency agreement to the vendor;
- auctioneers will now only be required to audibly announce that the standard conditions of auction apply as binding contractual conditions. The requirement to audibly announce each auction condition has been removed;
- auctioneers will be permitted to use a unique identifier comprising a number, letter, colour or some other identifying feature when taking bids from purchasers, rather than just a number. This will still provide sufficient protection against dummy bidding and retain transparency in the auction process; and
- the definition of what constitutes a representation as to the likely selling price in marketing residential land will be tightened to prohibit the use of words or symbols in relation to single price advertising and only allow the use of words or symbols in price range advertising when used to denote a range.

The Bill also addresses a number of other issues drawn to the attention of the Government through the consultation process.

- the definition of 'small business' is amended to include businesses to the value of $300,000. This will provide greater protection to more purchasers of small businesses as they will now receive a vendor's statement;
- a cooling-off notice will now be able to be delivered by email with the permission of the vendor. This is consistent with the current allowance for the notice to be delivered by facsimile;
- bodies corporate will now have access to the cooling off period if purchasing residential land. This will be of particular benefit to small investors who are trustees of family trusts or superannuation funds and who will now have the opportunity to consider the contents of a vendor's statement in deciding whether or not to proceed with the purchase of residential land;
- auctioneers or agents will be required to take all reasonable steps to give a purchaser notice of the times and places at which the vendor's statement can be inspected prior to the auction. They will be able to do this by incorporating the relevant information in a newspaper advertisement, promotional material delivered to the purchaser, on their website or in a prominent position on their signboard. This will provide the purchaser with a far greater likelihood of seeing the statement and being able to inspect the vendor's statement prior to bidding at the auction; and
- vendors or agents will now be permitted to display the prescribed notice in a prominent position at an open inspection so as to indicate that the purchaser may take one if they so choose rather than personally give a copy to every prospective purchaser.

In addition, the Bill incorporates a number of other amendments that have arisen separately to the review and are considered appropriate for inclusion in the Bill.

- the reserve price will not at any stage be able to be greater than 110 per cent of the selling price sought by, or acceptable to, the vendor as stated in the sales agency agreement. The vendor or agent will not be able to vary the sales agency agreement in respect of the selling price sought by, or acceptable to, the vendor. If the sales agency agreement is terminated, the vendor must not make a new sales agency agreement with the same agent specifying a selling price sought by, or acceptable to them which is greater than that specified in the former agreement unless the period of the former agreement has elapsed.

The creation of a nexus between the selling price sought by, or acceptable to, the vendor and the reserve will accomplish the following objectives:

(1) encourage the vendor to specify an accurate selling price sought by, or acceptable to them, in the sales agency agreement;

(2) eliminate the marketing of a price significantly lower than the reserve;

(3) eliminate collusion between the agent and the vendor to estimate low prices in the sales agency agreement; and

(4) create transparency in the auction process by allowing the prospective purchaser a reasonable idea of what the reserve will be if the property is marketed.

- disciplinary action against agents or sales representatives who are found guilty of specific offences (breaching marketing requirements, acting in conflict of interest situations and making false and misleading representations) will be enhanced by requiring the Court to cancel their registration and disqualify them either permanently; or for a specified period; or until the fulfilment of stipulated conditions; or until further notice. The commission of these specific offences will have serious and automatic consequences and more align penalties to the type and level of offending;
- agents who fail to comply with the marketing provisions of the legislation will not be able to demand, receive or retain commission or expenses in respect of the sale of the land;
- agents will no longer be permitted to specify their genuine estimate in the sales agency agreement as a price range. This better reflects the requirements of the prescribed minimum advertising price and subsequent marketing of the property;
- payments from the indemnity fund will be expanded to include the costs of investigating compliance with and the costs of prosecutions taken under the *Land and Business (Sale and Conveyancing) Act 1994*. In addition, payments from the indemnity fund will be able to be utilised towards the costs of reviewing the operation of the *Conveyancers Act 1994*, the *Land Agents Act 1994* and the *Land and Business (Sale and Conveyancing) Act 1994*; and
- various penalties will be increased to reflect the seriousness of those offences.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Conveyancers Act 1994*

4—Amendment of section 31—Indemnity fund

The purposes for which the indemnity fund may be applied is expanded to include—

- the costs of investigating compliance by conveyancers with the *Land and Business (Sale and Conveyancing) Act 1994*;
- the costs of prosecutions for alleged offences by conveyancers against the *Land and Business (Sale and Conveyancing) Act 1994*;
- the payment of amounts, approved by the Minister, towards the cost of reviewing the *Conveyancers Act 1994* or the *Land and Business (Sale and Conveyancing) Act 1994* insofar as that Act relates to conveyancers.

Part 3—Amendment of *Land Agents Act 1994*

5—Amendment of section 29—Indemnity fund

The purposes for which the indemnity fund may be applied is expanded to include—

- the costs of investigating compliance by agents or sales representatives with the *Land and Business (Sale and Conveyancing) Act 1994*;
- the costs of prosecutions for alleged offences by agents or sales representatives against the *Land and Business (Sale and Conveyancing) Act 1994*;
- the payment of amounts, approved by the Minister, towards the cost of reviewing the *Land Agents Act 1994* or the *Land and Business (Sale and Conveyancing) Act 1994* insofar as that Act relates to agents or sales representatives.

6—Amendment of section 47—Disciplinary action

This amendment requires a Court to cancel the registration of a person and disqualify him or her from being registered if he or she has been found guilty of an offence against section 24A(2), section 24G(1), (2) or (3) or section 36 of the *Land and Business (Sale and Conveyancing) Act 1994* and the circumstances of the offence form, in whole or in part, the subject matter of a complaint, unless the Court is satisfied on the balance of probabilities, by evidence given by the person on oath, that the offence was trifling or committed in exceptional circumstances.

Part 4—Amendment of *Land and Business (Sale and Conveyancing) Act 1994*

7—Amendment of section 3—Interpretation

This clause adds the term *standard conditions of auction* to the definitions in section 3 of the Act since it is now used in different sections in the Act.

8—Amendment of section 4—Meaning of small business

This clause increases the upper limit applying to the definition of a small business from $200,000 to $300,000.

9—Amendment of section 5—Cooling-off

This clause enables a cooling-off notice to be given by email. It also amends subsection (7)(a) of the principal Act with the effect that bodies corporate purchasers of land who were previously prevented from cooling off in relation to contracts for the sale of residential land will now have the right to cool off in those circumstances.

10—Amendment of section 9—Verification of vendor's statement

This clause gives an agent 48 hours to provide a vendor with a copy of the certificate signed by the agent confirming the completeness and accuracy of the particulars of the vendor's statement.

11—Substitution of section 11

This clause substitutes section 11.

11—Auctioneer to make statements available

Section 11(1) requires an auctioneer or other agent acting on behalf of the vendor to make the vendor's statement available for perusal by members of the public at the office of the agent or auctioneer for at least 3 consecutive business days immediately preceding the auction and at the place of auction for at least 30 minutes immediately before the auction. It also requires such an agent to take all reasonable steps to give prospective purchasers notice of the times and places at which the vendor's statement may be inspected before the auction. The kinds of steps considered reasonable, set out in section 11(2), are if the agent—

- incorporates the notice with promotional material for the sale that the agent or sales representative delivers to the purchaser; or
- offers to deliver the notice, or promotional material for the sale incorporating the notice, to the purchaser but the purchaser refuses to take it; or
- publishes the notice in a prominent position—
  - (i) in promotional material for the sale on the agent's website or in a newspaper circulating generally throughout the State or the area in which the land or business is situated; or
  - (ii) on the signboard advertising the sale at the land or at the premises of the small business.

12—Amendment of section 13A—Prescribed notice to be given to purchaser

This clause enables the prescribed notice to be given by a vendor to a purchaser, in the case of an inspection that is open to the general public, by displaying the notice in a prominent position on the land and so as to indicate to persons inspecting the land that a copy of the notice may be taken by those persons.

13—Amendment of section 20—Authority to act as agent

Section 20(1) is amended to require the agent's genuine estimate of the selling price to be expressed in the sales agency agreement only as a single figure (and not as a price range). This is now consistent with how the selling price sought by or acceptable to the vendor is to be expressed. In neither case may qualifying words or symbols be used to express the price.

Section 20(2) will require an agent, before making a sales agency agreement, to provide details of sales of comparable land and any other information on which the agent will rely in support of his or her estimate of the selling price. Failure to comply with this requirement attracts a maximum penalty of $5,000 or an expiation fee of $315.

Section 20(4) is amended to enable an agent to provide a copy of a signed instrument or agreement to the vendor or purchaser either immediately or at a later time within 48 hours as agreed with the vendor or purchaser.

Section 20(5a) is inserted with the effect that a sales agency agreement for the sale of residential land by auction may not be varied by increasing the amount specified in the agreement as the selling price sought by, or acceptable to, the vendor. This measure aims to ensure that the vendor's price cannot be set low for the duration of the marketing campaign (to entice potential purchasers) and then suddenly increased just before an auction. This is one of the measures of this Bill that is designed to prevent bait advertising.

Section 20(6) is amended to enable an agent to provide a copy of any variation to a sales agency agreement to the vendor either immediately or at a later time within 48 hours as agreed with the vendor or purchaser.

Subsections (6a) to (6c) will enable sales agency agreements to be extended for a single period not exceeding the number of days prescribed by regulation provided that the extension is recorded in writing and dated and signed by the parties no earlier than 14 days before the agreement is due to expire. An agent must provide a copy of the record of extension to the vendor either immediately or at a later time within 48 hours as agreed with the vendor. The vendor may at any time during the period of extension, terminate the agreement without giving a reason by giving at least 7 days written notice.

Subsection (6d) is intended to prevent agents and vendors from prematurely terminating a sales agency agreement and entering into a fresh sales agency agreement specifying a higher vendor price. This is one of the measures of this Bill that is designed to prevent bait advertising.

Section 20(9) has been amended to require an agent to keep a copy of the record of any extension of a sales agency agreement.

14—Amendment of section 21—Requirements relating to offers to purchase residential land

This amendment effected by this clause are in the nature of a drafting tidy-up only.

15—Amendment of section 24A—Representations as to likely selling price in marketing residential land

Clause 15(1) and (2) amend section 24A of the Act and are consequential on the amendment of section 20(1) (above).

Section 24A(2) is substituted with the effect that the following requirements will apply to agents and sales representatives when making representations in marketing residential land:

- representations as to the likely price for the land must be expressed as a single figure without any qualifying words or symbols and must not be less than the prescribed minimum advertising price (which is the greater of the agent's or the vendor's price specified in the sales agency agreement at the time of the representation);
- representations as to a likely price range for the land must be expressed using two figures only, being the lower and upper limits of the range, with the lower limit being an amount that is not less than the prescribed minimum advertising price and the upper limit being no more than 110 per cent of the lower limit.

Contravention of subsection (2) attracts a maximum penalty of $20,000 or imprisonment for 1 year.

Subsection (3) prohibits an agent from demanding, receiving or retaining commission or expenses in respect of the sale of land if subsection (2) has not been complied with (contravention attracting a maximum penalty of $5,000 or an expiation fee of $315).

Subsection (4) enables a person who, despite subsection (3), has paid such commission or expenses, to recover that amount as a debt from the agent.

16—Substitution of section 24I

This clause substitutes section 24I

24I—Standard conditions of auction for residential land

This section has undergone minor drafting improvements and now clarifies that the standard conditions of auction are binding on the vendor and purchaser, the vendor and the auctioneer and the bidders and the auctioneer.

17—Amendment of section 24J—Preliminary actions and records required for auctions of residential land

This clause amends section 24J(1) of the Act. Previous paragraph (b) (requiring an auctioneer to read out the standard conditions of auction) has been deleted and replaced with a provision now only requiring the auctioneer to draw the public's attention to the fact that the standard conditions of auction (as required to be made available for perusal before the auction) apply to the auction as binding conditions.

New paragraph (ba) will prohibit the reserve price for the land from exceeding 110 per cent of the amount specified in the sales agency agreement as the vendor's price. This is one of the measures in the Bill designed to prevent bait advertising.

18—Amendment of section 24K—Registered bidders only at auctions of residential land

The amendments effected by this clause enable a unique identifier other than an identifying number (namely, including a letter, colour or some other identifying feature) to be allocated to intending bidders at an auction of residential land.

19—Amendment of section 27—Preparation of conveyancing instrument for fee or reward

The maximum penalty amount for this offence is increased from $5,000 to $20,000, making it consistent with penalties for similar offences.

20—Amendment of section 28—Preparation of conveyancing instrument by agent or related person

The maximum penalty amount for this offence is increased from $5,000 to $20,000, making it consistent with penalties for similar offences.

21—Amendment of section 29—Procuring or referring conveyancing business

The maximum penalty amount for this offence is increased from $5,000 to $20,000, making it consistent with penalties for similar offences.

22—Amendment of section 30—Conveyancer not to act for both parties unless authorised by regulations

The maximum penalty amount for this offence is increased from $5,000 to $20,000, making it consistent with penalties for similar offences.

Debate adjourned on motion of Mr Goldsworthy.

ADVANCE CARE DIRECTIVES BILL

Adjourned debate on second reading.

(Continued from 13 November 2012.)

Ms CHAPMAN (Bragg) (12:04): Madam Speaker, what an honour it is to have you in the seat here during this very important debate. I was discussing at the second tranche of my contribution on this yesterday the predicament that we in South Australia are in as one of the only Australian jurisdictions in which advance care directives completed in other jurisdictions are not recognised. The Hon. Michelle Lensink in another place tabled a private member's bill to address this lack of recognition, so I give her credit in these debates for bringing this matter to the attention of the parliament to remedy this.

Quite possibly, members in this house will have been confronted with the difficulty of people who have come from across the border, especially those members who represent electorates that go to the South Australia border, particularly with New South Wales and Victoria. The member for Mount Gambier might, indeed, have difficulties in this regard, and no doubt the member for MacKillop, the member for Hammond and the member for Chaffey would have experienced this.

Members interjecting:

Ms CHAPMAN: And the member for Stuart, of course, whose electorate also reaches the border. So, from time to time, they would actually have a significant transfer of persons. What this means is that people who had legitimately signed directives in another state in the reasonable expectation that they would be honoured and recognised if they moved into another state have found that, in coming to South Australia, that is not the case. Of course, this usually only comes to the attention of somebody when the circumstance occurs when one needs to rely on it, and often it is then too late because one of the parties is already suffering an incapacity, for example.

This bill is to remedy this situation. It is consistent with the whole concept of mutual recognition that, where there has been a legitimate process undertaken in one jurisdiction, it be recognised somewhere else. This is not exclusive to this area of legal documents. With even something as simple as a marriage, if it is legally undertaken in another jurisdiction, another country, and it complies with all the laws of that jurisdiction, then we in Australia recognise that under our Marriage Act. This is not a unique situation but, in this instance, there had been a deficiency, so, thanks to the Hon Michelle Lensink, we now have that provision in this bill and hopefully this will remedy that.

I just also want to mention the concept of 'responsible person' because, under the Consent to Medical Treatment and Palliative Care Act 1995, consent arrangements in the absence of an advance care directive for patients unable to consent are to be clarified under amendments in this bill, and there is also the introduction of a dispute resolution process, including voluntary mediation.

Under the Guardianship and Administration Act, where there is no legally appointed representative such as a guardian, enduring guardian or medical agent, limited relatives can consent to health care on behalf of an adult with a mental incapacity. Amendments to the consent act—which, of course, is the Consent to Medical Treatment and Palliative Care Act 1995—lay down the responsible person who can consent to health care on behalf of patients with impaired decision-making capacity if there is no advance care directive.

The person is to be identified by the following hierarchy, in order: the amendments set out the provision for a guardian appointed by the Guardianship Board; where there is no guardian, a prescribed relative of the patient; if there is no guardian or prescribed relative, an adult friend; and, if there is no-one in the previous categories, an adult charged with overseeing the ongoing day-to-day supervision; and, if there is no-one who meets all those criteria and who is available and willing

to make a decision upon application, the Guardianship Board can consent to the proposed treatment. So, there is a hierarchy of persons to be considered to undertake that task.

A responsible person is required to make a decision that they honestly believe the person would have made in the current circumstances; and, if an individual does not want the person responsible to be making decisions for them in the future and they are competent, they should be encouraged to complete an advance care directive.

A responsible person will be subject to a similar dispute resolution process for other advance care directives. The consolidation of the regimes for establishing directives in this area is good, the educative role which has been announced is important and the capture or recognition and remedying of some deficiencies along the way have been welcomed. Finally, the establishment of a dispute resolution process, which hopefully will more simplify matters, is also meritorious.

I come now, however, to some concerns raised, and I think that, in speaking to other members in the house, the actual operation of this bill has raised some concerns. Certainly from my perspective I have not received any criticism of the review or of the identified aspirations of the legislation by way of consolidation and reform that I have referred to; and, indeed, there have been quite a few welcoming comments made about those aspects of the intention of this legislation.

In her correspondence, the chair of the Palliative Care Council, Mary Brooksbank, has identified some concerns. I will just try to summarise them as she indicates to me as follows:

> As Chair of the Palliative Care Council SA I am very concerned about the amendment to the Coroners Act 2003 section 3—Interpretation which now includes a new Part 2A of the Consent to Medical Treatment and Palliative Care Act 1985 in the category of reportable deaths. I think this has come about because the hierarchy of who can give consent when a person has impaired capacity has now moved out of the Guardianship Act 1993 into the new Part 2A of the Consent to Medical Treatment and Palliative Care Act as part of the amendments relating to the Advance Directives Act. However, as almost every death in palliative care includes a period of impaired decision making as patient near death, and family are usually consulted about the appropriate treatment abatement, simply as part of good medical practice and good communication, it seems that almost every death becomes reportable, except those where a formal advance directive has been made or a surrogate decision-maker formally appointed. This would be an unworkable situation and I am seeking urgent clarification of the intent of this change.

This is a matter which I think other members have had brought to their attention. As I understand, the minister is also cognisant of this concern, and I would invite him to advise the house in due course as to whether that is a reasonable concern or, indeed, more particularly, that it is covered by virtue of the definition that is proposed. Alternatively, some indication from the minister would be appreciated to consider any amendments that might be necessary.

It is one where I think that members in both houses have been apprised, and therefore if there was some commitment by the government to confirm that there is not a problem or undertake to address it then we would be dealing with it. I have not had any submission, I should say, from the Coroner but others may have, and the minister may have consulted with the Coroner about any concerns that he may have about that because that would, of course, result in an extraordinary amount of extra work for the Coroner's office, and I am certainly aware of the concerns of limited resources that he has to undertake his existing duties, let alone an extension.

The second matter comes as a result of correspondence from Marion Seal, who I think is a professor at the Deakin School of Nursing at the University of Adelaide. If she is something higher than a professor, I do not wish to minimise her position.

The Hon. J.D. Hill: She is a registered nurse.

Ms CHAPMAN: I am advised, helpfully, by the minister that she is a registered nurse—a very important qualification. In any event, clearly she has an academic role with the University of Adelaide. She has co-authored a letter with Dr David Pope, the president of SASMOA (South Australian Salaried Medical Officers Association), and I have had some independent correspondence from Andrew Murray, who is the secretary of that association. I will refer to it in a moment, but I point out that I have not heard at all from the nurses union about this matter, which surprises me. I do not know whether the government has received any correspondence in respect of the bill. I would have expected that they would be a group, along with other medical associations, including the AMA, who would have been consulted during this very long period.

I am not reflecting on the government and implying that in some way they are excluded, but it seems, from what has been raised by Ms Seal, that it is surprising that I have not heard from the nurses union at all because I would have thought that these were exactly the sort of things that

would need to be covered by thousands of nurses who work in South Australia, many of whom work in the rural sector.

I will summarise the correspondence that Ms Seal and Dr Pope co-authored by saying that they applaud the initiatives of the Advanced Care Directives Bill as being well intended and an important and valid expression of patient autonomy. They go on to say:

> However, we point out there are significant operational problems with some sections of the Bill which may inadvertently mean some people die in a manner and circumstances not intended and where health care would prevent such a death. Deaths such as these would be needless and unintentional.
>
> Alternatively, if health care practitioners provide health care that the Bill classifies as refused by the individual's ACD, but this care is reasonable and would likely be wanted by a person in the circumstances, then the health care practitioner could be subject to a career ending sanction—namely a finding by a professional regulatory board of unprofessional conduct as imposed in this Bill.

Then the specific concerns are identified, the first being:

> The broad parameters of the proposed ACDs, rather than the current end phase of life provisions, in which refusals of life sustaining treatments can apply with no requirement for the person to demonstrate they understand the consequences of their decisions. People may make unwitting ACD e.g. refuse Cardio Pulmonary Resuscitation (CPR) and present to hospital unconscious with treatable pneumonia or even an accidental drug overdose. They may also use the ACD to intentionally refuse treatment that could save them after a suicide attempt.

That concern speaks for itself. I invite the minister to comment in respect of that. Certainly during the briefings I think there was encouragement given, by those providing the briefing from the minister's office, that it was important to consider ACDs earlier in life and not to wait until you are 95 or have been advised that you might have a terminal condition or disease; in fact, you should think about it at quite a young age.

