HOUSE OF ASSEMBLY

Wednesday 5 June 2013

The SPEAKER (Hon. M.J. Atkinson) took the chair at 11:01 and read prayers.

SELECT COMMITTEE ON A REVIEW OF THE RETIREMENT VILLAGES ACT 1987

Mr SIBBONS (Mitchell) (11:02): I move:

That the committee have leave to sit during the sitting of the house today.

Motion carried.

ECONOMIC AND FINANCE COMMITTEE: EMERGENCY SERVICES LEVY 2013-14

Mrs GERAGHTY (Torrens) (11:03): On behalf of the Presiding Member, the Hon. Lyn Breuer, I move:

That the 79th report of the committee, entitled Emergency Services Levy 2013-14, be noted.

The Economic and Finance Committee has an annual statutory duty to examine the minister's determination in relation to the Emergency Services Levy. Pursuant to section 10(5a) of the Emergency Services Funding Act 1998, the committee has 21 days in which to inquiry into, consider and report on the minister's statement after it is referred to the committee.

This year was no exception, with the committee receiving the minister's statement on 24 May. As required by the act, the minister's statement included the determinations that the minister proposes to make in relation to the Emergency Services Levy for the 2013-14 financial year. Section 10(4) of the act requires these determinations to be made in respect of:

- the amount that, in the minister's opinion, needs to be raised by means of the levy to fund emergency services;
- the amounts to be expended for various kinds of emergency services; and
- as far as practicable, the extent to which the various parts of the state will benefit from the application of that amount.

On 30 May, the committee heard from representatives from the Department of Treasury and Finance, SAFECOM, the Metropolitan Fire Service, the Country Fire Service and the State Emergency Service. The witnesses provided the committee with details of the proposed levy for the 2013-14 year. The committee notes that the total expenditure on emergency services for 2013-14 is projected to be $247.3 million. There will be no increase in levy rates either for owners of fixed property or for owners of motor vehicles and vessels in 2013-14.

The committee notes total expenditure for 2012-13 is expected to be broadly in line with the original budget estimate. The committee also notes that balances in the Community Emergency Services Fund are expected to reach $0.7 million by 30 June 2013. The committee notes that the 2013-14 target expenditure of $247.3 million on emergency services is made up of the following components:

- the emergency services levy, inclusive of remissions, will fund $244.4 million; private owners of the property are expected to contribute $127.6 million with the balance of $116.7 million being met by government; and
- interest rate earnings and revenue from the sale of certificates will fund an estimated $2.9 million.

The committee also notes that the 2013-14 target expenditure of $247.3 million is $13.3 million higher than the 2012-13 estimated outcome. The committee was told that this is mainly due to the increased cost of MFS wages arising from the 2008 enterprise bargaining agreement and the provision of new accommodation for Western Adelaide SES.

The committee has fulfilled its obligations under the Emergency Services Funding Act 1998. I take this opportunity, on behalf of the Presiding Member, to thank members of the Economic and Finance Committee and the departmental representatives who assisted the committee in reporting on the minister's determination for the 2013-14 emergency services levy.

Therefore, pursuant to section 6 of the Parliamentary Committees Act 1991, the Economic and Finance Committee recommends to parliament that it notes this report.

Mr GRIFFITHS (Goyder) (11:07): I certainly do not wish to challenge any of the comments made by the member for Torrens, and I can certainly certify the correctness of the information that the member gave about the hearing that occurred last week. As someone who has sat on the Economic and Finance Committee a bit over the last seven-odd years, it has been my great pleasure to be involved quite a few times.

I am truly amazed about the number of people who attend the meetings. I respect the fact that that is on the basis that to any question asked an answer should be available from someone in the room. However, it sometimes appears as though there are a lot of people present and I question why they are all there. Unfortunately, the member for Giles, as presiding officer, was an apology, along with two other members who, I believe, were part of a natural resource management trip on Eyre Peninsula. The member for Flinders and the member for Torrens was—

Mrs Geraghty: I am a member of the committee but, unfortunately, I had another commitment.

Mr GRIFFITHS: Yes. The member for Torrens is a member of the NRM Committee but was there. The member for Colton acted as chairperson and did an excellent job, may I say. He was very fair in allowing questions to be asked by both sides. From the opposition's perspective, the member for Davenport and I asked a wide range questions, and we were given every opportunity to obtain the information we sought. Some quite interesting details come through when there is an opportunity for the Public Service to be there to provide answers.

I found some issues, especially about valuation trends in recent times and the projection for the next financial year, to be rather interesting. However, it is obvious to me that, while there was a lot of concern initially about the emergency services levy, and whilst some may still have that concern, it has created a pool of funds supported by private property owners and by the government that allows our very important emergency services facilities to be well serviced staff-wise and equipment-wise and for upgrades to occur. I respect the fact that the fund of $247 million this 2013-14 financial year will be a wonderful opportunity to continue to ensure that our emergency services are well serviced.

As a member of the committee who has a deep appreciation from a regional perspective, I asked questions about CFS and its forward plans, and Mr Nettleton was able to provide me with some answers about that, but I look forward to the fund working well and the resources being available. I have had concerns in previous years about a lack of dollars available in the last three months of a financial year for some volunteer Sea Rescue squadrons, but I hope that has been improved and that resources are available for all our emergency services to ensure they operate and are able to be trained appropriately, because that will be a key issue, to ensure the skills they need and the new volunteers they require in future years will have the training to continue to provide great service to South Australians.

The report is a very balanced one and reflects the discussions that took place last week, and I hope that when the bills come out people respect the fact that they are paying for a service that they hope they do not require but, because they do pay it, it will be available if they do need it in a desperate situation.

Motion carried.

WORK HEALTH AND SAFETY ACT

Adjourned debate on the motion of Mr Williams:

That the following codes of practice made under the Work Health and Safety Act 2012, entitled Construction Work Code of Practice; Preventing Falls in Housing Construction Code of Practice; and Safe Design of Structures Code of Practice, made on 20 December 2012 and laid on the table of this house on 19 February 2013, be disallowed.

(Continued from 1 May 2013.)

Mr ODENWALDER (Little Para) (11:12): I rise to oppose this motion and signal that the government opposes the motion to disallow the construction work codes of practice, which were laid before this house on 19 February this year. These three codes were part of a package of 23 codes of practice that came into operation in South Australia on 1 January this year. The simple point to be made is that the codes of practice provide practical guidance in the industry. The

absence of a code does not eliminate the obligation to comply with WHS laws, but importantly it would remove industry guidance on how to comply with the law.

Codes of practice are developed by industry stakeholders themselves and submitted to Safe Work Australia for consideration. The work health and safety codes of practice were endorsed by the SafeWork SA Advisory Council, which is a tripartite committee consisting of representatives from the unions, employer groups (including the Master Builders Association of South Australia), and the government.

Just a couple of points: South Australia did change the definition of 'high-risk construction work' from two to three metres, at the request of the Housing Industry Association. The Preventing Falls in Housing Construction Code of Practice does not add additional requirements on the construction industry but rather provides guidance on what control measures can be used to address the risk of falls in that industry, a risk that can carry the severest of consequences. The code also provides for workers having access to conveniently-located toilet facilities, which seems eminently reasonable to me.

In terms of the cost impact, we have debated this endlessly over the last few years during the development and passage of the work health and safety laws. Independent costings have repeatedly highlighted that the cost impact of the new regulations is marginal. In closing, any supporters of this disallowance motion condemn workers in the housing and construction industry to a lack of guidance to remain safe at work and deny employers guidance in complying with the law. For these reasons the government strongly opposes this motion.

Mr VENNING (Schubert) (11:14): I have been in this place a long time and there are some things that really make me cross, and this is one of them. These codes of practice are an absolute nonsense. These are codes of restriction, they are codes of huge increased costs, codes for the furtherance of a nanny state. How many people actually fall off a roof on construction sites? Yes, we do know of one or two. Do we then make every building site in this state put up a fence for those one or two? It is a danger, we know, on a building site. I cannot understand. What will happen?

You are adding so much cost to these buildings that you are asking for a change in the way we build buildings. Rather than have people on top of buildings, we are having people putting up stand-up concrete buildings. They are poured on the ground, they just stand them up—you do not have to get on top of them This now will add to the importation of homes from overseas, on the slab principle. You really are making it very difficult. You are putting a penalty in front of builders and adding costs to the homeowners. I think this extra impost is a huge overreaction.

Hiring of scaffolding is very expensive, I know, because I have done it. If you put up scaffolding that, too, has to comply, and you ought to see the compliance in relation to scaffolding. It is way over the top. So are the rules and regulations in relation to changing a light bulb that is more than three metres from the floor. I think we need a reality check. We can see what is happening to our country.

An honourable member: How much building have you done?

Mr VENNING: My basic skill is common sense, and this is not about common sense: this is all about bureaucracy and overreaction. I certainly congratulate the member for MacKillop for bringing this forward because I would say that 90 per cent of our constituents out there would say, 'Hear, hear!' and would back what the member for MacKillop is doing, and so do I.

Mr WILLIAMS (MacKillop) (11:16): There are two issues at stake here, and they go to the heart of this current government in South Australia. We know that the housing industry, particularly the new housing construction industry, is on its knees. We are getting statements and policies issued by this government to try to help out the housing industry and boost housing construction in this state. I have brought forward this disallowance motion at the behest of the housing industry, because they know the impact.

On one hand we have the government saying, 'Oh, woe, alas, what a disaster we have in the housing construction sector!' and, on the other hand, imposing further restrictions and costs. The other, I think equally important, aspect of this measure is that when the workplace health and safety legislation went through the parliament late last year, there were a lot of negotiations held with a lot of the stakeholders, including the housing industry, and the housing industry believes it struck a deal with the government that house construction would be exempt, that the level at which scaffolding would be required (the height restriction) would be three metres not two metres, yet

these codes impose the height restriction at two metres. That is why I have been asked to move this disallowance motion.

This government, as far as the housing industry and housing construction sector is concerned, just cannot be trusted. It made a deal with the housing sector and Independents in the other place to get this legislation through and, lo and behold, when the codes are tabled, the deal has gone out the window. I am trying, through this particular measure, to save this government from itself because it is incapable of doing it. I commend the motion to the house.

The house divided on the motion:

AYES (19)

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

NOES (24)

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

PAIRS (2)

Marshall, S.S.	Breuer, L.R.

Majority of 5 for the noes.

Motion thus negatived.

FISHERIES MANAGEMENT ACT

Adjourned debate on motion of Mr Pederick:

That the regulation under the Fisheries Management Act 2007, entitled General Variation, made on 27 September 2012 and laid on the table of this house on 16 October, be disallowed.

(Continued from 28 November 2012.)

Mr PEDERICK (Hammond) (11:26): I just wish to make some very few comments on the Fisheries Management Act 2007, General Variation disallowance, in regard to a regulation made under the Fisheries Management Act 2007. This regulation was made on 27 September 2012 and relates to recreational fishing limits. This regulation manages regulations around the allowable amount of razor fish, cockles and whiting that can be caught.

We were certainly concerned on this side of the house. We had a different position from the government, particularly in regard to the limit on whiting, in this instance. We did not have a species-specific outcome on this at the time it was issued, but we did have that ability to do so under our policy. I note that, when the government came out with a species-specific policy of seven kilograms, I obviously was not pleased because it did not come anywhere near what we thought was a sustainable limit of 20 kilograms of whiting for recreational fishers, especially for people who go to far-flung regional areas of this state.

But I will note that, following my introduction of the disallowance in this place, and the introduction by the Hon. John Dawkins in another place of a similar disallowance, the government

came to the table and discussed it with me. Mehdi Doroudi, from Fisheries, who I have a great respect for, and departmental officers came to speak with me on behalf of the minister. I acknowledge that the government has moved on this issue, that we have had a compromise win, and that it has come to a limit of 10 kilograms for whiting.

I am not entirely pleased that we did not get further. I had discussions with people who would be affected by this and representatives of communities such as, for example, the Mayor of Ceduna, Allan Suter, who I have a great respect for. We had some robust discussions at times around these limits, noting that commercial fisheries have to operate and that there have never been recreational fishing limits in South Australian history. However, I note the movement by the government, and I am pleased with the end result; in so saying, I move:

That this item be withdrawn from the *Notice Paper*.

Motion carried; order of the day withdrawn.

SELECT COMMITTEE ON THE GRAIN HANDLING INDUSTRY

Adjourned debate on motion of Mr Brock:

That the final report of the committee be noted.

(Continued from 19 September 2012.)

The Hon. A. PICCOLO (Light—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (11:30): I would just like to make a few comments on this report. I will not go into much detail because the Chairman actually spoke on the report at length when it was introduced before Christmas and I do not wish to re-cover all that ground that was covered here. However, there are a couple of things that I would like to say.

First of all, I would like to congratulate the Chairman (member for Frome) on chairing a very good committee. I would also like to acknowledge the contributions made by the members for Chaffey, Hammond and Mawson who, with myself, worked very well on that committee. It was quite an extensive inquiry and, during the progress of that inquiry, we met a lot of people and heard quite different opinions. However, one thing that was quite evident—which I believed all the time and which was reinforced by this committee and also by the sustainable farming committee which I sat on for a while—was the importance of the agricultural sector not only to our economy but also to all those communities in the rural and regional areas.

I would also like to thank all the witnesses who gave their time to make the inquiry a very worthwhile and thorough inquiry. While the inquiry was established to look into what happened in terms of Viterra's takeover of the grain industry in terms of grain handling that particular year, it was made very clear that there was a whole range of issues that needed to be addressed and I would perhaps like to highlight a couple of the key issues.

Certainly there are other issues that are important but the ones I would like to highlight are the issues around road rules which were brought to the committee's attention and the importance of making sure that both state and local government work together to make the lives of the people who transport grain easier, to make sure we get people on the right roads in the right direction and keep them on the roads for as little time as possible, partly for cost and safety and also for a whole range of environmental reasons. Hopefully that work will continue based on our recommendation.

The other issue at the time—and to some extent it has been addressed now—is the industry perhaps not having a strong advocate across the board. At the time we were having this inquiry the Farmers Federation was having some difficulties and we now know that it has been replaced by Primary Producers SA. Hopefully, with a new structure in the agricultural area, they will have a stronger voice to government and we will improve communication with government as well. That is not to say that the Farmers Federation did not do a good job and I did enjoy a very productive relationship with the Farmers Federation, but certainly there were issues within the federation that needed to be sorted out.

The other issue I would like to talk about is the lack of competition in this industry. The critical issue—and the one which probably took up most of our time and the one which was probably most debated—was the lack of competition in the storage, marketing and handling of grain in the industry. Certainly a number of witnesses, particularly farmers and the farmers' representatives, made it quite clear that their ability to get a fair price for their product or to store their product at a fair price or to transport their product at a fair price was limited by the fact that, in

terms of purchasers, there were very few purchasers and there was a virtual monopoly in the industry.

That evidence was shown in two ways. One was that they made a comparison of various storage and handling costs and transport costs in other states, where South Australia had a higher cost than other states and in other states there were more competitors in the marketplace. That was probably the major issue that we need to address and how you address that is not easy. Clearly one of the dangers of deregulating the industry is that it does not actually just create competition. In fact it has been made quite clear that, in this particular industry, the deregulation of the marketplace in fact has created a number of not monopolies but duopolies, which means it has not helped the industry at all.

It was also very refreshing to see that most of the groups who spoke on behalf of farmers did not want regulation for the sake of regulation or did not want to go back to the old model. There was more competition in the marketplace, so they wanted people to make sure there was fair competition. The growers understood that they needed to compete in the marketplace and were prepared to do so but, unfortunately, with having one major marketing, handling and storage company, it makes it very hard for them to do so.

One of the key recommendations made by the committee is that the state government should explore authorising the Essential Services Commission of South Australia to undertake a review of the entire grain supply chain, with the objective of establishing arrangements to provide the basis for pricing of and access to grain storage and bulk handling facilities, including up-country services, that are consistent with the requirements of a competitive and deregulated wheat export market.

It is important to make sure we have a framework in this industry which actually promotes competition, which enables the growers to get a fair return and that different people in different parts of the industry get a fair return. At the moment the evidence suggests that is not the case and it would be appropriate to have some sort of inquiry to see how we actually achieve that outcome. How do we ensure that we have competition in that sector?

The second recommendation was that the new Small Business Commissioner prepare a code of practice for the farming sector. Both the Small Business Commissioner and the code of practice are as a result of two inquiries which were initiated by the Economic and Finance Committee when I was a member, and I think the member for Mawson was also a member at the time. As a result of that we brought legislation before this house.

Small farmers are, in fact, probably the biggest number of small businesses that we have in this state. It was unfortunate that at the time that legislation was opposed by those opposite us, but certainly the Small Business Commissioner is working on that and that should enable the farmers in our state to deal with the big players in the marketplace to make sure that if a dispute arises that there is a good, fair and satisfactory outcome. I look forward to when that code of practice is introduced.

The third recommendation deals with the parliament establishing a standing committee on primary industries with the final objective to make sure that we acknowledge the importance of primary industries to this economy. Minister Gago recently introduced a bill in the upper house to amend the Parliamentary Committees Act to enable a reference regarding primary production specifically to the ERD Committee.

Firstly, that is a good thing in itself and, secondly, I think it is an appropriate committee given that on the Sustainable Farming Committee (the other committee I sat on) a lot of the issues which arose from primary production's point of view was that interface between the environment and farming and also urban development. All of those issues are covered by that committee already, so it is a good place to put that reference regarding primary production in there. That will enable the industry and the sector to have a committee where they can have their concerns voiced and inquiries undertaken.

I would like to commend the minister for bringing the recommendation to parliament; it certainly has my full support. As I have said, it is quite clear that primary industries is an important sector to both our economy and our community. If we can follow up those recommendations made by the committee which I have alluded to today, I think that we will have a healthy and competitive industry which will bring returns not only to farmers, but to the economy as well.

Mr VENNING (Schubert) (11:38): I am amazed that I have not spoken on this issue before, but I just checked and I have not. I will speak very briefly though and I will declare my interest, again, as a grain grower and certainly my family is still very much involved. I did give evidence and I welcomed the committee when it came to Crystal Brook. I think it was the first time that we had a parliamentary committee in Crystal Brook, so it was a unique opportunity and I certainly appreciated the opportunity.

It is always a difficult situation when we have a situation like we have now with the monopoly that Viterra had and now taken over by Glencore and these discussions and the committee have highlighted this very well and all the speakers have picked up on this. Access to our ports is a most important issue, and I notice now that the same thing is happening in most of the other states in relation to this. I think this was all brought on by the concern—I think it was the 2011 harvest, when there were many—

An honourable member: 2010.

Mr VENNING: The 2010 harvest. There were a lot of issues out there. The farmers were extremely anxious and there was a lot of heartache, particularly in relation to grain classifications, because Viterra at that time did not have enough falling numbers machines. These visual appraisals were giving different classifications at various silos, and some of those classifications could be thousands of dollars per truckload difference. So, you can understand when the farmers are having a reasonable year, they see this as depending on which silo they go to as to what grade they get, and that was causing a lot of angst.

Now, at least Viterra, now Glencore, have gone in and bought more falling numbers machines. I could not understand at the time why they could not borrow these machines from over the borders, because there were plenty of them in Western Australia not being used. These machines were only used in those years when you have these wet harvests when you get sprouting of grain, so Western Australia had plenty of machines, but the situation we have got here is they do not talk to each other and they did not look to borrow or rent them from interstate. They could have and they should have. This is part of the reason I think this select committee was set up.

I do appreciate the opportunity for this to be tabled in the parliament, because I do not believe government, particularly this one, takes enough notice of what happens in relation to issues like this. We need to ensure competition in both storage and handling and the marketing. How we do that with what we have got now I do not know, but at least this report does highlight some of the situations that we now find ourselves in.

Our farmers have to remain viable, and the costs to the grain supply chain beyond the gate are the most significant costs. If you had to say where our farmers are not remaining competitive, it is these off-farm costs that really are hampering our farmers: the cost of the storage, the handling, the rail and the port costs. It all has to be transparent, and I will be careful what I say, but we have got one rail operator—Genesee & Wyoming operate all of the grain trains—and now we have got Glencore, who were Viterra, operating most of the storage.

It will be very difficult for them not to get into some cosy arrangement to set it all up. So it makes it very difficult for a competitor to come along and to, first, be able to get space, to do that competitively, to be able to get space on the train at a competitive price, and then to get access to the port. It is all too hard, and we, the farmers of the state, are at the mercy of this huge multinational company who can take on governments and win, and win regularly. Glencore are a massive company. We do have this monopoly, but you cannot blame Viterra—

Mr Brock interjecting:

Mr VENNING: Yes. The member for Frome just reminds me that GrainCorp have just been taken over as well. This is happening, as I said earlier, in other states. You cannot blame Viterra for this now and you cannot blame Glencore, because we have done this ourselves. We have done this ourselves. Read *Hansard*—good production—and read the speeches that have been made in this place in the last 25 years. Some young fool in this place about 20 years ago said, 'If you do this, you'll end up handing it to a multinational.' It is all there for you to read, and look at this. So, you really cannot hammer Glencore.

Mr Pengilly: Now an old fool?

Mr VENNING: I'm an old fool, you're right. I hate this, 'I told you so' stuff, but it sort of happens, doesn't it? I just did, I think. Seriously, it is a very important matter, but it is all now

commercial and this is what has happened. We have done it. As I said, only five of my colleagues could see that when this house actually deregulated the Australian Barley Board, which of course was a South Australian company, headquartered in South Australia, our largest company—when we deregulated that you handed it away.

I well recall a meeting that we had up at the Colonial restaurant, the motel up at Glen Osmond, at the toll gate. That was the meeting; that was a single meeting when we changed the way everything happened, when we decided to put the ABB grain marketing in with the SACBH, the handler. That was a chronic mistake because now not only have we given a monopoly to our marketer we have expanded that monopoly to include the handling and the storage as well.

That has a real commercial advantage because when you are marketing, if you know, firstly, how much grain you have, you know where it is, you know the grade it is, that is a huge benefit over any opposition that would come along—a huge benefit. How do you pull that down? I know that the select committee addresses that and that it is very difficult, but we have done it, we are there now, and it is not good. I think this has been a very appropriate and timely review of where we are now. I will say that I am quite appreciative of the sentiments of most members of this parliament—I think I could almost say all—on how serious a matter this is, but what do we do about it?

I know a lot of our young farmers think, 'We're good, we're tough, we can live with this,' but I have been around long enough to know that businesses—particularly multinational businesses that have a monopoly—with the power they have, you can bet your boots they will exercise it to gain market share and then drive down the price and drive up the profit for them. That is business, that is how these companies are successful, and that is what they do all over the world.