That may be a good idea; however, this type of concern would be exacerbated by that because, clearly, there could be all sorts of other interventions that require you to go into hospital and be in an unconscious state when the ACD would be whipped out that was intended for something later in life. This type of situation could arise, so it is a legitimate concern and I ask the minister to address it. The second aspect in the letter is:

> Such ACD treatment refusals are binding on all health practitioners, including enrolled nurses, junior doctors, social workers etc and to not follow an ACD at face value could attract professional misconduct, assault and battery charges. The conscientious objection referral clause is unfeasible in an emergency and weakens professional practice and ethics codes.

Again, this is a matter that I specifically thought I would hear about from the nurses union but it seems to have been completely silent on this. It may not have any concerns, it may not even have thought about it, but obviously this would apply to many of its union members, and it is concerning that it has not been addressed. In this instance, I will be looking for some assurance from the minister as to how there will be protection against that or whether any amendment is foreshadowed. Finally, there is reference to concerns that:

> Health practitioners may be compelled to make an on the spot life or death decision for the patient with an ACD CPR refusal or risk their career when:
>
> - the patient could be saved and brought back to wellness;
> - treating a reversible complaint would prevent premature death, but the complaint has arisen from the condition which the ACD refusal was made for;
> - the health practitioner may lack the expertise to evaluate the situation properly and therefore lets the patient die but they could have been easily treated e.g. diabetic coma—

and finally:

> - time is needed to verify that the person would still want the ACD given the gravity of the outcome.

The letter goes on:

> These dilemmas may result in residential care staff preferring to transfer residents to hospital rather than make a decision about ACD application placing increased stress on an already stretched health system.
>
> In a small country hospital, nurses will be on their own to make decisions as doctors are not on site, creating problems for the rural and remote sector.
>
> ACDs may be deliberately overlooked by health practitioners in order to avoid the dilemmas which could ensue, meaning peoples' wishes are ignored and the Bill loses credibility.

These are some of the issues that have been raised. The authors have obviously undertaken considerable investigation of the concerns they have raised and the impacts of the new provisions and then made some suggestions as to how that may be resolved in the legislation. None of these has been drafted, but they suggest that making provision for the emergency practitioner's view, dealing with remote country locations and the like, can and should be addressed, and that there would be some reworking of the legislation to ensure that there are protections against those issues in particular.

I should conclude by saying that the correspondence from Mr Andrew Murray, as the senior industrial officer (I think I may have described him as the secretary, but I am sure members know who I am talking about), says—and this is a little concerning because it came in last week, having raised a number of these concerns—that there was no consultation with the South Australian stakeholders about the development of the bill itself. So, he does raise a general concern about the consultation.

I have already made a point that there was a very significant investigation of this matter by the review committee, and we think that was quite comprehensive. But what happens is this: when the recommendations—and there were some 36 or so recommendations—are then translated into legislation, sometimes errors are made or issues are not covered, just as we are now having exposed. So, there is some benefit in the actual drafting of the bill for that to occur. Mr Murray also said:

> Many of the events where this legislation will play out will be in public health settings, thus involving our members. Our Council [discussed] the matter last evening, and whilst broadly supportive of the overall intention of the Bill, have very strong concerns about some of the detail about application which may place doctors in very difficult situations as they work through real life scenarios. We are concerned that NO attempt was made to even work through the operationalizing—

I do not know if that is a word, but anyway—

> of the legislation with us to test its efficacy.
>
> We will be trying to get the Minister to hold-off on further proceeding until some time as the Bill can be amended to let it do what it was intended to do BUT without the negative impacts upon those who have to administer it on a day to day basis.

That is the contribution from Mr Murray. Again, it is concerning that that has not occurred. I am not sure why the government want to press this through particularly urgently, but it is not as though these aspects cannot be remedied by amendment. I have not considered, nor have I asked parliamentary counsel to consider, if the amendments that are recommended by Ms Seal and Dr Pope are appropriate, but I am sure that the minister will be able to enlighten us as to whether that can be accommodated.

With that, I indicate that I will be supporting the passage of the bill in this house. Other members on our side have indicated that they wish to make a contribution and may, of course, take a different view.

Mr PEGLER (Mount Gambier) (12:27): I indicate that I will be strongly supporting this bill. Earlier this year, I met with the Attorney-General to discuss problems many people in Mount Gambier were facing with powers of attorney, in particular with financial affairs, legal affairs and advanced care directives. These problems particularly occur with the differences between the states' rules. Currently, South Australia is one of the only Australian jurisdictions in which advanced care directives completed in other jurisdictions are not recognised. This also applies to other powers of attorney.

The bill will enable people to make decisions and give directions in relation to their future healthcare, residential and accommodation arrangements and personal affairs, to provide for the appointments of substitute decision-makers to make decisions on behalf of the person, to ensure that health care is delivered to the person in a manner consistent with their wishes and instructions, to facilitate the resolution of disputes relating to advance care directives, and to provide protections for health practitioners and other persons giving effect to an advance care directive.

The aim of this bill is to create a single form of advance care directive to replace the existing enduring power of guardianship, medical power of attorney, and the anticipatory direction. The provisions in the bill aim to make it easier to complete and apply advance care directives, and will assist people to express their views and preferences and to have confidence they will be known and respected into the future. Importantly, the bill contains protections for those who complete and apply advance care directives, particularly substitute and health practitioners.

The bill sets out a simple dispute resolution process for application in situations of uncertainty, or if there is a dispute. The bill requires substitute decision-makers to make the decision they believe the person would have made in the current circumstances if they had access to the same information. In other words, we can make advance care directives early in our lives and, if those people we have appointed have some idea of what we would have wished, they can then make those people aware of that.

The bill also makes sure that those substitute decision-makers cannot make unlawful directives—euthanasia, for example, or refusing compulsory mental health treatment. The bill also prevents substitute decision-makers from refusing health care for the relief of pain or distress and the natural provisions of food and water.

The bill, together with the proposed changes to the financial power of attorney being undertaken by the Attorney-General, will go a long way in solving the problems that many people face in Mount Gambier. The bill will form a cohesive package that will reform South Australia's legislation on advance directives to make it easier for the community to plan ahead for future health, medical, residential, personal and financial matters in the event that they are unable to make their own decisions, for whatever reason. I commend the minister for bringing the bill before the house and indicate that I will certainly be supporting the bill.

Mr VAN HOLST PELLEKAAN (Stuart) (12:31): It is a pleasure to follow the member for Bragg on these issues because she is always so thorough and has included so many issues, and I know that she will attend to every single detail on behalf of the opposition, so let me just stick to the general principle, and that is that I certainly do support this bill. This is a conscience vote for the opposition and the Advance Care Directives Bill 2012 does have my support as the member for Stuart.

I support it primarily on the basis that it is purely bringing together powers and authorities which exist already. The bill enables competent adults to make decisions and give directions in relation to their future health care, accommodation arrangements and personal affairs and to appoint substitute decision-makers to make such decisions on their behalf. Of course, there are three key components of this bill. The bill consolidates these areas:

1. Medical power of attorney (medical agents limited to making medical decisions on behalf of the person);

2. Anticipatory directions, whereby people need to list conditions and specific treatments they want in advance of illness; and

3. Enduring power of guardianship.

I would also like to reinforce a point made by the member for Bragg and also the member for Mount Gambier. The issue with regard to a national framework is also very important for the people of Stuart. As members may know, Stuart borders Northern Territory, Queensland and New South Wales, and there are a lot of people whose affairs cross those boundaries quite regularly, so interstate recognition is certainly important for me in this as well.

I attended a briefing a few weeks ago from the minister and his staff, and I thank him and them for that. The government, minister and health department have worked on this issue for many years and I think that work has not been wasted. I also recognise the contribution that the Hon. Michelle Lensink has made to this debate as well.

I do support it. Far too often these issues are dealt with at the last minute. Far too often these issues are not dealt with at all or put off and, clearly, it is quite understandable that healthy people do not deal with these issues and, of course, when you are unhealthy it is very often too late to be addressing them or you are doing so under pressure. I support pre-planning for such important matters and this bill allows these plans to be put into place and, very importantly, without introducing or conferring any additional powers. It really is very much about bringing together powers that already exist under a streamlined framework that fits into a national framework as well. So, very importantly, on the basis that no additional powers are brought it, I strongly support the bill.

Mr PEDERICK (Hammond) (12:34): I rise to speak on the Advance Care Directives Bill 2012, which was tabled by the Minister for Health in this place on 17 October 2012. This bill is about enabling competent adults to make decisions and give directions in relation to their future health care, accommodation arrangements and personal affairs, and to appoint substitute decision-

makers to make such decisions on their behalf. Back in 2007, the government launched the Advance Directives Review with the release of an issues paper looking for public comment.

An independent Advance Directives Review Committee was established, with the former health minister, the Hon. Martyn Evans, as the chair. The 11-member review committee was supported by a panel of experts across a broad range of areas. Over 120 submissions were received on the issues paper from health, aged-care and community care professionals; lawyers; community organisations; consumers; Aboriginal communities; government agencies; and financial institutions.

After 18 months of deliberations, this committee reported to the Attorney-General in two stages, with 67 recommendations. In 2011, the Australian Health Ministers' Advisory Council endorsed the National Framework for Advance Care Directives. The framework provides a lexicon of terms to facilitate national harmonisation, a code for ethical practice, and best practice guidelines. The bill, in my understanding, substantially accords with the national framework and only rejects one recommendation of the review, namely, that the integrated directive encompass powers of attorney.

The bill consolidates three different advance directives that are currently available. These include the medical power of attorney, which comes under the Consent to Medical Treatment and Palliative Care Act 1995. The scope of this is that the medical agent is limited to making medical decisions of behalf of the person. The model involves an agent to act in the best interests of the subject, with the capacity for directions. It applies when the grantor is incapable of making decisions on his or her own behalf. The decision of a medical agent can only be reviewed by the Supreme Court.

Anticipatory direction comes under the Consent to Medical Treatment and Palliative Care Act 1995. People need to list conditions and specific treatments they want, often in advance of illness or condition. The model is based on a precommitment to specific decisions; that is, a person cannot appoint a substitute decision-maker. This only applies when a person is in the terminal phase of a terminal illness or a persistent vegetative state. There is no dispute resolution process.

The third advanced directive that is currently available is the enduring power of guardianship, which comes under the Guardianship and Administration Act 1993. Its scope is that, except where there is a medical agent available and willing, an appointee can make medical and dental treatment decisions on behalf of the person, otherwise 'the powers at law or in equity of a guardian'. The model is to act in the best interests of the subject, and it applies when the grantor becomes mentally incapacitated. If there is a dispute or disagreement in relation to the enduring power of guardianship, the Guardianship Board can hear and decide the matter.

These instruments require different forms to be completed and have different witnessing provisions. The bill will bring all these directives to one form and be governed by one act. Financial powers of attorney and wills are not affected. The bill is founded on the principle of supported decision-making, that people should be supported to make their own decisions (lower-level decisions) for as long as they can. From what we have been informed, the directives will apply in any period of impaired decision-making capacity, whether temporary, fluctuating or permanent, as directed by the person in their advance care directive in various periods of life. For example, not just at the end of life, unconscious, degenerative conditions.

Assessment of capacity will now be decision-specific, not global, and made when the decision is required. The scope of the directive is that, while enduring powers of guardianship is currently as broad as the powers of the guardian at law, medical power or attorney and advance directions are focused on medical issues. The new advance care directives are broad, including residential accommodation and other personal matters.

The bill aims to make it easier for people to express their views and preferences and to have confidence that they will be known and respected in the future. The type of information people will be able to include in the new advance care directives is significantly expanded, and you can include issues such as: the values and goals in life and care; what is important to you when decisions are being made for you by others; instructions relating to various periods of life, for example not just at the end of life; what levels of functioning would be intolerable; and where and how you wish to be cared for when you are unable to care for yourself.

The bill does not prevent people specifying health care they do not wish to receive, including refusals of life-sustaining measures, such as CPR, artificial hydration, nutrition or ventilation and the circumstances under which such refusals would apply. Instructions and

expressed preferences, other than refusals of health care, must guide decision-making, but are not binding on others.

The bill has been put to enable as much flexibility as possible for the people completing these directives and there are different options. You can use written instructions and that can include preferences and wishes and the appointment of one or more suitable decision-makers. Secondly, you can have only written instructions and preferences; and the third point is the appointment of one or more suitable decision-makers without written preferences.

Subject to any contrary provisions contained in an advance care directive, an appointed substitute decision-maker can make all the health care, accommodation and personal decisions the person could lawfully make if they had decision-making capacity, and the decision has the same legal effect as if it were a decision of the person themselves.

The bill requires that substitute decision-makers must make decisions using the substituted judgement decision-making standard to make the decision they believe the person would have made in the current circumstances if they had access to the same information.

Both the witness to the form and the substitute decision-maker are subject to conflict of interest disqualifications. Throughout the process there is a new dispute resolution process, and there are forms and different ways the advance care directive must be put; it must be completed using a form approved by the minister. I also note that currently, South Australia is one of the only jurisdictions where advance care directives completed in other jurisdictions are not recognised, and this bill takes note of that.

The bill also amends the Consent to Medical Treatment and Palliative Care Act to clarify consent arrangements in the absence of an advance care directive for patients unable to consent and introduces a dispute resolution process, including voluntary mediation.

Currently, the Guardianship Act specifies that, where there is no legally appointed representative such as a guardian, enduring guardian or medical agent, and limited relatives can consent to health care on behalf of an adult with a mental incapacity.

Amendments to the consent act lay down the 'responsible person' who can consent to healthcare on behalf of a patient with impaired decision-making capacity if there is no advance care directive. The person is to be identified by the following hierarchy, and they run in order:

1. A guardian appointed by the Guardianship Board, provided that the guardian's powers do not exclude making health care decisions.

2. If there is no guardian appointed, a prescribed relative of the patient can consent without a hierarchy related to whether the person has a close and continuing relationship with the patient.

3. If there is no guardian or prescribed relative, an adult friend.

4. If there is no one who meets the previously mentioned categories of persons responsible, an adult charged with overseeing the ongoing day to day supervision, care and well-being of the patient who is available and willing can make a decision.

5. If there is no-one who meets the above criteria who is available and willing to make a decision, upon application, the Guardianship Board can consent to the proposed treatment.

So, there are quite a range of people and it is quite a lengthy list. I wonder whether it is too long, but perhaps that is what is needed. There has obviously been consultation. The responsible person will be subject to a similar dispute resolution process to that for advanced care directives.

I have had some correspondence with regard to this bill from a lawyer who works in this field of health care and advanced care directives. He is a person with an interest in the Respecting Patient Choices program. He is quite a proponent of advanced care directives and says that everyone should have them, but he has certainly raised a few concerns with me that the minister needs to address before I am able to support this piece of legislation. His concerns are:

(1) That some people may die needlessly and unintentionally if they sign Advance Care Directives in the form proposed;

(2) Pursuant to S.11 of the Bill the person making the Advance Care Directive needs to understand the consequences of giving an Advance Care Directive rather than the consequences of the decisions they have (using the current Anticipatory Direction, Medical Power of Attorney and Enduring Power of Guardianship forms);

(3) Pursuant to Ss.19 & 36 of the Bill an Advance Care Directive refusing life sustaining measures (eg CPR) can apply to any period of incapacity in the circumstances specified rather than to the terminal phase of life, as is the case presently;

(4) Pursuant to S.36 of the Bill health care refusals are binding on all health practitioners, even in emergency events, rather than that responsibility resting with the medical practitioner(s) or those under their supervision in such circumstances. Health practitioners who do not comply with the Advance Care Directive could be charged with assault and battery and also cited for professional misconduct;

(5) Pursuant to S.5 of the Bill any subsequent health issues arising from the condition, to which the Advance Care Directive refusal relates, cannot be treated;

(6) Pursuant to S.37 of the Bill a health practitioner, who has an objection to facilitating an Advance Care Directive treatment refusal, has to refer the case and patient on to someone who will comply with the Advance Care Directive, even if the consequence of doing so results in the needless and unintentional death of that patient;

(7) S.23(4) of the Bill infers that an express directive could refuse the natural provision of food, fluids or palliation rather than inferring the opposite.

He also notes that health practitioners who discussed the implications of this bill in the last week or so have put forward the following suggestions regarding the bill in its current form:

(1) That S.19(1) of the Bill be amended to state that 'an Advance Care Directive containing a refusal of life sustaining measures (whether expressed or implied) will, for the purposes of the Act, be taken to be a binding provision when the person is in the terminal phase of a terminal illness or condition'—thus having the same meaning as set out in the current Consent Act, although terminal condition could include 'ageing';

(2) That in S.11(5), a subsection be added to the Bill to note that the person's refusal of life sustaining measures, when that person is not in the terminal phase of a terminal illness or condition, will be less open to enquiry as to its validity if the Advance Care Directive indicates that the person has been medically informed of the consequences of such refusal of life sustaining measures;

(3) That a provision be added to S.23(1)(a) of the Bill to the effect that any decision(s) made by the substitute decision maker regarding life sustaining measures are binding when a person is in the terminal phase of a terminal illness or condition;

(4) That the provision that any subsequent health issues, arising from the condition, to which the Advance Care Directive refusal relates, cannot be treated be deleted from S.5 of the Bill;

(5) That if S.5 of the Bill is removed then S.37 of the Bill could be removed because there would be no cause for conscientious objection, in that a person could be allowed to die naturally in the terminal phase of a terminal illness or condition, that fits with codes of professional practice and ethics to which health practitioners currently adhere; and

(6) That, with respect to S.23(4) of the Bill the current version of the Consent Act be left intact and so remove the words 'unless there is an express direction to the contrary' from this Section of the Bill.

My legal friend indicates that he is concerned and, as I have just indicated to the house, he wants these points debated so that all possible unintentional consequences of the bill that have been detected by the health professionals can be avoided.

I note that my lawyer friend is very supportive of advance directives, but he wants them in the appropriate form, and I could not agree with him more. I think they are probably a very useful item for people's care and their proposed needs when they have the capacity to make those decisions, when they are of sound and competent mind, but the issue is: when do the advance care directives take place?

My reading of these comments and my reading of the bill indicate that it could be at any stage of your life and not just with a terminal illness, so I need the minister to outline to me that it will not apply to a younger person who might have an accident on a farm or a car accident and someone checks out the advance care directive that they want to withhold treatment and that person will be let go. I do have a real concern with that. I think there needs to be clarity and, if I am given that clarity, I will be able to support the bill, but I am just concerned that there are quite a few loose ends that need to be tied up.

I think it is a good idea to bring these three forms of advance care directive into the one form so that people can give their anticipatory direction, but we just need to make sure that people are not left unwillingly to die, quite frankly, if that was not the point they were trying to make. We want to make sure that these directives are for the very appropriate end-of-life time when they may be needed and not in a situation where persons could be resuscitated and perhaps go on to live an extra 20, 30, 40 or however many years and have a productive life.

I have mentioned before in this house my opposition to euthanasia. I am told that this bill does not directly involve active euthanasia, but I want to be satisfied in my mind that, if this

becomes an act, the right safeguards are in place to protect the citizens of this state. I commend the idea to bring the three directives together and that there will be interstate recognition of the advance care directive from South Australia.

Debate adjourned on motion of Dr McFetridge.

[Sitting suspended from 12:54 to 14:00]

PAPERS

The following papers were laid on the table:

By the Minister for Sustainability, Environment and Conservation (Hon. P. Caica)—

Dairy Authority of South Australia—Annual Report 2011-12
Fisheries Council of South Australia—Annual Report 2011-12
Primary Industry & Regions SA (PIRSA)—Annual Report 2011-12
Veterinary Surgeons Board of South Australia—Annual Report 2011-12

LEGISLATIVE REVIEW COMMITTEE

Mr SIBBONS (Mitchell) (14:02): I bring up the 17th report of the committee, entitled Subordinate Legislation.

Report received.

Mr SIBBONS: I bring up the 18th report of the committee, entitled Subordinate Legislation.

Report received and read.

QUESTION TIME

CHILD PROTECTION

Mrs REDMOND (Heysen—Leader of the Opposition) (14:04): My question is to the Premier. Is it the Premier's unambiguous position that when he was education minister he never became aware of the rape of an eight year old at a state school in any way—not by email, telephone, meeting, briefing, conversation or otherwise? On 1 November the Premier said, 'All critical incidents are always notified to the minister.' Later that day he said, 'There is no indication that this matter was referred to me or my office. Neither I nor my office has any recollection of this matter being raised.'

The next day, the Premier said, and I quote, 'It beggars belief that I wasn't told about this.' A few hours later that day, following the release of an email showing that his office was advised of the rape, the Premier said, and again I quote, 'I was not told about this email until today.' And finally, the Premier said yesterday and again I quote, 'My recollection is that I was not advised of this incident personally.' Premier, what I seek is an unambiguous answer. Were you made aware of this rape in any way during your time as education minister?

Members interjecting:

The SPEAKER: Order! Point of order.

Mr Pisoni: He needs protection, Patrick.

The Hon. P.F. CONLON: Ah, it's the member for Unley. He's their Maginot line.