Our farmers who are on the end are not well placed to be able to compete against this, particularly when we have seen our farmer representation body going through the doldrums. I am pleased we have got through that and come around the corner. Let's hope that we all need Grain Producers SA and Primary Industries SA to succeed to be able to lobby strongly for our farmers and work with this parliament to be able to put matters in place. I congratulate the committee on its work and its findings. I find that committees like this are one of the most effective outreaches of this parliament, and I think it is certainly money well spent. I support and agree with this report.

The SPEAKER: Member for Frome.

Mr BROCK (Frome) (11:46): Thank you Mr Speaker, do I get five minutes or 10?

The SPEAKER: If the member for Frome speaks, he closes the debate.

An honourable member interjecting:

Mr BROCK: Five years, thank you, I wouldn't mind five years! I again thank everybody in this house for their cooperation and their input into this select committee on grain handling. As all the members have indicated, and I have been making quite plain out there, it has the full support of the House of Assembly in the South Australian parliament. From our visits out into the regions, it was evident, as other speakers here have said, about the heartache and the frustration that has happened out there.

I certainly commend this report to the house, and there are a couple of things I want to touch on. One of the recommendations was that the federal government establish an independent body to oversee the classifications of grain. I think that is still one of the very important issues because we are in an international market, we are competing against the international players overseas and, as has been indicated by previous speakers, we have two major international companies—Glencore and also ADM—that are now going to be the major players within South Australia. I think this is a very important issue and that this government needs to put pressure on the federal government to put that in there.

The third recommendation was that the state government review the costs and benefits of establishing an agreement with the Western Australian government for participation in the Australian Export Grains Innovation Centre. I think it is very important that we do value-adding and look at all the research and development to ensure that we get the best opportunities for our grain when it goes overseas because at the moment, as we see it, we bundle it up, we mix it and then send it across, and it is too important not to get that correct.

Another recommendation was that the state government establish formal arrangements for consulting with the grains industry and local government on planning for each harvest, a

rationalisation of the grain receival centres and designation of access routes, being rail and roads to the ports. That is very important—and I will go a bit further later on—because local government seem to get missed out of this here.

Even now, through the Glencore operation, I understand that they are going to be zoning certain areas, so that you can only go to certain areas to deliver your harvest, and that the freight differentiation to each different location is different. It also means that if you have to go Port Pirie from certain areas of Wandearah, you have to then double-handle it to go to Wallaroo. So, it is always a cost factor in the industry.

Another recommendation was that the state government undertake a review of the Maritime Services Act 2000, and we do have an issue with the accessibility of non-Glencore players out there. However, I would hope that the government takes that onboard. The other recommendation is that the state government, in consultation with local councils, transport operators and the industry itself, talk on a regular basis about what are the issues, what are the frustrations, the ports and all of that.

Again, I really emphasise that the government take that one on board. The member for Light has also indicated that the Small Business Commissioner is now an advocate for farmers and that we need to make certain that the farming groups are aware that the Small Business Commissioner is there to assist those people who may have any issues in the grain producing area.

The final recommendation is that the South Australian Parliament establish a standing committee on primary industries. I understand that the Hon. Gail Gago in the other house (Minister for Agriculture, Food and Fisheries) recommended on 2 May that the ERD Committee be facilitated as part of this recommendation. The *Hansard* record of 2 May 2013 shows that the Hon. Gail Gago said:

> According to Primary Industries and Regions SA's 2011-12 Scorecard, the state's agriculture sector has a farm-gate value of $5 billion. This includes the production of commodities for food, wine, fibre and other agriculture-based products; and South Australia's food and wine industry generates $16 billion in revenue annually and accounts for around half of SA's total merchandise exports.

With all due respect to the ERD Committee, I believe that it is very important that the government looks at establishing a standing committee for all primary production in this state. Primary production is here and will stay here; the resource industry will come and go. I strongly request that the state government looks at that one quite seriously.

In closing, I take the opportunity to thank this parliament, first, for allowing me to chair this committee; it was a great honour. I learnt tremendous stuff out there. I would also thank very seriously the member for Hammond, the member for Mawson, the member for Light, the member for Chaffey and also David Pegram, our parliamentary officer, John Parkinson, the research officer, and all our staff. Again, I commend this report to the parliament.

Motion carried.

NATURAL RESOURCES COMMITTEE: BUSHFIRE TOUR 2012 CASE STUDY, MITCHAM HILLS

Adjourned debate on motion of Hon. S.W. Key:

That the 65th report of the committee, entitled Bushfire Tour 2012 Case Study, Mitcham Hills, be noted.

(Continued from 15 May 2013.)

The Hon. I.F. EVANS (Davenport) (11:53): I want to touch on the report by the Natural Resources Committee on Bushfire Tour 2012 Case Study, Mitcham Hills. There is only seven minutes left on the clock, so I will be brief. I just want to make the point to the parliament that this report shows the hypocrisy of the government. I congratulate the committee on the report, and I congratulate the members for the sincerity with which they went about this report.

On this committee, there are four Labor MPs; I will not name them for the sake of Hansard, but it is in the committee's report who they are. Having considered all the evidence put before them on this matter, what this committee recommended, with the four Labor members of parliament, is as follows:

> That the parliament should support the establishment of a standing committee for natural disasters. The purpose of this committee would be to provide a parliamentary forum to hear reports with regard to natural disaster policy, modelling, planning and response—

The SPEAKER: Can I interrupt the member for Davenport?

The Hon. I.F. EVANS: Yes.

The SPEAKER: Alas, it has been brought to my attention that you have already spoken on this motion.

The Hon. I.F. EVANS: I don't believe so. I spoke on the first one, but not on the second report, I don't think. There have been two reports. Have I?

An honourable member: Let me check.

The Hon. I.F. EVANS: Well, I did it that well, I thought I would have another go. If that is the case—

The SPEAKER: On 9 May. The member for Stuart.

Mr VAN HOLST PELLEKAAN (Stuart) (11:54): Thank you, sir. I would like to speak on the Bushfire Tour 2012 Case Study, Mitcham Hills report from the Natural Resources Committee of parliament. I am a member of that committee and I am fully behind the work that committee has done and the recommendations it makes. The key issue here is obviously about the Mitcham Hills, but it is part of a broader issue with regard to bushfires. Bushfires affect our whole state and our whole nation. It is a very important issue. Bushfires can be very devastating.

The risks that we, as a committee, see affecting the Mitcham Hills area particularly are especially concerning. Not so long ago we had a devastating bushfire in the hills near Wilmington, where I live. I am an active CFS member and was very involved with that, but we did not lose any lives. It was devastating—approximately 20,000 acres of country was burnt—but it was absolutely nothing compared to what could happen in the Adelaide Hills.

We have bushfires very regularly which do a great deal of damage, but what they can do in this sort of highly vegetated, difficult to access and highly populated area is absolutely dreadful. Unfortunately it is very similar to what happened in Victoria not too many years ago, so we know that this can happen. This is not a fear about something that might—nobody is beating this up. We know from the Victorian experience a couple of years ago that people can die; hundreds of people can die. We fear that that might happen in the Adelaide Hills. I would like to touch on three of the six recommendations. The first one I would like to address is that:

> The Minister for Police and Emergency Services consider the merits of recommending that Mitcham Council institute and enforce a policy of zero tolerance to illegal parking in fire prone areas.

Zero tolerance to illegal parking is not something that would naturally roll off my tongue as something I would be wholeheartedly supporting, but in this situation, in the Adelaide Hills in high fire prone times, that could be what makes the difference, because when people are parked so that you cannot get even a regular-sized passenger car up or down the street quite easily, let alone a fire truck, during the mayhem that could happen when people are trying to evacuate in a panic, that is when this sort of parking could be absolutely devastating to that area. Another recommendation is that:

> The Minister for Transport review road infrastructure in the Mitcham Hills, in consultation with Mitcham Council, with the aim of improving the ability of residents to evacuate early on a day of declared catastrophic fire danger.

Again, this is a very serious recommendation. It is not about saying we need to rebuild the roads necessarily, although that might be part of it. It is actually very much about trying to identify what is required for early evacuation. In a certain situation, early evacuation might be hours in advance of a risk. In another situation, early evacuation might actually be the day or the night before. That is what this recommendation is about: trying to assess the roads and also trying to assess the time frame that is required. The last recommendation is that:

> Parliament support the establishment of a standing committee for natural disasters.

Everybody in this place knows that that is something that the shadow treasurer, the member for Davenport, has been pushing for tirelessly on behalf of his community and on behalf of our state. We also know that the majority of members in this place support that recommendation very strongly. It is a great shame that the government has so far decided not to support that recommendation, but that is something that comes out of this report, which is into bushfires in the Adelaide Hills but would extend the issues and the risks to all sorts of natural disasters in other parts of the state as well. It is a very important recommendation.

I cannot emphasise enough the issues that we are dealing with here. Bushfires happen; some are avoidable and some are not avoidable. We are not suggesting for a second that it would be possible to remove all risk. What we are suggesting is that the risks that are evident in the Adelaide Hills are extreme and catastrophic. There is the very serious risk of hundreds of people dying if a bushfire gets out of control in the Adelaide Hills, and it would be remiss of this parliament, it would be remiss of our government and our community, to not try to address those issues before they actually happen.

I say again, we know from the very sad Victorian experience that these things can happen, so we must address them. We saw exceptionally graphic evidence which was provided to us by CFS members from that area about what happened in the Canberra bushfires not too long ago, and about the panic, essentially, and the difficulty, not only for residents but also for experienced and trained CFS members and other firefighters in that sort of situation. In that situation in Canberra, they were not dealing with the sort of congestion that we might have in the Adelaide Hills. I seek leave to continue my remarks.

Leave granted; debate adjourned.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (12:00): Obtained leave and introduced a bill for an act to amend the Liquor Licensing Act 1997. Read a first time.

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

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The relationship between excessive alcohol consumption, offending and public disorder is well established. As well as the detrimental effect to individuals, families, businesses and the community, the costs of policing, emergency services and health services must be met from the public purse. This means resources are stretched and may not be available to respond to other needs within the community.

The statistics are alarming:

- There are approximately 12,500 hospital admissions and 600 deaths attributable to alcohol in South Australia per year.
- Recent Australian research indicates that an estimated 53 per cent of injured persons presenting to hospital emergency departments between the hours of 10pm and 7am had consumed alcohol in the preceding 6 hours.
- In South Australia in 2009-10, alcohol was the most common principal drug of concern for which treatment was sought from Drug and Alcohol Services South Australia, accounting for 56 per cent of all treatment episodes where clients were seeking treatment.
- South Australia Police data indicates that in 2008-09 in the Adelaide CBD, 58 per cent of victim-reported crime was related to alcohol.

This Bill amends the *Liquor Licensing Act 1997* (the Act) to better equip the Liquor and Gambling Commissioner, his staff and police to address problem drinking and alcohol-related violence. Greater responsibility will be placed upon licensees to prevent excessive alcohol-consumption occurring on their premises. The Commissioner's power to take action against licensees for inappropriate management of premises and to place restrictions on the sale of liquor where necessary for public order, safety, health or welfare grounds will be strengthened and the objects of the Act will be amended to specifically address alcohol-related violence and property damage.

At the same time the Bill introduces amendments to the Act to streamline administrative processes and to reduce red tape on both the liquor industry and government. The requirement that a responsible person be approved will be made more flexible so that approval will apply industry-wide. Notice requirements will be made less onerous. The requirement that separate entertainment approval be obtained for over-sized television screens will go. Companies limited by guarantee will be given the right to hold club licences. The processes by which dry areas are declared and educational courses are exempt from the need to be licensed will be made less onerous. The Bill also proposes a number of minor technical amendments to the Act to improve the efficiency and effectiveness of liquor regulation and to address out of date references to Commonwealth legislation.

Measures aimed at curbing excessive alcohol consumption and alcohol-related violence

I turn first to the amendments aimed at assisting regulatory authorities to address excessive alcohol consumption and alcohol-related violence.

Amendment to the Objects of the Act

The objects of the Act, as set out in section 3, make no reference to ensuring that the sale and supply of liquor occurs in a manner that minimises the risk of intoxication and associated violent or anti-social behaviour.

This has been highlighted by the Commissioner as a deficiency.

The Bill therefore amends section 3 to state this as an object of the Act.

This amendment will send a clear and important message to the community, licensees and regulatory officials about how licensed premises should be managed.

Codes of Practice

Section 11A of the Act provides that the Commissioner may, by notice in the Gazette, publish a code of practice that has been approved by the Minister. A Code of practice may impose on licensees measures to:

- minimise the harmful and hazardous use of liquor or promote responsible attitudes in relation to the promotion, sale, supply and consumption of liquor;
- minimise offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity of licensed premises, or minimise prejudice to the safety or welfare of children attending kindergarten or school in the vicinity;
- prevent offensive behaviour on licensed premises;
- protect the safety, health or welfare of customers, staff, or minors on licensed premises;
- ensure public order and safety at events expected to attract large crowds;
- impose special requirements for the sale of liquor for consumption on licensed premises between 4am and 7am for the purpose of reducing alcohol-related crime and anti-social behaviour; and
- promote compliance with the Act.

The Commissioner has proposed an amendment to section 11A to better equip him to deal with excessive alcohol consumption in licensed premises.

One of the measures proposed to be included in the Late Night Liquor Code of Practice is a ban on licensees supplying free or discounted liquor to patrons.

'Happy hours', as they are known, give patrons access to cheap (sometimes very cheap) alcoholic drinks, promoting the type of rapid and excessive consumption that quickly leads to high levels of intoxication. In addition to the health implications, highly intoxicated people are more likely to be involved in acts of alcohol-related violence both as perpetrators and victims.

Of particular concern to the Commissioner and the government are happy hour promotions conducted late at night when many patrons have already consumed large amounts of alcohol. Both the Commissioner and the government believe these types of promotions should be limited to early in the evening when patrons have had far less to drink.

Unfortunately, as currently drafted, section 11A permits measures in a Code of Practice that impose special requirements for the sale of liquor, such as a limitation on promotions involving free or heavily discounted liquor, to apply only between the hours of 4am and 7am.

The government considers this to be an unreasonable restriction on the Commissioner's ability to regulate the behaviour of licensees.

The Bill therefore amends section 11A to include a new subsection (2)(fb) that allows a Code of Practice to impose special requirements in respect of the sale of discounted liquor, or the giving away of liquor for consumption on licensed premises between midnight and 7am.

Power of a licensing authority to impose conditions

Section 43 of the Act confers on a licensing authority the power to impose conditions on a liquor licence.

The Commissioner has recommended section 43 be amended to extend the power conferred on him impose conditions where he considers it necessary for public order or safety be extended to include reasons of public health and welfare. This will enable the Commissioner to act where the sale of liquor in a particular area is leading to excessive and dangerous consumption levels.

The negative impact of this on the community can be widely felt, going beyond public order and safety, affecting tourism, infrastructure (such as transport and accommodation) and local health services, including ambulance and emergency departments. An example that has been brought to the government's attention is of rural or remote communities where itinerant people descend on the town purchasing large quantities of cheap alcohol (such as large casks of cheap and fortified wine) which they consume in large quantities. As well as causing serious harm to their own health, these people often become victims or perpetrators of crime. This creates an enormous load on the resources of local councils, police and health services.

The government has accepted the Commissioner's advice. The Bill amends section 43 to extend the Commissioner's power to act of his own motion to where he considers it to be in the public interest. Section 4 of the Act is amended to include a definition of 'public interest', defined to include, but not be limited to, matters relating to:

(a) public order and safety; and

(b) public health (whether generally or in respect of particular groups or communities); and

(c) the welfare of particular groups or communities.

It is relevant to note that a licensee will retain the right to apply to the Licensing Court for a review of the Commissioner's decision if they are dissatisfied with the exercise by the Commissioner or his or her power under section 43 and amendments to subsection (1) make clear that a licensing authority may vary, suspend or revoke a condition impose on a licence.

Sale or supply of liquor to intoxicated persons

The offence of sale or supply of liquor to intoxicated persons is contained in section 108 of the Act.

Section 108 contains two offences. The first is the offence of selling or supplying liquor to an intoxicated person. The second is selling or supplying liquor to a person in circumstances in which the person's speech, balance, coordination or behaviour is noticeably impaired and it is reasonable to believe that the impairment is the result of the consumption of liquor.

Where liquor is sold in breach of section 108, the licensee, the responsible person for the licensed premises and the person by whom the liquor is sold or supplied are each guilty of an offence.

Prosecution of offences under section 108 has proven to be problematic. SAPOL has identified several aspects to the offence provision that make prosecution difficult:

- 'intoxication' is not defined. SAPOL must, as a consequence, rely upon the 'faculty impairment' offence in subsection 108(1)(b);
- neither 'intoxication' under subsection 108(1)(a) nor the faculty impairment test in subsection 108(1)(b) cover intoxication by drugs. SAPOL advise that this makes prosecution extremely difficult.

To address these shortcomings, the Commissioner and SAPOL propose that sections 4 and 108 be re-drafted to:

- include a definition of 'intoxicated', to be based on the definition used in New South Wales and the Australian Capital Territory, but extended to cover intoxication by drugs. The definition would be:

  (a) the person's speech, balance, co-ordination or behaviour is noticeably affected; and

  (b) it is reasonable in the circumstances to suspect that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor or other substances; and

- repeal the 'faculty impairment' offence so that there is one offence, that of selling or supplying liquor to an intoxicated person on licensed premises.

The government has accepted this advice and the Bill amends sections 4 and 108 accordingly.

Offensive and disorderly behaviour

Section 117A of the Act creates the offence of behaving in an offensive or disorderly manner in or in the vicinity of licensed premises. The maximum penalty for the offence is $1,250. The expiation fee is $160.

Incidents of serious alcohol related violence all too often arise out of disorderly or offensive behaviour. The Commissioner advises that the current expiation fee of $160 does not properly reflect the seriousness of the consequences that can (and do) flow from a person who is affected by alcohol behaving disorderly or offensively.

The Commissioner recommends the expiation fee be increased to $500.

The government agrees with the Commissioner's view. While the offence of behaving in a disorderly or offensive manner is not, of itself, a particularly serious offence (reflected in the fact that the offence does not apply to behaviour involving violence or threat of violence), an exchange of insults can quickly spiral into something far more serious.

The Bill amends section 117A to increase the expiation fee in line with the Commissioner's recommendations.

Cause for disciplinary action

Section 119 of the Act sets out the circumstances in which there is proper cause for disciplinary action against a person licensed or approved under the Act.

Section 119(1)(c) provides that proper cause for disciplinary action exists if the person is or has been licensed or approved under the Act but is not a fit and proper person.

Section 56(1)(b) of the Act provides that where the applicant for a licence is a trust or corporate entity, each person who occupies a position of authority in the entity must be a fit and proper person to occupy such a position in an entity holding a licence of the class sought.

The Commissioner has asked that section 119 be amended to clarify that, where the licensee is a trust or corporate licensee, the person (being the trust or corporate entity) is not a fit and proper person if any person who occupies a position of authority in the trust or corporate entity is not a fit and proper person. This will allow disciplinary action to be taken against a licensee that is a trust or company where, for example, one of the directors ceases to be a fit and proper person and is not removed from that capacity.

I believe it sensible to clarify the effect of section 119(1)(c) as recommended by the Commissioner. The Bill amends section 119 accordingly.

Commissioner's power to deal with disciplinary matter by consent.

Section 119A(1) of the Act provides that if, the Commissioner is of the opinion that proper grounds for disciplinary action exist, and the person liable to the disciplinary action consents to such a course of action, the Commissioner may determine not to lodge a complaint with the Court and instead:

(a) obtain from the person an undertaking directed against continuation or repetition of the relevant conduct; or

(b) in the case of a person licensed under this Act, add to, or alter, the conditions of the licence; or

(c) in the case of a person licensed or approved under this Act, suspend or revoke the licence or approval.

Consistent with the Crown Solicitor's advice, the Commissioner has recommended his power under section 119A be expanded to empower him, with the consent of a licensee, to vary the trading hours fixed by the Act or a licensing authority in relation to a licence.

The government accepts the Commissioner's recommendation. The Bill amends section 119A accordingly.

Imposition or suspension of licence conditions pending disciplinary action

Section 120A of the Act provides that the Commissioner may, if of the opinion that it is desirable to do so in the public interest:

(a) suspend the approval of a person the subject of a complaint;

(b) impose conditions on the person's approval limiting the authority conferred by the approval,

pending hearing and determination of the complaint.

As a safeguard, where the Commissioner exercises his or her power under section 120A, the Licensing Court may revoke or vary the suspension or conditions imposed by the Commissioner.

This power does not extend to the imposition or suspension of conditions on a licence pending the hearing and determination of a complaint against a licence. This is because the Commissioner cannot make orders on a matter that is before the Court, i.e., where the Court's jurisdiction has been invoked under section 120 of the Act.

The Commissioner has advised that the hearing and determination of disciplinary action against a licensee can take several months during which time the ability to impose or suspend conditions of a licence would help him manage problematic licensees and premises.

To address this the Commissioner has recommended he be given the power under section 120A to:

- impose a condition on a licence (including a condition varying the trading hours fixed by the Act or a licensing authority in relation to a licence);or
- vary or suspend a condition of a licence,

where he believes disciplinary proceedings are warranted. I accept the Commissioner's advice. The Bill amends section 120A accordingly.

This power will be subject to an amended subsection 120A(2) which will provide a licensee dissatisfied by the Commissioner's decision to take action pending the determination of disciplinary proceedings with a right to seek a review of the Commissioner's decision.

Disciplinary action

Section 121 of the Act provides that, on the hearing of a complaint, the Licensing Court may, if it is satisfied on the balance of probabilities that there is proper cause for disciplinary action against a person, by an order or orders do one or more of the following:

(a) in the case of a person licensed under the Act, add to, or alter, the conditions of the licence;

(b) in the case of a person licensed or approved under the Act, suspend or revoke the licence or approval;

(c) in the case of any person—

(i) reprimand the person;

(ii) impose a fine not exceeding $15,000 on the person;

(iii) disqualify the person from being licensed or approved under the Act.

Subsection (5) provides that a condition may be imposed under section 121:

(a) limiting the kinds of liquor that may be sold under the licence;

(b) limiting the times when liquor, or liquor of a particular kind, may be sold under the licence; or

(c) limiting in some other way the authority conferred by the licence.

So as to ensure consistency with the proposed amendments to sections 43, 119A and 120A, the Bill amends section 121 so that a condition imposed by the Court upon a disciplinary finding may vary the trading hours fix by or under the Act. This amendment will have no legal effect. It is proposed simply to ensure consistency in the drafting of sections 43, 119A, 120A, 121 and 128B.

Powers of authorised officers

Section 122 of the Act provides that an authorised officer (the Commissioner, an inspector or a police officer) may:

- enter licensed premises; and
- inspect licensed premises; and
- require a person to produce those books of account or other records for inspection; and
- require a person to answer any question put by the authorised officer on that subject; and
- examine books of account or other records produced; and
- make copies of, or take extracts from, any such books of account or other records; and
- retain the books of account or other records for a reasonable period for the purposes referred to above.

The Commissioner has recommended amendments to section 122 to clarify that an authorised officer may exercise the powers stated in that provision individually. The lack of clarity stems from the current drafting. Subsection (1) for example provides that an authorised officer may, at any reasonable time, (a) enter premises, and (b) inspect premises, and (c) require the production of documents etc.

The Commissioners seeks a drafting change to clarify that the power to, for example, require the production of document, may be exercised without the authorised officer first having entered the premises.

The government agrees that, as the Act is being amended, it is better to clarify that an authorised officer may exercise any of the powers granted under section 122 individually or in combination. The Bill amends section 122 to so clarify the use of the powers.

Public Order and Safety Notices

Section 128B of the Act empowers the Commissioner, in his or her absolute discretion, to issue a public order and safety notice in respect of a licence if the Commissioner considers that the notice is necessary or desirable to address an issue or perceived issue of public order and safety or to mitigate adverse consequences arising from an issue or perceived issue of public order and safety.

A public order and safety notice may:

- impose a condition on a licence; or
- vary or suspend a condition of a licence; or
- vary the trading hours fixed by a licensing authority in relation to a licence; or
- require licensed premises to be closed and remain closed for specified hours (despite a requirement of the Act to keep the premises open to the public during those hours); or
- suspend a licence.

A public order and safety notice remains in force for no longer than 72 hours and the Commissioner may only issue another notice in respect of the same licence within 72 hours with the approval of the Minister.

To address the concern identified by the Crown Solicitor with regard to conditions that purport to vary statutory trading hours, the Bill amends section 128B to make clear the Commissioner may vary the trading hours of licence as fixed by the Act.

Subsection 128B(7) requires the Commissioner to replace the reference to the Commissioner including information about public order and safety notices in 'the Commissioners annual report'. The Commissioner advises there is no requirement that he provide an annual report and suggests this reference be amended to require him to report annually to the Minister about public order and safety notices. I agree. The Bill amends subsection 128B(7) to require the Commissioner to report annually to the Minister on the use of the power.

A new subsection (9) is also added. New subsection (9) is an evidentiary aid. It provides that a certificate issued by the Minister certifying approval to authorise the issue of a second public order and safety notice within 72 hours is, in the absence of proof to the contrary, proof of the matter certified.

Statutory trading rights

As a general rule, pursuant to the relevant section of the Act, a liquor licence authorises the sale of liquor during prescribed hours. Some, for example restaurant and entertainment venue licences, authorise the sale of liquor at any time for consumption with food.

There are a number of provisions in the Act that purport to give a licensing authority the power to vary the trading hours attaching to a licence. Section 17(1)(b)(i) provides that, where a contested application for a liquor licence is resolved by conciliation, the Commissioner must determine the matter so as to reflect the agreement reached at conciliation. Section 43(1) provides a licensing authority with the power to impose any condition on a liquor licence the authority considers appropriate.

Conditions limiting the trading hours of licensees are commonly imposed by the Commissioner under section 17(1)(b)(i) to reflect the agreement reached by the parties to a conciliation and by licensing authorities under section 43. This has been so since the Act commenced in 1997.

The Commissioner has raised concerns with the government that where the Act provides that a particular licence authorises the licence holder to trade at certain hours, a condition imposed by a licensing authority that purports to alter that right could be challenged as invalid. The risk identified by the Commissioner is that a court would find that imposing such a condition would have the effect of amending the Act, which is a function of Parliament only.

The effect of this is to cast doubt on the Commissioner's power to give effect to conciliated outcomes as required by section 17(1)(b)(i) where the agreement is that licensing hours be limited to less than the hours permitted by the Act, and to likewise cast doubt on a licensing authority's power to restrict a licensee's statutory trading rights by condition imposed under section 43, even where the licensing authority considers that necessary for reasons of public order and safety. It has also cast doubt on the validity of existing conditions.

In order to clarify that a licensing authority may vary the trading rights prescribed by the Act in respect of a particular category of licence, the Commissioner has recommended the provisions of the Act fixing the statutory trading rights for each category of licence be amended to make clear that these rights are subject to the power of a licensing authority to impose conditions, including conditions varying the prescribed trading hours. To prevent challenges to existing conditions, the Commissioner has recommended the inclusion of a provision retrospectively validating conditions restricting trading rights imposed before commencement of these amendments.

The government has accepted the Commissioner's advice and the Bill amends sections 32, 33, 34, 35, 36, 37, 38, 39, 39A, 40, 40A and 41 accordingly. Consequential amendments are made to sections 43, 119A, 120A, 121 and 128B. A provision retrospectively validating existing conditions is also included.

Red Tape Reduction Measures

I now turn to the amendments that will streamline administrative processes and reduce the regulatory burden on industry and regulators.

Approval to hold a Club Licence

Sections 49(1) and (2) of the Act provide that a club licence may only be held by a club that is:

- a non-profit association incorporated under the *Associations Incorporations Act 1985*; or
- an association that is unable to become incorporated; or
- an unincorporated association where it would be inappropriate for the association to become incorporated.

Sections 49(3) and (4) lay down additional requirements relating to membership and governance, membership fees and the keeping of records that must be satisfied by a club before it is entitled hold a club licence.

In its inquiry into the suitability of certain close associates of the South Australian Jockey Club, the Independent Gambling Authority recommended that the government amend the Act and the *Gaming Machines Act* to remove any impediment or disincentive to the SAJC or a body in a like position from becoming a body incorporated under the law relating to companies.

This requires an amendment to section 49 of the Act to permit a company that is limited by guarantee (being a company established for non-profit purposes) to hold a club licence.

Regulation of companies limited by guarantee by ASIC under the *Corporations Act 2001* and other Commonwealth legislation is rigorous. In many cases, the company structure suits the organisation better that the incorporated association structure. The government does not believe it is, or should be, the role of government to dictate, through the liquor licensing regime, the legal structure that must be adopted by not-for-profit clubs.

I have consulted the Commissioner. He has no objection to the Act being amended to permit the holder of a club licence to also be a company limited by guarantee.

The necessary amendment to section 49 is included in the Bill.

Approval of 'responsible persons'

Section 71 of the Act provides that the licensing authority may, on application by a licensee, approve a natural person or persons as a responsible person or responsible persons for the business conducted under the licence.

Section 97(1)(a) of the Act provides that the business conducted under a liquor licence must, at all times when the licensed premises are open to the public, be personally supervised and managed by a natural person (a 'responsible person') who is either:

(i) the licensee or a director of the licensee; or

(ii) a person approved by the licensing authority as a responsible person for the business conducted under the licence.

The effect of sections 71 and 97 is that a person is approved as a responsible person only for the premises operated under a particular licence.

This can be contrasted with approval to act as a crowd controller. Section 71A provides for the Commissioner to approve a person as a crowd controller. Once approved, the approval operates industry-wide.

The liquor industry has for a considerable period of time argued that approval of a person as a 'responsible person' for the purposes of section 97 should be industry-wide, as many people in the industry work in more than one premises. The requirement that a person be approved for each premises at which they work is unnecessary, as they are subject to the same test (whether they are a 'fit and proper person') in respect of each application, and the requirement imposes unnecessary regulation and costs on licensees.

To reduce the regulatory burden on licensees, the Bill amends sections 71 and 97 to provide for industry-wide approval as a 'responsible person'.

Display of licence

Section 109 of the Act requires a licensee to keep a copy of the licence, showing all conditions of, and endorsements on, the licence displayed at or near the front entrance to the licensed premises at all times. A licensee who fails, without reasonable excuse, to comply with this requirement is guilty of an offence which carries a maximum penalty of $10,000 or an expiation fee of $1,200.

The Commissioner has advised me that the current expiation fee is too high given the relatively minor nature of the offence. He advises that his officers are reluctant to issue expiation notices for this reason. He has suggested the expiation fee be reduced to $160.

The government agrees with the Commissioner's recommendation. The Bill amends section 109 accordingly.

Minors

Sections 111, 112 and 113 of the Act regulate the entry of minors into licensed premises and areas of licensed premises. Each provision refers to 'a part' of the licensee premises. The Commissioner advises that plans it issues refer to 'areas' not 'parts'. The Commissioner has requested sections 111, 112 and 113 be amended to refer to 'an area' rather than 'a part' of licensed premises in order to reduce confusion for licensees and inspectors. The Bill amends these provisions accordingly.

Both sections 112 and 113 require a licensee to erect notices regarding areas prohibited to minors both at the entrance to each area and the entrance to the premises.

Industry representatives have suggested that the display of a notice at the entry to premises is unnecessary and of little assistance to patrons or licensees. The Commissioner agrees and has proposed that the requirements to display a notice in sections 112 and 113 be amended so that a notice at the entry to the area that is prohibited to minors is all that is required. The Bill amends sections 112 and 113 accordingly.

Definition of 'entertainment'

Section 105 of the Act prohibits a licensee, other than one that holds an entertainment venue licence, from using any part of the premises that is subject to the licence for entertainment unless a licensing authority has issued an entertainment consent.

Section 4 defines 'entertainment' to mean:

(a) a dance, performance, exhibition or event (including a sporting contest) calculated to attract and entertain members of the public; or

(b) a visual display but not if provided by means of a television screen not exceeding dimensions fixed under the regulations.

Regulation 4 of the *Liquor Licensing (General) Regulations 2012* prescribes, for the purpose of paragraph (b) of the definition of entertainment, entertainment that includes a visual display but not if provided by means of a television screen the dimensions of which do not exceed 2 metres by 2 metres.

The government believes that requiring a licensee to obtain separate entertainment consent in order to run a television in the premises, whatever the size, is archaic. As technology progresses, television screens are becoming larger and larger. This requires regular amendment of regulation 4.

The Bill amends the definition of 'entertainment' so that it no longer includes a visual display by means of a television of any size accordingly.

Codes of Practice

I have already outlined two amendments to section 11A to enhance the Commissioner's power to regulate the conduct of licensees through Codes of Practice.

In addition to those amendments the Bill amends section 11A to address a concern raised by industry.

Section 11A of the Act provides that the Commissioner may, by notice in the Gazette, publish a code of practice that has been approved by the Minister.

The Commissioner has proposed a Late Night Trading Code of Practice (Late Night Code) that will apply to venues trading between 3am and 7am. One of the requirements that will apply under the Late Night Code will be that of a Drink Marshal.

A Drink Marshal is an RSA (responsible service of alcohol) trained staff member whose duties will be to patrol the premises and observe patrons, identifying those who should be refused service, as well as ensuring the other obligations under the Act and the General Code of Practice are being met. A Drink Marshal will provide assistance to bar staff to identify and stop service to intoxicated patrons and to security staff to identify troublesome patrons who need to be removed.

Industry representatives have raised concerns that a drink marshal's duties may come within the meaning of 'controlling crowds' under the *Security and Investigation Agents Act 1995* thereby requiring a drink marshal to be licensed under that Act.

This is not the government's intention.

To address these concerns the Bill amends section 11A to make clear that a person performing prescribed duties under a Code of Practice is exempt from the operation of the *Security and Investigation Agents Act 1995*. Amendments to the regulations will prescribe the functions of a drink marshal for this purpose.

Educational courses

Under section 29 of the Act, a person who sells liquor without a licence commits an offence. Section 29 is subject to section 30 which provides that a licence is not required for the sale of liquor in specified circumstances, one of which, in subsection 30(c), is where the liquor is supplied in the course of an educational course declared by the regulations to be an approved course for the purposes of section 29.

Approved courses are prescribed by regulation 7(1) of the *Liquor Licensing (General) Regulations 2012*.

In order to enable timely exemptions for schools and training institutions, the Commissioner recommends that it would be more appropriate that exemptions for schools and training institutions be approved by the Minister and published in the Gazette.

The government agrees with the Commissioner's suggestion. The Bill amends section 30 accordingly.

Wine Australia

Section 39(1e) of the Act provides that, if a licensee's production premises are in a particular wine region and are to be used for the production of wine, any site specified in a producer's event endorsement must be in that wine region. A 'wine region' is defined in subsection (4) to mean a geographical area in relation to which a geographical indication is in force under the *Australian Wine and Brandy Corporation Act 1980.* The *Australian Wine and Brandy Corporation Act 1980* has been renamed the *Wine Australia Corporation Act 1980*. The Commissioner has asked that this reference be updated. The Bill amends section 39 accordingly.

Dry areas

Section 131 of the Act provides for the making of regulations to prohibit the possession and consumption of liquor in a public place.

The *Liquor Licensing (Dry Areas) Regulations 2012* define the particular public places where the possession and consumption of liquor is prohibited. The regulations include detailed maps and descriptions of the dry areas.

To streamline the process through which dry areas are proclaimed, the Bill amends the Act to remove the requirement that a dry area prohibition be imposed by regulation. Under the amended provision:

- long term dry areas will be approved by the Minister; and
- short term dry areas will be approved by the Commissioner.

Dry areas will be established by the publication of a notice in the Government Gazette which will include a description of the area. An application for a dry area will still be made by the Council to the Commissioner. Councils will be required to include with an application supporting documentation, including, but not limited to, a detailed description and map of the proposed dry area and a letter of support from the local police and Member of Parliament. The Commissioner will then assess the application and, in the case of a long term dry area application, advise the Minister whether or not to approve the application, and, in the case of a short term dry area application, determine whether the approve the application or not.

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 *Liquor Licensing Act 1997*

4—Amendment of section 3—Objects

This clause amends section 3 of the Act to add to the objects those set out in new paragraph (f).

5—Amendment of section 4—Interpretation

This clause amends section 4 of the Act, inserting or amending key terms used in provisions inserted or amended by this measure.

6—Amendment of section 11A—Commissioner's codes of practice

This clause relieves employees etc in licensed premises from needing to comply with the *Security and Investigation Agents Act 1995* in respect of certain functions prescribed by the regulations.

The clause also extends the scope of codes of practice to include the protection of the public interest.

7—Amendment of section 30—Cases where licence is not required

This clause amends section 30 of the Act to allow the Minister to exempt certain person from the provisions of the Act relating to sales by notice in the Gazette rather than by regulation as the Act currently requires.

8—Amendment of section 31—Authorised trading in liquor

This clause amends section 31 of the Act to make clear that the authorisations conferred by a licence are subject to modification under the Act.

9—Amendment of section 32—Hotel licence

This clause amends section 32 of the Act in the same way as the amendment in clause 31.

10—Amendment of section 33—Residential licence

This clause amends section 33 of the Act in the same way as the amendment in clause 31.

11—Amendment of section 34—Restaurant licence

This clause amends section 34 of the Act in the same way as the amendment in clause 31.

12—Amendment of section 35—Entertainment venue licence

This clause amends section 35 of the Act in the same way as the amendment in clause 31.

13—Amendment of section 36—Club licence

This clause amends section 36 of the Act in the same way as the amendment in clause 31.

14—Amendment of section 37—Retail Liquor Merchant's licence

This clause amends section 37 of the Act in the same way as the amendment in clause 31.

15—Amendment of section 38—Wholesale Liquor Merchant's licence

This clause amends section 38 of the Act in the same way as the amendment in clause 31.

16—Amendment of section 39—Producer's licence

This clause amends section 39 of the Act in the same way as the amendment in clause 31.

17—Amendment of section 39A—Direct sales licence

This clause amends section 39A of the Act in the same way as the amendment in clause 31.

18—Amendment of section 40—Special circumstances licence

This clause amends section 40 of the Act in the same way as the amendment in clause 31.

19—Amendment of section 40A—Small venue licence

This clause amends section 40A of the Act in the same way as the amendment in clause 31.

20—Amendment of section 41—Limited licence

This clause amends section 41 of the Act in the same way as the amendment in clause 31.

21—Amendment of section 43—Power of licensing authority to impose conditions

This clause amends section 43 of the Act, clarifying that the licensing authority may take the specified actions in respect of conditions on a licence, and setting out when that can occur. This includes imposing or varying

conditions in a way that limits the authority conferred by a liquor licence, for example by reducing trading hours below those contemplated by Part 3 Division 2 of the Act.

22—Amendment of section 49—Special provision for club licences

This clause amends section 49 to of the Act to allow a company limited by guarantee under the Corporations Act to hold a club licence.

23—Amendment of section 71—Approval of management and control

This clause amends section 71 of the Act to provide that a person's approval under the section is transferable to other licensed premises or businesses. The current provision means that an approval is for a particular business only.

24—Amendment of section 97—Supervision and management of licensee's business

This clause amends section 97 of the Act, and is consequential upon clause 23.

25—Amendment of section 108—Liquor not to be sold or supplied to intoxicated persons

This clause substitutes section 108(1) of the Act, and is consequential upon the new definition of 'intoxicated' inserted by clause 5(3).

26—Amendment of section 109—Copy of licence to be kept on licensed premises

This clause amends section 109 of the Act, bringing the expiation fee into line with similar offences in the statute book.

27—Amendment of section 111—Areas of licensed premises may be declared out of bounds to minors

This clause amends section 111 of the Act to replace the word 'part' with 'area', reflecting current terminology.

28—Amendment of section 112—Minors not to enter or remain in certain licensed premises

This clause amends section 112 of the Act, and is consequential upon clause 27.

29—Amendment of section 113—Notice to be erected

This clause amends section 113 of the Act, and is consequential upon clause 27.

30—Amendment of heading to Part 7A—Offensive or disorderly conduct

This clause makes a consequential amendment to the heading of Part 7A of the Act.

31—Amendment of section 117A—Offensive or disorderly conduct

This clause amends section 117A of the Act, increasing the expiation fee to reflect the seriousness of the offence.

32—Amendment of section 119—Cause for disciplinary action

This clause amends section 119 of the Act, inserting a new subsection (1a) to provide that, when determining whether a licensed person is a fit and proper person for the purposes of section 119(1)(c), if any person who occupies a position of authority in a licensee that is trust or corporate entity is not a fit and proper person, then the licensee is not a fit and proper person.

33—Amendment of section 119A—Commissioner's power to deal with disciplinary matter by consent

This clause amends section 119A of the Act, clarifying that a condition imposed under the section can vary the trading hours in respect of the licence fixed or required by or under the Act.

34—Amendment of section 120A—Commissioner's power to suspend or impose conditions pending disciplinary action

This clause amends section 120A of the Act, extending the scope of the section to allow the Commissioner to take action under the section against a licensee pending the hearing and determination of a complaint.

New subsection (1a) further extends the provision to allow the Commissioner to take specified action even where a complaint has yet to be lodged against a person, provided the Commission is satisfied of the matters set out in the subsection.

The exercise of powers by the Commissioner is reviewable under section 22 of the Act, despite there not being proceedings on foot.

35—Amendment of section 121—Disciplinary action

This clause amends section 121 of the Act. Subclause (1) amends section 121(1)(a) clarifying that a condition imposed under the section can vary the trading hours in respect of the licence fixed or required by or under the Act. Subclause (2) is consequential upon the new definition of 'intoxicated' inserted by clause 5(3).

36—Amendment of section 122—Powers of authorised officers

This clause amends section 122 of the Act, substitution subsection (1) to clarify that the powers of authorised officers set out in the section can be exercised separately.

37—Amendment of section 124—Power to refuse entry or remove intoxicated persons or persons guilty of offensive behaviour

This clause amends section 124 of the Act, and is consequential upon the new definition of 'intoxicated' inserted by clause 5(3).

38—Amendment of section 128B—Power of Commissioner to issue public order and safety notice

This clause amends section 128B of the Act, clarifying that a condition imposed under the section can vary the trading hours in respect of a licence fixed or required by or under the Act, and modifying the reporting obligations of the Commissioner under the section so that he or she must provide a report to the Minister on the operation of the section at least once in every 12 month period.

39—Amendment of section 131—Control of consumption etc of liquor in public places

This clause amends section 131 of the Act, allowing the Minister (in the case of longer term dry areas) or the Commissioner (short term dry areas) to establish dry areas by notice in the Gazette rather than requiring it to be done by regulations.

40—Amendment of section 131A—Failing to leave licensed premises on request

This clause amends section 131A of the Act, and is consequential upon the new definition of 'intoxicated' inserted by clause 5(3).

41—Amendment of section 138—Regulations

This clause amends section 138 of the Act, allowing regulations to be made for transitional or savings purposes.

Schedule 1—Transitional provisions

1—Responsible persons

This clause provides that the approval of a person under section 71 of the *Liquor Licensing Act 1997* (as in force before the commencement of this clause) will be taken to be approved as a responsible person under section 71 of that Act, as amended by this Act. That is, an approval will be an industry-wide approval despite having been granted in respect of a particular business.

2—Certain conditions taken to be validly imposed etc

This clause clarifies that conditions imposed on a licence that limited the authority conferred by the licence are valid.

Debate adjourned on motion of Mr Gardner.

ELECTRONIC CONVEYANCING NATIONAL LAW (SOUTH AUSTRALIA) BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (12:02): Obtained leave and introduced a bill for an act to make provision for a national law relating to electronic conveyancing. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (12:02): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The National Electronic Conveyancing initiative is a Council of Australian Governments reform that is endorsed within the existing National Partnership Agreement for a Seamless National Economy, to which South Australia is a party.

National Electronic Conveyancing will be an electronic business environment specifically implemented to create and settle property transactions prior to lodgement with the Land Services Group and other Australian Land Registries.

The legal framework to support National Electronic Conveyancing has been developed by a team of senior officers and legal representatives from Land Registries in each jurisdiction.

There is broad support across Government and industry nationwide for the introduction of electronic conveyancing.

Banks and other mortgage lenders are increasingly operating on a national basis, rather than at the State level. However, no common regulatory framework exists to enable documents in an electronic form to be lodged under the Torrens land title legislation in each State and Territory, and this impedes productivity, growth and makes it more difficult for businesses to maximise efficiency.

It is therefore critical that the National Electronic Conveyancing system is nationally uniform, with minimal jurisdiction specific variations, in order to derive maximum benefit for all participants.

South Australia's participation in National Electronic Conveyancing will markedly reduce current administrative burdens and costs associated with time and resources currently expended on physical settlements and processing of paper land transactions.

It is anticipated that National Electronic Conveyancing will:

- reduce costs and delays associated with conveying and settling land transactions;
- increase the accuracy of transactional data lodged with Land Registries;
- reduce the complexity and cost of dealing across eight different jurisdictions.