The SPEAKER: Order!

Mr Pisoni interjecting:

The SPEAKER: The member for Unley, order!

The Hon. P.F. CONLON: It is not open to the Leader of the Opposition—it is 96 and 97, how you ask questions, I am not here to instruct you, though—it is not open to the Leader of the Opposition to make a speech at the end of a lengthy explanation.

Members interjecting:

The SPEAKER: Order! Leader, you did restate the question at the end of your explanation. However, I call the Premier.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:05): Thank you, Madam Speaker, I answered this question yesterday.

Members interjecting:

The SPEAKER: Order!

Mr Gardner interjecting:

The SPEAKER: Order! The member for Morialta, order!

CHILD PROTECTION

Mrs REDMOND (Heysen—Leader of the Opposition) (14:06): I have a supplementary question, Madam Speaker. Why is it that the Premier cannot, or will not, rule out whether his then adviser Jadynne Harvey informed him or discussed with him in some way the rape of an eight year old at a state school?

The SPEAKER: I consider that another question. Premier.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:06): This matter was also dealt with, clearly, in my ministerial statement. It was dealt with clearly.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: I know they want to come in here and continue to agitate this question but it has been clearly asked and answered.

UNITED STATES SECRETARY OF STATE

Mr SIBBONS (Mitchell) (14:06): My question is to the Premier. Can the Premier inform the house about the visit of the United States Secretary of State to South Australia?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:07): I thank the honourable member for his important question. Tomorrow I will be pleased to host the United States Secretary of State, Hillary Clinton, on a tour of Techport Australia at Port Adelaide, the hub of Australia's naval military manufacturing industry. Secretary Clinton's visit in Adelaide follows on from the AUSMIN bilateral meetings which are being held in Perth today.

I am pleased that secretary Clinton has made time to visit this important facility which is currently the site of the consolidation of Australia's new air warfare destroyers and will be the main site of the assembly of the Future Submarine Project. Members may be aware that the United States Pacific Fleet is based in Pearl Harbor, Hawaii, and San Diego, California. American law requires major repair work on US ships to be undertaken in the US, quite rightly, as they know the importance of having a local defence industry.

However, Defence SA has been lobbying US officials for a number of years to use Techport for voyage repairs that are currently undertaken in Singapore and Japan. This is an excellent opportunity to put our case to one of the most senior leaders in the United States. Of course, our defence industry locally includes a number of important American companies such as Raytheon and Lockheed Martin, which means many of the key relationships already exist.

In addition, BAE Systems at Edinburgh has also made a component for the Joint Strike Fighter that will be used in the US, Australian and other defence forces around the world, and I was very pleased to visit the factory there at Fort Worth earlier this year. The attraction of additional work on the US fleet to Adelaide would create hundreds of jobs, not just at Techport, but from the flow-on effects of having US service people on shore leave here in South Australia.

I am sure all members of this place would join me in welcoming Senator Clinton to Adelaide and wishing her an enjoyable visit.

CHILD PROTECTION

Mrs REDMOND (Heysen—Leader of the Opposition) (14:09): My question is again to the Premier. Is it the case that, when the rape of an eight year old occurred at a western suburbs

school, there was no education department policy to inform parents when a public school employee is charged and/or convicted of child sex offences; and is it the case that such a policy was only created three months after this incident?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:10): As soon as we were aware, of course, of some of the differences in perspective that had been put by different government agencies in relation to this matter, we established an inquiry. We made an impeccable choice to undertake that inquiry, former Supreme Court Justice Debelle, and he will undertake—

Mrs REDMOND: Point of order, Madam Speaker.

The SPEAKER: What is your point of order?

Mrs REDMOND: The point of order is the relevance of the answer. The question was about whether there was a policy in the education department at the time of the rape, which was two years ago, not whether they have created some way of dealing with it now.

The SPEAKER: You have made your point, but there is no point of order. The Premier is answering the question.

The Hon. J.W. WEATHERILL: Madam Speaker, of course, that is one of the inquiries that the relevant inquiry will undertake, because what we do know from the material is that it appears the relevant school council indeed was informed about the arrest and removal—

Mr GARDNER: Point of order, Madam Speaker: 98. It goes to the substance of the question which was about the education department policy which was introduced in February 2011.

The SPEAKER: Thank you. I think you need to listen to the Premier's answer before you take a point of order. No point of order.

The Hon. J.W. WEATHERILL: What we, in fact, know is that the agency was on a trajectory to send a communication to parents. Now, why that did not happen is the very subject of the inquiry that will be undertaken by former Supreme Court Justice Debelle. They must have believed that they were acting pursuant to a policy to advise parents because that is exactly what they were in the process of doing. It is just that some advice intervened which was interpreted as not telling parents, and so the school governing council were deprived of that opportunity because of the advice that was tendered. Now, how that happened, why it happened, is the very thing that will be the subject of the inquiry by former Supreme Court Justice Debelle.

Members interjecting:

The SPEAKER: Order!

NYLAND, JUSTICE MARGARET

Mrs VLAHOS (Taylor) (14:11): My question is to the Attorney-General. Can the Attorney-General inform the house about the upcoming retirement of a Supreme Court justice?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (14:11): Members may be interested to know that on Friday of this week I will be attending the Supreme Court to acknowledge the retirement of the honourable Justice Margaret Nyland AM. I am sure the member for Bragg will be there. Justice Nyland has served for 25 years on the bench, 19 of them in the Supreme Court. Justice Nyland entered the law at a time when female lawyers were extremely uncommon and Her Honour was one of just 15 female undergraduates studying law in Her Honour's first year amongst 115 men. The year Justice Nyland was admitted to the bar, Dame Roma Mitchell set an inspiring precedent as the first woman to be appointed to a supreme court bench in Australia.

Justice Nyland took the honour of being appointed the second South Australian Supreme Court justice, after Justice Mitchell, and the nation's fourth female superior court justice in 1993. Her Honour was, in fact, sworn in by Dame Roma in her role as Governor of this state at that time. Chief Justice King recognised the momentous nature of the day inviting the Governor to the bench on that occasion.

Justice Nyland's work on the bench has been marked by a sensitivity and skill that cannot be overstated. Her Honour's ease in the courtroom puts others at their ease. It is no accident that so many difficult criminal cases have come Her Honour's way.

Justice Nyland's wisdom and experience are widely valued and will be hard to replace. Justice Nyland has had a significant impact on her associates. I am reliably informed that Her Honour claims to have had direct impact in the marriage of not one but two of her former associates. The young lawyers working at the Supreme Court were lucky enough to have such a caring and generous mentor during Her Honour's time on the bench.

On behalf of the government and all South Australians, I thank the honourable Justice Nyland for her service to the law. This state is blessed with an outstanding Supreme Court and District Court bench of which Her Honour was a valuable and, for the time being, continues to be, a valuable member.

The government wishes Her Honour all the very best in her retirement and, as I said, I will be personally attending the ceremony on Friday to honour Her Honour's period as an outstanding judge of that court.

CHILD PROTECTION

Mrs REDMOND (Heysen—Leader of the Opposition) (14:14): My question is again to the Premier. Can the Premier tell the house whether he was advised of the rape of a boy in a regional school in relation to which charges were laid the day before his office received the email advising of the rape of the eight year old in a western suburbs school?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:14): I am not entirely sure which incident the honourable member is referring to but if she is talking about an incident that occurred between two children at a school then that has been drawn to my attention. I am not sure whether I was told at the time but I certainly do know that it has recently been drawn to my attention, the fact of such an incident. Can I say that for people to come into this place and try to bring forward what is an awful incident, of course—two children within a school engaging in conduct of that sort, and all the trauma and suffering associated—

Mr Pisoni: It wasn't two children.

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: If that is the matter—

Mr Pisoni interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —that you are talking about, I do not know which matter you are advancing, but there are often—

Mr Pisoni: One of them didn't want to be there, Jay.

The SPEAKER: Order!

Mr Pisoni: It's outrageous.

The SPEAKER: Order! The member for Unley, order! Listen to the Premier's answer.

The Hon. J.W. WEATHERILL: If people bring into this place incidents that concern two children and make it a matter of public comment and public debate in this place, I think that is reprehensible. If you have—

Mr GARDNER: Point of order, Madam Speaker. I think the Premier is now contravening 127, imputing proper motive.

The SPEAKER: The Premier is responding to a very provocative question.

The Hon. J.W. WEATHERILL: I will bring back an answer to the house. I am aware that there have been a number of incidents, both during my tenure as a child protection minister and, indeed, as a minister for education where awful things happened between children and between adults and children. It is one of the sad parts of carrying out the duties of these functions. All too often I was briefed about awful things that happen in our community, but for people to come in here and seek to make political capital—

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: —out of the fact the bad things happen in some of our institutions from time to time, I think is an outrage.

Members interjecting:

The SPEAKER: Order!

GOODWOOD JUNCTION UPGRADE

The Hon. S.W. KEY (Ashford) (14:16): My question is directed to the Minister for Transport and Infrastructure. Minister, could you update the house on the progress of the Goodwood Junction upgrade?

The Hon. P.F. CONLON (Elder—Minister for Transport and Infrastructure, Minister for Housing and Urban Development) (14:17): I thank the member for her question and place on the record the great keenness that both the member for Ashford and the federal member for Adelaide have shown in making sure that on this project we are doing the right thing by locals. I have to say both members have been in my office getting across what we are doing and making sure that we are doing the best possible community engagement—which we are—partly thanks to their work.

This project seeks to separate the passenger and freight rail at this junction by putting the passenger line under the freight line. This will enhance rail and traffic safety. Some people (and I am one of them) know how long you can be stuck on Cross Road by the freight trains. This will reduce that waiting time by about five minutes by not requiring the trains to move so slowly through there, and it will reduce waiting times for traffic at the Leader Street and Victoria Street intersections as well. Importantly for local members, it will therefore reduce noise for residents from freight train braking, which is one of the major causes of disturbance from that heavy traffic.

As I said at the outset, it is something that we wanted to do very well because we are aware that, while these major projects have a great benefit for the broader community, they do have a large impact on local residents. With that in mind, and having talked to the local members, we have made presentations to the Unley council and local community groups. There was doorknocking of all properties directly facing the rail corridor for the length of the project. This is a new form of community engagement that we do, and we think it is the very best.

There was a community information day, and I know the member for Ashford was there, on Sunday 28 October, where interested residents and community representatives were able to view animations of vegetation, traffic and construction plans and ask questions of various project teams. That meeting was attended by both the chief executive of the Department of Transport and the deputy chief executive responsible for public transport. It is by doing this that we get a greater community acceptance of what is a very large disruption for many people.

It will have a good outcome for those people in the longer term, and I again want to place on the record the very hard work that has been done by the member for Ashford and Kate Ellis (the member for Adelaide) for their constituents in making sure that we do the right thing by them.

GOODWOOD JUNCTION UPGRADE

Ms CHAPMAN (Bragg) (14:19): I have a supplementary question.

The SPEAKER: A supplementary to another person's question is a bit difficult to define, but you have jumped up, member for Bragg.

Ms CHAPMAN: My supplementary question is: minister, if this is such an important project, why have you not proceeded with the Leader Street underpass?

The SPEAKER: I will consider that another question.

The Hon. P.F. CONLON (Elder—Minister for Transport and Infrastructure, Minister for Housing and Urban Development) (14:20): This is the difference in approach: two local members working hard for the community and the opposition sniping on a very worthwhile project. The member for Bragg—

Ms Chapman: Kate Ellis said you were doing it.

The Hon. P.F. CONLON: Are you still shadowing me? I can't remember. No, she's not: she is just freelancing, but she is an expert on everything, so let's let her go.

The member for Bragg knows full well that this project has actually been brought ahead. She would have you believe that we left something out; that is not the case. This project was brought ahead. Why was it brought ahead? So that we could do it at the same time we were closing the rail line for the Noarlunga upgrade so that there wouldn't be two major interruptions, two major obstructions, for those people.

She knows that. It is not even in her portfolio area and she couldn't resist being a smart alec, could she? The truth is that we are doing the right thing by locals and by people that catch the train by making sure we don't have two big disruptions, just one. I think that was a smart thing to do.

CHILD PROTECTION

Mrs REDMOND (Heysen—Leader of the Opposition) (14:21): My question is again to the Premier. Can the Premier advise why, instead of support from the education department for the regional school rape victim and his family, they were told the regional director was on holiday?

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:21): I am very happy to take these questions because this is the very essence of the work that Justice Debelle will get to the bottom of. In the past—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: In the—

Members interjecting:

The SPEAKER: Order! Minister, have you answered your question?

The Hon. G. PORTOLESI: Madam Speaker, can I ask the Leader of the Opposition to repeat the question? I may have misheard her.

Mrs REDMOND: The question was to the Premier, who was the minister at the time, as to why, instead of support from the education department for the regional school rape victim and his family, they were told the director was away on holiday?

The Hon. G. PORTOLESI: Thank you, Madam Speaker, I beg your pardon; it was in relation to the earlier question. I believe we are all referring to the same case, and I can inform the house that contact has been made with this mother in the last—

Members interjecting:

The SPEAKER: Order! You have asked a question; you will listen to the answer.

Mr Pisoni: Today—two years after.

The SPEAKER: Order!

Members interjecting:

The Hon. G. PORTOLESI: That's correct, the Leader of the Opposition is absolutely correct. We are dealing with an event that occurred two years ago, but I am advised that contact was made with me yesterday. It was either yesterday or today—anyway, very recently—

Mr Pisoni: Monday, it was. It was Monday.

The SPEAKER: Order!

The Hon. G. PORTOLESI: —and we have arranged for that family, who have expressed a very strong desire to maintain and have their confidentiality respected, to have senior officers meet with them today and that is occurring. Can I implore all members in this place to respect the privacy of individuals and to acknowledge that we are dealing with families and with children who are vulnerable here. We must, of course, act responsibly and discharge our obligations—

Mr Pederick: Two years later.

The SPEAKER: Order!

The Hon. G. PORTOLESI: —and we are doing that, but we must also do this with a view to not retraumatising, not revictimising people who are suffering. I urge the opposition—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: Over the course of the next few days, weeks, months these events will stir other events in other individuals, in other families, and we will do our best to provide the appropriate, the correct response in the most timely way that we can. That often involves going back many years, and we will do our very best to get to the bottom of what has transpired.

CHILD PROTECTION

Mrs REDMOND (Heysen—Leader of the Opposition) (14:25): Supplementary question: can the minister explain why, after a rape, it has taken two years for the department to recognise that it has obligations towards the victim and his family? How certain is she that there has, in fact, been a meeting organised, as she says?

Members interjecting:

The SPEAKER: Order! I will consider that another question, also. You are doing very well today. Minister.

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:25): To be clear, there are two different events we are talking about. I am now referring to the matter that the Premier referred to earlier in relation to children and conduct between children. I am advised that a meeting is scheduled for today. In relation to the other event, we all know what has transpired there.

COUNTRY HEALTH SA

Mr BIGNELL (Mawson) (14:26): My question is to the Minister for Health and Ageing. Can the minister inform the house about the progress on the contract between SA Health and rural GPs?

The Hon. J.D. HILL (Kaurna—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for the Arts) (14:26): I thank the member for Mawson for this question. I acknowledge his great interest in country health, as my parliamentary secretary on health, and his particular involvement in country health issues. I can inform the house that the new agreement between the Rural Doctors Association of South Australia (which represents, I understand, the vast majority of rural doctors) and Country Health SA was announced on 14 August this year, and that followed 18 months of negotiations.

The agreement provides up to three on-call allowances of $150,000 for each private GP practice in each health service to cover emergency, obstetric and anaesthetic services on a 24-hour basis. In addition, GPs are paid a fee for inpatient care provided. So, there is $150,000 for each of those sets of skills that can be shared amongst the doctors who provide the services to a particular hospital.

The agreement also makes South Australia the first state to offer a safe working payment, which provides some reimbursement for doctors if they have to cancel private patients following after-hours emergency work the night before. Therefore, no GP is required to be on call for 36 hours, as has been suggested a number of times in the media just recently. I am also pleased to announce today that 93 of the 102 medical practices invited to sign the agreement have indicated a willingness thus far to do so.

Country Health is continuing negotiations with the nine remaining medical practices, and that includes four at Victor Harbor. The existing arrangements in Victor Harbor have been extended until 31 January next year whilst these negotiations continue. Currently, the South Coast District Hospital in Victor Harbor relies on ad hoc arrangements with local GPs for after-hours callouts for obstetrics and anaesthetics and daytime emergency. I am told what happens is that there is a general agreement to provide the service, but you have to ring around to find a doctor who will do it. It is not a certain process.

There is a locum service, which is also provided, for after hours emergency care. The new on-call proposal aims to provide certainty of service and guaranteed care for patients when it is needed, so we do not have these ad hoc arrangements in place. We are happy, of course, to have a degree of flexibility, so long as patient care is guaranteed. For example, we would be happy for Victor Harbor doctors to subcontract out part of the roster to a locum service. Locum service

happens now, but it is run by us rather than by them. However, the Victor Harbor GPs need to guarantee the availability of a GP when required, regardless of how the GP is provided.

There has been no reduction in funding on offer to the Clare Medical Centre as a result of the new agreement. Pursuant to the agreement, doctors at the Clare Medical Centre would receive $150,000 each year to provide an after-hours emergency care roster in Clare, with an additional $75,000 if they travel to Snowtown to attend emergency callouts in person.

The new arrangement requires face-to-face consults with Snowtown patients (which we think they deserve) rather than over the phone consultations in order for the doctors to receive the additional $75,000. The Clare Medical Centre has chosen to no longer provide the Snowtown consult service on this basis. They are happy to take the money if it can be done over the phone, I understand.

The Clare Medical Centre has advised that they will sign the standard general practitioner agreement for the services they provide in Clare but not the additional roster to cover Snowtown. Country Health will pursue alternative models of care where agreement cannot be reached so that country patients continue to receive the same level of care. The arrangements under the new contract will ensure the consistency of after-hour public health services across the state and ensure that patient care is foremost.

It is important to keep to the standard contract in order to maintain fairness and equity for patients and GPs right across this state and, as I understand it, this is the view of the overwhelming number of GPs who work in country South Australia. It is certainly the view put to me by their representative organisation, the Rural Doctors Association, so I would encourage all the services that have yet to sign the contract to talk to us, work with us and try to come to an arrangement within the contract bounds that have been settled on with the Rural Doctors Association.

CHILD PROTECTION

Mr PISONI (Unley) (14:30): My question is to the Minister for Education and Child Development. When the mother of a regional school rape victim requested specialist support from the minister's department, why did the department instead only offer '3 or 4 sessions' with a specialist and only then on the basis that the mother sign an indemnity with a department lawyer?

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:31): As I advised the house a minute ago, this is a matter that I am advised was first brought to my attention yesterday, and we have taken—

Mr Pisoni: Monday, you were told.

The SPEAKER: It seems the member for Unley may already know the answer to this, so I am not sure why he has asked the minister.

The Hon. G. PORTOLESI: I take this constituent seriously, so I am going to give a serious answer. The moment it was brought to our attention—and we are dealing with a matter that occurred nearly two years ago—we are taking the matter seriously. I can't confirm precisely what transpired nearly two years ago, but what I can assure the house is that officers are meeting with this mother, literally as we speak, so I endeavour to get to the bottom of what has transpired.

PREMIER'S RESEARCH AND INDUSTRY FUND

Ms BEDFORD (Florey) (14:32): My question is to the Minister for Science and Information Economy. Can the minister inform the house on investment in research and innovation in South Australia?

The Hon. T.R. KENYON (Newland—Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport) (14:32): I thank the member for Florey, whose electorate is named after one of the most substantial scientists ever produced by this state.

Ms Bedford: In the world.

The Hon. T.R. KENYON: In the world, in fact—one of the most substantial scientists in the world. The member for Florey is exactly right. He has had far-reaching effects. Many of us would probably be dead if it were not for the work of Florey. It is just a thought.

Members interjecting:

The Hon. T.R. KENYON: No, the work of Florey. This government is a strong supporter of science technology and innovation in this state. In fact, since 2004 we have invested more than $200 million in science technology and innovation initiatives. South Australia's economy is rapidly transforming, with growth in new and emerging industries causing demand for highly-skilled jobs to increase. Scientific research and innovation are fundamental to this transformation to a highly advanced economy. I am therefore pleased to inform members that applications are now open for the Premier's Research and Industry Fund.

This state government program provides investment of $4.2 million per annum to support new and continuing programs to enhance science and innovation in South Australia. The program targets the highest priority areas for research activities and will drive innovation across the state. Research organisations can apply for funding for research activities that focus on collaboration and international partnerships or attract high-calibre research talent to South Australia.

The programs available through the Premier's Research and Industry Fund include the International Research Grant Program, with a maximum of $100,000 per year on offer to encourage research collaborations between Australia and other countries, such as India and China, and the Collaboration Pathways Program, which has grants of up to $100,000 per year to encourage collaboration within universities to work on joint projects. This program can also be used to help universities jointly apply for federal funding streams, while the South Australian Research Fellowships aim to bring internationally-recognised talent to the state for research-specific projects. The maximum grant available is $250,000 per year for four years.