The introduction of National Electronic Conveyancing is estimated to generate national gross savings of up to $250 million per annum and reduce the cost of preparing and settling each transaction by around $230.

In June 2012 the Government approved the signing of the Intergovernmental Agreement governing National Electronic Conveyancing. Following the release of the national Consultation Regulation Impact Statement for the Electronic Conveyancing National Law ('*ECNL*'), minor amendments were made and the Regulation Impact Statement for Decision was approved by the Commonwealth Office of Best Practice Regulation.

The Bill being introduced today, the *Electronic Conveyancing National Law (South Australia) Bill 2013*, is substantially similar to the ECNL.

It is intended that the Bill will not come into operation until the end of 2014, which will allow for the necessary amendments to the *Real Property Act 1886* and other related legislation to be made. A separate Bill will be brought to the Parliament containing those related amendments.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

This clause provides for commencement of the measure and exempts it from the application of section 7(5) of the *Acts Interpretation Act 1915*.

3—Definitions

This clause defines terms used in the measure.

Part 2—Application of Electronic Conveyancing National Law

4—Application of Electronic Conveyancing National Law

This clause specifies that the *Electronic Conveyancing National Law* applies as a law of South Australia.

5—Meaning of generic terms in Electronic Conveyancing National Law for purposes of this jurisdiction

This clause defines certain terms used in the *Electronic Conveyancing National Law (South Australia)*.

6—Amendments to Schedule to maintain national consistency

This clause provides the procedure for adopting corresponding amendments made by the Parliament of New South Wales to the *Electronic Conveyancing National Law*.

7—Time for appeal against decisions of Registrar

This clause provides that a person who appeals against a decision of the Registrar-General under clause 28(2) of the *Electronic Conveyancing National Law (South Australia)* must institute the appeal within 28 days after receiving the written grounds for the decision.

8—Exclusion of legislation of this jurisdiction

This clause provides that the *Acts Interpretation Act 1915* does not apply to the *Electronic Conveyancing National Law (South Australia)*.

Part 3—Regulations

9—Regulations

This clause allows the Governor to make regulations.

Schedule 1—Electronic Conveyancing National Law

Note—

This Schedule sets out the National Law.

Part 1—Preliminary

1—Short title

This clause sets out the name of the National Law.

2—Commencement

This clause provides for the commencement of the National Law in a participating jurisdiction to be as provided for by an Act of that jurisdiction.

3—Definitions

This clause defines certain expressions used in the National Law.

4—Interpretation generally

This clause gives effect to Schedule 1 to the National Law, which provides for the interpretation of the National Law.

5—Object of this Law

This clause sets out the object of the National Law.

6—Law binds the State

This clause provides that the National Law binds the State.

Part 2—Electronic Conveyancing

Division 1—Electronic lodgement

7—Documents may be lodged electronically

This clause allows a document to be lodged electronically for the purposes of land titles legislation if the document is lodged in a form approved by the Registrar-General and by means of an electronic lodgement network provided and operated under the National Law.

8—Registrar to process documents lodged electronically

This clause requires the Registrar-General to process a document lodged electronically.

9—Status of electronic registry instruments

This clause provides that an instrument executed and lodged electronically under the National Law has the same effect as a paper document.

Division 2—Client authorisations and digital signatures

Subdivision 1—Client authorisations

10—Client authorisations

This clause provides for client authorisations. A client authorisation is a document by which a party to a conveyancing transaction authorises a subscriber to complete a conveyancing transaction electronically.

11—Effect of client authorisation

This clause gives effect to client authorisations.

Subdivision 2—Digital signatures

12—Reliance on, and repudiation of, digital signatures

This clause provides for the digital signing of documents by subscribers and the effect of documents that are digitally signed. The clause sets out the circumstances in which a digital signature may be repudiated, namely, that the digital signature was not created by the subscriber or by a person authorised to create digital signatures on behalf of the subscriber, and the subscriber did not fail to comply with the participation rules or to take reasonable care with respect to the creation of the digital signature. The clause does not prevent the unsigning of a document, which may occur prior to settlement.

Part 3—Electronic Lodgement Networks

Division 1—Preliminary

13—Electronic Lodgement Network

This clause explains what is meant by an Electronic Lodgement Network or ELN. An ELN is an electronic system that enables the lodging of registry instruments and other documents in electronic form for the purposes of land titles legislation.

Division 2—Operation of Electronic Lodgement Networks

14—Registrar may provide and operate ELN

This clause gives the Registrar-General power to provide and operate an ELN.

15—Registrar may approve ELNO to provide and operate ELN

This clause gives the Registrar-General power to approve a person to provide and operate an ELN. Such a person is an Electronic Lodgement Network Operator (*ELNO*).

16—Conditions of approval as ELNO

This clause permits the Registrar-General to attach conditions to an approval to operate an ELN.

17—Effect of approval as ELNO

This clause permits a person approved as an ELNO to provide an ELN in accordance with the approval.

18—ELNO required to comply with operating requirements

This clause requires a person approved as an ELNO to comply with the operating requirements.

19—Renewal of approval as ELNO

This clause provides for renewal of approval as an ELNO.

20—Revocation or suspension of approval as ELNO

This clause permits the Registrar-General to revoke or suspend the approval of a person as an ELNO.

21—Monitoring of activities in ELN

This clause permits the Registrar-General to monitor activities in an ELN.

Division 3—Operating requirements and participation rules

22—Operating requirements for ELNOs

This clause enables the Registrar-General to determine requirements in relation to the operation of an ELNO and the provision and operation, by an ELNO, of an ELN (*operating requirements*).

23—Participation rules

This clause enables the Registrar-General to determine rules relating to the use of an ELN (*participation rules*).

24—Registrar to have regard to nationally agreed model operating requirements and participation rules

This clause requires the Registrar-General to have regard to any model operating requirements or model participation rules published by the Australian Registrars' National Electronic Conveyancing Council in determining the operating requirements and participation rules.

25—Publication of operating requirements and participation rules

This clause requires the Registrar-General to ensure that copies of the current operating requirements and participation rules, and superseded versions, are publicly available.

26—Subscribers required to comply with participation rules

This clause requires subscribers who are authorised to use an ELN to comply with the participation rules relating to the ELN.

27—Waiving compliance with operating requirements or participation rules

This clause allows the Registrar-General to waive compliance with all or any provisions of the operating requirements or participation rules.

Division 4—Appeals

28—Appeal against decisions of Registrar

This clause provides for appeals against decisions of the Registrar-General made under the National Law.

29—Determination of appeal

This clause provides for the determination of appeals by the responsible tribunal (in South Australia, the Administrative and Disciplinary Division of the District Court).

30—Costs

This clause provides for the awarding of costs on appeals.

31—Relationship with Act establishing responsible tribunal

This clause makes it clear that the proposed Division applies despite any Act that establishes or continues the responsible tribunal, but does not otherwise limit such an Act.

Division 5—Compliance examinations

32—Definitions

This clause makes it clear that the Division extends to former ELNOs and former subscribers.

33—Compliance examinations

This clause enables the Registrar-General to conduct an investigation (*compliance examination*) in relation to an ELNO or subscriber for the purpose of ascertaining whether or not the operating requirements and participation rules are being complied with, or investigating any suspected misconduct with respect to the use of an ELN.

34—Obligation to cooperate with examination

This clause requires an ELNO or subscriber to cooperate with a compliance examination.

35—Registrar may refer matter to appropriate authority

This clause allows the Registrar-General, instead of conducting a compliance examination, or during or after the conduct of a compliance examination, to refer a matter to an investigatory, disciplinary or other appropriate authority.

36—Land titles legislation not limited

This clause makes it clear that the Division does not limit any provision of the land titles legislation that also authorises investigations, inquiries or examinations.

Part 4—Miscellaneous

Division 1—Delegation

37—Delegation by Registrar

This clause permits the Registrar-General to delegate functions under the National Law.

Division 2—Liability of Registrar

38—Registrar not obliged to monitor ELN or conduct compliance examination

This clause makes it clear that the Registrar-General is not obliged to monitor activities in an ELN or to conduct compliance examinations.

39—No compensation

This clause provides that no compensation is payable for things done or omitted in good faith in connection with the monitoring of activities in an ELN or the conduct of compliance examinations.

40—Registrar not responsible for additional services provided by ELNO

This clause makes it clear that the Registrar-General is not responsible for the regulation or operation of any services provided by an ELNO that are additional to the ELN.

Division 3—Relationship with other laws

41—Other laws relating to electronic transactions not affected

This clause makes it clear that the National Law is in addition to and not in substitution for the laws of the State relating to electronic transactions or the use of electronic documents.

42—Powers may be exercised for purposes of this Law

This clause provides that a power conferred by the land titles legislation to make an instrument of a legislative or administrative character, or to do any other thing, extends to making instruments, or doing other things, for the purposes of the National Law.

Schedule 1—Miscellaneous provisions relating to interpretation

The Schedule sets out the general interpretation provisions that have effect in relation to the National Law. The provisions have effect in substitution for the provisions of the *Acts Interpretation Act 1915*.

Debate adjourned on motion of Mr Gardner.

CRIMINAL LAW (SENTENCING) (SUSPENDED SENTENCES) AMENDMENT BILL

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (12:04): Obtained leave and introduced a bill for an act to amend the Criminal Law (Sentencing) Act 1988. Read a first time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (12:05): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Under amendments proposed in this Bill repeat violent offenders, and offenders who are involved in serious and organised crime, will not receive the benefit of a suspended sentence unless their case is truly exceptional.

The *Criminal Law (Sentencing) (Suspended Sentences) Amendment Bill 2013* will amend the *Criminal Law (Sentencing) Act 1988* (the Sentencing Act) so as to limit the power of the court to suspend a term of imprisonment to when there are 'exceptional circumstances' for two targeted groups of offenders.

The two targeted groups are repeat violent offenders and offenders who are involved in serious and organised crime.

Under the proposed amendments, if an adult offender is being sentenced for a serious offence of violence, and that adult offender committed the offence within three years of receiving a suspended sentence for an earlier offence of serious violence (including an offence committed as a youth), then their sentence of imprisonment cannot be suspended unless the court is satisfied that there are 'exceptional circumstances' warranting suspension. Suspended sentences are supposed to be a last chance—repeat offenders who performs acts of violence do not deserve multiple chances at avoiding gaol time.

The reform is to apply to offenders who are being sentenced for one of the following offences against the *Criminal Law Consolidation Act 1935* (the CLC Act):

- manslaughter including conspiring or soliciting to commit murder;
- causing death by an intentional act of violence;
- aiding, abetting or counselling suicide;
- causing death or harm by use of vehicle or vessel;
- unlawful threats and unlawful stalking;
- all serious violent assaults (excluding minor assaults);
- shooting at police officers;
- kidnapping and abduction;
- sexual offences including rape, unlawful sexual intercourse, gross indecency, persistent sexual abuse, indecent assault;
- armed and unarmed robbery; and
- assault with intent to commit one of the above offences.

The amendments also create a new category of offence called a 'serious and organised crime offence'. If an offender is sentenced for a serious and organised crime offence a sentence of imprisonment cannot be suspended unless the court is satisfied that there are 'exceptional circumstances' warranting suspension.

The serious and organised crime offences include the following offences:

- the offences in Part 3B of the CLC Act, titled 'Offences relating to criminal organisations';
- the offences concerning witnesses and jurors (sections 244 and 245 of CLC Act);
- blackmail and abuse of public office (sections 172 and 251 of the CLC Act) if the offence is aggravated by the fact that:
    - the offender committed the offence for the benefit of a criminal organisation, or 2 or more members of a criminal organisation, or at the direction of, or in association with, a criminal organisation; or
    - in the course of, or in connection with, the offence the offender identified himself or herself in some way as belonging to, or otherwise being associated with, a criminal organisation (whether or not the offender did in fact belong to, or was in fact associated with, the organisation),
- certain offences against the *Controlled Substances Act 1984* (the CS Act) if those offences are aggravated by the circumstances set out above;
- the offences set out at sections 32(1) and 33(1) of the CS Act, being the trafficking and manufacturing of a large commercial quantity of a controlled drug, even if the offences are not aggravated by the circumstances set out above.

Early criticism of this reform claims that this is an attempt to remove discretion from the courts. Not so. The sentencing judge retains his or her discretion to suspend a sentence, but for two targeted groups of offenders the sentencing judge is required to apply a different test. This does not amount to a removal of discretion.

Currently, section 38(1) of the Sentencing Act states that, where a court has imposed a sentence of imprisonment, the court may, if it thinks that 'good reason' exists for doing so, suspend the sentence on condition that the defendant enter into a bond:

- to be of good behaviour; and
- to comply with the other conditions (if any) of the bond.

The application of this section in practice is set out in the judgment of *R v Ford [2008] SASC 46*, which was an appeal against the decision of a sentencing judge not to suspend a sentence. Gray J (with whom Doyle CJ agreed) set out the applicable principles.

Gray J stated that the sentencing judge will firstly decide whether a term of imprisonment is the appropriate penalty. Once that decision is made, the sentencing judge then determines what length of sentence is appropriate (the head sentence) and the appropriate non-parole period to impose. It is at this point that the sentencing judge considers whether 'good reasons' exist to suspend that sentence.

In determining whether 'good reasons' exist Gray J stated:

> Whilst 'good reason' will usually be derived from circumstances personal to the offender, there is no limitation placed on what may amount to a good reason. There must be something about the personal circumstances of the applicant or the offence that would render it inappropriate to imprison the applicant in the circumstances where imprisonment is the appropriate penalty. It is not a matter of finding something special or exceptional, but rather a matter of weighing all relevant factors.

Under the current provisions, a sentence of imprisonment must be fully suspended unless the period of imprisonment is between three months and twelve months, in which case the court may elect to only partially suspended the sentence. This provision remains.

The courts in the past (including in the case of R v Ford referred to above) have drawn a clear distinction between the concept of 'good reasons' and 'exceptional circumstances'. The difference between these two tests was considered In the case of *R v Fowler [2006] SASC 18* where Gray and Layton JJ discussed the terminology 'exceptional circumstances'. Gray and Layton JJ stated:

> The correct test to be applied by a sentencing judge when considering whether or not to suspend a sentence of imprisonment has been discussed in a number of recent decisions. There is substantial and important difference between the 'exceptional circumstances' test as discussed in Mangelsdorf and the 'good reason' test to draw from the wording of the statute. The 'good reason' test established by the legislature requires the sentencing judge to consider all of the circumstances of the instant case and make an assessment as to whether those circumstances give rise to good reason to suspend a sentence.
>
> On the other hand, the 'exceptional circumstances' test implies that a sentencing judge ought to compare the circumstances of the instant case with other cases and determine whether there are aspects of the instant case that set it apart from the other cases and thereby justify an exercise of the discretion to suspend. This may lead the court to be asked to first consider what the common or typical features of drug trafficking cases are and then compare such features with the case at bar to decide whether such circumstances may be characterised as 'exceptional' before considering then whether to suspend.

Although this case was specifically referring to a drug trafficking case, the principal applies to the sentencing for offenders in any circumstances. This case demonstrates that, if the test for suspension is changed from 'good reason' to 'exceptional circumstances' as provided for in the Bill, it is a higher threshold for the offender to meet.

This Bill sends a message to repeat violent offenders and to offenders involved in serious and organised crime that unless your case is truly exceptional, you will not receive the benefit of a suspended sentence.

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 *Criminal Law (Sentencing) Act 1988*

4—Amendment of section 38—Suspension of imprisonment on entering into bond

It is proposed to amend section 38 to further limit when a sentence of imprisonment imposed on a defendant may be suspended by a court. The Act currently provides (in section 37) that the powers vested in a court by Part 5 are not exercisable in relation to murder, treason or any other offence in respect of which a special Act expressly prohibits the reduction, mitigation or substitution of penalties or sentences.

Currently, section 38 does not allow a court to suspend a sentence of imprisonment if the sentence is to be served cumulatively on another term of imprisonment, or concurrently with another term then being served, or about to be served, by the defendant.

Current section 38(2a) provides that where the total period of imprisonment to which the defendant is liable is more than 3 months but less than 1 year, the court may, by order—

- direct that the defendant serve a specified period (being not less than 1 month) of the imprisonment in prison; and

- suspend the remainder on condition that the defendant enter into a bond (to be of good behaviour and to comply with any specified conditions) that will have effect on the defendant's release from prison.

The amendments propose that, in addition to the current limitation on a court's power to suspend a sentence, a court may not suspend a sentence of imprisonment imposed on a defendant—

- for a serious and organised crime offence (as defined); or
- for a designated offence of violence (as defined) where the designated offence in respect of which the defendant is currently being sentenced has been committed within a period of 3 years of the defendant having received a suspended sentence in respect of a previous designated offence,

except where the court is satisfied that exceptional circumstances exist for doing so.

Proposed subsection (2b)(a) also provides that a court may, if satisfied that exceptional circumstances exist for doing so, make an order under section 38(2a) in respect of a defendant being sentenced for a serious and organised crime offence, or for a designated offence in the circumstances described in subsection (2b)(b), if the period of imprisonment to which the defendant is liable under 1 or more sentences is more than 3 months but less than 1 year.

Schedule 1—Transitional provision

1—Transitional provision

This clause sets out a transitional provision for the purposes of the measure.

Debate adjourned on motion of Mr Gardner.

HOUSING AND URBAN DEVELOPMENT (ADMINISTRATIVE ARRANGEMENTS) (URBAN RENEWAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 June 2013.)

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (12:07): As I was saying last night, the Playford Growth Area Structure Plan outlined a number of the important infrastructure matters that would need to be taken into account. I think I was actually commending this document as being one that gave a good geographical summary of the area and of existing services, but it was utterly deficient in any identification about what requirements would be needed—where roads would be proposed, where rail needed to be extended, where buses needed to be added, where gas, electricity and water needed to be connected or installed—other than the most general of statements that these are things that are under consideration and generally in some way in hand. Clearly, that is not adequate.

If the government thinks that it is going to replicate its performance in the ministerial DPA process it proposes under the new precinct process, which is going to be applied under this bill, clearly there are two major problems; one is that the public are being insulted yet again. The local communities, in a consultation process, are not being given adequate information at the start to be able to make a contribution and present other options.

Time and time again we have said to the government that if they are going to propose a development, whether it is individual or, indeed, in any sort of precinct form, it is important to bring the people in at an early stage and give them sufficient information to start with so that they can make a credible and useful contribution to the direction that the government may wish to achieve, which may be a very good proposal to advance, and also takes the people with them.

I will give you one classic example of the government not giving people that information, which has been the new paradigm of this government in keeping this information secret. The north-south pipeline, which essentially was a connection to support the desalination plant and its upgrade to a 100-gigalitre operation, was to support the distribution of water, especially the extra that was going to come online—not any more, of course, but that is another matter—

Mr Pengilly interjecting:

Ms CHAPMAN: Who expanded that? That was interesting attention from the federal Auditor-General, but we will not go there today because it is such a smelly, embarrassing thing for the government. What I want to point out here is that in relation to the project to enable the distribution of water essentially from the south to the north, to accommodate growth, population development, etc., the government said that this was a project that needed to be done.

Some months before—in fact, about a year before—the government had announced a project, that would cost $304 million instead of the $403 million project that it progressed, on the

basis that this would be a project for a pipeline to go, I think, up Portrush Road and join the two reservoirs. Then we were told that—not that we knew anything about any of this before the 2010 election, it was all kept a secret. There wasn't an announcement on the policy, in fact, until the day after the 2010 election—

The Hon. J.R. RAU: Mr Deputy Speaker, the honourable member has a formidable repertoire of grievances and she regularly goes through the process of telling us about them. Some of them are capable of—

The DEPUTY SPEAKER: I presume this is a point of order.

The Hon. J.R. RAU: Indeed. It is customary, at least, for remarks to have something to do with the bill. I think it is disorderly for them not to.

The DEPUTY SPEAKER: I will listen very carefully to the Deputy Leader of the Opposition. I am sure she will want to concentrate on the bill.

Ms CHAPMAN: Thank you, sir. This is an example of what I am presenting to the house, of where the government does not give adequate information, which it is promising to do under this new regime.

The Hon. P.F. Conlon interjecting:

Ms CHAPMAN: If the part-time member is going to come in here, at least he can make a useful contribution.

The Hon. P.F. Conlon interjecting:

Ms CHAPMAN: Make a useful contribution, thank you very much.

The DEPUTY SPEAKER: Order!

Members interjecting:

Ms CHAPMAN: We'll have to put bells over in Minter Ellison soon, to get him to come to the parliament on time.

The DEPUTY SPEAKER: Order! Let us return to the bill.

Ms CHAPMAN: Thank you, sir.

An honourable member interjecting:

The DEPUTY SPEAKER: Order!

Ms CHAPMAN: I will complete my contribution on this by saying that instead of the government offering—

Members interjecting:

Ms CHAPMAN: Look boys, can you go outside?

The DEPUTY SPEAKER: I ask the member for Chaffey and the member for Elder to refrain from their interjections.

Ms CHAPMAN: Instead of the government outlining a number of projects as an option to move water from the south to the north, under its planned project, it announced a project and then cancelled it because that $300-odd million project was going to blow out in costs; they changed it. However, never, even up until today, has it told the public what other options it considered. Even when we put in a freedom of information application to ask for this, it was not provided.

So what I am saying is that when the government produces these planning documents—which, under the precinct process, will have implementation plans in relation to infrastructure—it must give the public an opportunity to have some say, firstly, on what will be in the precinct, where it will be, what options they have; give them a chance to make a contribution, not just exclude them.

The Hon. J.R. Rau: That's what is going on now—hello?

Ms CHAPMAN: Oh, that is what is going on now? Well, let me start. The Attorney interjects to say 'That's what is going on.' Let me give him a classic example of what he says is going on now. Just before Christmas, while everyone was wrapping their Christmas presents, he announced that he was going to have an inner rim plan for development under a ministerial DPA—

The Hon. J.R. Rau: Oh no, not this again.

Ms CHAPMAN: Wait for it; it gets better—and instead of actually providing information to the public about what infrastructure he was going put with that plan (that is, up to 10 storeys of urban infill—under consideration—and that two of the councils were not to do this; he was going to have control of the Burnside and Prospect regions), he was going to allow other DPAs to be reviewed by the other inner rim councils.

When we asked about the infrastructure that was going to be necessary (electricity, transport, etc.), what do we get? Zero information, other than a claim in the briefings that it was in-hand, and that the departments were working on these matters as to what would be needed for parking, transport and roads.

What do we find? This is what we find: when we go back to have a look at the submissions of the agencies to the draft growth plans that were being prepared as structure plans—incidentally, I have never seen the final copies of these, but nevertheless—they pointed out—let me give you one example in particular.

The Department of Transport actually put in a submission on this. I am paraphrasing now, and I hope that I am accurately disclosing this, but essentially the department said, 'Yes, actually, if this is to be developed in this way, we will need to do upgrades and we would need to make some changes in relation to the roadworks and the services for transport to facilitate such a plan in that way; but, we are not recommending the disclosure of that because we don't want to raise expectations.' I hope the minister is really listening to this.

The excuse for having a cloth of secrecy over what does need to be upgraded for a development is now being kept secret because we, as a community and as members of the public, cannot be trusted with our expectations about what might be delivered. So, that is supposed to be consultation. That is supposed to be disclosure of information to us, as members of the community, to be able to make a reasoned and significant contribution to the development of our own areas. That is the classic example.

Let me give you another example on the same issue. It touches on an announcement that was made yesterday by the government to have a twin roundabout solution to the Britannia intersection. We welcome the government's attention to this intersection; it has been No. 1 on the RAA's list of riskiest intersections or roads for the entire time I have been in parliament. In any event, we are at mark 2 of the government's proposals for this.

Sadly, minister White's option in 2003-04 had bitten the dust, and we now have the option that Mr Hook told us about this morning, which was something that just came out of some engineers within the department who came up to him one day and said that this would be a good idea.

The Hon. P.F. CONLON: Point of order. The point of order made by the Deputy Premier before—this has no relationship to planning or planning laws whatsoever. If we want—

Mr Pengilly interjecting:

The DEPUTY SPEAKER: Order!

The Hon. P.F. CONLON: If we want to talk about people not telling the truth and hiding things, we can talk about Catch Tim; it has as much relevance. But, what I would say is that the deputy leader needs to come to the bill.

The DEPUTY SPEAKER: I support the point of order; I have been listening carefully, and I do think the Deputy Leader of the Opposition has strayed.

Ms CHAPMAN: Thank you for your guidance, Mr Deputy Speaker. What I will say is that, in supporting the growth plan for the inner rim area that the government is so keen to advance, apart from the submission by the transport department that they would not be able to provide information on the road upgrades that would be required, because that would raise expectation in the community, and the secrecy that was under that veil, as the local member, I have written to the government—

The Hon. P.F. Conlon interjecting:

Ms CHAPMAN: The noisy one on the other side was the minister at the time—and I asked for a briefing on an update on what was happening at the Britannia roundabout, which is a direct transport requirement for this growth.

The Hon. P.F. CONLON: Point of order. You are only allowed to speak according to the audits.

Mr Pengilly: What number is the point of order?

The Hon. P.F. CONLON: The other member for Finniss is here. I will give you instruction on the standing orders in a moment but, believe me, you cannot put in what God left out. What I am saying is that she is not talking about the bill; she is permitted to just range freely on the bill. She is yet again talking about a transport project; it has no relationship whatsoever to a planning bill.

The DEPUTY SPEAKER: I support the point of order. I did ask before that the deputy leader return to the bill. I now confirm that that was my request.

Ms CHAPMAN: One of the proposals under the new precinct planning, which I am sure you were following with acute attention, Mr Deputy Speaker, is that instead of the local government actually proceeding with the normal Development Act obligations under a rezoning format and instead of using industrial DPAs—which the government, as is its wont, has used to date—we are going to have a new process of precinct planning and, under that, implementation plans. A provision of the bill is that the implementation plans would outline things such as infrastructure.

One of the concerns the opposition has relates to how we can rely on the government to actually consult with the public as it proposes in this legislation and accurately provide sufficient information so that they may make those contributions for whatever precinct they propose. Of course, that is not defined in this bill; it is all across the state. One of the things that we in the opposition need to do is make an assessment about whether we can rely on the government to do exactly that.

The government goes on and on and on about the importance of public consultation and the importance of there being sufficient contribution on infrastructure matters. I am seeking to firstly highlight, as part of this procedure, under the implementation plans, what is necessary for the government to do for that to occur and, secondly, whether that is occurring under the current arrangements that the Minister for Planning is executing.

My concern—along with a number of stakeholders, which I will get to in a moment—is about the need to have infrastructure disclosure to even have a plan, let alone a consultation with the public. The government has to actually disclose it. When we, as members of parliament, ask for a briefing on any piece of infrastructure, especially if it is to support an existing ministerial DPA, then we expect to be provided with that information. I make the point that one of these is this inner rim growth that is happening as we speak. Councils are meeting and there has been public outcry about it, but that is following through a normal process.

It is impossible to believe that the government is going to be open and transparent and provide this information when it consistently refuses to even publish material in the submissions because the public might get an expectation. The government consistently refuses in some projects to even provide the information to the local member because they might use it for some mischief. That is just outrageous. It raises the level of concern that the opposition has at the bona fides of any minister who walks in here saying to us, 'You can trust us to do this. We are going to consult. We are going to have a structure that is going to involve the community or local government or other agencies. You can rely on us to do that', because, almost on a daily basis, this is demonstrably inconsistent with what the government is doing.

I come to another matter which illustrates the level of mistrust the opposition has in the government. In this instance, this bill will now have two ministers responsible for this—not just the Minister for Planning but also the Minister for Housing and Urban Development—as the principal players in this on behalf of the government. As I pointed out yesterday—you may not have been listening as intently then, sir, and that is no disrespect to you—we have not yet seen the Minister for Housing and Urban Development. I certainly hope he will make a contribution to this debate as a speaker because he is responsible for this bill, and I hope he will make a contribution in due course.

Let me give an example now of what happens when the government is in charge of a precinct plan, a master plan. It is the Glenside hospital site. Members will be familiar with this proposal. It was announced, I think, in late 2005-06 by the then premier and minister Gago, who at that time was, I think, the minister for mental health, and either later or at the same time the minister for environment. A master plan was published that the government had prepared via the Department of Health at that stage, and the proposal, in short, was that it would sell off 42 per cent

of the land and build a brand-new mental health facility. It was necessary to do that because it needed the money to be able to build the hospital.

On top of that, minister Holloway, the predecessor to the current minister, announced that there would be a ministerial DPA process and that that would allow for the consultation, and so on. In essence, what happened over the following years—and this is a facility that was largely for mental health services and had an oval used for community activity and a lot of open space—was that the oval was dug up. I think well over 100 trees were pulled down, chipped and disposed of.

The Hon. J.R. RAU: On a point of order, I make the now customary point of order: we are talking about trees being cut down, dug up or something.

Members interjecting:

The Hon. J.R. RAU: Planning is a large topic. If the point of relevance the honourable member is referring to has something to do with planning, she could be telling us about Olympic sheds because you need a planning approval to put them in your backyard too. Surely there are enough issues of substance here for us to actually—

Ms Chapman: I was getting there.

The Hon. J.R. RAU: It would be nice if we did get to them because there are members here who are really interested in knowing what the member for Bragg actually thinks about this bill and not what she thinks about every other thing in the world.

The DEPUTY SPEAKER: I am sure the shadow minister will return to the bill. It is important she confine her remarks to the bill.

Ms CHAPMAN: I am happy to do that, sir. The government has announced the number of projects which it says in the second reading are important precincts and the whole reason we had to have this whole new process, yet the government is opposing it but will be in charge of it all. I make the point that under its current master planning, when they are in charge of it, this is what happens. To have the confidence of the public, via the opposition, in being able to support this, we have to have some understanding of what they are doing, still now.

I will quickly get to the point here to try to assist you, Mr Speaker, to try to appreciate what we are doing. I identify what has happened. The hospital is being built. We have had a select committee recommending to the government that they redesign it because the health professionals say it is not world cutting-edge, but they have ignored that. This is this whole consultation aspect.

They have built a film hub which so far has housed the exit party for the premier which would make the *Great Gatsby* function look like a local tea party. Hundreds of thousands of dollars were spent on that. I am told just this week that *Wolf Creek 2* cannot even use the premises that was proposed under this new cultural precinct because it is too small. We told the government that; the public told the government that; the Film Corporation and industry told the government that years ago and they still have not listened.

They were going to do a housing project to go over some of the area. The current Premier, then the minister for housing, was going to build in a heritage orchard on the site a three-storey Housing Trust development but they changed their mind on that. Notwithstanding that we have this master plan that they now want to have complete control over, they were going to have a housing development. That seems to have haemorrhaged into nowhere.

In the commercial and supermarket area, the Chapley Group of Companies have already announced that they have abandoned proceeding with their supermarket, it seems. The commercial area is covered in mountains of dirt. This is the situation that now exists on a project in a precinct about which the government said, 'We need to be able to have the master plan and operate this and have control of it.' Now we are going to move to an even more in-house arrangement and the government is asking us to trust them that they are going to deliver on these precinct projects.

I make reference to the government's proposal for the urban renewal authority becoming a statutory corporation. As I said, at present, under the current development laws, the minister has power to issue a ministerial DPA. We went through in summary that process. It culminates in presentation of the proposal to the ERD Committee, which is not proposed under this regime, and that committee of course can then put recommendations to the parliament to amend or support it. It does not override the minister's determination, but it is a very helpful process.

In fact, I referred to the importance of the ERD Committee yesterday in reference to the Mount Barker matter. I think I actually said that there was only one occasion I could recall when a member of the ERD Committee had indicated a position and then there was a change of the committee's position or the composition of votes. I am pretty sure I referred to that being the Mount Barker proposal; I just place on record the fact that I should have been referring to the Glenside development. In any event, it is a part of the process that is there at present and it is an important part of the process.

The government says it wants to elevate or reconfigure the governance arrangements for the urban renewal authority which currently has its powers under regulations. One of the things that has caught the attention of the opposition, and which was also raised by the Local Government Association, was the fact that in establishing the statutory corporation process for the LMC, the list of the current functions of the urban renewal authority, compared to what is proposed in its restructure as a statutory corporation, leave out a number of obligations that would be relevant.

In particular, clause 8 of the bill proposes new parts 2A and 2B, which, in summary, provides for all of the rules that will apply to the urban renewal authority and, secondly, as to urban renewal and the establishment of precincts and the process, so those two sections are what clause 8 covers. Under the functions of the URA at present there are some significant deletions, including the collaboration and cooperation obligations to negotiate with local government and other bodies. Relative to the current regulations that were promulgated in 2011, there is a notable omission of a number of paragraphs. They include subparagraph (f) of the current regulations under the functions of the URA in section 6 of those regulations:

> (f) to liaise with State and Commonwealth agencies, local government bodies, developers and owners of land and community groups in relation to housing and urban development;

Then, subparagraph (h):

> (h) to promote and facilitate a high level of co-operation between, and work with, relevant industry and community groups, and other relevant persons or bodies, to develop and implement policies and strategies that encourage excellence in the design, planning and delivery of housing and urban development;

These are the sorts of things that have been taken out from the current rules and the government may say, 'Well, look, we have put some of those initiatives in other sections of this bill that are to apply not as a function of the URA, but in the process that they undertake when they do these precinct plans.' The problem is that there is no longer an obligation to actually do it as a function of this body. It may be (frequently) an option rather than an obligation that these types of things have to occur, and that is a concern.

The government may also say, 'Well, look, that is the whole idea here. We are trying to streamline this. We are trying to cut out all the processes that are unnecessary because in a precinct area this is so important that we want to be able to cut out all those unnecessary things like consulting with the very people and agencies that represent us, like local governments, from the picture because they are a nuisance. The whole thing is haemorrhaging along too slowly—the whole process of development—because we have to deal with these pesky groups, like the local government representatives.'

A second area of concern is that, again, the function of the URA to negotiate and enter into contracts for the payments of contributions towards infrastructure has not been carried over from the regulations. So, again, a very substantial omission. When we come to the implementation plans, this is very important, because we need to be able to be assured that that dialogue has occurred and that there is going to be some agreement about who is going to be responsible for what infrastructure, what level of government, what agency, and whether it is going to be new home owners or property developers, etc.

Again, this is very concerning that there has been a transfer of responsibility and functions from the regulations, but no longer a function to include that there will be this identification of what the contributions are to be. As has been pointed out by the LGA, this is a function which is critical to the rollout, and I will quote from this:

> This is a function which is critical to the rollout of well serviced development. In the absence of a legislative framework for infrastructure contributions, this function should be retained. If it is intended that a precinct authority would impose a separate rate, levy or charge as an infrastructure funding recovery mechanism in place of upfront developer charges, the bill should make this intention clear.

Well, at the moment, it is clear as mud. There is no assurance as to who is going to be paying for what and who is going to be responsible for what before the government's precinct planning process is near the end. It is a bit late then to have a say or to be able to review that.

There are also concerns about clause 7C(2) by the LGA, which enables the URA to enter into a partnership, joint venture or other scheme for sharing of profits. This is, essentially, as outlined by the Minister for Planning, that there may be some opportunities for joint venture, or it may be that a different statutory body or a local council might be the precinct authority under this proposed bill, and they might have an opportunity to partner up for the purposes of a proposal.

I assume that is to cover things such as the arrangement that is to apply to, say, the Tonsley development, which the government, for reasons which are not entirely clear but which the Minister for Manufacturing, Innovation and Trade has got the management and has made the announcements and so on about the development of Tonsley, the old Mitsubishi site, a large precinct.

The urban renewal authority has a role in assisting with the development at least of the early stages of that site, so they sort of seem to be in tandem. They are both working on the project in respect of the planning and particular development of a TAFE and various other things that have been identified for development. I think one of them is the maths and science facility proposed by Flinders University and other such retail shopping and so on.

So, they are working in tandem. That may be the sort of structure that they are proposing, but quite clearly the LGA seek some clarification regarding the arrangements for the partnership or joint ventures between the URA and some other party. The concern is particularly raised because it raises the question of whether a private developer, and this is quite a reasonable question, is actually able to be a precinct authority. If that is the case, or indeed even if there is a local council that is to be the precinct authority and it has a direct financial interest in the property, or some other improvement on it, what are the rules that will surround the disclosure of that?

We need to have some understanding about what is going to apply on the question of whether the development outcomes are not unduly influenced by that party who has a vested interest in a financial benefit that could flow from being the precinct authority, particularly if the precinct authority is also going to be the developer. That raises another matter I will refer to shortly.

To cover off on matters the LGA has raised, proposed clause 7F(a) of the bill requires the URA to reasonably ensure that its activities are 'co-ordinated with the activities of other public authorities'. Unfortunately, this bill does not provide for any definition of what a public authority is, and we would obviously want some answers from the government on that.

Proposed clause 7F(c) seeks to ensure that the activities of the URA are 'conducive to the enhancement of the physical or social development objectives of the government'. The LGA quite reasonably asks: what happened to environmental sustainability objectives? This is through all the targets and all the aspirational statements of the government, and it seems to have been completely ignored in this piece of legislation. The LGA quite rightly says, 'Well, don't let that slip off the perch; that should also be a feature of whatever the objectives of the government are.'

Clause 7H(1) states that a council, a developer, or other person or body, can request that a minister establish an area of land as a precinct. If it is to do so, it will facilitate urban renewal that promotes the purposes of the planning strategy. The LGA makes the point that there are absolutely no definitive criteria to identify the basis upon which an application would be made. What are the prerequisites a place needs to qualify for the purposes for being considered.

The LGA suggests that 'this process be used only when it can be demonstrated that it is necessary to facilitate significant developments to which there are legitimate and recognised impediments'. I think that is a helpful recommendation by the LGA. I cannot imagine that the Minister for Urban Development will want to have just anybody, because it just seems like anybody can line up, or it can act of its own volition to declare a precinct area, but we have absolutely no criteria. They could, of course, find themselves deluged with applications. They also point out that:

> If a Council or other person or body makes a request to the Minister to establish a precinct, there should be a requirement that that request is supported by a comprehensive business case. Establishing a formal application process with a prescribed level of supporting information would achieve consistency in a way in which these requests are submitted and considered. This would be similar to the Statement of Intent process currently required to initiate a Development Plan Amendment under the Development Act 1993.

There needs to be some threshold and there need to be some rules and we all need to know what they are, and the government needs to come clean about what it has in mind here so that everybody—in the public and private arena and those who may be directly adversely affected—will have some clue about how this is going to operate.

Proposed clause 7H(2)(a) provides that the minister must consult with and have regard to the views of any councils within the proposed precinct area. The LGA welcomes, essentially, that there be consultation. They also state:

> The effectiveness of this process would depend on the consultation period and the level of detail provided to the Councils. This detail, including a minimum consultation period, should be provided within the Bill.
>
> Specific matters on which the Minister is seeking advice from Councils should be prescribed (but not limited).

They again make the point that they need to have a set of rules, they need to know what they are and on what they are to be consulted, and some assurance of the time frame and that they are going to have time to be genuinely consulted.

For all of the examples that I have outlined here today of how the government operates to date, I am not confident; and I am not surprised, that the LGA is seeking some specificity in relation to this because they must surely have concerns about how this is going to apply. The other very important thing they raise—and I'm glad they have—is:

> Clarification is required regarding the likelihood of Councils being asked to consider these matters on a confidential basis, given the establishment of a precinct may confer a commercial advantage to a third party. It is noted that a limited number of SOI processes are dealt with confidentially.

The opposition agrees that there are circumstances where there does need to be confidential disclosure and inquiry, and the provision of information even, and that is an important part of the preliminary process. I have obviously identified examples where I think the government was in error in keeping information from the public to allow them to be able to make an informed contribution to the debate, but we recognise that there are some circumstances where there needs to be some confidentiality when it could commercially disadvantage someone if it is disclosed.

We respect that but we need to know what the rules are, and the Local Government Association needs to know for its members whether it is going to be a precinct authority or whether someone is going to be squashed out of the process as a result of another precinct authority being declared by the Minister for Housing and Urban Development in these cases. That is not an unreasonable expectation. Under proposed clause 7H(2)(b) the minister must consider the extent to which the establishment of the precinct is consistent with the planning strategy. Again, the LGA makes a very good point:

> Given that there is no provision for community consultation at the precinct establishment stage of the process, it is important that councils have canvassed the views of their communities at a strategic level. This could be considered through a Strategic Directions Report required under Section 30 of the Development Act...

The DEPUTY SPEAKER: Point of order.

The Hon. J.R. RAU: Point of order: it might be helpful for all of us, and save a lot of time, if I inform the honourable member that I have seen the letter from the LGA and there is no need for her to read it out to me. My advisers have a copy of the letter. We, in fact, have some responses to it, so there is no need to do that. I understood that the opposition had some matter before the parliament that they regarded as a matter of priority which I have agreed to do something about.

Ms CHAPMAN: Point of order, Mr Speaker.

The DEPUTY SPEAKER: Point of order.

Ms CHAPMAN: The minister is not entitled to stand up and make a speech about what he is going to do. He has a time and an opportunity to give a response in due course, to table any amendments he has in mind. How insulting to this parliament for a minister to stand up and say, 'Look, the member doesn't need to be able to tell us, in the parliament—

The DEPUTY SPEAKER: I will take account of both points of order. I do not think that they are points of order. I think the guidance that is being put forward by the minister is all very well, but I think the shadow minister is in line with what she is talking about at the moment.

Ms CHAPMAN: Thank you, sir. I sincerely hope that the minister listens carefully and takes notice of some of the matters that have been raised not just by the LGA but others. I have a list. In considering this question of being consistent with the planning strategy, the LGA suggests a

remedy, and the opposition looks forward to hearing some answers from the government as to what it will do and what will be provided to give some assurance on that.

Under the proposed 7H(5), which establishes an area as a precinct, and that the minister may refer the matter to the Development Assessment Commission to provide advice, etc., the LGA has pointed out that it is not clear when the minister is or is not likely to seek the advice of the Development Assessment Commission. Again, they point out there is no criteria being provided as to how this decision could be guided, etc. The proposed 7H(4)(c) provides that the minister may appoint the URA, or other statutory corporation, as we have previously canvassed, to be the precinct authority.

There is no detail about what factors would be taken into account or would influence the minister, who makes this decision, about whether it is appropriate that that be the URA, a council or another statutory body. There is absolutely no identification. What happens if the government thinks it is a good idea to give the URA the role—they may be well advised in that regard—and a number of councils come along, or even one council comes along, and says, 'Hang on a minute, we want to be the precinct planner; we want to be the precinct authority'.

On what basis would they be excluded and the government have its way? At least the others (particularly councils) potentially want to know, 'When are we ever going to be able to actually get in on the act?' What is the process of appeal in relation to ensuring they have an opportunity to present their case?

The other aspects they raise are monetary, and they are very important points. A number of councils have expressed their concern to the LGA that a group of developers with a financial interest within a precinct could be appointed as a precinct authority through a statutory corporation. They raise this as a concern because individuals with a private financial interest should not be represented as a precinct authority.

They also go on to say that if it is intended that the precinct planning process can be developer-funded, as is the case with some council-initiated DPAs, there should be a requirement that this is declared at the time that the precinct authority is appointed. I have already given a number of examples in this debate of conflicts of interest and the failure on the part of the government to fully disclose areas of potential conflict of interest.

The opposition does not share the view that people who have a financial interest could be completely excluded in a planning role. What the opposition says is absolutely critical, whatever form this bill finally morphs into through this parliamentary process—and we hope, at the end, it will be a more commercially efficient development pathway with appropriate rules and consultation processes—is the importance of separating the planning role from the development role.

It is very clear that the government, in identifying the urban renewal authority as the proposed principal precinct planner in this exercise, will be able to continue to act as a property developer themselves, which they currently do. A classic example at the moment is the Bowden development. Notwithstanding criticism by members of the private development field about the over $80 million spent by the urban renewal authority on the Bowden site, of which they have control, which is unfair competition, that is exactly what they are able to do. That is of concern.

There are a number of amendments that are recommended by the Urban Development Institute of Australia (UDIA) which we will come to shortly. These raise some points, not the least of which is that they want some significant changes. I think we also need to understand that the urban renewal authority, which was previously the land management corporation—both of which were established under regulation—does actually have a very significant commercial arm of its areas of responsibility. I will come to them again when we reconvene. I seek leave to continue my remarks.

Leave granted; debate adjourned.

[Sitting suspended from 13:00 to 14:00]

APPROPRIATION BILL 2013

His Excellency the Governor, by message, recommended the House of Assembly to make appropriation of such amounts as may be required for the purposes mentioned in the Appropriation Bill 2013.

ST CLAIR RESERVE

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition): Presented a petition signed by 3,055 residents of Charles Sturt and greater South Australia requesting the house to urge the government to take immediate action to ensure that the St Clair Reserve is preserved as a memorial park and not rezoned for development, and the petition of 1,072 residents in 1942 to create the park in honour of our brave service men and women is fulfilled.