There is always a positive outcome when we invest in talented people. These programs will allow those people to focus their research talents on issues that support the state government's key priorities. The Premier's Research and Industry Fund encourages relationships between the private and public sector, ensuring that both can advance and learn from each other. Investment and research innovation is one of the best methods to improve economic performance, and it is vital for the future of this state that we continue to invest in innovation and research through funds such as this.

CHILD PROTECTION

Mr PISONI (Unley) (14:35): My question is to the Minister for Education and Child Development. Can the minister tell the house why, when a boy was raped at a regional school, the convicted offender was offered assistance and counselling and the victim's family was then expected to use the same counsellor?

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:35): I am getting to the bottom of what has transpired in this and every other case. I have to also say that there have been plenty of examples, sadly, where communication has occurred with families and where transparency and that process have worked very effectively.

Members opposite may not like to acknowledge that when we are dealing with children we are dealing with complexities around evidence and we are dealing with others that make allegations then withdraw them. Also, in this particular case we are dealing with a situation that occurred two years ago. The member for Unley keeps insisting that I received this email a number of days ago: it was sent at 6.53pm on Monday night and brought to my attention yesterday. I am happy to check all of those details. Are you committed to working with us to assist people or do you want—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: Are you committed to working with us to genuinely assist people to identify systemic barriers or other things that need to be changed in an organisational structure, because we certainly are—

Members interjecting:

The SPEAKER: Order!

The Hon. G. PORTOLESI: —because, when I have been speaking to parents, that's what they want. They don't want to be part of some political game. They want answers here, and we are going to get them for them.

STATE EMERGENCY SERVICE WEEK

Mr PICCOLO (Light) (14:37): My question is to the Minister for Emergency Services. Can the minister inform the house about what activities have been planned in the lead-up to SES Week?

The Hon. J.M. RANKINE (Wright—Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety, Minister for Multicultural Affairs) (14:37): I thank the member for Light for his question and acknowledge his ongoing advocacy on behalf of our emergency service volunteers. This week, from 10 to 18 November, the nation is celebrating State Emergency Service Week. This is a national celebration to honour and highlight the dedication and commitment of thousands of men and women across our nation who selflessly volunteer their time with their State Emergency Service. Only yesterday, I was reminded of just how invaluable their services are to our community through the support they gave at the running and staging area and base camp for around 110 firefighters camped at Port Lincoln. They were also active in traffic control and logistical support. This ensured that in such challenging circumstances operations ran as smoothly as they possibly could.

In the lead-up to this week's celebrations, I had the pleasure of opening the new Campbelltown brigade station. This $815,000 complex will be invaluable for the unit's 22 active members, who attend up to 380 calls on average each year. Campbelltown is one of two new facilities opened this year, the other being in Tumby Bay. Madam Speaker, you will be pleased to hear, I am sure, that plans are being finalised with architects for the new facilities at Whyalla, which I am told will be up and running by the end of next year.

Since we came to office, we have rebuilt or upgraded 21 of the 67 SES stations in our state, and there is more to come. On 2 November, I was joined by the member for Taylor to celebrate the Edinburgh unit's 50th anniversary. This unit was originally a civil defence unit located in Salisbury with the priority of training members to handle the potential aftermath of an atomic bomb. Like many other members today, I am wearing orange as part of Wear Orange to Work Day. It is great that so many have taken this opportunity to show their support for the state's 1,600 SES volunteers.

In typical style, this week SES members have been out in force donating blood as part of their celebrations and, whilst we take the opportunity to recognise and celebrate the contribution of SES volunteers, this week is also about encouraging more people to join up. It is a great way to make new friends, learn new skills and give something back to your community. Young people from the age of 13 can join as cadets and from 18 years for general membership. Those who do not wish to participate in rescue activities or are concerned regarding their physical fitness but still want to get involved are encouraged to join as operational support members. As a community we are indebted to our volunteers, and this week is just a small way in which we can show our appreciation. I am sure all members will join with me in saying thank you on behalf of all South Australians.

Honourable members: Hear, hear!

CHILD PROTECTION

Mr PISONI (Unley) (14:41): My question is to the Minister for Education and Child Development. Why did the minister's education department attempt to send both the perpetrator and the victim of the regional school rape to the same regional school in contravention of court orders?

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (14:41): I ask the member for Unley to give me any information he has and I will make sure we will get to the bottom of that.

Members interjecting:

The Hon. G. PORTOLESI: And I will make sure that we get to the bottom of that.

Mr Pisoni interjecting:

The SPEAKER: Order, member for Unley!

SOUTH-EAST AERIAL IMAGERY PROJECT

Mr ODENWALDER (Little Para) (14:42): My question is to the Minister for Sustainability, Environment and Conservation. Minister, how will natural resources management in the South-East of South Australia benefit—

Members interjecting:

The SPEAKER: Order! I think there is a camera up there that is filming someone who is not on their feet. No, it is okay. Member for Little Para, repeat your question.

An honourable member interjecting:

Mr ODENWALDER: I know, that's right—I'm on my feet.

The SPEAKER: It's your one minute of fame. Repeat your question.

Mr ODENWALDER: My question is to the Minister for Sustainability, Environment and Conservation. How will natural resources management in the South-East of South Australia benefit from the acquisition of new aerial imagery?

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:42): I thank the honourable member for this very important question. The South-East Aerial Imagery Project is a $200,610 initiative of the South East Natural Resources Management Board developed with the assistance of the Department of Environment, Water and Natural Resources that will be undertaken in early 2013. The project will provide an update to existing aerial imagery which is now more than five years old. The scope of the project covers the area from and including the Coorong and Lower Lakes and east to the Victorian border (including most of Ngarkat Conservation Park) then all areas south, including the coast.

This will assist improved natural resources management throughout the South-East region, including helping to monitor changes in native vegetation and land use—for example, in identifying the occurrence of illegal native vegetation clearance and evaluating the effectiveness of weed control and revegetation programs. It is planned for this imagery to become available as a resource for the public. The project proposes to capture digital imagery over the South-East region of South Australia, with some higher resolution imagery to be acquired around Mount Gambier and Port MacDonnell.

The partners funding this excellent initiative along with the South East Natural Resources Management Board include local government, the Phylloxera and Grape Industry Board, ForestrySA, the SA Murray-Darling Basin NRM Board and the South-East Resource Information Centre, which provide spatial information services to the Green Triangle area. The funding partners have recognised the immense value in becoming involved in this initiative. New imagery will be very useful for farmers and the South East NRM Board when developing sustainable farming plans by providing up-to-date information on infrastructure and land condition.

The Phylloxera and Grape Industry Board SA can use the information to measure the extent and health of vineyards and vines in important wine production areas like the Coonawarra, Padthaway, Mount Benson and Wrattonbully wine regions. ForestrySA has also invested in acquiring this information to help better understand the extent of commercial forest plantations.

This is another project that underscores the importance of the work that is being undertaken through an integrated natural resource management approach, which not only addresses challenges from a sustainable environmental perspective but also helps to ensure the sustainability of our critically important primary industries, ultimately helping to maintain and promote new investment and job opportunities.

HANDSHIN, MS M.

Ms CHAPMAN (Bragg) (14:45): My question is for the Minister for Sustainability, Environment and Conservation. Can the minister confirm to the house the statement that he made to me after question time yesterday that Mia Handshin's appointment to the board of the Environment Protection Authority was pursuant to paragraph (f) of section 14B(5) of the Environment Protection Act? If so, can he detail to the house the qualifications and experience Ms Handshin has that are relevant not just to the management generally but specifically, as required by the act, her qualifications and experience in public sector management?

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:45): Certainly, the conversation that I had yesterday with the member for Bragg is slightly different than how she recalls it. I actually said in that conversation 'you know what section of the act she's appointed'.

Ms Chapman: You said (f).

The Hon. P. CAICA: No, I did not. I said 'you know which section it is', but anyway what I will say is this: there are—

The Hon. I.F. Evans interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: There are a multitude of skills that Mia Handshin brings to this particular job.

Members interjecting:

The Hon. P. CAICA: It does. I think we are very lucky that we have a person that has a multitude of skills that she is taking into this new role. In fact, I do notice the interjection from the Leader of the Opposition yesterday about legal qualifications. She would know that Mia Handshin herself has those legal qualifications.

Mrs Redmond interjecting:

The Hon. P. CAICA: Madam Speaker, I am only repeating the interjection because she was—

Members interjecting:

The SPEAKER: Order! I have no idea what's going on here, order!

The Hon. P. CAICA: I don't think they do, either, Madam Speaker.

Members interjecting:

The SPEAKER: Order! Minister.

The Hon. P. CAICA: I can indeed report that it's a different section of the act than Jennifer Cashmore was appointed under by the government of the day.

Members interjecting:

The SPEAKER: Order!

Ms Chapman interjecting:

The Hon. P. CAICA: I beg your pardon?

Ms Chapman: It's a new section since Jennifer left the parliament.

The SPEAKER: One question at a time.

The Hon. P. CAICA: She was the green voice of the Liberal Party, as I recall.

Mrs Redmond: Which section was she appointed under?

The Hon. P. CAICA: She was appointed in accordance with section 14(5)(f) of the Environment Protection Act.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: You knew that because I'm sure that you read the press release that was issued on that particular day welcoming this appointment. If you—

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: Thank you, Madam Speaker.

The SPEAKER: I'm not sure whether you're enjoying the interjections or not, minister.

The Hon. P.F. Conlon interjecting:

The Hon. P. CAICA: No, but anyway, the EPA Board currently includes appointees with qualifications and experience in industry, in commerce, in economic development, in finance and management, as well as environmental law and the management of environmental agents.

Ms CHAPMAN: Point of order, Madam Speaker. I don't need to know the qualifications of the whole world: I just want to know the public management experience—

The SPEAKER: Order! Thank you.

Ms CHAPMAN: —of Ms Handshin.

The SPEAKER: There is no point of order.

Ms CHAPMAN: That's all—just her.

The SPEAKER: You don't need to repeat your question. Minister.

The Hon. P. CAICA: As previously stated, this very, very good selection of Mia Handshin to this role was made under the subsection of the act in relation to her experience and relevance to management generally, but public sector—

Mrs Redmond interjecting:

The Hon. P. CAICA: And management generally.

Ms Chapman: What about the public sector?

The SPEAKER: Order!

The Hon. P. CAICA: Madam Speaker, there's a contest between the leader and one of the other aspirants. I do feel sorry for the member. John, you're supposed to be running government business.

Mr Marshall: Can we get back to the substance of the question?

The SPEAKER: Order! Thank you. Minister, I refer you back to the question.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: Just to finish off, Madam Speaker—

Members interjecting:

The SPEAKER: Order! The minister is answering the question, order! Minister, there's another point of order, sit down. Order!

The Hon. C.C. FOX: Point of order: 131—the constant interruptions, the constant interjections. I cannot hear a word that the minister is saying.

The SPEAKER: Thank you, minister. Yes, there will be some quiet. Minister, would you wind up your answer. You do not have very long.

The Hon. P. CAICA: I will attempt it. Thank you very much, Madam Speaker. Mia Handshin has qualifications and experience as a project manager and facilitator for the Leaders Institute of South Australia, in a senior policy role with the federal—

Mr PENGILLY: Point of order: the minister's time has expired.

The SPEAKER: No, it hasn't. He still has 43 seconds left.

Members interjecting:

The SPEAKER: Order! Minister, have you finished your answer? You do actually, on my clock, have 43 seconds.

The Hon. P. CAICA: Madam Speaker, how can I cope with all these interjections? I will finish off and I will say this again: as a project manager and facilitator for the Leaders Institute of South Australia, in a senior policy role with a federal minister, as a lawyer in media—not that I hold that in very high regard—but in interactions between business and government and, having been on boards in Adelaide, she has strong experience in community engagement and leadership

development. She will be an outstanding contributor to the EPA, and I think that, certainly on this side—and the majority of South Australians—we applaud that appointment, unlike the opposition.

HANDSHIN, MS M.

Mr MARSHALL (Norwood—Deputy Leader of the Opposition) (14:51): I have a supplementary question. Is the minister confirming that indeed Mia Handshin has had no public sector management experience whatsoever?

The SPEAKER: I would consider that another question. Minister.

The Hon. P. CAICA (Colton—Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:51): She was appointed in accordance with the act.

Members interjecting:

The SPEAKER: Order!

The Hon. P. CAICA: She has a wide range of skills.

Members interjecting:

The SPEAKER: Order! Member for Norwood, order! Minister, did you wish to continue or do you give up? The member for Ramsay.

AUSTRALIAN OF THE YEAR AWARDS

Ms BETTISON (Ramsay) (14:51): My question is to the Premier. Can the Premier inform the house about the Australian of the Year Awards for South Australia?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (14:52): I do recall a former Young South Australian. I think somebody who was decorated as Young South Australian of the Year was young Mia Handshin. I must say, following all this discussion about qualifications, I know there is one big disqualifying factor for those opposite—she was a Labor candidate for parliament. Let's be honest about the criticism.

Members interjecting:

The SPEAKER: Order!

The Hon. J.W. WEATHERILL: I was delighted to be invited last night to participate in the 2013 Australian of the Year Awards for South Australia. Every year our state celebrates the exceptional achievements of remarkable South Australians through the Australian of the Year Awards. In the past, Advantage SA has conducted a separate awards program, but it has now teamed up with the Australia Day Council of South Australia to deliver a unified awards presentation. It was a great event.

Last night I was proud to be able to present several awards, including the Senior Australian of the Year, which was awarded to Emeritus Professor Ian Maddocks. Ian Maddocks is one of Australia's pre-eminent palliative care specialists and a passionate advocate for the cause of peace. Recognised internationally for his work in palliative care, Professor Maddocks' texts are used worldwide. His ongoing endeavours in palliative care and advocacy for peace are to be commended.

The Young Australian of the Year for South Australia was also presented and this year was granted to Ms Vanessa Picker. Vanessa has already many innovative social and not-for-profit projects in her name. In 2012 she led her team to victory in Harvard University's Alumni 2012 Social Venture Challenge, in a project called Play It Forward. The project harnesses sport to build confidence and self-esteem in young people and also encourages people to donate preloved sporting gear to support local communities. She is a very worthy recipient of the award.

South Australia's Local Hero was awarded to Anna Kemp, who has worked tirelessly to improve the lives of women leaving prison. In 2006 she established the Seeds of Affinity project, which offers women leaving prison a safe place to accomplish small tasks to rebuild self-esteem and confidence. So far, Seeds of Affinity has helped more than 100 women adjust to returning to community life. This is a wonderful example of a public servant thinking of an idea and taking it out and making it real in the broader community.

The Australian of the Year, South Australia, was awarded to a very worthy recipient, cyber safety campaigner Sonya Ryan. For the past five years, Sonya Ryan has dedicated herself to the promotion of internet safety through the Carly Ryan Foundation established in memory of her daughter. We all remember the appalling circumstances in which Carly lost her life in 2007, and despite being filled with grief and despair, Sonya didn't turn inwards. What she did was reach out to others to ensure that similar tragedies would not occur again.

Sonya is now a frequent visitor to our schools where she tells Carly's story to warn of the potential dangers. I must say Sonya is an incredible inspiration, and she tells me that the thing that keeps her going is when she gets feedback that some of her advice has actually saved young people from falling into the hands of these evil predators.

INDEPENDENT COMMISSIONER AGAINST CORRUPTION

Ms CHAPMAN (Bragg) (14:55): My question is to the Attorney-General. Why should the opposition agree that the government should appoint the ICAC commissioner without the scrutiny of parliament given the significant community concern associated with the government's appointment—

The Hon. P.F. CONLON: Point of order. Sorry, the question appears to be around a debate that is occurring in another place and is out of order.

Mr GARDNER: Madam Speaker—

The SPEAKER: Order! I haven't dealt with that point of order yet. Order! Sit down. I was waiting to hear the rest of the question, Minister for Transport. I will let her finish the question and then decide.

An honourable member interjecting:

Ms CHAPMAN: Well, happy to have that argument. Why should the opposition agree that the government should appoint the ICAC commissioner without the scrutiny of parliament given the concern associated with the government's recent appointment of Ms Handshin as chair of the EPA Board?

The SPEAKER: Attorney, if you do not choose to answer that question, you do not have to. It does refer to another debate.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Business Services and Consumers) (14:56): It is a nonsense question.

DIESEL STORAGE

Dr CLOSE (Port Adelaide) (14:56): My question is to the Minister for Mineral Resources and Energy. Can the minister inform the house of recent developments in relation to diesel storage in Adelaide?

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Manufacturing, Innovation and Trade, Minister for Mineral Resources and Energy, Minister for Small Business) (14:57): I want to thank the local member of parliament, in whose electorate the development occurred and her strong support for the industry. Every week I see this state make positive steps towards creating a diverse resources sector. The strength and breadth of our world class minerals and energy projects continue to provide myriad opportunities for all South Australians from the Far North to Eyre Peninsula to right here in Adelaide.

On 22 October I had the privilege to join BP Australia's Paul Waterman to turn the first sod to mark the construction of a $20 million diesel storage facility. That 30 million litre storage tank at Largs North is a symbol of the confidence that BP has in South Australia and in the continued demand for fuel by the state's growing mining sector. BP Australia is spending $20 million here in South Australia creating up to 60 jobs on the banks of the Port River because they understand the underlying strength of our state's resources sector is without question.

The $20 million expansion is the first stage in a $41 million pipeline of infrastructure investment in South Australia being considered by BP for the next five years. Already a key element of South Australia's energy infrastructure, the Largs North Terminal is providing storage that gives our state security of supply. Construction of a new 30 million litre tank to increase diesel storage in Adelaide will help BP to reduce risks, improve reliability and ensure greater security of supply.

It is clear that South Australia's growing mining sector requires energy. Those demands are grown with each new mine that begins construction and with each new shipment of ore that heads to offshore markets. Those businesses investing in South Australia need the sort of reliability of supply that BP plans to deliver when this storage facility comes on line in November 2013.

This milestone is a clear vote of confidence in the continued expansion of our mining industry and a further example of how the benefits of the mining boom are not just helping our regional communities but also have a positive flow-on effect for jobs and investment here in Adelaide. Delivering the benefits of the mining boom to all South Australians is not just one of our priorities, it is a daily reality. Unlike members opposite, who at every opportunity talk down our state and our economy and the state's mineral resources, Energy Projects BP—

Mr PISONI: Point of order, Madam Speaker, standing order 127: personal reflections on members. I ask the minister to withdraw. That is simply not true and it is against standing orders.

The SPEAKER: Thank you, sit down. Minister, perhaps to save an argument, if you go back and change the wording.

The Hon. A. KOUTSANTONIS: Yes, ma'am—the state's mineral and energy projects. BP has the foresight to grasp the opportunities here in South Australia to grow its businesses—

Mr PISONI: Point of order, Madam Speaker: the minister has defied your order.

The SPEAKER: No, I have asked him to go back and reword it. Minister.

The Hon. A. KOUTSANTONIS: I have finished, ma'am.

The SPEAKER: You have finished, thank you.

AUTODOM

Ms CHAPMAN (Bragg) (15:00): My question is to the Premier. Has the former treasurer, the Hon. Kevin Foley, had meetings with government representatives to discuss matters that he had official dealings with in his final 18 months of office? On Monday, *The Advertiser* published an article that stated that Mr Foley had met with minister Koutsantonis to discuss the repayment of a government loan to Autodom. Yesterday, minister Koutsantonis told the house that responsibility to follow up the financial assistance grant provided to Autodom (or aiAutomotive) rested with Treasury and Finance. Mr Foley was the treasurer within his last 18 months in office and has not been out of office for more than two years.

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Minister for State Development) (15:01): I thank the honourable member for her question, and I will take that question on notice and bring back an answer.

PUBLIC SECTOR ACT

Mrs GERAGHTY (Torrens) (15:01): My question is to the Minister for the Public Sector: will the minister inform the house what steps the government is taking to avert the potential misuse of section 56 of the Public Sector Act?

Ms Chapman interjecting:

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for the Public Sector) (15:01): I can't see the connection, member for Bragg. I thank the member for Torrens for this question. The Public Service Association recently raised with me concerns around the misuse of powers under the Public Sector Act, section 56, which allows for ordering of independent medical examinations. It was always intended that section 56 should only be used in those circumstances where the employee is performing their duties unsatisfactorily and it appears that such unsatisfactory performance may be caused by mental or physical incapacity.

A direction under section 56 should only be made on reasonable grounds and based on individual facts and circumstances. Unfortunately, it is sometimes necessary to invoke this power when people suffering mental incapacity unfortunately lack insight and refuse to accept that they are suffering any medical condition. The PSA put to me a view that various agencies in some cases were inappropriately using section 56. In addition, I was made aware of a complaint by an employee being upheld in the Public Sector Grievance Commission.

I would also like to acknowledge the Hon. Robert Brokenshire in another place for his representations on this matter and for bringing constituents to see me and share their experiences. After obtaining this information, I spoke with the Commissioner for Public Sector Employment and

asked that he review the matters raised and consider the issuing of a guideline to address the concerns. I am pleased to inform the house that the guidelines have now been developed and circulated to public sector agencies.