ANSWERS TO QUESTIONS

The SPEAKER: I direct that the written answers to questions as detailed in the schedule I now table be distributed and printed in *Hansard*.

HEALTH DEPARTMENT STAFF

108 Mr HAMILTON-SMITH (Waite) (17 July 2012). With respect to 2012-13 Budget Paper 4, vol. 3, p. 13—

1. How many actual persons are employed across the entire 30,620 FTE Health portfolio in 2012-13?

2. How many of the actual persons and FTEs are—

(a) doctors;

(b) nurses;

(c) paramedics;

(d) allied or community health professionals;

(e) administrators;

(f) managers; and

(g) executives or another category?

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs): I am advised:

1. This is based on the actual number of employees engaged at a specific health organisation, and does not denote individuals but actual employees in a role at a specific site, regardless of their full-time or part-time status.

As at June 2012 there were approximately 39,023 persons employed in the SA Health portfolio.

2. As at June 2012 there were approximately—

	Persons	FTE
Doctors (1)	3,198	2735.3
Nurses (2)	16,223	12,449.6
Allied Health Professionals (3)	3,363	2,644.3
Paramedics/Ambulance Officers	1,024	901.7
Executives (4)	120	119.6
Administrative/Clerical (5)	6,990	5,948.0
Operational Services Officers	1,709	1,257.4
Technical Officers	802	678.2
Other Support Staff (6)	5,594	3,916.3
Total	39,023	30,650.4

Notes:

(1) Includes all Medical Professionals and Visiting Medical Specialists. Excludes Clinical Academics

(2) Includes all persons engaged under the Nurses (South Australian Public Sector) Award 2002

(3) Includes Public Sector Salaried Award, Allied Health Professionals, Professional Officers, Visiting Podiatrists and Principal Research Fellows—Pharmacist

(4) Includes all employees engaged with an executive contract

(5) Includes employees engaged under the SA Public Sector Salaried Employees Interim Award and includes roles that may undertake management responsibilities, however cannot be specifically identified

(6) Includes Weekly Paid employees, such as Health Ancillary Officers, Metal Trades and Building Trades employees and other support staff that cannot be categorised into the above categories

RACING INDUSTRY

435 Mr VAN HOLST PELLEKAAN (Stuart) (6 November 2012).

1. With respect to the operational budget for the Office of Racing—

(a) what is the breakdown of expenditure for 2010-11 and 2011-12;

(b) what is the breakdown of allocated expenditure for 2012-13; and

2. What are the details of any grants provided to the Racing Industry since 2010-11?

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs): I am advised:

1. With respect to the operational budget for the Office for Racing—

(a) the breakdown of expenditure for 2010-11 and 2011-12 was:

	2010-11	2011-12
Salaries and Wages	$279,324	$299,017
Goods and Services	$135,212	$121,723
Grants	$100,000	$202,000

(b) the breakdown of allocated expenditure, attributed to Racing Industry Support which now forms part of the Office for Recreation and Sport, for 2012-13 is:

Salaries and Wages	$158,114
Goods and Services	$112,882
Grants	$200,000

Note: the difference between the 2011-12 expenditure and the 2012-13 expenditure is due to salary savings and a contribution to overall government savings targets.

The details of grants provided to the racing industry since 2010-11 are:

Year	Organisation	Grant Details	Amount
2010-11	Mount Gambier Harness Racing Club	Contribution towards the installation of SKY Channel DVN link	$100,000
2011-12	Greyhound Racing SA	Contribution towards capital works at Angle Park (Lift and toilets in Chasers Restaurant)	$100,000
2011-12	South Australian Harness Racing Club	Emergency funding to upgrade electricity system at Globe Derby Park	$87,000
2011-12	South Australian Jockey Club	Contribution towards additional SKY Channel coverage—Black Caviar	$15,000

Year	Organisation	Grant Details	Amount
2012-13	Thoroughbred Racing SA	Contribution towards the following projects: • Balaklava Racing Club (new toilet block) • Bordertown RC (installation of chain mesh fence) • Hawker Racing Club (new running rail) • Murray Bridge Racing Club (renovate stewards tower) • Oakbank Racing Club (upgrade TV tower) • Oakbank Racing Club (installation of higher posts and sighter panel on outside of home straight) • Oakbank Racing Club (replace stewards tower) • Port Augusta Racing Club (construction of a shed) • Port Lincoln Racing Club (repair block work surrounding judges mirror) • Streaky Bay Racing Club (upgrade horse stalls and fencing)	$120,000
2012-13	Harness Racing SA	Contribution towards the purchase of a mobile semaphore board	$30,000

KANGAROO ISLAND FUTURES AUTHORITY

In reply to the **Hon. I.F. EVANS (Davenport)** (1 March 2012).

The Hon. L.W.K. BIGNELL (Mawson—Minister for Tourism, Minister for Recreation and Sport): The Minister for Tourism has been advised:

The South Australian Tourism Commission's domestic marketing campaign featuring Kangaroo Island will not be affected by savings required of the SATC.

PUBLIC SECTOR EMPLOYEES

In reply to **Mrs REDMOND (Heysen)** (20 June 2012).

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts):

(a) Abolished:

Department/Agency	Position Title	TEC Cost
Department of the Premier and Cabinet	Collection Manager Marine Inv	$180,119.42
Department of the Premier and Cabinet	Selected Category Librarian	$216,002.35
Department of the Premier and Cabinet	Manager Business Services	$387,114.75
Department of the Premier and Cabinet	Senior Policy Officer	$143,895.28
Department of the Premier and Cabinet	Director Policy & Strategy	$153,983.16
Department of the Premier and Cabinet	Project Officer Workforce Perform	$155,113.02
Department of the Premier and Cabinet	Commissioner for Renewable Energy	$229,086.07
Department of the Premier and Cabinet	Architect/Research Specialist	$137,435.58
Department of the Premier and Cabinet	Project Officer	$237,358.88
Department of the Premier and Cabinet	Senior Industrial Relations Inspector	$144,182.40

(b) Created:

Department/Agency	Position Title	TEC Cost
Department of Premier and Cabinet	Director Public Sector Management Division	$189,016.18
Department of Premier and Cabinet	Director Greater Europe Res	$192,731.61

PUBLIC TRANSPORT SERVICES

In reply to **Ms CHAPMAN (Bragg—Deputy Leader of the Opposition)** (21 March 2013).

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Transport and Infrastructure, Minister for Mineral Resources and Energy, Minister for Housing and Urban

Development): The Department of Planning, Transport and Infrastructure advises that planning for Oaklands level crossing includes options for either a full closure or some short partial closures.

TORRENS LAKE

In reply to **Ms SANDERSON (Adelaide)** (21 March 2013).

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Transport and Infrastructure, Minister for Mineral Resources and Energy, Minister for Housing and Urban Development): I am advised that the lowering of the Torrens Lake water level by around 300 to 400mm, to provide a safe working area for two key elements of the pedestrian bridge construction program which would have otherwise involved works under water, is expected to be between 2 to 3 days in duration.

It was initially expected that the lowering of the Lake would be required on approximately 6 occasions however McConnell Dowell, the construction contractor has redesigned the work program resulting in the need to lower the Lake level being limited to 2 occasions which are programmed to occur around late June/early July 2013.

PAPERS

The following paper was laid on the table:

By the Minister for Education and Child Development (Hon. J.M. Rankine)—

Education and Child Development, Department of—Annual Report 2012

LEGISLATIVE REVIEW COMMITTEE

Mr ODENWALDER (Little Para) (14:04): I bring up the 27th report of the committee.

Report received.

VISITORS

The SPEAKER: I welcome to Parliament House the Mayor of the City of Onkaparinga and former member for Kaurna, Lorraine Rosenberg. I also welcome the Thebarton Senior College, who are here as guests of the Minister for Transport and member for West Torrens, and I welcome three classes of the Adelaide Secondary School of English, who are my guests. They have been brought in today by Mr George Ladas, who had the privilege of sitting next to me in year 11.

QUESTION TIME

STATE FINAL DEMAND

Mr MARSHALL (Norwood—Leader of the Opposition) (14:04): My question is to the Premier. Can the Premier update the house on today's state final demand growth figures for the year to date?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:05): I thank the honourable member for his question and I can indeed update the house. State final demand decreased by 0.3 per cent in real seasonally adjusted terms over the March 2013 quarter. Nationally, domestic final demand also fell by 0.3 per cent over that same quarter.

The state final demand result reflects 3.4 per cent decline in public gross fixed capital formation, so that's government capital investment, and a 2.8 per cent decline in private gross fixed capital formation, namely private sector capital investment, and a 0.6 per cent decline in general government final consumption. That fall was partially offset by a 0.7 per cent increase in household final consumption. So, they are the components that comprise state final demand. It is worth pointing out that quarterly state final demand figures are highly volatile and don't reflect a complete picture of the state's economic performance.

STATE FINAL DEMAND

Mr MARSHALL (Norwood—Leader of the Opposition) (14:06): A supplementary: given that the Premier has said that the quarterly figures are volatile and my question actually asked 'year to date', can the Premier confirm, indeed, that three quarters of the way through this year the state final demand has actually declined by 3.7 per cent, against his own government's planned forecast increase this year of 2.75 per cent?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:06): I have seen the remarks that have been made by those opposite about the significance of state final demand but, just to intrude a few facts on the debate rather than the hysteria that those opposite go in for about these matters, unlike gross state product data, which is the better measure of economic performance, state final demand doesn't take into account economic flows outside of the state. When you are a large state with a small population, you rely upon the flows of goods and services outside of the state. That comprises a very good part of your economy.

For those who happen to be farmers, they might appreciate the fact that a very substantial part of our economy actually involves things going outside of the state rather than things that are just produced in the state. People use state final demand plus international goods exports minus international goods imports as a proxy for GSP, and if you include some of those export figures, you might have noted that there was a strong rise in exports of 10.9 per cent during this quarter.

True to form, those opposite selectively quote the piece of data that suits their purposes, which is to talk down the South Australian economy, but when another rich piece of data (that is, exports, that they've been very keen to point out when they go down) goes up by 10.9 per cent we hear shrieks of silence from them. But, even if you take into account exports and bring them into account, which obviously changes and improves the picture, it still doesn't take into account international imports and exports of services, interstate imports and exported goods and services and changes in inventory levels, all of which bear positively on our economy. The better measure of the health of our economy is gross state product, and that comes out yearly. We grew last year and we expect to grow again this year.

STATE FINAL DEMAND

Mr MARSHALL (Norwood—Leader of the Opposition) (14:09): Final supplementary on this, sir.

The SPEAKER: Oh, only two!

Mr MARSHALL: Does the Premier remain confident that we will still record his revised growth figure of 1.75 per cent, which was given to the people of South Australia in December last year?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:09): Well, just one more sleep and you'll be able to see the sorts of estimates we make about the economy and how it's going to grow into the future, in the state budget, when we publish that data. For those opposite who are looking to take some comfort in positive data, I can offer this to the house: in April 2013, South Australia's—

Members interjecting:

The Hon. J.W. WEATHERILL: Well, this bears on our estimates about the future of the economy—that is, some of the green shoots that we are actually seeing. In April 2013, South Australia's seasonally adjusted total employment increased by 5,300 people to reach 826,700 people. In trend terms, total employment increased by 1,200 people to 823,300.

All of this growth was in full-time employment with no change in part-time employment. So, total employment in South Australia is at the highest levels on record, both on seasonally adjusted terms and on trend terms. This is when we have a world which is racked with the after-effects of the global financial crisis; we are seeing that data. We are seeing 132,200 more people in work than in March 2002.

Just to give you some idea, if you think, 'Well, what about more recently?' since September last year more full-time jobs have been created—7,200 jobs—than under the entire term of the last Liberal government—6,000. So, just in 12 months alone, under the government as it is presently constituted we have created 7,200 jobs to the whole of the term of the last Liberal government's 6,000.

If you are looking for some other positive signs in the economy, South Australia's seasonally adjusted new dwelling approvals rose by 8 per cent in April, to be 31 per cent higher than the year earlier. Compare this nationally, where dwelling approvals rose by 9.1 per cent during the month, to be 27 per cent higher than a year earlier, so outstripping the national growth in

dwelling approvals. All that will be devastating news for those opposite, who are desperately searching around for something they have to say about the South Australian economy.

Mr MARSHALL: Mr Speaker, I know that I said that was my final supplementary, but the Premier's wide-ranging answer to a very—

The SPEAKER: Yes, in fact, it will be your last supplementary; two I think is quite sufficient. The member for Kaurna.

SMALL BUSINESS

The Hon. J.D. HILL (Kaurna) (14:12): My question is to the Premier. What are the measures the government is taking to assist South Australian small businesses?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:12): I thank the honourable member for this important question. Small business is, of course, an essential part of the South Australian economy. We recognise that and, having started my own small business from scratch, I recognise the challenges that exist in creating a small business for anybody.

We need small business to thrive and prosper in South Australia to be successful, but we know at the moment that there are real challenges. The fundamentals are strong; confidence levels have been shaken by international events, spending is tight, and that has a consequential effect on activity, and that is bearing down hard on a number of our small businesses.

We all agree that now is a great opportunity to take steps to try and revitalise confidence in the South Australian small business sector. That is why the package I have announced today is designed to stimulate that confidence. It is more than just a package of financial incentives, although financial incentives there are: it is also a package of information, advice and, critically, support and partnership.

Today, I announced a significant reduction in payroll tax for small business. For the next two years, payroll tax will be effectively halved for small business. For payrolls with a tax-free threshold of between $600,000 and $1 million, the payroll tax will be basically halved: instead of 4.95 per cent, it will be 2.5 per cent. For payrolls between $1 million and $1.2 million, that will phase out.

Under this measure, approximately one quarter of payroll taxpayers will receive an up-front cash concession of up to $9,800 before the end of the year. This will give small businesses an important cash flow benefit in the first part of the next financial year. The payroll tax cut will cost the government $21.6 million over two years, and this is in addition to the $200 million of payroll tax relief for South Australian businesses that have been received over the decisions that have been made by this Labor government.

The payroll tax cuts are also in addition to programs that will provide grants to small business to set up and grow; to create research pilots; to develop innovative new products and services, especially in the manufacturing sector; remove stamp duty on corporate restructures; set up a red tape reduction task force to build on the important work that has already been done in that regard; increase funding to the industry participation advocates so small businesses can win more government contracts; and increase funding to the Small Business Commissioner so they can do more mediation and support.

We have set out in the economic statement that we believe that the future for South Australia is a strong partnership between business and government and backed up by a strong community. That is the way we have always got things done here in South Australia; that is the way we are going to get things done in the future. Small businesses are an important part of that partnership. Increasingly, small business looks to the Labor Party to be their advocate. The Small Business Commissioner was opposed by those opposite. They increasingly look to the Labor Party that understands that we are on their side.

Members interjecting:

Mr MARSHALL: Supplementary question.

The SPEAKER: I'm glad that the Leader of the Opposition can remember that supplementary, but before he asks it could I just call to order the members for Unley, Chaffey and Heysen. Leader—supplementary.

SMALL BUSINESS

Mr MARSHALL (Norwood—Leader of the Opposition) (14:16): My question is to the Premier. Can the Premier confirm that the $21.6 million payroll tax cut, which was announced today, really comes on the back of a $120 million payroll tax increase announced just 12 months ago?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:16): No, I cannot confirm that. Indeed, $200 million of payroll tax relief has been provided during the course of this government, and we are proud to have done that. I know those opposite trot around South Australia with their mantra about us being the highest taxed state in the nation. It is simply false. Our payroll tax rates are third lowest, our threshold against our competitor in Victoria is actually higher, and in relation to land tax they continue to perpetrate the myth that we are the highest land taxed state in the nation. That is simply wrong. If you compare comparable properties in each state you would find that we are at the low or middle end of land tax.

Mr Marshall interjecting:

The Hon. J.W. WEATHERILL: Well, it's simply true. Now, you can rely upon your right wing think tank to undertake their dodgy analysis and then put it out as policy, but it simply does not stack up. And you should be standing with South Australia to promote South Australia's story about being the most competitive place to do business in the nation, because that is the report that KPMG has produced. It is a report that has been sitting there for you to analyse, and you simply will not grapple with the facts.

The SPEAKER: That was, of course, debate, but no-one took the point of order. Leader, supplementary?

SMALL BUSINESS

Mr MARSHALL (Norwood—Leader of the Opposition) (14:18): Thank you, sir. Given that the Premier has disputed my figure of $120 million, can the Premier enlighten the parliament as to what the cost of the abolition of the payroll tax exemption for apprentices and trainees was for the forward estimates?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:18): At the time that we made the announcements concerning that, there were strong policy reasons for changing the way in which we grappled with payroll tax changes. What we saw were behaviours about the reclassification of employees which were simply, in our view, designed to take inappropriate advantage of that exemption. We decided to recalibrate those arrangements to look at a finalisation payment for apprentices which was, we believe, a better policy response and which also provided a financial benefit that was directed at the public policy purpose that we were seeking to promote. So we make no apology for that, and we also make no apology for the fact that we have put $200 million of payroll tax relief into the South Australian business community.

Members interjecting:

The SPEAKER: I call the leader and the deputy leader to order. I forgot to call the member for Morialta to order last time and do so now. I ask the leader if he can remember that question he was going to ask. You have the call.

BUDGET FORECAST

Mr MARSHALL (Norwood—Leader of the Opposition) (14:21): My question is again to the Premier. Why should the public believe tomorrow's budget forecast, given that the government has promised seven surpluses in seven years, but six of these surpluses have now turned out to be deficits?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:19): Let's once again intrude some facts on the analysis. In the last four years of Liberal government 1998, 1999, 2000, and 2001 we had all deficits, then in 2002 there was a surplus, 2003 surplus, 2004 surplus—

Members interjecting:

The SPEAKER: A point of order from the member for Unley.

Mr PISONI: He is doing it again. I believe that the Premier is entering debate.

The SPEAKER: No, that was not a legitimate point of order and, accordingly I warn the member for Unley for the first time. The question was about promising seven surpluses, six of which turned out to be deficits. The Premier is addressing exactly that point, talking about the 2002 and 2003 budget results. Treasurer.

The Hon. J.W. WEATHERILL: I saw the rather desperate media release that trawled through past matters and I think it is appropriate that some factual material be put on the record. Let me go back. In 2002-03—which was the year after, I think, treasurer Lucas delivered his last deficit—there was a surplus of $448 million, in 2003-04 there was a surplus of $385 million, in 2004-05 there was a surplus of $224 million—and if I recall, back in those days many of those surpluses were actually in excess of what was forecast. In 2005-06 there was a surplus of $202 million, in 2006-07 there was a $209 million surplus, in 2007-08 there was a $464 million surplus, and then in 2008-09, which, of course, began to coincide with the global financial crisis, there was a deficit of $233 million. In 2009-10 there was a surplus again, as it happens, of $187 million, which—

The Hon. I.F. Evans: That was Julia.

The Hon. J.W. WEATHERILL: I do concede that was largely due to our commonwealth stimulus.

The Hon. I.F. Evans: Nine billion dollars from the commonwealth.

The Hon. J.W. WEATHERILL: Exactly; that's a completely legitimate point, but it was in the context of the deepest depression the world has seen since the Great Depression.

Ms CHAPMAN: The world!

The Hon. J.W. WEATHERILL: Yes, the world; that's what the Great Depression was. Then we had—

An honourable member: They didn't see it at Burnside.

The Hon. J.W. WEATHERILL: That's right; it wasn't observable from Burnside. In 2010-11 there was a small deficit of $53 million, in 2011-12 $284 million, and the rest will be revealed tomorrow. Can I say that we rely upon the same forecast that those opposite rely upon; the Treasury office prepares the budget estimates, but it was simply not foreseeable. The global financial crisis was not foreseeable. Fortunately for South Australia, we had already begun to make plans to embark upon the largest infrastructure spend that we have seen in many decades, because there had been an under-investment in infrastructure in this state.

During the life of the previous government we were seeing infrastructure expenditure that was not even matching depreciation, so we began to reinvest in our capital projects, and the choices that we have made, when the global crisis has hit and it's washed over our finances, is not to retreat from those investments, because it is crucial to maintain momentum in the economy.

I know those opposite call that a false economy, but just have a look at what would happen. The economy would have plummeted if we had withdrawn in the manner in which those opposite propose. Of course there are deficits that arise out of the effects of the global financial crisis washing over us, but the real choices are whether you support jobs in the economy, and we made that choice.

Mr Pederick interjecting:

BUDGET FORECAST

Mr MARSHALL (Norwood—Leader of the Opposition) (14:24): I have a supplementary question.

The SPEAKER: Just before you take the supplementary, I call the member for Hammond to order for his interjections about Wayne Swan, and warn the members for Heysen and Bragg for the first time. Supplementary—the leader.

Mr MARSHALL: My supplementary is, of course, to the Premier. Was the government essentially overspruiking when it promised $2.6 billion worth of surpluses between the 2008-09 financial year and the 2014-15 financial year but has now actually delivered or forecast $2.4 billion worth of deficits in those same years—a turnaround, reported in just the last three budgets, of in excess of $5 billion?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:25): Asking substantially the same question, dripping with scorn, doesn't actually change the substance of the question or the substance of my answer, and so I simply direct the honourable member to the substance of my answer.

LAW WEEK

The Hon. P. CAICA (Colton) (14:25): My question is to the Attorney-General. What is happening during this year's Law Week?

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (14:25): I thank the member for Colton for his question, and I know he is very much interested in this, as are many others. Every year across Australia, National Law Week is held to increase public awareness about the law, the legal system and the legal profession. As Attorney-General, it was a great opportunity to witness fantastic work being undertaken with the profession and the wider community.

The Attorney-General's Department and I joined thousands of other people—including, I might say, representatives of the opposition, including a gentleman from another place—who participated in the sixth annual Walk for Justice to raise funds for JusticeNet SA. The Walk for Justice has become a fixture of the legal calendar, and the funds raised are essential for sustaining the important work done by JusticeNet SA to help disadvantaged South Australians.

Despite reasonably inclement weather conditions—in fact, it rained from the moment we set off until the moment we finished, and that did assist me in being amongst the first peloton arriving at the Hilton Hotel that morning because it was a stimulus to keep moving—I am advised that the event raised over $39,000, exceeding the fundraising target set by JusticeNet.

Another great success of Law Week was the Courts Open Day, organised by a committee of volunteers from the Courts Administration Authority staff. Over 2,000 people attended the Samuel Way Building, providing a great opportunity for South Australians to get a better understanding of the work of the courts and also get information from a range of related justice agencies that were present on the day.

On Friday 17 May, I was given the valuable opportunity to speak to the legal profession at the Law Society of South Australia's inaugural Law Week luncheon. The topic of my address was how the legal profession can better engage with the government to assist in the development of good public policy.

I also attended the Safe Communities hub in the Rundle Mall during Law Week to launch the Legal Services Commission's Safe Communities mobile website. Indeed, there is a photograph of that there, with me standing between the head of the Legal Services Commission and the head of my department holding a balloon, which I am told is quite funny, as long as you are not me. The site provides the South Australian public with fast and easy access to information about community safety and where to go.

Overall, Law Week provided an opportunity for all of us to reflect on how we can better improve our legal system to make it fair and equitable for all South Australians, which is a great priority of this government.

EMPLOYMENT FIGURES

Mr MARSHALL (Norwood—Leader of the Opposition) (14:28): My question is to the Premier. Can the Premier confirm that the jobs growth forecast contained in tomorrow's budget will provide for the government's recently restated 2010 election commitment to create 100,000 new jobs by 2016?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:28): The Leader of the Opposition knows better than that. He is going to have to wait until tomorrow to get the answer to all of his questions.

DEFENCE INDUSTRY

Ms BETTISON (Ramsay) (14:28): My question is to the Minister for Defence Industries. Can the minister tell the house about his recent official visit to Europe to promote defence industries in this state?

The Hon. J.J. SNELLING (Playford—Minister for Health and Ageing, Minister for Mental Health and Substance Abuse, Minister for Defence Industries, Minister for Veterans' Affairs) (14:29): I thank the member for Ramsay for her question. She is a great advocate for defence industries, particularly defence industries located in our northern suburbs that are so critical to the economy and provide so many jobs to so many people who live in our northern suburbs.

I recently travelled to Europe with the chief executive officers of Defence SA and the Defence Teaming Centre to engage international contenders for upcoming Australian defence projects, position South Australia as the ideal location for their Australian facilities and promote South Australia's capabilities as supply chain partners.

Regular international engagement is critical to building strong relationships between South Australia and key players in the global defence industry and reinforces our position as the nation's undisputed defence state. Defence is a vital industry for this state, forming the foundation of our advanced manufacturing future. It remains a core plank of our economic development framework, with significant long-term opportunity for local industry to participate in Defence's massive equipment replacement program.

Over the next 15 years, in addition to the Future Submarines, the nation needs to replace a significant portion of its naval vessels, as well as its military vehicle fleet and maritime surveillance aircraft. I had the opportunity to visit Navantia, a major global naval shipbuilding player, and encouraged them to consider Techport for any future Australian expansion.

With the Future Submarine project committed to Techport, we have cemented South Australia's position as the centre of naval shipbuilding in Australia and the logical home for anyone operating in this space. Navantia is currently working on Australia's air warfare destroyer and landing helicopter docks projects. In fact, while touring their shipyard, I was able to inspect LHD *Adelaide*, which is nearing completion.

Land 400, which will replace the army's fleet of armoured fighting vehicles, is second in value only to the Future Submarine project and presents a major opportunity for South Australia. We visited a raft of companies that will potentially bid for this $10-plus billion project, including Iveco, BAE, Rheinmetall and Marshall, and reinforced South Australia's credentials in successfully delivering military vehicle projects.

I have personally invited these companies to visit South Australia later in the year to meet local firms that can partner in delivering this project. It is critical that we position South Australia right from the outset of these major projects, promote our robust and diverse industry base, and reinforce the state's resolute commitment to the defence sector. Can I thank Agent-General Mr Bill Muirhead for hosting a luncheon with key UK-based defence companies, allowing us to successfully showcase South Australia's defence credentials as they consider establishing or expanding their presence in Australia.

STATE GOVERNMENT

The Hon. I.F. EVANS (Davenport) (14:32): My question is to the Premier and Treasurer. How can the public trust the government to deliver on its promises when it has promised 100,000 jobs but delivered 17,000; promised a 50 per cent debt-to-revenue ratio ceiling but broke it; and promised jobs over a AAA credit rating but delivered more unemployed?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:32): They can trust a government which has grown school retention rates from 69 per cent to 89 per cent. They can trust a government that has grown the number of police officers by 800 during the life of the government.

They can trust a government that has increased the numbers of areas under wilderness protection by many thousands of hectares, when not one extra blade of grass was offered under the previous government, despite the whole of the period of that government having the opportunity

to use the Wilderness Protection Act, passed in the last days of the Bannon government, to do something and they did absolutely nothing. They can actually trust a government—

Mr MARSHALL: Point of order, sir.

The SPEAKER: Yes, the point of order from the leader?

Mr MARSHALL: It was debate, sir.

The SPEAKER: The question was: 'How can the public trust?' That is a pretty open-ended question. Premier.

The Hon. J.W. WEATHERILL: They can trust a government that has rebuilt the state's infrastructure, its public transport system, and its leisure and sporting facilities in the Adelaide CBD; that has rebuilt virtually every public hospital in the state; that has actually delivered more doctors and nurses per capita than any other state in the nation and more police officers than any other state in the nation.

It has an excellent outcome in terms of elective surgery and emergency waiting times; it has actually, in terms of the national averages, had extraordinary results in year 12 retention rates for Aboriginal people who are completing year 12; and it has, for the first time, gone to the APY lands and grappled with the conditions there in an area of the state that was utterly abandoned by those opposite during the last 10 years of that government.

There were no sworn police officers on the lands; TAFE was completely obliterated from the lands; there was very little by way of support in terms of child protection or support for social welfare workers on the APY lands; and there were appalling conditions in terms of public housing on the APY lands. All of those things were grappled with by this government, a government I am proud to have been a part of.

The SPEAKER: I warn the leader for the first time for his interjections.

BUDGET FORECAST

The Hon. I.F. EVANS (Davenport) (14:35): My question is the Premier. Will the Premier confirm that the budget will include a contribution from the Motor Accident Commission to the government of up to $100 million?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (11:35): Maybe it does and maybe it doesn't. We will have to wait and see until tomorrow.

BUDGET FORECAST

The Hon. I.F. EVANS (Davenport) (14:35): I have a supplementary question. Will the Premier rule out the budget including a contribution from the Motor Accident Commission of up to $100 million?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:35): I think my previous answer probably covered all eventualities.

The Hon. I.F. EVANS: Does the Premier agree with the former treasurer Snelling, who told parliament on 20 June last year, and I am—

The SPEAKER: The member for Davenport will be seated, please. The member for Davenport knows not to refer to members by their Christian name or, in this case, their surname.

MINERAL AND PETROLEUM EXPLORATION

Mr ODENWALDER (Little Para) (14:36): My question is to the minister for Mineral Resources and Energy. Can the minister inform the house how mineral and petroleum exploration is tracking in South Australia?

The Hon. A. KOUTSANTONIS (West Torrens—Minister for Transport and Infrastructure, Minister for Mineral Resources and Energy, Minister for Housing and Urban Development) (14:36): I am pleased to inform the house that the state's resources sector continues to provide opportunities for our towns, cities and communities. We have seen this sector transform—a transformation that has been driven through the hard work of industry, a diligent Public Service and supportive policies of this government. The growth in this sector is a perfect

example of this government partnering with industry to drive economic growth across the state. As a government we have recognised that to sustain growth we must seek to diversify opportunity.

We recognise the strength of our state's resources sector is not linked to just one commodity but rather it is linked to many. Our diversity of mineral deposits, the emergence of our offshore potential and our place in the centre of Australia's energy revolution holds this state in good stead. Combined minerals and petroleum exploration spending for the 12 months to March 2013 was a record $646.1 million. Much of this record growth has been driven by exploration for oil and gas in South Australia, offsetting weaker investment in the search for mineral resources.

The latest Australian Bureau of Statistics figures show petroleum onshore and offshore exploration expenditure was $119.4 million for the March 2013 quarter, contributing to $370.3 million in spending in the 12 months to the end of March. The March quarter result for petroleum exploration maintained the strong expenditure of $122.3 million reported in the December quarter 2012. This result for petroleum exploration reflects a very positive global outlook provided by South Australia's major unconventional gas discoveries.

However, we must acknowledge that, although maintaining growth across oil and gas, the latest ABS figures showed mineral exploration expenditure fell by 18.4 per cent nationally, reflecting a significant downturn being experienced in Australia and internationally. Although we continue to exceed the SA Strategic Plan target of $200 million a year with mineral exploration expenditure for the 12 months to March 2013 of $275.8 million, these results highlight that as a government we can and must always strive to do more.

We recognise that there is a lack of access to global risk capital, and falling commodity prices are undoubtedly influencing spending by explorers, and South Australia is not immune to that trend. We recognise that to foster development of our state's rich resource wealth we must continue to invest in pre-competitive data, we must continue to provide regulatory certainty, and we must continue to partner with industry. These latest ABS results highlight the need for this government to maintain its role in generating pre-competitive data that can help to attract scarce investment. We remain committed to government programs such as SARIG 2020.

South Australia's unique online tool for unlocking the wealth of geological and geospatial data is recognised as the best in the world and just last week won an Australian Excellence in eGovernment Award. We remain committed to opening up the WPA and are working to fast-track discoveries of one of our most prospective regions through our PACE Gawler Craton initiative. We continue to roll out initiatives from our world-recognised PACE 2020 program.

The work we have done in the past decade has delivered significant growth. We have developed a resilient resources sector, not through small government or arms length reactive policy, but we are developing this sector through a strong government working with industry supported by a very strong community. We will continue to invest in this state to unlock further discoveries for the benefit of all South Australians.

The SPEAKER: The member for Davenport might try the immediate past treasurer, the previous treasurer or the Minister for Health then the Treasurer. Member for Davenport?

Members interjecting:

Mr Marshall: They're mocking you, sir.

The SPEAKER: I'm sorry. I did—

BUDGET FORECAST

The Hon. I.F. EVANS (Davenport) (14:41): My question is to the Premier. Does the Premier agree with the former treasurer, the member for Playford, the immediate past treasurer, last year's treasurer, who told parliament on 20 June last year, 'It would be the equivalent of me going to the Motor Accident Commission and raiding its reserves in order to prop up the budget. I do not think that would be a wise or sustainable thing to do'?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:41): I think that the former treasurer's remarks and the context in which he made them were appropriate remarks.

INSOLVENCY DATA

The Hon. I.F. EVANS (Davenport) (14:41): My question is to the Minister for Small Business. If the economic fundamentals are as strong as the government claims, why were there 118 per cent more insolvencies in South Australia in the March quarter when the national figure for insolvencies actually dropped?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:42): I am glad that this question came out because it allows us to clear up some appalling misinformation that has been put out there in the public sphere by the Leader of the Opposition. What the Leader of the Opposition put about the other day was that he cited business insolvency meetings for the March quarter from a recent ASIC report—

Mr PISONI: Point of order, Mr Speaker. Just from the introduction, the Premier said he was going to be debating the figures that were put out earlier.

The SPEAKER: No, actually he didn't say that. He was going to offer us information which might incidentally clear up what he regarded as a conjectural matter. Treasurer.

The Hon. J.W. WEATHERILL: Thank you, Mr Speaker. It is my great pleasure to be able to answer this question, because this information does need to be put into the public sphere because what has been out there is inaccurate. The conclusion that you can draw from all of this is that South Australia is not taking a disproportionate amount of the nation's insolvencies; in fact, it is below national averages. So it is completely inconsistent from the message that was sought to be put around, and I will take you through why the information put out there was wrong.

The ASIC report—of course, the Leader of the Opposition used Series 2 data from the report instead of Series 1 data. The importance of that for the ASIC is this: the ASIC report says they prefer to use Series 1 data when explaining trends in insolvency because it is a more accurate measure of corporate insolvency in comparison, given that it avoids the double counting reflected in the Series 2 statistics. So he uses—

Mr Marshall interjecting:

The SPEAKER: The leader is warned for the first time.

The Hon. J.W. WEATHERILL: He uses a piece of data that the very report warns against using. The second thing is that the Series 2 data includes different types of insolvency appointments that are arranged for the same business. This means that obviously there are duplications in the Series 2 data.

The other piece of misinformation is that in the data, 264 is the number of appointments made, not the number of businesses seeking insolvency meetings, so as ASIC state in their report and in reference to the Series 2 data, the number of insolvency appointments will always be greater than the number of companies going into external administration for the first time.

Even after all of this, it would be widely accepted that not all businesses making insolvency appointments end up being insolvent. Spring Gully is a case that leaps to mind. That is why conclusions should be made on the figures by analysing trends. Series 1 data shows that 128 (not 264) businesses required an insolvency meeting, which is up from 84 in the December quarter. More importantly, the December quarter recorded a drop to 84 from 111 in the September quarter. So, the trend data seems to suggest that insolvency rates are remaining steady in South Australia. The other—

Members interjecting:

The Hon. J.W. WEATHERILL: Well, why didn't the Leader of the Opposition come out in the September quarter and talk about the fact that the number of insolvency appointments had dropped? Probably the most significant element of the whole analysis, though, is that the low base that South Australia starts at compared with other states also warrants caution when divulging these statistics.

It is important to look at what our share of the national insolvency meetings is. The March quarter suggests that our share sits at 5.11 per cent, when compared with the most recently available ABS data regarding national population share, which sits at 7.3 per cent, as well as our share of national operating businesses, which sits at 6.9 per cent.

So, it can be clearly seen that South Australia is not taking a disproportionate amount of the nation's insolvencies. The very point that those opposite have been trucking around the media outlets around this state is simply wrong—caught out talking down South Australia, trash talking South Australia for your own base political ends.

INSOLVENCY DATA

Mr MARSHALL (Norwood—Leader of the Opposition) (14:46): I have a supplementary question. Isn't it true, Premier, that even if you used the Series 1 data, it was recorded as the very highest number in that series in the history of this metric ever being recorded?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (14:46): The supplementary won't save you from your embarrassment. I will go on to say that the very same ABS data which was not used by those opposite outlines that the exit rate of South Australian businesses which leave the market has decreased from 12.2 per cent to 11.5 per cent over the financial year. Our state's exit rate remains two points lower than the national average. We recorded the second lowest exit rate of all jurisdictions.

What we have here is those opposite caught out selectively quoting, using data which is being warned against from being used, not creating the whole picture, in a bid to talk down South Australia. They consistently talk down South Australia to create an impression about the state that suits their political purposes.

Mr Marshall interjecting:

The SPEAKER: Premier, the Leader of the Opposition says that his was a very specific question.

Mr Marshall: Very specific.

The SPEAKER: The argument is that the Premier is not being relevant. Premier, are you finished?

The Hon. J.W. WEATHERILL: Yes.

The SPEAKER: Splendid. The member for Florey.

GOVERNMENT STATIONERY CONTRACT

Ms BEDFORD (Florey) (14:47): Thank you, sir. My question is to the Minister for Finance. Can the minister update the house about changes to the across-government stationery contract?

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:48): As members are aware, the across-government stationery contract was implemented in October 2012 following concerns about inappropriate purchases of printer cartridges. The contract was proposed to prevent any opportunity for inducements to be offered to public servants in exchange for purchasing printer cartridges or general stationery. By going to an open tender, which occurred in April-May 2012, the government also sought to achieve best value and savings for taxpayers. The procurement process included a review by a probity adviser, who concluded that the process was appropriately conducted.

Since awarding the tender, the government has received representations from interested parties in relation to the supply of stationery to schools and preschools. In response to the various concerns that were expressed, the independent Small Business Commissioner reviewed this matter and provided recommendations to the government, which have been broadly accepted. As a consequence, I inform the house that a temporary exemption from the across-government stationery contract has been contracted to metropolitan schools and preschools for 12 months, after which it will be reviewed.

As members are aware, country schools were already exempt under the original agreement. The extended exemption is contingent on metropolitan schools and preschools being able to demonstrate that purchase decisions are made in accordance with best value principles. The government is committed to encouraging and assisting South Australian businesses to secure government contracts in a fair and competitive market.

In February, the Premier announced the appointment of an industry participation advocate, Mr Ian Nightingale, to ensure local businesses leverage maximum opportunities from the

$3.8 billion of contracts let annually by the state. The advocate's role includes actively seeking bids from local businesses for government contracts and assisting unsuccessful local applicants to improve their competitiveness for future tenders.

The SPEAKER: A supplementary: member for Unley.

GOVERNMENT STATIONERY CONTRACT

Mr PISONI (Unley) (14:50): When will schools be notified of the change in the contract?

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:50): It is our expectation that schools will be emailed probably within 48 hours. There is a final revision of the memo occurring as we speak to ensure that the instructions have the necessary clarity. The memo is accompanied by a template which incorporates an Excel spreadsheet which will allow school principals or school administrators to conduct a very simple analysis of best value.

The Hon. I.F. EVANS: A supplementary, Mr Speaker.

The SPEAKER: Supplementary, member for Davenport.

GOVERNMENT STATIONERY CONTRACT

The Hon. I.F. EVANS (Davenport) (14:51): My question is to the Minister for Finance. If the government has the power to offer an exemption, as the minister has just advised the house, why wasn't that offered when the complaints were first made? Why has it taken six months to establish that the government has the power to offer an exemption?

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:51): For the very simple reason that a tender process was undertaken, that that tender process was signed off by an independent probity adviser, and that there was no issue with the tender process or the results, but what occurred was a conflict, if I could describe it that way, between small business and government. We have appointed a Commissioner for Small Business to deal with these kinds of complaints. We have taken the initiative to—

Members interjecting:

The SPEAKER: Would the Minister for Finance please be seated. The leader is very close to early departure from the house, and I warn the member for Unley for the second time. Minister for Finance.

The Hon. M.F. O'BRIEN: It is entirely appropriate that the Commissioner for Small Business take carriage of this matter. That is why the position was created. The tender process was conducted in line with established practice. It was signed off by an independent probity adviser, so there was no advice to government that the process was flawed or that the result was flawed. What occurred was a dispute on the one hand between a small business operator and the government. It was fair and reasonable.

Mr Venning interjecting:

The Hon. M.F. O'BRIEN: In fact, it was correct that it went to the—

Mrs Redmond interjecting:

The Hon. M.F. O'BRIEN: —Small Business Commissioner, and the Small Business Commissioner has taken the necessary time to work his way through a very difficult proposition.

The SPEAKER: The member for Schubert is called to order, the member for Heysen is warned for the second time and the member for Davenport has a question.

GOVERNMENT STATIONERY CONTRACT

The Hon. I.F. EVANS (Davenport) (14:53): My question is to the Minister for Finance, following the minister's answer to the previous question. Did no-one in cabinet think of asking crown law whether the government had the power to offer an exemption prior to referring the contract to the Small Business Commissioner?

The Hon. J.J. SNELLING: Point of order: the question is about the deliberations of cabinet and should be ruled out of order.

Members interjecting:

The Hon. J.J. SNELLING: Last time I checked, deliberations in cabinet happen in cabinet.

The SPEAKER: We shall read the question down to: did the government take legal advice? Minister for Finance.

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:55): What occurred within cabinet will not be divulged, but the course of action taken by the government is in accordance with the legislation that established the Small Business Commissioner, so the process we have run through in respect to this matter is in full accordance with what was set out in the legislation that established the position of commissioner.

GOVERNMENT STATIONERY CONTRACT

Mr VAN HOLST PELLEKAAN (Stuart) (14:55): I have a supplementary question.

The SPEAKER: No, I think we've had enough.

Mr VAN HOLST PELLEKAAN: It's a genuine supp. sir.

The SPEAKER: Full marks for trying! The member for Lee.

Members interjecting:

The Hon. I.F. EVANS: I should just point out that my last question was a question, not a supplementary, and therefore there wasn't a supplementary following a supplementary.

The SPEAKER: The member for Davenport is right. Let us hear the member for Stuart.

Mr VAN HOLST PELLEKAAN: My supplementary question is: can the minister advise the house whether he believes that, having given an exemption for all of the schools in the entire state, it is likely that compensation will need to be paid to the successful tenderer which thought that it had an exclusive contract?

Members interjecting:

The SPEAKER: I am not sure that it is a supplementary. The Minister for Finance.

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:56): No.

The SPEAKER: The member for Lee.

INTERNATIONAL VISITORS

The Hon. M.J. WRIGHT (Lee) (14:56): My question is to the Minister for Tourism. Can the minister inform the house about the latest international visitor results for South Australia?

The Hon. L.W.K. BIGNELL (Mawson—Minister for Tourism, Minister for Recreation and Sport) (14:56): I thank the member for his question. There is more good news for South Australia today with the federal government announcing the tourism figures for the past 12 months, and I am pleased to say that South Australia attracted 357,000 international visitors in the 12 months to March 2013, which is 20,000 more visitors than we had during the 12 months to March 2012. That is an increase of 5.5 per cent, which is higher than the national average growth of 4.7 per cent.

International visitor nights have been growing since 2009. For the year ending March 2013, just under 10.4 million nights were spent in South Australia, which is an increase of almost 15 per cent on the previous year and more than double the national average growth of 7.1 per cent.

There are a lot of reasons for the fact that we are attracting more international visitors to South Australia. Adelaide Airport is the fastest growing capital city airport in Australia, with a growth of 23.5 per cent in the past 12 months. We now have 42 direct international flights into Adelaide each week, which is a big improvement on the 13 direct services that we had a decade ago. So we are delivering 10,212 seats into Adelaide each week.

As I have mentioned in this place before, we are continuing our discussions with other airlines as well and we are confident of getting more Asian airlines, particularly from China, into South Australia—flying direct into Adelaide—as soon as we can. The Emirates deal which has

helped so much in growing these numbers took eight years to achieve, and we had some talks with China Eastern Airlines and China Southern Airlines in China about six weeks ago.

We are also looking after Malaysia Airlines, Cathay Pacific and Singapore Airlines as well, because they have been very loyal to our state for decades, and we need to make sure that we continue to work with them and help market Adelaide and South Australia into the catchments where they are trying to attract people to come down to Adelaide and to South Australia.

Meeting with Emirates yesterday, they are delighted with the success of their service reaching out to all those cities across Europe and bringing people from there, through Dubai into Adelaide. Their load figures have been very good, so it is no surprise that we have seen good figures up until March this year. I think the figures towards the end of this year, when we have a whole year of all of these extra flights, will be outstanding.

We had 17 cruise ships come to South Australia over the summer period. In the next season, it will grow from 16 this year, which was an outstanding year, to 31. So we will have 31 cruises next season. For the year after that, we are already booked for 36, so we are hoping that will grow even more, bringing even more international tourists to South Australia.

The important thing that we are doing there is that from next year we are getting the cruise ships directly into the regions as well, with visits to Port Lincoln, Kangaroo Island and Robe as well. There's nothing like a big boost to local economies than to have a whole shipful of people turn up and spend their hard earned.