The guidelines clarify the circumstances under which a public sector employee can be required to submit to an independent medical examination, particularly a psychiatric examination, under section 56 of the act. The guidelines ensure that agencies undertake the use of standard performance management processes prior to reaching this stage. Unfortunately, the evidence that I had indicated that they were, in fact, using it as a tool for managing poor performance.

The guidelines also highlight that decision-makers should rely on fact and evidence and that section 56, as I said, is not a substitute for poor management performance. The guidelines acknowledge that requesting someone to undergo a psychiatric examination can have unintended consequences and can be distressing for the employee, their family and colleagues.

I met two of those individuals and both were extremely upset at the consequences for both them personally and, in one case, for the teenaged son who felt that his father was mentally unwell, when that had to be established. So, we have arrived at a situation, through representations from the PSA and now the issuing of guidelines by the commissioner, where we have a situation of some clarity in dealing with this matter.

Last Wednesday, I gave an opening address at a forum titled Mental Health in the Workplace at which these new guidelines regarding section 56 were discussed. I was quite pleased that some 420 attendees registered. For those members who are interested, the guidelines can be viewed on the Office of Public Employment and Review website.

The SPEAKER: Before I call on grievances, I just want to congratulate the member for Norwood for only getting one warning today—you are learning.

GRIEVANCE DEBATE

CHILD PROTECTION

Mrs REDMOND (Heysen—Leader of the Opposition) (15:06): I rise today to try to clarify in some way the government's position in relation to these matters that we have been questioning them about for some time, particularly in relation to the rape of an eight year old at a western suburbs school. Madam Speaker, you would note that my first question today set out a series of statements made by this Premier. It is like trying to nail jelly to the wall with this guy, as far as getting a direct answer to a direct question. On 1 November, as I said in my question, the Premier said:

> All critical incidents are always notified to the minister.

I think we would be reasonable in assuming that the rape of an eight year old by the director of the out of school hours care is a critical incident. I do not think there is any question about that, so you would think that, yes, that would be notified to the minister.

Indeed, the shadow treasurer yesterday did an excellent grievance about how unbelievable it was that the Premier could say that he was not actually informed about this. But, as I pointed out in my question, he then later that day said:

> There is no indication that this matter was referred to me or my office. Neither I nor my office has any recollection of this matter being raised.

You will see there the first 'any recollection' type of reference in the Premier's responses. Then, of course, the next day, his statement is:

> It beggars belief that I wasn't told about this.

Yes, it does, until, later that day, we have an email that we have obtained under FOI. Certain names have been crossed out, but it is clear that people within the minister's office—the then minister, now Premier's office—were aware of this event having occurred. So then, later that day, having had to admit that, of course, there was an email that had told them, his new response was:

> I was not told about this email until today.

Then, of course, yesterday, the Premier said in his ministerial statement that:

> My recollection is that I was not advised of this incident personally...

Very clever use of the words 'my recollection' at the beginning—not 'I was not told' but 'my recollection that I was not told' and 'I was not told personally.' Of course, when we have come back in today and sought an unambiguous response from the Premier as to exactly what he knew, we get anything but a clear response. Yesterday, he gave the response that, and I will quote from what he said yesterday when we tried to ask him:

> I made a ministerial statement to the house at the beginning of the session today which addresses that very issue.

No, it did not address the very issue that we asked about, and then, later on again, he said that what he wanted to talk about was having a meeting with parents and the governing council. Never does the Premier want to give a direct answer to the direct question as to what he knew; that is because he is trying to be tricky and clever and use words to hide the truth from the people of this state just—

Mr Marshall: Just like Mike Rann.

Mrs REDMOND: —just because he is exactly the same as his predecessor. The Premier wants us to believe that he was never told about the rape of an eight year old by the director of the out of school hours care. We all know and the public all know that that simply beggars belief.

So, what are the choices? That he was not told? As we say, that is unbelievable. That he was not told but he was told? If he was told, did he forget? That is another choice. Or did he not forget? Did he actually know it had occurred but decided that he had better hide the facts from the public so that the department would not look bad or the school would not look bad? Or, probably the evidence suggests he probably was told, and if he was not told, then it is evidence of such gross incompetence on the part of the departmental people, the media liaison and professional people within his office, who are his advisers, that they should all be sacked immediately. Or, if he was not told, there is evidence of incompetence there. It beggars belief that the minister could come out and say these things in public.

There is an abject failure on the part of this government, both through the Premier as then minister and the current minister, to actually put the interests of the children first. We have seen this in the disclosures that have been made by the Premier and his minister. We know and the public knows that no action was taken to allow the governing council at that western suburbs school to inform parents when they knew that there was a very real risk that other children had been abused. Not only was there a failure to allow it to happen, there was, in fact, apparently, positive action by the department to prevent the school council from telling the parents, even though the school council members knew that that was what they wanted to do. They were threatened by the department. They were threatened with the loss of their indemnity should they go on to tell about it.

Today we have evidence of yet another rape that occurred in a regional centre, and that rape, the minister here tells us today, she did not know about until this week. It occurred almost two years ago and, again, there has been an abject failure by the department to recognise the need to protect the interests of the student as the first and foremost obligation, not to protect the interests of the department, the minister and her employees.

Honourable members: Hear, hear!

CHOOK MCCOY

Mr BIGNELL (Mawson) (15:11): I rise today to pay tribute to Chook McCoy, a legend in McLaren Vale, with his business Chook's Little Winery Tours. Chook and his wife, Kerry, run a fantastic local business. It was terrific to be at the McLaren Vale Regional Business Awards a couple of Friday nights ago, where Chook not only took out the best home-based business but also took out the title of Business of the Year, which was voted amongst all those people who were there on the night. Chook was an overwhelmingly popular winner because he means so much to so many local people, as well as people from all around the world.

I just went on TripAdvisor and had a look at some of the reviews that Chook has received from as far afield as New York and Europe. He has had 14 visitor ratings, all 14 in the excellent category. I am someone who uses TripAdvisor quite a bit. It is a very honest place for people to give feedback. You do not get a lot of excellent ratings, and for Chook to get 14 out of 14 for his Little Winery Tours is exceptional. I will have a quick look through the feedback. One woman said:

> After a surprise proposal at Willunga Hill, and as a newly engaged couple, Chook took us on a personal winery tour of the McLaren Vale region! Chook was an amazing host/guide and made our experience so enjoyable and fun!

Another one is from Nathan:

> A fantastic day, visiting great wineries. Chook's local knowledge and history was unbelievable and greatly added to the day.

Other people 'definitely' recommended. One person wrote that Chook picked up his group of seven from the airport. They had arrived from Western Australia. He took them to all the great wineries in the area. What Chook will do with his Chook's Little Winery Tours is find those exceptional little spots that only us locals really know about. So, if you are a visitor to McLaren Vale it is a great way to get off the beaten track and away from those fantastic big wineries and have a look at some of the other fantastic boutique wineries.

Chook provides another great service to us locals: he gets us home from the pub and wineries, as no-one wants to be drinking and driving. It has been very difficult over the years to get taxis in our area. I have had to wait for over an hour, and sometimes the cabs have never turned up at all. When Chook set up his tours he saw a gap in our local community. I think it is a great community safety initiative as well as a good business venture for him. He does not charge a lot of money, it is very cheap—$10 a head in each direction. I know so many people in the wine industry and other locals who use Chook all the time, because no-one wants to be out there drinking and driving, and in the wine industry it is a pretty hard thing to avoid, having a drink at a lot of functions. I really want to thank Chook and Kerry. Chook's dad, Murray, moved here recently from New South Wales, and he has been a great addition to our local community as well.

Other awards on the night included one for the best new business, which went to Angove's at McLaren Vale for their vineyard and cellar door. Angove's, of course, have been around for generations and are a great family with a fantastic tradition in wine in South Australia. They started up around Tea Tree Gully and, as urban sprawl consumed their vineyards there, they moved many years ago to other parts of South Australia, including McLaren Vale and the Riverland. It was terrific earlier this year to be at the opening of Angove's new cellar door down in McLaren Vale and great to see them pick up that award.

The employee of the year in McLaren Vale went to Grant Hockey. The Young Entrepreneur was Caleb Sutherland, a very talented young man. He is actually doing some graphic design for me at the moment for a postcard I am putting out in the electorate, so I congratulate Caleb Sutherland on being a very popular winner of the Young Entrepreneur award in the 2012 McLaren Vale Regional Awards.

The award for customer service went to Rachel Kuhl and the manufacturing/trade award was won by Sutherland Property Solutions. The environmental award went to a great design in a B&B and that is Villa Grenache B&B. The retail prize went to the McLaren Vale Garden Centre, and the award for customer service from a business point of view went to Funky Fit Kids. The Professional Services award was won this year by The Singing Gallery, a great spot that provides so much diverse entertainment for the whole community.

The sustainability project award was won by the McLaren Vale & Districts War Memorial Hospital. Of course, the South Australian government is a very proud supporter of the local McLaren Vale hospital, having announced recently that it would continue to provide more than half of that community hospital's funding. Congratulations to all the winners in the McLaren Vale business awards.

EYRE PENINSULA BUSHFIRES

Mr TRELOAR (Flinders) (15:16): I rise today to speak about the most recent in a number of events that have threatened both life and property in the Port Lincoln area on Eyre Peninsula. Unfortunately, the threat of fire in our part the world has become all too familiar, but the most recent was in fact last Sunday on Remembrance Day, 11 November, when a fire began on private property west of Sleaford Mere, west of Port Lincoln.

It burnt some 1,800 hectares of mostly private land, a combination of scrub and pasture. I understand the Premier made a ministerial statement here in the house yesterday. In fact, I was present in Port Lincoln yesterday on the fire ground. and I will acknowledge the visit made yesterday by ministers Rankine and Hunter. I appreciate it and I thank them for that.

The fire ultimately destroyed two homes, 14 cabins, which were on the foreshore at Sleaford Mere, a caravan, a campervan, several sheds and four vehicles. Sadly, an estimated 300 sheep were also lost in that fire, so that was an unfortunate incident. PIRSA is investigating further stock losses. Koalas were also burnt in that fire: some were destroyed and others are being taken care of by the Port Lincoln veterinary service.

Fortunately, there were no serious injuries as a result of that fire, and I would like to thank and congratulate the emergency services personnel who attended this incident. Their swift response was paramount in enabling us to control the fire and prevent further damage to the community and the environment.

The CFS, the MFS, the South Australian police and the SES were all present. DEWNR were present on the fire ground and I will congratulate them for the back-burn that they undertook. In fact, most of the smoke that occurred and was visible on Sunday afternoon was probably from that back-burn. It was carried out successfully and really enabled those present on the fire ground to contain that fire and, ultimately, protect the township of Tulka and, further east, Port Lincoln.

I must also acknowledge all those others who volunteered time and effort—the Salvation Army, schoolchildren who assisted in setting up tents at the local sporting complex, businesses and local businesses who provided many volunteers and also provided meals for those volunteers. I think it is probably another timely reminder to all to update their bushfire survival plan. 'Be prepared' is the message. I note that the city council at Port Lincoln has had a very active and hardworking bushfire committee, and I congratulate them. I was talking with the CFS community engagement officer as recently as yesterday. She had been working with the community at Sleaford Bay for the last two years and, in her mind, that community was as prepared as they possibly could be.

The reality was much property was defended and saved from the ravages of the bushfire: some, unfortunately, were destroyed. My thoughts and commiserations go to those families and individuals who were impacted by the fire and who had their accommodation and home destroyed. I trust that you will receive all the support that you need and deserve at this time and can go about rebuilding your lives.

Another mention that I will make (and this is a relatively recent development, I guess, in the strategies against bushfire and really came as a result of the now infamous Wangary fire back in 2005) is that we now have available at our call the water bomber facility, and that played a very active role last Sunday. They fly over the fire front and deliberately drop large loads of water in an effort to control and contain the fire. Congratulations and thanks to them also.

Of course, it is emergency service week and, in my new role as the shadow minister for those organisations, I congratulate and thank them. I understand that the member for Morialta is also going to acknowledge them in his grieve today.

MESSENGER LOCAL BUSINESS AWARDS

Dr CLOSE (Port Adelaide) (15:21): Small businesses, owned and operated by an individual, family or partnerships, are the lifeblood of a thriving community. They are, in all their quirky and idiosyncratic varieties, in large part what distinguishes one place from any other—that make Port Adelaide different from Burnside, Adelaide different from Melbourne. They are the expression of the local community, meeting the needs of that community and reflecting the history, culture and environment of that community: and they are, almost more importantly than anything else, a major employer in every community.

I wish to pay tribute to Messenger Newspapers for its annual Local Business Awards. The Messenger, with the support of sponsors Bendigo Bank and SafeWork SA, has been able to create an award program that recognises and celebrates the value customers place on the merits of their local businesses. Before I turn to congratulating the individual businesses who were celebrated in this year's awards, I would like to place on record my observation that the awards night is a rare occasion for small business owners to spend time with other business people and to congratulate themselves and each other on their efforts and successes. I know that for most small businesses the hours are long and the chances to let your hair down few and, on that account alone, the Messenger deserves commendation for providing such an opportunity.

The boundaries of my electorate are frequently the topic of conversation and some puzzlement in my community. While, naturally, I accept the ruling of the umpire, it is difficult to

explain to people from Semaphore, Ethelton, Birkenhead, Newport and Alberton that they are not part of Port Adelaide—electorally speaking, anyway. There were finalists and award winners from those areas whom I felt pride in but strictly cannot claim to be Port Adelaide electorate businesses. I note only that the boundary of the community is not always the same as an electoral boundary.

I can, however, wholeheartedly congratulate finalists from Port Adelaide. They are Soho Homewares (a near neighbour of my office on Lipson Street in Port Adelaide), Carmine's Restaurant, and Jetset from Port Adelaide. From Parafield Gardens there was Nationwide Finance and from Mawson Lakes there was Fresh Hair and Body, Jazz It Up Home and Giftware, Mawson Lakes Gourmet Meats, Rob's Aroma Express, Caffe Primo Mawson Lakes, La Vita Fresh Pasta, Chemplus Mawson Lakes and Mawson Lakes Dog Grooming.

I congratulate the winners in their categories from the Port Adelaide electorate. They are Mark Lobert Gallery (again, a near neighbour of my office on Lipson Street), Newport Digital (established in Todd Street in Port Adelaide), Blush Boutique in Goodall Parade in Mawson Lakes, Reflections of India on Light Common in Mawson Lakes, Vets4Pets at the Mawson Lakes Veterinary Hospital on Main Street and Ajile Focus (located in Innovation House in Mawson Lakes). I am delighted that these businesses have received the recognition they richly deserve.

FIRE DANGER SEASON

Mr GARDNER (Morialta) (15:24): I will be talking about the fire danger season but first I want to acknowledge that it is National State Emergency Services Week. I thank the many SES volunteers and staff who have put in endless hours throughout the year providing assistance to homeowners during storms, helping police conduct searches and even clearing our roads of fallen trees. It is noteworthy that one of the important services they recently provided was to establish the base camps for CFS volunteers and other services fighting the fires over on Eyre Peninsula which the member for Flinders, shadow minister for emergency services, was just talking about. No matter what the incident or whatever the service, it seems the SES is always willing to step in and help out, and I thank them for this.

The Eyre Peninsula fires themselves started just after 11am on 11 November. The minute silence to remember those who have fallen whilst serving our country was the proverbial quiet before the storm. While there were a number of fires being fought, the main one was outside the township of Tulka. Many would remember the 2005 Port Lincoln fires which occurred in January of that year and the devastation they caused. Indeed, the member for Flinders was involved in fighting those fires in 2005, and I recognise his service at that time.

Perhaps due to a combination of it being earlier in the fire season and slightly better conditions this year, the fires have been less destructive than on that occasion. We heard before that two homes, 14 cabins, a caravan, a campervan, several sheds and four cars have been lost and an estimated 300 sheep and a number of native animals have perished, and 1,800 hectares of thick scrubland has been burnt. However, most importantly, there have been no serious injuries and no fatalities.

Morialta, for my part, is a divided electorate as far as fire safety goes in terms of awareness. We have western areas in the suburbs of Athelstone and Rostrevor, along with Newton and Paradise, which fall completely within the Adelaide metropolitan fire district. These homeowners would need to be extremely unfortunate to lose their properties in a bushfire. Then we have foothills suburbs of Teringie and Woodforde and parts of Athelstone and Rostrevor whose homeowners fall within the Mount Lofty Ranges fire district and who may or may not be aware of fire danger as they feel they live within the suburbs of metropolitan Adelaide.

From the maps available on the CFS website, it is clear that the Mount Lofty Ranges fire district begins just on the other side of Gorge Road near my house in Athelstone. It is certainly something I am mindful of. Then the Morialta hills are made up of townships from Ashton in the south, Cherryville in the west and Montacute in the north. We will soon be gaining Cudlee Creek, Chain of Ponds, Paracombe and parts of Inglewood and Millbrook. All of these areas are unique with different threats from fire.

As has been reported, the Tulka fire acts as a reminder to the rest of the state not to be complacent. Bushfires happen and homeowners cannot expect a fire truck in their driveway every time things turn sour. On catastrophic days when the fire danger index is over 100, fires can start over 20 kilometres in front of the fire front. Many homeowners would not realise that they do not need to see the fire for it to burn down their house. We have seen the ads talking about ember

attack whereby wind carries embers kilometres in advance and starts new fires. These new fires could very well be in a homeowner's gutters should they not be properly prepared.

The Mount Lofty Ranges fire district moves into the fire danger season on 1 December. After this date homeowners will require fire permits from the council or the CFS to burn off any vegetation. The hills are a mixed blessing for those living among them. The beauty of the hills can quickly become a nightmare in bushfire situations where winding roads become death traps as we have seen in Victoria. It is also a fact that for every 10° of inclination a fire will double in speed. I do not know whether other members have had a chance to visit areas around Montacute and Cherryville but I am certain that parts of those areas must be pushing 80° in inclination. In the hills it takes longer for vegetation to dry out, so there tends to be a delay in the fires but the hills also spawn some of the densest vegetation in the state. It is a powder keg.

The thinking about fires has changed in recent years with councils now able to go onto individuals' properties to clean up excessive fuel loads and then charge the owners for the service. People should be mindful that with just two weeks left before the fire danger season begins they need to make the most of their time to reduce their fuel loads. I know that most homeowners do the right thing and tidy their properties, clean out their gutters, dust the cobwebs off their firefighting equipment, but all should be aware of the need, especially those new to the hills and foothills areas. People need to take it upon themselves to be familiar with their fire risk and what they can do to address local fire safety. I encourage all people living in this area to access the CFS website at www.cfs.sa.gov.au which can be used to develop their bushfire action plans for their own properties. In tough times tough decisions need to be made, so everyone in the Mount Lofty Ranges fire district should know what they will do in a bushfire situation and be bushfire ready.

INDIGENOUS GRADUATES, UNIVERSITY OF ADELAIDE

Ms BEDFORD (Florey) (15:29): I acknowledge that parliament stands on Kaurna land and I pay my respects to the Kaurna people. I also did that on 20 October on behalf of the Minister for Aboriginal Affairs and Reconciliation when I attended a dinner to honour and celebrate the achievements of Aboriginal and Torres Strait Islander graduates of the University of Adelaide. Welcomed by Uncle Lewis O'Brien, the distinguished audience, including Vice-Chancellor Professor Warren Bebbington and former vice-chancellor James McWha, and the organiser and MC for the evening, Professor Lester-Irabinna Rigney, relived many success stories.

The motto of the University of Adelaide is 'Life impact'. That is well deserved, some of its alumni being our own Muriel Matters and Lionel Logue. Their stories are very well known to members here. The University of Adelaide continues to rank in the top 1 per cent of Australian universities. It continues to produce educational excellence and lead by example. The University of Adelaide has much to be proud of, particularly in its commitment to, and support and promotion of, Aboriginal and Torres Strait Islander educational outcomes.

The Centre for Aboriginal Studies in Music (CASM) has provided 38 years of dedicated music studies for Aboriginal and Torres Strait Islander people. CASM remains a pioneer in promoting musical success. It is the only university-based program in Australia that delivers specialist and accredited training for Aboriginal and TSI people in music and performance. On the evening, we were treated to TSI music and dance led by Mr Eddie Peters.

Also, the Centre for Aboriginal Education, Wilto Yerlo (which means sea eagle), was established in 1996, providing foundation and academic support and coaching for so many Aboriginal and TSI graduates. Some were at the dinner, including Dylan Coleman, who completed his PhD in creative writing in 2011 and then went on to win the Arts Queensland David Unaipon Award for his unpublished works; Professor Irene Watson, awarded the Bonython Law School prize for her PhD in 2000; Yvonne Clark, who was the first Aboriginal student to be awarded a masters degree in psychology in 1997; and Sonny Flynn, the first University of Adelaide undergraduate, who completed his Bachelor of Arts with Honours in 1986.

In 2011, there was a total of 190 Aboriginal and TSI students enrolled in Wilto Yerlo, representing 1.1 per cent of the total number of university enrolments. This nearly matches the Aboriginal proportion of the South Australian population, which is currently 1.9 per cent. Out of the 190 enrolments, 29 students graduated, five of those with PhDs. Not resting on those laurels, the University of Adelaide continues to move forward in delivering on its commitment to educational outcomes. For example, in the year 2000, through the Yaitya Purruna Indigenous Health Unit, it saw increased levels of support for Aboriginal and Torres Strait Islander students in the area of

health sciences, including medicine, as well as the integration of Aboriginal culture into the medicine curriculum.

In 2003, the university signed off on its reconciliation statement. In 2009, the university launched its Aboriginal and TSI employment strategy and funded this initiative out of its own internal resources. In 2011, through the Indigenous Oral Health Unit, there was for the first time a targeted focus on oral health for Aboriginal people. The university is building on this area of academic excellence by strengthening its presence in Upper Spencer Gulf. I also acknowledge the contributions of both the University of South Australia and Flinders University, which are also improving their educational outcomes for Aboriginal and TSI students.

Irabinna Rigney's mother, Dr Alice Rigney, was also present at the dinner. Alice is a special person and her lifelong commitment to education is inspirational. Earlier this year, her photo, along with that of her grandson, Trevor Ritchie, was used in an article by Samela Harris in *The Advertiser* on 12 April, talking about loss of endangered languages. Professor Ghil'ad Zuckermann, who is at the University of Adelaide in linguistics, accused Australia of linguicide. Once there were 250 Aboriginal and Torres Strait Islander languages spoken here and now there are only 15 in use. 'In other words, 94 per cent of Australian languages are dead or dying,' he said. If their lost languages were returned to them, he believes the Aboriginal people would regain immense cultural ground and self-respect. Professor Zuckerman said:

> A loss of language is a loss of cultural autonomy and a loss of heritage, and the investment of those millions would save the country much more in the future.

His associate, Rob Amery, concurs and has been long involved in the recovery of the Kaurna language in Adelaide, a mission that has taken many years, and he is associated with the teaching of it to Kaurna students. There is now emerging a move towards teaching it in the Adelaide Kaurna Plains School. Some years ago, the Florey Reconciliation Taskforce held a ceremony here at Parliament House with the support of then minister Dorothy Kotz and former Governor, Sir Eric Neal, and Lady Neal, and displayed in Centre Hall sticks featuring the names of each of the languages spoken in South Australia at the time of settlement.

When Dr Amery first started his project, he was very worried the language would vanish. Instead, with the encouragement of Uncle Lewis O'Brien, then chairman of the Council of Aboriginal Elders, and with the help of records made by Lutheran missionaries earlier in the colonisation period, he was able to save the language. It is a very important thing that we give Aboriginal people literacy skills in their own languages.

ADVANCE CARE DIRECTIVES BILL

Adjourned debate on second reading (resumed on motion).

Dr McFETRIDGE (Morphett) (15:34): I rise to speak on the Advance Care Directives Bill 2012, which was tabled by the Minister for Health in this place on 17 October 2012, and it is one that I can say I will be supporting. I do have some concerns, which I will be outlining in my speech, and I will be looking forward to the minister's response to not only my concerns but those of the medical profession whose representatives I have been speaking to.

The need to make sure that we all have some form of directive for our relatives, our friends, our representatives to undertake for our care and our welfare if we are in some way suffering any illness or accident and cannot make those decisions apparent and clear at the time is very important. Having been involved in interesting discussions, shall I say, with family members over wills, and having had constituents come to see me about contested wills and disputes about wills, I know how bad it is to see someone dying without their having an up-to-date will and how important it is to make sure that their relatives are clear not only about the intentions of what that person would like done with their worldly possessions after they die but also that their relatives, representatives, friends, and family, are clear about their wants and desires for their care and welfare whilst that person is still alive, and that is what this Advance Care Directives Bill is all about.

The bill enables competent adults to make decisions and give directions in relation to their future health care, accommodation arrangements and personal affairs and to appoint substitute decision-makers to make such decisions on their behalf, and that is what we have been looking for for a long time. We have had variations on the theme. We have had a number of different pieces of legislation that have attempted to cover this whole spectrum of issues that are to be covered by this Advance Care Directives Bill. In April 2007, the government launched the Advance Directives

Review with the release of an issues paper, entitled 'Planning Ahead: your health, your money, your life', for public comment.

An independent Advance Directives Review Committee was established with the former health minister, the Hon. Martyn Evans, as chair. The 11 member review committee was supported by a panel of experts across a broad range of areas, and over 120 submissions were received on the issues paper from health, aged-care and community care professionals; lawyers; community organisations; consumers; Aboriginal communities; government agencies; and financial institutions. That process was begun back in 2007 and, here we are in 2012, five years later, we are seeing this legislation before us.

After 18 months of deliberation, the Advance Care Directives Review Committee reported to the Attorney-General in two stages, with 67 recommendations. In 2011, the Australian Health Ministers' Advisory Council endorsed a national framework for advance care directives. The framework provides a lexicon of terms (I am advised by the shadow Attorney-General that that is a term used for a very broad spectrum of views) to facilitate national harmonisation, a code of ethical practice and best practice guidelines on advanced care directives.

The bill before us consolidates a number of pieces of legislation, namely, the medical power of attorney and anticipatory direction, which come under the Consent to Medical Treatment and Palliative Care Act 1995, and enduring power of guardianship, which comes under the Guardianship and Administration Act 1993. These pieces of legislation require different forms to be completed and have different witnessing provisions. The proposed advance care directives legislation has a simplification, where it will be one form governed by one act, and it is important to note that financial powers of attorney and wills will not be affected by this piece of legislation.

The bill is founded on the principles of supported decision-making, making sure that people should be supported to make their own decisions as long as they can. The directives will apply to any period of impaired decision-making capacity, and that is going to be important in some of the issues I raise later. So it is any period of impaired capacity—not age, but any period of impaired capacity—whether temporary, fluctuating or permanent, as directed by the person in their advance care directive, in various periods of life, not, as I have just said, just at the end of life but in periods of unconsciousness or if there is any other degenerative condition.

Assessment of capacity will now be decision specific, not global, and made when the decision is required. While enduring powers of guardianship are currently as broad as the powers of a guardian at law, medical power of attorney or advance care directives are focused on medical issues. The new advance care directives are broad based, including residential, accommodation and other personal matters. The bill aims to make it easier for people to express their views and preferences and to have a confidence that they will be known and respected in the future.

The information that people will be able to include in the new advance care directives is significantly expanded. People can include, for example, values and goals in life and of care, what is important to them when decisions are being made for them by others, instructions relating to various periods of life, what levels of functioning would be intolerable and whether, and how, they wish to be cared for when they are unable to care for themselves. Even if it is how to look after their pets, it is important that the whole of their life is taken into consideration.

While there is no need to do so, the bill does not prevent people specifying health care they do not wish to receive, including refusals of life sustaining measures, such as CPR, artificial hydration, nutrition or ventilation (i.e. life support) and the circumstances under which refusals will apply. Instructions and express preferences, other than refusals of health care, must guide decision making, but are not binding on others.

The bill has been drafted to enable as much flexibility as possible for those completing an advance directive and allows for three options:

1. Written instructions, preferences and wishes and the appointment of one or more substitute decision-makers.

2. Only written instructions and preferences.

3. The appointment of one or more substitute decision-makers without written preferences.

Subject to any contrary provisions contained in an advance care directive, an appointed substitute decision-maker can make all the health care, accommodation and personal decisions the person

would lawfully make if they had decision making capacity, and the decision has the same legal effect as if it were a decision of that person themselves.

The bill requires that substitute decision-makers must make decisions using the substituted judgement decision making standard to make the decision they believe the person would have made in the current circumstances if they had access to the same information. This standard contrasts with a 'reasonable man' or 'best interests' test. Both the witness to the form and the substitute decision-maker are subject to conflict of interest disqualifications.

A key reform is the establishment of appeal and review processes. Under the bill, advice and mediation services will be provided by the Public Advocate with the power to give non-binding declarations in relation to a few areas of dispute. (i.e. the nature and scope of the person's powers under the advance care directive). The Guardianship Board can review a matter dealt with by the Public Advocate, and also, upon application, give a binding direction or declaration in relation to a matter relating to an advance care directive, and can also refer a matter to the Public Advocate for mediation.

To be valid, the advance care directive must be completed using a form approved by the Minister for Health and Ageing and it must be witnessed. Rather than prescribing the form in legislation, a 'do it yourself' advance care directive kit will be developed, comprising the advance care directive form, accompanied by guidelines outlining in lay terms the rights and responsibilities of all parties involved in the completion and application of an advance care directive.

Currently South Australia is one of the only Australian jurisdictions in which advance care directives completed in other jurisdictions are not recognised. To enable the legal recognition of advance care directives, the bill sets out a process whereby the Governor can then declare by regulation a class of instruments completed in other jurisdictions as though completed under the advance care directives legislation here in South Australia. Provisions in an interstate advance care directive considered unlawful in South Australia will be deemed to be void and of no effect even if lawful interstate.

The bill amends the Consent to Medical Treatment and Palliative Care Act 1995 to clarify consent arrangements in the absence of an advance care directive for patients unable to consent, and introduces a dispute resolution process, including voluntary mediation. Currently the Guardianship Act specifies that where there is no legally appointed representative, such as a guardian, enduring guardian or medical agent, limited relatives can consent to health care on behalf of an adult with a mental incapacity.

Amendments to the consent act lay down the responsible person who can consent to health care on behalf of the patient with impaired decision-making capacity if there is no advance care directive. The person is to be identified by the following hierarchy, in order:

1. A guardian appointed by the Guardianship Board, provided that the guardian's powers do not exclude making healthcare decisions.

2. If there is no guardian appointed, a prescribed relative of the patient can consent within a hierarchy related to whether the person has a close and continuing relationship with the patient.

3. If there is no guardian or prescribed relative, an adult friend.

4. If there is no-one who meets the previously mentioned categories of persons responsible, an adult charged with overseeing the ongoing day-to-day supervision, care and wellbeing of the patient who is available and can make a decision.

5. If there is no-one who meets the above criteria and who is available and willing to make a decision, upon application, the Guardianship Board can consent to the proposed treatment.

This bill is a very important piece of legislation and, as such, it is important that we, as members of this place, do all we can to examine the legislation and the circumstances in which it has been brought to this place, and any possible issues surrounding it and any unforeseen consequences.

As a result of that, I have been in touch with a number of organisations who will be involved in enforcing this legislation or are having to abide by this legislation, and one in particular that has been brought to my attention is the Salaried Medical Officers Association, through Dr David Pope. Dr Pope wrote to me just yesterday and stated:

The Minister for Health and Aging is to be commended for bringing together the various instruments for making an advance care directive for health and/or appointing a decision maker with a view to increasing people's capacity to direct their care in the event of incapacity.

However, in his letter, Dr Pope continued to outline some areas where the South Australian Salaried Medical Officers Association of South Australia (SASMOA) has some concerns with the legislation. The concerns are stated as follows:

The broad parameters proposed for the ACDs [that is advance care directives] rather than current end phase of life provisions, in which refusals of life sustaining treatment can apply with no requirement for the person to demonstrate they understand the consequences of their decisions. People may make unwitting ACD e.g. refuse Cardio Pulmonary Resuscitation...and present to hospital unconscious with treatable pneumonia or even an accidental drug overdose. They may also use the ACD to intentionally refuse treatment that could save them after a suicide attempt.

Such ACD treatment refusals are binding on all health practitioners, including enrolled nurses, junior doctors, social workers etc and to not follow an ACD at face value could attract professional misconduct, assault and battery charges. The conscientious objection referral clause is unfeasible in an emergency and weakens professional practice and ethics codes.

Health practitioners may be compelled to make an on the spot life or death decision for the patient with an ACD CPR refusal or risk their career when:

- the patient could have been saved and brought back to wellness;
- treating a reversible complaint would prevent premature death, but the complaint has arisen from the condition which the ACD refusal was made for;
- the health practitioner may lack the expertise to evaluate the situation properly and therefore lets the patient die but they could have been easily treated e.g. diabetic coma;
- time is needed to verify that the person would still want the ACD given the gravity of the outcome.

Dr Pope continues in his letter stating:

These dilemmas may result in residential care staff preferring to transfer residents to hospital rather than make a decision about ACD application placing increased stress on an already stretched health system.

In a small country hospital, nurses will be on their own to make decisions as doctors are not on site, creating problems for the rural and remote sector.

ACDs may be deliberately overlooked by health practitioners in order to avoid the dilemmas which could ensue, meaning people's wishes are ignored and the Bill loses credibility.

Uncertainty around appropriateness of ACDs adherence may translate to lack of confidence in the system. People may tend to appoint a substitute decision maker without instructions recorded in the form to guide health practitioners. Health services are likely to resort to out of hospital medical orders to safeguard people's wishes and protect clinicians. For example, Do Not Attempt CPR...community forms are used in the UK where the Mental Capacity Act 2005 has embedded similar law to the proposed ACD Bill 2012.

Advance care planning facilitators in South Australia find people are generally comfortable in completing ACDs that are binding at the recognisable end stage of life under the existing Consent Act. They also find education of health practitioners about the role of ACDs under common law, which can apply for other stages, means these are respected appropriately.

Moreover health practitioners are willing to comply with ACD refusals at the end stage of life because it constitutes good care.

It is suggested that the ACD Bill 2012 could be enhanced to avoid the concerns listed if it were amended to enshrine ACD refusals of life sustaining measures as binding when the person is in the terminal phase of a terminal illness or condition and at all other times non-binding.

With this letter, there is a series of amendments that were passed to me. They are outlined and, if the minister does not have them, I am happy to let him have them so that he can answer the concerns of the salaried medical officers so that I can be assured that the bill is going to do exactly what we want it to do—that is, provide good outcomes for people at all stages of life, not just at the end of a debilitating illness or the end stage of a terminal disease.

There are a number of recommendations in this letter—changes to clause 11 and clauses 19 and 36, and these are all about the impact on emergency practitioners and also country areas, the community and after hours. The need to take these concerns into consideration will certainly determine how I vote on this particular piece of legislation, although I very strongly support the intent of the legislation.

Clause 5(2), clause 37, Part 6, clause 23(4) and clause 36(4) are all areas of concern for medical practitioners in South Australia. They have recommended that some of the clauses be

amended, some they have recommended be removed and some they suggest be left in other acts, such as clause 23(4), which infers that an express directive could refuse the natural provision of food or fluids or palliation rather than inferring the opposite. The suggestion there is to leave the consent act version, that is, remove the words 'unless there is an express direction to the contrary'.

There is a concern about suicidal patients with capacity making refusal of health care through ACDs. The hospital practitioner's view is:

> The bill is silent on the validity or otherwise of refusal of care ACDs made by suicidal persons and only deals [with] suicidal mental health patients by excluding from refusal mandatory treatment made under inpatient treatment orders or community treatment orders of the Mental Health Act...

The comment is:

> Work is needed to remove confusion that will arise in practice especially when it is possible but not definite that self harm is the cause of a person being critically unwell...

A number of concerns have been raised there, and I will be interested to see the response to the salaried medical officers' concerns. I look forward to any of those concerns being addressed so that I can support the bill in its final presentation to this place.

The Hon. M.J. ATKINSON (Croydon) (15:53): The bill seeks to amend the law about medical powers of attorney, enduring powers of guardianship and enduring powers of attorney, to gather them into a single instrument and to draw upon the experience of the last two decades since the first was introduced. Although this may seem an obscure area of the law, it is one which will be relevant to us all at some point in our lives, even if we have to wait for our own terminal phase of our final terminal illness to do so.

The legislation and the acts it amends deal with topics that many would prefer not to discuss. A person who omits to canvass end-of-life options with family and those close to him leaves his loved ones uncertain about what his wishes would have been when difficult medical decisions need to be made and the person concerned is not competent in a legal or medical sense to make those decisions.

The legislation and the triple effect statutory instrument that it will offer people will, I hope, further encourage people to have those conversations with a designated substitute decision-maker in much the same way that an increasing number of people now make a will. Just a few generations ago, the making of a will to dispose of assets on death was something only a small percentage of the population did, whereas now a much higher percentage of the population, even those with modest assets, understands the value of a will and how to prepare and execute one. Do-it-yourself versions are readily available and, although it might be that fewer than 50 per cent of Australians have a will, awareness and use of wills is rising.

It gives me no pleasure to say that my prediction in the house in, I think, in 1993, that only a tiny minority would use advance directives under the Consent to Medical Treatment and Palliative Care Act has come true. The number of people who have signed them is tiny, but we hope that the bill will lift that number. Advance directives have been available for less than 20 years, since the enactment of the Consent to Medical Treatment and Palliative Care Act and the Guardianship Act, which introduced the concepts of a medical agent and an enduring guardian. The Hon. Frank Blevins and the Hon. John Burdett had introduced the concept of a living will in the 1980s. Enduring powers of attorney for property and financial matters had been available much earlier.

Having these three related agency matters within three separate acts was confusing and complicated and discouraged, I think, widespread adoption and use of all three. Work to bring them together started when I was attorney-general. The introduction in, I think, 1993 or 1994 of legislation allowing patients to appoint another person, presumably well known to them and whose judgement they trusted, was innovative, and it followed a two-year review by a select committee of the house on the law and practice relating to death and dying and a long, long period of public consultation.

The legislation dealt with difficult matters of life and death and went to the core of medical philosophical and religious beliefs as well as certain long-held legal principles. The law squarely addressed difficult questions at the end of life, such as the withdrawal of treatment and the relief of pain and distress. The Consent to Medical Treatment and Palliative Care Act was supported strongly by the house at that time because it addressed those issues in a much more effective and appropriate way, I think, than legalising physician assisted suicide or mercy killings. The legislation adopted then and the bill before us now expressly ruled out physician assisted suicide or

euthanasia. The legislation adopted then and the bill before us now does provide a strong legal framework for the relief of pain and distress among those who are in pain or suffering distressing symptoms.

The bill reinforces patient autonomy and the ability of health professionals to provide pain and symptom relief without fear of legal consequences, even if that treatment shortens the life of the patient. The original legislation and the improvements made in this bill, which update provisions and draw on the experience of the last two decades of practical use, focus on the patient and how his or her wishes can be ascertained and implemented to the best of our ability. Once a person has moved to a phase where he lacks the mental capacity or physical ability to make his own wishes as to his treatment choices known directly, then a mechanism is required for him to express himself through the voice of another. I seek leave to continue my remarks.

Leave granted; debate adjourned.

AUDITOR-GENERAL'S REPORT

In committee.

(Continued from 13 November 2012.)

The ACTING CHAIR (Hon. M.J. Wright): We now proceed to examination of the Minister for Education and Child Development. I remind members that you need to be on your feet and that all questions must be directly referenced to the Auditor-General's Report.

Mr PISONI: Minister, I will take you to page 412, 'School audit arrangements'. Are you able to advise the number of schools that do not 'meet the respective needs of the Department and Audit'?

The Hon. G. PORTOLESI: Before I answer that question, which I will take on notice, can I also take this opportunity to introduce Mr Chris Bernardi, Director of Finance and Investing in the department, and Mr Anthony Creek, Assistant Director, Financial Accounting. I will take that question on notice.

Mr PISONI: While you are taking questions on notice on this matter, minister, could you bring back also the areas in which schools are not meeting the respective needs? What needs are not being met by the department and Audit and for how long have those schools been in that position?

The Hon. G. PORTOLESI: Can I ask the member to repeat that question? He wants the information about the schools that are not meeting the audit requirements; is that correct? Is that the first question?

Mr PISONI: That is correct.

The Hon. G. PORTOLESI: What was the nature of your second question?

Mr PISONI: The nature of the second question is the areas of the audit that are not being met by those schools.

The Hon. G. PORTOLESI: I will check to see if we in fact collect and collate that level of detail. If it is available, I am happy to bring it back.

Mr PISONI: The Auditor-General actually says that there are schools that do not meet the respective needs of the department, so surely there is a list of needs. What I would like is the list of needs and what needs are not being met, just to make that clear.

The Hon. G. PORTOLESI: I repeat what I said two seconds ago, that I will do my best to bring back a response.

Mr PISONI: Referring to audits again, on page 413, the report states:

> Consequently school financial audits will continue to be conducted by contractors while work on the school audit reform project continues...

Are you able to advise the number of contractors that are working on this project, how much money has been spent on contractors and any future budgets for those contractors in the forward estimates?

The Hon. G. PORTOLESI: Because of the nature of that outsourcing contract, there is quite a bit of information that we will need to pull together, and that is what we will do and bring back a response.

Mr PISONI: At page 414, authority to raise invoices, the Auditor-General concludes that the department and Shared Services SA do not check that invoice and credit note requests are authorised and identified instances where request forms processed were not properly authorised. Is the minister able to advise the house on how many occasions that has happened and the total value of invoices where that has happened?

The Hon. G. PORTOLESI: The department's Accounts Client Services officers check invoice/credit note/debit note request forms for completeness prior to forwarding a request to Shared Services, where the invoices are raised, and it is the department's intention to negotiate with Shared Services SA in ensuring that no request is processed without first being checked and signed by the department's Accounts Client Services unit. We will ensure that all requests are signed by an officer with the appropriate level of financial delegation. I say that by way of general statement. In relation to the more detailed request, we will take that on notice and seek to bring back a response, if that is appropriate.

Mr PISONI: Can you also bring back in that answer how many cartridges were purchased that did not go through the proper authority?

The Hon. G. PORTOLESI: I am happy to bring back a response. It may take some time to collect that information because schools have a great deal of autonomy in relation to what they are able to purchase. I am happy to take that on notice but want the house to note that there is a degree of autonomy in our systems that means it will take us some time to collect that information, if at all.

Mr PISONI: On that same matter, minister, can you advise, if schools do have autonomy to purchase, as you have just claimed, why a memo went out to schools, dated 10 October this year from Mr Gino DeGennaro, mandating that things such as toner cartridges for both metropolitan and regional sites be purchased through Corporate Express or OfficeMax exclusively and that additional mandated items in metropolitan sites are a mandated purchase from these two organisations? Are you able to advise as to whether your office was consulted, firstly, about Mr DeGennaro's memo and also by the minister responsible for Shared Services (the Minister for Finance) about this change of arrangements?

The Hon. G. PORTOLESI: I am talking about two different time frames and the member is referring to the stationery contract that minister O'Brien is responsible for and made some announcements in relation to just recently. Of course, that impacts on schools. Clearly, I do not have any information with me about the nature of the communications between the department and my office in relation to a circular that the deputy chief executive distributed. There are many circulars of varying degrees that are put out, so I will have to take that on notice.

Mr PISONI: So you are saying that you have no recollection yourself of this circular being discussed with you by the deputy chief executive or anyone else within your department before it went out?

The Hon. G. PORTOLESI: I did not say that at all, and what I said is that I would bring back a reply. Don't verbal me.

Mr PISONI: I asked the question, minister. I didn't hear a date. I didn't hear you say that you were told. So, were you told?

The Hon. G. PORTOLESI: Your question was about the communications—

The ACTING CHAIR (Hon. M.J. Wright): Order! One at a time.

The Hon. G. PORTOLESI: —and I said to you that there were many circulars that were put out and that I would get back to you about that. I am aware of the circular to which you refer.

Mr PISONI: Were you told about it before it went out? That was the question. You are telling me that you have to come back to the parliament with that answer. Is that what you are saying?

The Hon. G. PORTOLESI: This demonstrates how ill prepared you are for your job.

Mr Pisoni: I think it shows how little you know about yours and how much interest you have in it. I think that is what it shows.

The ACTING CHAIR (Hon. M.J. Wright): Order!

The Hon. G. PORTOLESI: Are you finished?

Mr Pisoni: Go on. You're on your feet. Off you go.

The Hon. G. PORTOLESI: You asked a question about whether I knew or the level of communication or contact there had been between my deputy chief executive and my office in relation to this circular. Now clearly that is not information that we would contain at a meeting at a questioning session like this one, but I said to you that I would get a response back to you. But I also said to you that I am well aware of the circular to which you refer.

Mr PISONI: And I am asking you: were you aware of the circular before it went out?

The Hon. M.F. O'BRIEN: Point of order, Mr Acting Chair. Having been through this process on numerous occasions myself, there has to be a reference back to the Auditor-General's Report. These are extraneous matters.

The ACTING CHAIR (Hon. M.J. Wright): I was wondering the same thing whether the member is still referencing the Auditor-General's Report.

Mr PISONI: It is page 414, as I indicated prior to asking these questions.

The ACTING CHAIR (Hon. M.J. Wright): And is there reference there to Mr DeGennaro's letter?

Mr PISONI: There are references here to purchases and credit invoices.

The ACTING CHAIR (Hon. M.J. Wright): Alright.

The Hon. G. PORTOLESI: That is a generalist reference and the member opposite is referring to a stationery contract. In the spirit of openness, I am very happy to bring back a response. It is completely reasonable that that degree of information about who said what when is not the kind of information that I would have at an Auditor-General's briefing but I am very happy to bring back a reply.

Mr PISONI: Can the minister please advise either now or bring it back why Mr DeGennaro in this letter to schools wrote:

> Whilst other categories of goods are not mandated I encourage you to purchase those items from the contracted suppliers...

On what basis is the department instructing or recommending one supplier over another?

The Hon. G. PORTOLESI: I clearly will need to refer that question to the deputy chief executive who after all is the author of that circular.

Mr PISONI: The next question refers to page 415 on debitor management. The Auditor-General refers to accounts receivable and Shared Services have conducted a follow-up of overdue invoices within 10 days. Is the minister able to—and I appreciate that this will need to come back to the committee—indicate the value of the debitors that—

The Hon. G. Portolesi: Debtors.

Mr PISONI: —are longer than the 10 days at the end of the month at the latest available?

The Hon. G. PORTOLESI: We need to decipher the member's question and when we do that we will bring back a reply.

Mr PISONI: Just to make it easy for you, minister, what I want to know is the value of overdue receivables at the latest available and, while you are at it, I would also like to know how much value in receivables was written off last financial year?

The Hon. G. PORTOLESI: Yes, I am happy to do that.

Mr PISONI: This question refers to page 424, in Volume 2. The auditors found that 239 registered caregivers had not been reviewed. Can the minister advise if this is still the case? I also note that the reviews should have been completed within 10 weeks, with 25 reviews occurring a week. How many carers were rejected as carers through this review process?

The Hon. G. PORTOLESI: At the time of the audit, the carer assessment and registration unit currently had, I am advised, 240 outstanding reviews, the latest due date being February 2012. This figure is derived from a physical count of all assessment reviews that have been received by

the unit. Two part-time workers have been assigned to concentrate on finalising all outstanding reviews and are completing approximately 25 reviews per week. I will look at the member's question in more detail and, if I can, I will bring back further information.

Mr PISONI: This refers to page 427, the C3MS function. Can the minister please advise how many terminated employees had access to this system when the November 2011 report was prepared and how many terminated employees still have access to the system?

The Hon. G. PORTOLESI: I do not have any information that can assist me in relation to that question, but that is an important question. I will take that one on notice.

Mr PISONI: Can the minister inform the house, then, what information is available to terminated employees who still have access to the C3MS?

The Hon. G. PORTOLESI: I will need to check with the department about their processes around termination of employees and how people exit the strategy that have access to that kind of information.

Mr PISONI: Perhaps you could also bring back how many terminated employees did have access to the C3MS at the time of their termination?

The Hon. G. PORTOLESI: Same.

Mr PISONI: Sorry?

The Hon. G. PORTOLESI: I am happy to investigate further.

Mr PISONI: Are you happy to bring that back?

The Hon. G. PORTOLESI: Yes.

Mr PISONI: Is the minister able to advise what action she has taken since the report was published in November 2011 that found that a significant number of terminated employees still had access to the system? Could she advise what action has happened since that report was published?

The Hon. G. PORTOLESI: The department advises me that action is certainly underway to address this issue and implement the recommendations in a timely manner. I am very happy to bring back a more detailed response.

Mr PISONI: Are you going to be bringing the actions themselves back to the parliament?

The Hon. G. PORTOLESI: I will address your question as articulated a second ago.

Mr PISONI: No, I am actually asking whether you are going to bring back the list of actions that will deal with this matter.

The Hon. G. PORTOLESI: I will respond to your question.

Mr PISONI: I am asking you whether you will bring back the list of actions that you will implement to deal with this matter. It is a simple question, minister.

The Hon. G. PORTOLESI: No, here you are putting words into my mouth again. I will answer your questions and bring back a report to you on those recommendations.

Mr PISONI: Page 430 of the Auditor-General's Report refers to the—

The Hon. G. PORTOLESI: I beg your pardon, what page?

Mr PISONI: This is page 430 of the report which refers to the Digital Education Revolution program. Are you able to advise whether your department has a program of replacing the computers that were purchased under that program, what the cost of that program is, and when that program will begin?

The Hon. G. PORTOLESI: I am happy to bring back a detailed response to the member that provides that information.

Mr PISONI: I refer to the recharge for teacher practicum program. This is on page 413, minister. The Auditor noted that agreements for payments have still not been finalised with the University of Adelaide and Flinders University. There is an outstanding amount there of $689,000 as of 31 May 2012. The original figure, I think, when this dispute began, was about $3.1 million on 2 June 2010. Is the minister able to advise whether a settlement has been reached

about future payments and whether the outstanding amount has been either settled and, if so, what the settlement figure was?

The Hon. G. PORTOLESI: Thank you for that question. A core element of all undergraduate and graduate teacher education programs is the professional experience placement. Satisfactory performance during the placement is an essential component of the teaching qualification and teacher registration. As prescribed in the Teachers (DECS) Award, the department pays teachers an allowance for supervising university students undertaking the teaching practicum program. It is the department's policy to recover the cost of the supervision from the tertiary providers where the undergraduate teachers are placed.

The providers are UniSA, University of Adelaide, Flinders University and Tabor College. The department has developed a formal, binding, commercial quote deed-for-fee and on-costs for the supervision of professional experience placements (that is the title) that establishes the obligations of all parties in regard to the fee paid by tertiary providers to the department for teachers to supervise the professional experience placements.

The deed covers the period 1 April 2011 to 31 December 2013 and has provision to be extended for a further three years. The University of South Australia has signed the agreement; however, formal agreement from the University of Adelaide, Flinders University and Tabor College still has not been reached, and the department continues to work with the relevant tertiary providers regarding this matter.

Mr PISONI: Is there still an outstanding amount for the University of Adelaide and Flinders University? The Auditor-General's papers refer to $689,000 outstanding as of 31 May. Can you advise whether that has been settled and, if so, was it settled for that amount or for less?

The Hon. G. PORTOLESI: I will take that on notice.

Mr PISONI: Has UniSA settled its account in full? What is the value of its account?

The Hon. G. PORTOLESI: I will take that on notice.

Mr PISONI: Are you also able to advise what the allowance is that is paid to teachers who participate in the practicum program with the universities?

The Hon. G. PORTOLESI: I do not have that specific information with me but it is very easy information to give to the member and I will endeavour to do that.

Mr PISONI: Can the minister advise if there has been any reduction in the practicum hours offered to students since the revised EBA arrangements were introduced in 2010?

The Hon. G. PORTOLESI: That is a question that we will need to refer to other parts of the department, the HR people in the department, so we will bring back a reply.

Mr PISONI: I refer to page 454. It shows an increase in the number of employees who receive remuneration above $130,700. It has increased from 284 to 326 from 2011 to 2012. Can the minister advise how that has come about and whether it is an increase in existing salaries or whether there have been additional staff hired at that scale, and what those positions are, if that is the case?

The Hon. G. PORTOLESI: Those employees earning over $134,000 per year are employed under either the Education Act or the Public Sector Act. The number of individuals who earned over $134,000 in 2011-12 was 326. They include 200 Education Act site-based employees, 84 Education Act non-site-based employees, 33 Public Sector Act executive employees and nine Public Sector Act non-executive employees. The increase of 42 individuals who earn over $134,000 is primarily due to salary increases. These increases have primarily occurred for officers employed under the Education Act.

Mr PISONI: Are there any new employees who came in, or new positions created at those levels?

The Hon. G. PORTOLESI: We will need to check that.

Mr PISONI: Will you bring that back?

The Hon. G. PORTOLESI: Yes.

Mr PISONI: At page 432, 'Administered items', it refers to grants to non-government schools from the commonwealth and South Australian governments. Can the minister advise what

the average per capita funding is from the state government for students at non-government schools?

The Hon. G. PORTOLESI: We will need to go to the Office of Non-Government Schools to find that information, and I am happy to do that.

Mr PISONI: Is the minister able to—this is on the same topic—tell the house whether she has been advised of any likely impact either in the way of an increase or a decrease as a result of new funding arrangements post Gonski?

The Hon. G. PORTOLESI: I do not understand the question; it is barely English. Give it to me in English if you can.

Mr PISONI: Does the minister see this funding level as being likely to increase or decrease as a result of new funding arrangements post Gonski? Basically I am asking whether you have had any briefings or asking if any work is being done in the department about the impact of the federal government's Gonski review?

The Hon. M.F. O'BRIEN: Point of order. I see no reference in the Auditor-General's Report to Gonski. This is purely a policy matter and way beyond the purview of this inquiry.

The ACTING CHAIR (Hon. M.J. Wright): I uphold the point of order.

The Hon. G. PORTOLESI: Can I just say in relation that the member opposite is asking me to speculate on discussions that are underway in relation to Gonski.

Mr PISONI: Do you support Gonski?

The Hon. G. PORTOLESI: Yes, we do support Gonski. Can I just clarify something in relation to the C3MS statement I made earlier? I may have stated that we have commenced actions, but what I will need to do is check that. I will come back with specific details in relation to that.

Mr PISONI: This refers to pages 421 to 422, 'Eligibility of Department employees', and employee housing. The Auditor found numerous failures in record-keeping and eligibility checks. Are you able to advise what the process is for eligibility for employee housing and why it is that your department has failed or, as described by the Auditor, has numerous failures to record the record-keeping and eligibility checks?

The Hon. G. PORTOLESI: The management of employee housing is outsourced to the Department of Planning, Transport and Infrastructure. The department has a framework for the employee eligibility criteria and allocation procedures for housing accommodation. Eligibility for government employee housing is currently granted to permanent departmental teachers in the regional areas of South Australia. Information provided to employees includes housing eligibility information. The department website content is being continually updated to provide clearer information on the eligibility criteria for employees.

The departmental processes in place for confirming ongoing eligibility for subsidised government housing include the receipt of a report from DPTI that identifies DECD employees occupying government housing. This report is then used to perform a confirmation process with respect to the eligibility of employees occupying a government subsidised house. Reviews of inactive employees and property ownership take place at the end of each financial year. A report identifying all departmental employees who have been in government employee housing for five years or more as at 30 June 2012 has been requested from DPTI, which is responsible for administration of government employee housing across government.

A report identifying any DECD employees making manual rental payments as at 30 June 2012 has also been requested from DPTI. This will enable identification review and follow-up, if necessary, of the ongoing eligibility of employees in government employee housing who are not on active duty, such as those on maternity leave. In respect of the documented procedure, this will be progressed in the 2012-13 financial year.

The ACTING CHAIR (Hon. M.J. Wright): Thank you, minister and shadow minister. We now go to the Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for Recreation and Sport. Can I remind members that you have to be on your feet if you are asking a question and all questions must be directly referenced to the Auditor-General's Report. Member for Stuart.

Mr VAN HOLST PELLEKAAN: Thank you, minister and advisers. My questions refer to Part B, Volume 4, page 1182, to begin with, about the YMCA contract at the aquatic centre. Can the minister confirm that payment to the YMCA for the 2011-12 year is $2.521 million?

The Hon. T.R. KENYON: Yes, member for Stuart. There is a slight rounding error because, if you are going to round to the nearest thousand, it should be $2.522 million. The actual number is $2,521,992.

Mr VAN HOLST PELLEKAAN: The next question is: can the minister confirm that the projected figure for the tender submission was $2.278 million? If that is correct, please explain the nearly $0.25 million overrun.

The Hon. T.R. KENYON: Part of the contract with the YMCA is that there are projections on how many patrons they will get into the facility, then we basically make up the difference. We are paying them to run and manage on a per patron cost, essentially. They have projected returns and the contract allows for variations in payments based on the patronage numbers.

Mr VAN HOLST PELLEKAAN: There will be an adjustment?

The Hon. T.R. KENYON: Yes, that is right. We have forecasts; they are not guaranteed payments. The forecasts we have are not guaranteed, but they are based entirely on patronage numbers.

Mr VAN HOLST PELLEKAAN: So, that gap then is purely because of higher than expected usage—purely directly related to the extra patrons?

The Hon. T.R. KENYON: No, in this case it was lower than projected patronage, so they do not make the revenue they expected to make, then there is a negotiation where we verify their numbers. They say they have lost a certain amount or they have not made up a certain amount, we verify that with them, negotiate with them and then make the difference as agreed or make the extra payment as agreed.

Mr VAN HOLST PELLEKAAN: But, minister, how it can it be then that, if the patronage was lower than projected, you paid them more than was projected to operate the centre?

The Hon. T.R. KENYON: You might recall that there were a number of rectification works that needed to be done, to bring the pool up to speed, as a result of the building process. That meant they could not use the pool for a number of days while they were doing that, and that meant they did not get the same patronage. Obviously, the patrons spend a certain amount. They pay admission and you would expect them to pay a certain amount at the kiosk and those sorts of things.

Mr VAN HOLST PELLEKAAN: I will just add that they would have received over and above their payment.

The Hon. T.R. KENYON: They have to prove to us that they did not meet their revenue targets as a result of those interruptions. If they can prove that, then we make it up to them. The contract is a shared risk contract, in effect. We obviously do not want the YMCA to go broke running our facility and we do not want to pay more than we have to to run the facility. If they can prove that it is not their fault that they did not meet their projected income, then that is when we can negotiate on the payments, and that is why the payments were higher in this case, because there were a number of days when the pool needed work, and it had to be shut so the work could be done and, therefore, they missed out on those revenue targets and we made them up.

Mr VAN HOLST PELLEKAAN: Given then that it has been approximately $2½ million for the 2011-12 year, is the department's projection of what it will pay over five years still approximately $6½ million?

The Hon. T.R. KENYON: At this stage we believe their targets are achievable. It is a relatively small adjustment for last year, and it must be remembered that was the start-up year. Their programs are running, their patronage is good, and we expect the targets to be achievable throughout the life of the contract.

Mr VAN HOLST PELLEKAAN: Can you provide a breakdown of the estimate over each of the five years?

The Hon. T.R. KENYON: The projected payment for the 2012-13 financial year is $1.427 million; 2013-14 is $1.069 million; 2014-15 is $892,000; and 2015-16 is $786,000.

Mr VAN HOLST PELLEKAAN: Moving to page 1233, ORS expenses, I refer the minister's attention to the community sports hub report. You have stated that the community sports hub report has been presented to you and that it has been considered and will be released for public consideration as soon as possible. When do you expect the report to be released, given it was a highlight in the 2012-13 budget and you have had the report for approximately five months?

The Hon. T.R. KENYON: We are just making some changes to that to take into account changes to CRSFP and Strategic Plan targets. We can have that out relatively quickly, with any luck, before Christmas.

Mr VAN HOLST PELLEKAAN: Moving now to page 1232, in regard to the Office for Racing, given that it has been confirmed that the Office for Racing will be merged with the Office for Recreation and Sport, what do you expect the cost savings will be to the department as a result of the merger?

The Hon. T.R. KENYON: It is roughly the cost of one full-time equivalent position, so about $100,000.

Mr VAN HOLST PELLEKAAN: I will ask one more question and then hand over to the shadow for training, science, and technology. On page 1252, in relation to the Recreation and Sport Fund, can the minister advise whether he has received any advice from Treasury regarding the cost implications to the Recreation and Sport Fund as a result of the sale of SA Lotteries?

The Hon. T.R. KENYON: My advice on that is that we have not received any advice from Treasury on that effect.

Mr PISONI: I refer to page 636, income and expenses, under the heading 'Student and other fees and charges', for example. According to NCVR figures, in 2011 we had a total of 117,907 students enrolled in higher education, VET and schools. That figure is now down to 56,615 for this year. Are you able to advise what resources in the way of FTEs were responsible for managing the 117,000 foreign students in 2011 compared with the 56,000 total in 2012?

The Hon. T.R. KENYON: I apologise; can you clarify what you are seeking?

Mr PISONI: In relation to international student numbers, there were 117,900 and that includes higher education, VET, schools and other courses. For 2011, which the audit papers refer to, and 2012, I am asking for the full-time equivalent resource in the Department of Further Education to service the 2011 international student numbers compared with the resource in 2012 for servicing the 2012 numbers? I am sorry I did not make that clearer initially.

The Hon. T.R. KENYON: The answer is within DFEEST itself there are three. There were three FTEs in 2011 and that number remains the same in 2012. However, obviously, a lot of the involvement with international students in my department is within TAFE itself and I will need to get back to you with numbers and take that on notice.

Mr PISONI: On page 655 it refers to tertiary student transport concessions. Last year we had that figure at $22.444 million and this year it is $16.7 million. Are they for local students, international students or a mixture of both; and, if it is a mixture, can I have a breakdown?

The Hon. T.R. KENYON: My advice is: both, that it involves international students and domestic students. We are one of the few states that offers concession to international students. It is anyone with a concession card, and in South Australia overseas students are eligible for that.

Mr PISONI: Could I have a breakdown of international and local students?

The Hon. T.R. KENYON: I will take that on notice and get back to you with that.

Mr PISONI: At page 635 in relation to the student information system, the contract was entered into for $18.1 million over 10 years, in 2009, I believe. The Auditor-General states that the project planning implication of the system will total $20.4 million over three years from 2009-10. Are you able to advise if the $18.1 million is the total value of the contract and any addenda or additional contracts that have been signed since the initial contract, and what the breakdown of the $20.4 million over three years for the planning implementation of the system is?

The Hon. T.R. KENYON: The $18 million over 10 years covers the purchase and ongoing licensing of the software to implement the Student Information System (SIS), so you purchase the licence for 10 years for the cost of $18 million, as well as vendor support for implementation and maintenance. My advice is that there have been two contract variations since covering the licensing of the UC4 job scheduler, which is $6,000, and the licensing of the Procedural Language

Structured Query Language (PL/SQL) script editor, which is $5,600, plus an annual maintenance of $1,027. UC4, the job scheduler, allows for daily tasks in the student and finance systems to be automated as an overnight process without staff intervention. The PL/SQL script editor is a technical software tool that allows PDF documents such as student invoices to be made available for students on self-service. There are no other variations to the contract is my advice.

In addition to that, there is an implementation budget of $20.4 million over three years to cover the cost of configuring and implementing the system to meet TAFE's requirements. This budget included the cost of vendor support covered under the contract plus a project staff drawn from within TAFE and DFEEST as well external contractors. So, $20.4 million is the total cost including the $18 million. The total cost of the system is $20.4 million.

Mr PISONI: I just want to make that clear. The system including the implementation is $20.4 million. The minister is nodding. Are any invoices being paid by the department outside of the contract to the contractor or anyone acting on behalf of the contractor or working on the system outside of the terms of the contract?

The Hon. T.R. KENYON: My advice is that other than the two I told you about—the UC4 job scheduler and the PL/SQL script editor—no, we are not aware of any. Aside from that, there are the everyday contractors that we have involved with TAFE and the department that come and do IT work for us and they would have to interact with SIS but they are not contracted specifically to work on SIS or anything like that.

Mr PISONI: Are you employing or contracting any contractors from overseas to deal with this new Student Information System at the moment?

The Hon. T.R. KENYON: My advice is that we are not aware of any. SunGard itself is an American company, so obviously there are people from SunGard that we deal with, but my advice is that there are no subcontractors coming from overseas.

Mr PISONI: I refer to pages 630 and 631, Internal audit reviews. DFEEST initiated three internal audit reviews conducted by an external audit firm: June 2011, the SIS risk assistance review; August 2011, the Information Security Management Framework compliance review; and May 2012, the SIS post-implementation review. Are you able to supply the names of the companies, contractors or consultants that conducted those reviews and also the cost of the reviews? Will you provide the member for Unley with a copy of the reviews?

The Hon. T.R. KENYON: Deloittes did the post-implementation review, and I can also get you the breakdown of costs and the other contractors that did the other reviews you mentioned. I will take that on notice. My preference is to release to you those reports. If there is a reason I cannot do that, I will let you know, but if I can I will get them to you.

Mr PISONI: The August 2010 report was found to have, according to the Auditor-General, particular concerns regarding user access management and management of privileges access, which were to be completed by December 2012. The audit found that these should be addressed with urgency. Are you able to advise whether the process has started to deal with that? If not, why not and, if so, when will it be complete?

The Hon. T.R. KENYON: My advice is that all the key risks that were mentioned by the Auditor-General have been addressed and there is some tidying up of other works ongoing. We are just working our way through the minor issues as we go. I can tell you that the following examples or issues have been given priority attention: user access review and modifications to enhance system security; reassessment of duties assigned to staff to improve controls; additional reporting to monitor controls and support reconciliation; and a revision of the training plan and expanded targeted rollout, including mandatory information security training; business processes have been reviewed, including the introduction of smart forms, to optimise the efficiency and effectiveness of the system and improve data quality and reporting; and improvements to process and information to manage student debts.

There have also been modifications and enhancements to SIS that accommodate the implementation of Skills for All, enhance enrolment processes and improve the usability of the system from a student and staff perspective. I think the short answer is that we have done all of the urgent work and there will be ongoing maintenance over time to address issues.

Mr PISONI: This refers to page 643, and there is a reference there to the Office of TAFE. Are you able to provide the board fees that have been allocated for the new board of the corporatised TAFE, from the chairman down to the board members?

The Hon. T.R. KENYON: It is probably best that I take that on notice and get back to you as quickly as I can with it.

Mr PISONI: Did you sign off on it?

The Hon. T.R. KENYON: Yes, I did; I can give you a total number, I think, but it will not take long. I will get it to you as quickly as I can.

Mr PISONI: Thank you very much.

The ACTING CHAIR (Hon. M.J. Wright): Thank you minister, thank you shadow minister. We now move to the Minister for Transport Services. I am sure that members need no reminding that questions asked must be by members on their feet and that all questions must be directly referenced to the Auditor-General's Report. We will give the minister an opportunity to get into position and for her advisers to join us.

The Hon. C.C. FOX: Thank you. I would like to introduce to my left Mr Terry Crackett, the Executive Director of Business Services in the Public Transport Division and he will be helping us here at this moment in time.

Ms CHAPMAN: Thank you, minister. Transport services—the Department of Planning Transport and Infrastructure commences at page 1164 of Volume 4 of the Auditor-General's Report. At page 1166 and 1167, the Auditor identifies the qualification for his report. That is not a very attractive thing to have in any audit, of course, and I would expect, having read it, that the grants to which this applies are largely under the jurisdiction of minister Conlon and, I suppose, his area of responsibility, if I am correct, so that he might take some responsibility to make sure that this four-year error is not repeated. But I will ask, just for completeness, minister: are any of the grants that have been treated in this matter relevant to your part of the portfolio?

The Hon. C.C. FOX: That would be under minister Conlon's jurisdiction, but I believe it relates to 2010-11 not to 2011-12.

Ms CHAPMAN: The following is an extract from the 2011-12 independent auditor's report but it relates to the four years preceding that. Anyway, it is nothing to do with you.

The Hon. C.C. FOX: No.

Ms CHAPMAN: Thank you, that is alright, that is good. Bus contracts are outlined, commencing on pages 1171, and I will come back to some of the discussion on that by the Auditor. Page 1184 lists the expenses and the variations, and you will see there at about point two on that page, 'Expenses for the year total $1598 million...and are mainly attributable to:' and they then list under supplies and services that $171 million was paid to bus service contract payments (bus contractors). On 20 June at budget estimates we were told that the estimate of result for 2011-12 was $167 million and that the budget for 2012-13 was $171 million. Why were the total contractor payments $4 million higher than what was projected in July, and what is the revised budget for 2012-13?

The Hon. C.C. FOX: I will have to take that on notice and have it checked.

Ms CHAPMAN: I remind you that if you are having a look at it, as you well know, there were service changes commencing as of 1 July. We were not able to identify any of that service change cost, which we know is significant but, nevertheless, would not have been able to attribute for that $4 million difference, so we are very keen to have that clarified. If, in fact, the wrong figure was given and it should have been $171 million then you will appreciate why we need to have the revised budget for 2012-13.

Still on bus contracts, for the 2011-12 year, please provide on notice a breakdown of payments to each of the bus contractors for metropolitan bus services. We also request a breakdown under each of those contracts in the categories of regular payments and extra payments—extra payments being things such as the shuttle service for train lines and special events. If that information is not with you today we are happy for it to be taken on notice.

The Hon. C.C. FOX: Certainly.

Ms CHAPMAN: Certainly that will be provided, or certainly you will take it on notice?

The Hon. C.C. FOX: Take it on notice.

Ms CHAPMAN: Thank you. We will just go back to the commentary. The commentary on this commences on 1171. There had been some considerable discussion about the process

compliance performance indicator and the fee adjustment calculations. Over on page 1172 you will see at about point 3 on that page the paragraph commencing:

> The audit review found that during the year the Minister applied discounts to the fee adjustments applicable under the contracts with the bus operators.

It then goes on to set out the total value of those fee adjustments which, for the total of the period, was some $1.145 million. As we know from information that you have already provided to us, there were fines to bus companies for this period which totalled approximately $255,000, so we are really looking at a net discounting of some $900,000 which, of course, the Auditor-General has made some comment about. I have not reread all that commentary as I am assuming you are familiar with it.

The Hon. C.C. FOX: Yes.

Ms CHAPMAN: A little further down on page 1172 the Auditor-General says this:

> ...it was not clear whether the discounted fee adjustments were determined in accordance with the provisions of bus contracts.

The Hon. C.C. FOX: They were.

Ms CHAPMAN: What I would ask you to tell us, given his statement—and I think you, as the new minister, are indicating and suggesting that they were—what was the formal process used for the calculation of the fee adjustment discounts?

The Hon. C.C. FOX: It is important to set the context in which this audit of the bus contracts was undertaken. The period covered by the audit included the transition period to both new contracts as well as the transition to a new service provider. Although the Auditor-General's final report raises these five potential areas for improvement, the findings reflected the transition that was being undertaken and have all been addressed by the department subsequent to the audit in rolling out the new performance measurement framework.

The fee adjustments that were applied by the department have been reviewed. They have been confirmed as correct in accordance with the performance provisions within the contracts. Prior to applying the full level of the fee adjustments, and without prejudicing my rights under the contracts, I considered any mitigating factors and initiatives that were provided by the contractors and, where appropriate, reduced the level of fee reductions applied.

Furthermore, under the contracts, as minister I may reallocate demerit points among the performance indicators to better reflect performance management priorities once in any consecutive 12-month period. The department has recently undertaken a review to this effect and amendments have been agreed with contractors which better reflect the practical application of the contract intent. Formal contract variations are currently being prepared by crown law and, as noted on page 1172, this will be a subject of further review by the Auditor-General in 2013.

Ms CHAPMAN: That may be a general explanation of what has happened over that unhappy period, minister, but my question was: was a formal process used in calculating the fee adjustment discounts?

The Hon. C.C. FOX: Yes, it was.

Ms CHAPMAN: What was it?

The Hon. C.C. FOX: If you go to schedule 11 within the contracts, you will therein see the formula that was used. It is quite a mathematical formula. I am not a mathematician myself, so we actually went to some extent to have it fully explained and unpacked. That is entirely what we were working with and that was within the parameters of the contracts and within the parameter of the schedule.

Ms CHAPMAN: Why was the process compliance performance indicator not established and agreed to by you and the private operators before the contracts commenced and still not agreed at the time of the audit?

The Hon. C.C. FOX: As indicated in the report, the terms and conditions of the contracts are extensive and relatively complex and, as such, we recognise that having an effective contract management framework finalised and fully in place is critical. The new contracts, however, establish benchmarks in key areas based on amended criteria, and it was not possible to reach

complete agreement with bus contractors until the measurement in the new operating environment had been undertaken over a period of time.

In order to ensure that an effective and ongoing monitoring regime was in place for what are significant contracts, as you are well aware, the existing contract management framework was applied in the interim period to the new contracts where it was appropriate to do so. Subsequent to that audit, agreement was reached with all contractors, and the contract management framework has been fully implemented for the July 2012 to September 2012 quarter.

Ms CHAPMAN: I am not sure that that actually explains why it had not been done before but, in any event, you say that under the new regime that process compliance performance indicator is actually in there. Is it the situation then that the benchmarks were not in the contracts?

The Hon. C.C. FOX: As you are aware, there were three bus companies that came on board as of October last year. At least one of those bus companies did sign up to the performance benchmarks. Two of them did not initially, and the reason behind that is they were operating in such a new environment that they actually wanted to make sure that the benchmarks were possible to reach.

Ms CHAPMAN: So, having signed up the contracts without the benchmarks in place, do you agree then that that was a significant factor in the discounting of the fines that you applied in the following year?

The Hon. C.C. FOX: No.

Ms CHAPMAN: So, the fact that the benchmarks were not in the contract were no factor at all in your discounting of the fines in the following year?

The Hon. C.C. FOX: The discounting which occurred was based on mitigating factors. As you would be well aware, companies have to bring before you their reasons for a lack of performance in certain areas across those seven criteria benchmarks.

Ms Chapman: Those benchmarks, minister, won't be in the contract.

The Hon. C.C. FOX: The seven criteria are in the contract. When we write to them, they then write back to us and say, well, it was impossible to meet on-time running in a particular sector of a particular route because of—and I use this only as an example—the Harris Scarfe development, because of pipeline works, because of Southern Expressway works. The reality is that there is an enormous amount of infrastructure being built in and around Adelaide and there were a number of routes which were disturbed. In taking everything into account, one had to be reasonable.

Another example would be Clipsal. The disruption around Clipsal is quite significant and we have to take those things into account. These are not events that bus companies impose upon the citizens of South Australia. They are run by the government for the people of South Australia and we have to take those events into mind when we are applying fines of this sort. It is very important to practise some level of common sense and some level of flexibility, because, if you did not, you would just be absolutely unreasonable. I do not think that we as a department can punish any service provider for events that are effectively beyond their control.

Ms CHAPMAN: So, the two parties to this contract, of course, are the bus contractors and the government. The government knows what major works and major events are going to occur and they sign up these contracts. Apart from the Clipsal race and the development of the Harris Scarfe property—

The Hon. C.C. Fox: Which is not a government project.

Ms CHAPMAN: I understand, but it is right opposite the department, minister. It is blindingly obvious. You walk out the front door of your department and there it is, so please do not be cute about this.

The Hon. C.C. Fox: I'm not being—

Ms CHAPMAN: Both of these projects are well-known to the government.

The Hon. C.C. Fox: Member for Bragg, I am not being cute.

Ms CHAPMAN: What other excuses did the bus contractors give you, minister? What other excuses did they give you for you to give them a discounting of nearly $1 million?

The Hon. C.C. FOX: First of all, I would like to point out that the project to which you refer is not a government project. It is a project which is carried out by private individuals, and while I have mentioned a number of state government funded infrastructure events, the reality is that there are private individuals and business enterprises which go out there, they invest in our state, they invest in infrastructure. It is not all the government's work on the roads so, first of all, let's make that very clear: we are not dealing just with government projects. Far be it from me—or, indeed, I would say anybody else in this place—to stop that private sector from investing and expanding.

The other thing I take issue with there is the member for Bragg's use of the word 'excuses'. 'Excuses' makes it sound as if these companies were being deliberately bloody-minded. They were not; they were being quite—

Ms Chapman interjecting:

The CHAIR: Order, member for Bragg!

The Hon. C.C. FOX: I do not wish to begin any sort of misleading narrative around bus companies and their responses to events on roads, to events of infrastructure occurring which are out of their control. These are not 'dog ate my homework' excuses. These are very valid reasons on most occasions why some running has been disturbed.

Ms CHAPMAN: Apart from Harris Scarfe, what else did they give you as the basis upon which you accepted that they should get an $888,000 discount?

The Hon. C.C. FOX: I believe that the member for Bragg has actually already received that information in an FOI application.

Ms Chapman: No, I haven't. So the answer is?

The Hon. C.C. FOX: The answer is that I can get all of that detail to you. Off the top of my head, I think there are a whole pile of different reasons. Obviously I have stated the Harris Scarfe one, Clipsal, north-south pipeline, South Road works, the expressway works—we can get that. We will take that question on notice and bring that list back to you.

Ms CHAPMAN: Were all of the contractors aware of the exact performance measures that they would have to meet prior to the contracts commencing? Does your answer before indicate that it was two out of three, or did I have that incorrect?

The Hon. C.C. FOX: All contractors were aware of the performance measures, but the actual benchmarks themselves needed to be accepted by all of the bus contractors. By way of example, the requirement to meet on-time running was tightened from five minutes 59 seconds to four minutes 59 seconds. Until there was a clear understanding of the impact this change would have on the benchmarks via measurement over time, contractors were not in a position to endorse the performance framework. There are the performance measures and then there are the benchmarks.

Ms CHAPMAN: If I have it correct, they all knew what the performance measures were, but the benchmarks were still uncommitted?

The Hon. C.C. FOX: The bus contractors knew what the benchmarks were, but they actually just had to run them to see that they would agree with them, as I have explained previously.

Ms CHAPMAN: I understand. I have never actually signed a contract where you have the bits hanging out at the end but, anyway, they came together eventually. You say, I think, minister, that that did not have any impact on the discounting. The discounting was for the list of events and interruptions that you say you took a sympathetic approach to and gave them a discount. Thank you.

The Hon. C.C. FOX: No, no, no. I did not use the word 'sympathy'.

Ms CHAPMAN: Well, I would hate to see what an unsympathetic approach was. In any event, why did it take a year for the contract management plan to be established for the new bus contracts?

The Hon. C.C. FOX: Sorry, member for Bragg, I apologise. Could you just reiterate that question for clarification?

Ms CHAPMAN: Why did it take a year for a contract management plan to be established for the new bus contracts?

The Hon. C.C. FOX: The contract management plan could not be finalised until such time as the performance benchmarks were agreed to. Obviously, given that the reporting occurs in quarterly increments, it was important to ensure that we had the right information, and that took a couple of quarters to manage. As I previously advised, as minister I may reallocate demerit points among the performance indicators to better reflect performance management priorities once in any consecutive 12-month period. I hope that answers your question, member for Bragg.

Ms CHAPMAN: I suppose it is better late than never. We have benchmarks now and, as I understand it, everyone knows what they are and what their obligation is. Can you tell us what the benchmarks are and, if you cannot today, will you take that on notice and provide those?

The Hon. C.C. FOX: I will take that on notice.

Ms CHAPMAN: Also, page 1172 refers to a demerit point system applying under the bus contracts. How many demerit points have been applied to each bus contractor since the new contracts commenced?

The Hon. C.C. FOX: I will take that on notice.

Ms CHAPMAN: The bus contracts have been rewritten. What was the cost of that?

The Hon. C.C. FOX: There would be a cost attached to that. It is probably worth pointing out that the contracts in their entirety were not rewritten: they were amended. We will get the nature of that cost back to you.

Ms CHAPMAN: At page 1173 the Auditor has identified that the department may have problems following up errors and discrepancies involving lost moneys as a result of cancelling the bus depot audits. Why were the audits to check the integrity, completeness and accuracy of revenue data, sales adjustments and cash collections in respect of bus tickets stopped in October last year?

The Hon. C.C. FOX: At the time of those audits, bus depots were being transferred individually to the new revenue accounting system. DPTI staff and bus service contractor personnel at each depot worked closely during this transition period, spending significant time at each depot independently scrutinising and investigating the performance of the new system, including the processes that were put in place by contractors. Given that this high level of security exceeded the level of review that would have been undertaken by regular audit of the revenue accounting system, audits have been placed on hold to avoid unnecessary duplication of effort.

The new revenue accounting system has more built-in controls, a greater wealth of data and is more robust as a consequence. New procedures have now been put in place in consultation with DPTI's internal audit section to allow for formal bus depot audits to recommence in 2013.

The CHAIR: The time allowed for the examination of the Auditor-General's Report in relation to the Minister for Transport Services has expired. The committee has concluded the examination of ministers on matters contained in the Auditor-General's Report.

CONSTRUCTION INDUSTRY LONG SERVICE LEAVE (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (R18+ COMPUTER GAMES) AMENDMENT BILL

The Legislative Council agreed to the bill with the amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No. 1. Clause 5, page 3, line 9 [clause 5, inserted paragraph (c)]—

Delete 'prescribed by' and substitute 'set out in'

No. 2. Clause 10, page 5, line 20 [clause 10, inserted section 60A(3)(c)]—

Delete 'prescribed by' and substitute 'set out in'

No. 3. Clause 18, page 7, lines 12 to 28—Leave out the clause

Consideration in committee.

The Hon. J.R. RAU: I move:

That the Legislative Council's amendments be agreed to.

First of all, it is nice to see that this piece of legislation is passing and I am grateful for the support of those in another place. Because it is a happy occasion I will not dwell on the unhappy bit but I just make the observation that the amendments actually are quite cosmetic—and why they in another place bothered doing this!

Just for the record, so that those thousands of South Australians who will be reading this in *Hansard* tomorrow will know what we are talking about, in our bill we had the words 'prescribed by' which I gather is a pretty normal formulation but apparently other minds prefer 'set out in' and that warranted sending the matter back here for further consideration. Compared to some of the other send backs I have had, this is a very untroubling send back. It is an entirely cosmetic amendment. It makes no difference to anything. I am just raising it in the general sense about how I am not quite sure why we are doing this.

Ms Chapman: What about clause 18?

The Hon. J.R. RAU: Yes, well, again—it is cosmetic because it doesn't make any difference, you see. Anyway, we—

The CHAIR: The gist of it you agree with.

The Hon. J.R. RAU: Yes, you have captured what I was trying to get up to.

The CHAIR: Member for Bragg, do you wish to contribute to this debate at all? You can say no. It is permitted. You could actually set a precedent here.

Ms CHAPMAN: I am inspired—

The CHAIR: You are inspired?

Ms CHAPMAN: —by the Attorney-General's contribution.

The CHAIR: Right. That is what I was concerned about. And the gist of your comments is?

Ms CHAPMAN: With his opening remarks, I concur. I have no idea what amendment No. 3 is, having just had it put underneath me, but given the government's acceptance of the amendments I certainly will not stand in the way of it being received. I also look forward to the passage of this bill.

Motion carried.

CHILD PROTECTION

The Hon. G. PORTOLESI (Hartley—Minister for Education and Child Development) (17:42): I seek leave to make a ministerial statement.

Leave granted.

The Hon. G. PORTOLESI: During question time today I provided information to the house suggesting that a meeting was currently occurring between an officer from the Department for Education and Child Development and a parent. Shortly after making this statement I became aware that this parent was in the gallery which gave me reason to question the advice I was given. I have since checked and I wish to advise the house that this meeting did not occur at that time.

At 17:43 the house adjourned until Thursday 15 November 2012 at 10:30.