WATER PRICING

The Hon. I.F. EVANS (Davenport) (15:00): My question is to the Premier. Why did the Premier use a 190 gigalitres a year water demand forecast for the regulatory period commencing on 1 July, given that ESCOSA and SA Water had demand forecasts of 180 gigalitres a year, and can there be an impact on future water prices if this demand forecast does not eventuate?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:00): I thank the honourable member for his question. This year we are on track to use 195 gigalitres of water, so using 190 gigalitres of water is a fairly sensible estimate over the next three years. We have not noticed the effect that we expected to see in relation to water restrictions lessening.

Once the water restrictions were removed, people began to increase their consumption of water; that seems to have flowed through to consumption figures. That is even despite the fact that we have permanent water conservation measures. So, that number of 195 is with permanent water conservation measures, and we think there is no good reason to think that will not continue in the future. The other thing is that if you use a lower estimate—so, if you get it wrong—it would have been higher water prices. That was another reason why we were very keen to get the estimate to be the correct estimate.

In terms of future water prices, in three years' time we will review the situation. There is no necessary reason why this should have this effect. We still have the capacity to review water prices. I have asked for ESCOSA to carry out a review so that when we set the regulated asset base it doesn't have any perverse effects in relation to water prices in the future. We have been very pleased to be able to deliver a water price reduction which, together with the concessions that we have put in place, means that for pensioners there will be little or no increase at all in their water prices, which will be a welcome relief.

We cast our eyes over to Queensland and look at the alternative proposition over there, where in the Queensland budget they are removing concessions for utilities. We are seeing electricity prices go up between $200 and $300 for households and then having electricity concessions that were promised in the order of $100 or $200 (I'm not sure what that number was) ripped out. We are seeing a dramatic difference in the approach of this Labor government and the Liberal government in Queensland, which might be a taste of things to come should those opposite ever have the opportunity of forming a government.

POLICE NUMBERS

Mr VAN HOLST PELLEKAAN (Stuart) (15:02): My question is for the Minister for Police. Can the minister explain which 2010 election promises in relation to police the government has delivered upon in full?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:03): I am responsible for the government delivering on election commitments. We have been very clear about the fact that we have pushed up the time line for achieving 300 police officers. Initially, we were proposing to do that by, I think, this term. It was going to be pushed out to 2016; now it has been pushed out to the end of that term. I think, though, this needs to be put into context.

We have been able to achieve, in the announcements that I have made, the capacity to deliver the 300 extra police officers and also do it without the closure of stations that may have been necessary without us supplementing the budget in this way. We need to look at the investments that have gone into policing in South Australia: an extraordinary new police headquarters, an extraordinary new police academy, and the rebuild of so many additional police stations around this state. The police in this state get the tools to do the work that needs to be done to keep our community safe, and we are proud of our investments.

WATER PRICING

The Hon. I.F. EVANS (Davenport) (15:04): My question is to the Premier. Does the Treasurer's pricing order require ESCOSA to increase water prices in the regulatory period commencing 2016-17 to offset any shortfall in revenue collected in the regulatory period commencing on 1 July this year?

The Hon. J.W. WEATHERILL (Cheltenham—Premier, Treasurer, Minister for State Development, Minister for the Public Sector, Minister for the Arts) (15:04): I thank the honourable member for his question. The first thing to note is that we are taking $80 million less revenue from SA Water to achieve these water price reductions. That's the hit that's been taken to the state budget to achieve the outcome that has been achieved in this budget.

As I said before, any of the potential effects, depending on how this plays out over the next three years—water consumption, the changes in any of the other parameters that affect water pricing—will be the subject of review. I have made a specific request to ESCOSA that, before they take any further steps in relation to the setting of pricing, we will review that, to ensure that there are no additional burdens on the consumers of water in South Australia.

GRIEVANCE DEBATE

COUNTRY HOSPITALS

Mr VAN HOLST PELLEKAAN (Stuart) (15:05): I rise today to speak about country health in South Australia. I remind the house that back in May 2008, all of regional South Australia, and in fact much of metro South Australia, was up in arms about the government's country health plan, and it had to make a significant backdown in the face of that public opinion. In February 2011, discussion was first started with the proposal of an inquiry by the Social Development Committee into country health.

That was progressed in the Legislative Council by the Hon. Michelle Lensink, in her role as opposition health spokesman in that house. On 23 February, she moved a motion that the parliament's Social Development Committee inquire into country health. Through that process the former minister for health said very publicly that he would be happy to participate in that. He said he had no fear of that; in fact, he said he supported and welcomed the inquiry.

He did not ever back down from that, but unfortunately it seems that the government has. In fact, former minister Hill even sat down with me and we discussed the terms of reference. We came to an agreement. He said he was very comfortable with them. He said the government was very comfortable with them; certainly the opposition was. Those terms of reference were put and agreed on 6 April in the Legislative Council and they included:

examine the review by the Health Performance Council on the operation of health advisory councils;

inquire into and report on current provision and plans for the future delivery of health services in regional South Australia, with particular reference to health advisory councils and the benefits or otherwise of the removal of hospital boards;

trends in local community fundraising for medical equipment services;

how funds currently and previously raised by local communities are held and spent, with particular regard to authorisation and decision-making;

timing of finalised operational budgets in country hospitals;

ownership and transfer of property titles of country hospitals;

South Australian ambulance service arrangements, including the role of volunteers, fees and fundraising, and the benefits or otherwise to local community events;

procurement by Country Health SA and the benefits or otherwise to country communities;

the benefits or otherwise of all rural and remote South Australia being classified as one local health network within the federal health system;

And there were others. These were the things that the minister at the time and I agreed were important to look at, and the government and the opposition both agreed were important to look at, and yet the government has squibbed on this deal. Here we are today, in June 2013, and the government has still refused to let this inquiry progress. The Social Development Committee was essentially instructed by the parliament to undertake this inquiry.

I have stayed in touch over recent years with the various chairs of the Social Development Committee. The most recent response I had was on 18 February, from the current chair, the Hon. Russell Wortley. In his letter, essentially what he says is, 'The terms of reference relating to regional health services remain on the committee's forward work plan.'

The public is becoming very impatient about when this inquiry will actually take place, if this inquiry will actually take place. The public is very concerned about a whole range of broken commitments by this government, but the public, particularly in rural South Australia, wants this to go ahead within the term of this parliament, as the government promised that it would.

Rural health service providers are doing the very best that they possibly can throughout rural and regional South Australia, but complaints keep coming in. Let me advise the house that the complaints come, as well as from the public at large, from doctors, nurses, health advisory committee members, allied health professionals—from a whole range of people who are working in the system as well as those who depend upon the system. They want the system changed and improved. The government said that it would undertake this inquiry. The current health minister, for whatever reason, has not allowed it to progress. The government has not allowed it to progress. I call on the government to progress with this inquiry. They said they would do it and it must be done.

EDGE CHURCH

Mr SIBBONS (Mitchell) (15:10): Last Friday night, I was privileged to represent the Premier at a really special event in my electorate in Old Reynella. At the function, the Edge Church made a surprise presentation to the Childhood Cancer Association of a cheque for $60,000 towards its great work. I think association CEO Cath O'Loughlin and President Chris Hartley were stunned to say the least when Edge Church Senior Minister Danny Guglielmucci handed them the cheque in front of about 800 people, many of whom had helped to raise the money.

I am sure this money means a lot to a great organisation whose mission is to provide ongoing and practical hands-on support for children living with cancer and their families. The Childhood Cancer Association was formed in 1982 by a group of parents of children with cancer. Quoting from its website, the association 'is South Australia's key childhood cancer support organisation, dedicated to providing emotional, practical and financial support to families in need'. This support is delivered via a range of services, including peer and family support, sibling support, free accommodation to country families, respite accommodation, financial assistance, educational assistance and bereavement services. This is such important work and is a vital support to those children and families who face the toughest of battles.

In 2012, 54 children, ranging from babies through to teenagers, were newly diagnosed with cancer in South Australia. In addition, 13 children relapsed and seven children lost their battle with cancer. Because of those children and their families, Edge Church has worked in partnership with the Childhood Cancer Association since 2009. Steve Webster, the general manager of the church's community service arm, called Edge Assist, said that the CCA's focus on 'hands-on help in going through a very personal journey, along with those children with cancer and their families' made it very different from many cancer charities.

For the past four years, the church has shown support to the Childhood Cancer Association in a variety of ways. Approximately 150 Edge volunteers renovated the CCA's units at Prospect, which houses families whose children are in long-term care. I understand that was officially opened by the member for Florey. Church members have also teamed up to renovate the

association's office facilities. Annually, since 2009, Edge has hosted a fantastic magical Christmas fair for the children affected by childhood cancer.

The church raised approximately $53,000 of the money donated to the CCA at a gala ball in April, with more than 320 guests. Business sponsors and suppliers made the donation possible with their generous support of the fundraiser, while well-renowned jazz trumpeter James Morrison also gave his time and talents without charge.

Next year, the Edge Church aims to raise $100,000 at its gala ball to donate to the Childhood Cancer Association. It is an incredible commitment for a church, albeit a large one, to make, but I have every confidence that they will achieve their aim. Steve Webster summed up why the church has been working with CCA and why it is keen to make such a pledge for the future. He said:

> We are here to serve the community, not here to live within our four walls. For us, it's not about looking at our own needs, it's about looking at the needs of those we can help.

It is a splendid inspiring motto by which to operate. I congratulate the Edge Church and Edge Assist for their commitment to helping others in our community, and I thank the Childhood Cancer Association for everything they do for these precious children and their families.

NEWS LIMITED FREIGHT SURCHARGE

Mr PENGILLY (Finniss) (15:15): In the last sitting week, the member for Flinders raised in this place the issue of the cost of News Limited papers that are distributed across the state. At that time, he talked about the distribution of papers principally to his electorate of Flinders, and he mentioned the island. Let me just say that I am appalled at the action being undertaken by News Limited.

For the benefit of the house, News Limited intends to up the price of *The Advertiser* and the daily *Australian* by 80¢ each from 17 June for residents on the West Coast and Kangaroo Island. On weekends, they intend to up the cost of the *Weekend Australian*, the Saturday *Advertiser* and the *Sunday Mail* by another $1 to $3, in the case of the *Sunday Mail* and *The Advertiser*, and even more in the case of the *Weekend Australian*.

I am disgusted by this action; it is blatantly discriminating against country people—it is blatant discrimination. I am all in favour of News Limited making a good profit—I have no problem with that whatsoever; I am a Liberal after all, and that is to be expected. However, in this case, they are putting a surcharge on the cost of papers to cover the cost of bringing them in by air freight to the West Coast and Kangaroo Island. These two areas are remote, and it is not easy to get them there quickly by truck or, more particularly, by truck at all overnight to Kangaroo Island.

I was lobbied heavily on Saturday, I have been lobbied heavily on the phone, and I have received various emails regarding this matter. I cannot for the life of me see why News Limited need to go about this process in the way they are, and why they do not seek a more equitable manner of putting the cost of the papers across a broad distribution.

I see no reason why anybody on Kangaroo Island or the West Coast should pay any more for the paper than they do in Adelaide. I think it is disgusting and an absolute sign of incompetence of the management of News Limited over the distribution of the papers I mentioned. I have absolutely no problem with the content of the papers most of the time; however, put simply, both those areas—and mine in particular—are low socioeconomic areas, and the paper is one of the few pleasures people get for a reasonable price.

It costs $1.20 for *The Advertiser*, and a lot of people take all day to read it from cover to cover, whether it be the deaths, births and marriages section; the sport; the letters to the editor; or the journalistic articles, it does not matter. They read it from cover to cover, and it is their day's entertainment. Many people in my electorate, particularly older people, do not have computers, they are not online, and it is simply not accessible to them online. Even then, in the case of *The Advertiser* they are also going to have to pay for that in the future as well, and I have no argument with that.

I simply say to the house, and put it on the record in *Hansard* forever and a day, that this is a low point for News Limited in what they are doing. It is a very low point, and it should be condemned by all in this place. I have done some media on it and will be doing a bit more. I call on News Limited, and I call on the circulation people, to reconsider this foolish decision.

What really infuriated me even more was when I had one of my staff members to ring *The Advertiser* last week to confirm the issues. The person in Distribution said to my staff member, 'Oh, well, it is only the cost of a latte, or Diet Coke, or a couple of other things.' I have heard some arrogant nonsense in my time, but I find it disgraceful for people to even suggest that that is the case. They should be made to apologise to those people. For heaven's sake, you can hardly get a latte outside of Kingscote and a number of other places. It is blatantly ridiculous.

In putting this onerous cost I can only see the distribution decreasing, as I am sure will happen on the West Coast as well in the electorate of the member for Flinders. It is already happening. People will simply not buy the paper and there will be an even lower distribution rate.

An honourable member: Newsagents will suffer.

Mr PENGILLY: Newsagents will suffer grievously because they will not have the paper to sell. If this is the way they want to go about it all I can say is that they will not be selling any papers at all in the long term. People value their papers in the country. Not everything that happens technologically in the metropolitan area happens in the bush. People like to devour the paper page by page. This is a disgrace.

BOOST CAREER EXPO

Ms BETTISON (Ramsay) (15:20): I rise today to share with the house information about an excellent career expo that was held at the Playford Civic Centre in Elizabeth on Sunday 2 June. This expo, called the BOOST Career Expo event, was supported and organised by the federal government through DEEWR (the Department of Education, Employment and Workplace Relations) and the taskforce that this government has supported, headed by Lea Stevens of Northern Connections and includes representatives from Holden, the Australian Manufacturers Workers Union and state, federal and local governments.

As we are all aware, with the recent announcements about Holden, this was one of the triggers for the career expo, but it was not just for people who work at Holden and their families. It was open to all who want support during a transition period in their life. As you know, this government has a very fine record on upskilling people and supporting them through our Skills for All program and they were very well represented there.

The event was opened by the Premier, Jay Weatherill. Also speaking there was the federal member for Wakefield, Nick Champion, representing the federal Minister for Workplace Participation, Kate Ellis, and the Mayor of Salisbury, Gillian Aldridge. I would also like to thank Pippa Webb, our local employment coordinator, for the time she spent coordinating the event.

The focus of this expo was 'get a boost to your career, get the right advice and boost your understanding of how to manage your money, or just give you and your family a boost'. This focus included on-the-ground career planning advice, specialist workshops and financial planning advice. To encourage families to come along there was some entertainment for kids including balloon animals (and a very impressive Lightning McQueen balloon car for my young son), colour drawings and a jumping castle.

We were very pleased at the event to hear the Premier announce a $27 million increase in skills training to assist in industry transition. The transition has a focus on advanced manufacturing, mining and mining services, premium food and wine and professional services. As a local member representing the northern suburbs I welcome this additional investment in skills and look forward to supporting my constituents as they look to upgrade their skills in various areas.

Glen Docherty, the Mayor of Playford, was a late arrival at this event. He indicated to me that he was not invited. Given that his staff run the taskforce, the event was held in the Playford Civic Centre and was advertised in our local Messenger, I find this an audacious response. Perhaps he was too distracted by being the Liberal candidate for Newland.

MURRAY BRIDGE RACING CLUB

Mr PEDERICK (Hammond) (15:23): I rise today to speak about the Murray Bridge Racing Club and the Gifford Hill development. On Wednesday 22 May, at the invitation of chairman Reg Nolan, I attended the Murray Bridge Racing Club's Hoteliers Race Day, and I would like to thank the chairman, the committee and racing club members for their wonderful hospitality.

The Murray Bridge Racing Club has embarked upon what I would like to call a visionary project which will have major community, economic, regional and tourism benefits for Murray Bridge and districts. I was accompanied at the race meet (at my invitation) by the Minister for Sport

and Recreation, as I saw it as a great opportunity to present the Murray Bridge Racing Club's Gifford Hill project to the government.

Gifford Hill is the joint venture between Murray Bridge Racing Club, Burke Urban and a small number of private partners and is situated on the outskirts of Murray Bridge on approximately 800 hectares of freehold land. The project includes a new state-of-the-art racecourse, associated equine facilities and a modern multipurpose function centre. While an important development for the racing industry locally and statewide, Gifford Hill will provide significant flow-on effects for the rapidly growing regional centre.

The South Australian racing industry will reap huge benefits as a result of Gifford Hill. The development includes an equine precinct which will offer those involved in the racing industry the most modern and well-equipped location for their operations. The precinct includes equine allotments, training facilities, an all-weather track, an internal bridle path system which delivers horses to the new racecourse without crossing roads, impressive race day facilities and brand new stables.

A high level of biosecurity management will be another feature of the precinct, with horses kept secure and separated from other stables to prevent and reduce potential cases of cross contamination. Murray Bridge will also be a massive winner thanks to the Murray Bridge Racing Club's visionary project. The Murray Bridge local economy is set to be provided with great opportunities which include a new residential development close to the heart of the town with the demolition of the existing Murray Bridge Racing Club site, driving local population growth and the creation of local jobs. The Murray Bridge community will also benefit from the expected increase in tourism as the development will attract horse owners and trainers, racing enthusiasts and jockeys from across Australia.

I take this opportunity to provide an update on the project. To date, with the support of its private partners, the Murray Bridge Racing Club has spent just over $10 million on the development of the new racecourse site. Site works nearing completion include the trackside drive roadway which will lead up to the eventual multipurpose community and race day function centre, and stormwater and civil works including water retention basin which will allow for future water re-use.

The majority of the completed work has utilised contract services and suppliers of local and regional contractors. The actual racecourse has been nurtured from turf stolons sourced from local growers and is now beautifully established and consolidated. You can actually see the green grass of the track whilst flying over Murray Bridge. It is expected that the club will be spending another $2 million in the next six months on road works, car parking and a new horse stable building. The final step in the process will be the construction of the race day facilities and function complex.

Murray Bridge Racing Club continues to work closely with its joint venture partners—Burke Urban Gifford Hill Pty Ltd—on this next phase on a staged basis and in a fiscally responsible manner. The positive growth of the racing industry in South Australia and the creation of terrific new tourism opportunities linked with employment and economic opportunities plus population growth show how important this project is for Murray Bridge, surrounding regional areas and South Australia.

Once again, thanks to the Murray Bridge Racing Club Committee and members for their wonderful hospitality, and I look forward to watching this club's visionary project continue to develop which, over time, will include 3,500 new homes and essentially a new suburb in the Murray Bridge region. I congratulate the club and I congratulate the partners for their work. It is tough times financially but they are getting on with the job, and let's see the government get on board and give more support to this great club and this great facility.

Time expired.

OPPORTUNITIES FOR THE BLIND

Ms BEDFORD (Florey) (15:29): On 19 May in my role as patron, I attended the AGM of the South Australian Blind Bowlers Club (SABBC). This fine group of sportspeople play an already difficult to master sport at a high level with the added necessity to allow for sight impairment. Blind bowlers require the assistance of directors or guides to ensure their participation is possible. Sporting opportunities for people with any level of disability are to be encouraged and applauded. As they are a voluntary body, they rely heavily on the assistance of a good many people.

I know SABBC is particularly grateful to the Salisbury Bowling Club which provides game day and practice facilities and they also hosted a recent national tournament as well as other city and country clubs—in particular, Port Broughton, Port Noarlunga and Ardrossan—which welcome them during the year. The Royal Society for the Blind at Gilles Plains is also on their list of thankyous for their indoor bowls facilities.

The SABBC has a year of activities and still manages to fundraise to send a team to national competitions, no mean feat as most of them are reliant on a low fixed income. This year, they represent us in Perth. I would like to note that at last year's Australian Open in Victoria, President Kath Murrell won a gold medal. The Blind Sporting Council assists them with funding for these prestigious events.

During the AGM, Doreen Smith received the Premier's Certificate of Recognition for Outstanding Voluntary Service. Her citation is way too long to read here now, but suffice to say her years of service and contribution in many and varied roles is exceptional and her continued involvement is highly valued and regarded. The executive committee also makes a great contribution, and they acknowledged Barry Henley, the retiring secretary, and Ron Fawkes, the resigning secretary who was replaced during the year by Doris Thomas. My thanks to all of them, especially the president, Kath Murrell, the committee, team managers, selectors and everyone who works to ensure the success of the SABBC.

I was also privileged to attend the Blind Welfare Association at Gilles Plains recently, in the company of the member for Torrens, as the BWA is close to our boundaries, at the opening of the Marney Pearce Technology Lounge. This fabulous new facility, in the largely redeveloped site, houses state-of-the-art computers and software designed for the sight-impaired, which will enable people with none or some hands-on use to update their IT skills and to bring them a whole new world of opportunities and experiences.

The Blind Welfare Association recognised the wonderful volunteer service of Gunter Bottcher with a Premier's certificate during the formalities. A sumptuous spread was offered as refreshment, prepared by the volunteers who so ably support this special place. I acknowledge the work of the BWA manager, Rosemary Murdock, president Tony Starke, and the committee, who have made BWA the exciting and welcoming place it is today.

In closing, I acknowledge the Girl Guides in this state. After attending their recent Celebrate and Discover Guiding Event, I have an even higher admiration now for all they do and the opportunities they provide for the girls and young women of our state. Girl Guides has a very professional approach to their work. Again, volunteers play a major role in their programs, and their programs and support literature for those programs, corporate-look uniforms and marketing—I am sure everybody has eaten a Girl Guide biscuit this year—are of a very high standard.

Before the AGM, we heard from Sonya Ryan, who was South Australian of the Year this year, a cyber-safety campaigner, who is now the spearhead of the Carly Ryan Foundation. This group works to bring the important safety message necessary for all users of social media; young men and women are equally vulnerable. The Carly Ryan Foundation is striving to educate for awareness and safety in using social media to save users from the stress and harm that can befall them through improper and careless use of this very powerful social medium.

Girl Guides are facilitating this message as part of their care and support of guides, and I praise their service and look forward to continuing to work with them for many years to come as they encourage and recognise the contribution to development of girls and young women to reach their full potential and, in turn, support guiding into the future.

HOUSING IMPROVEMENT BILL

The Hon. A. PICCOLO (Light—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:35): I move:

That standing orders be and remain so far suspended as to enable the introduction of the Housing Improvement Bill 2013 without notice forthwith.

The SPEAKER: An absolute majority not being present, ring the bells.

An absolute majority of the whole number of members being present:

Motion carried.

The Hon. A. PICCOLO (Light—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:36): Obtained leave and introduced a bill for an act to provide for measures to address housing that is unsafe or unsuitable for human habitation; to control the rent of unsafe or unsuitable housing; to amend the Residential Parks Act 2007 and the Residential Tenancies Act 1995; to repeal the Housing Improvement Act 1940; and for other purposes. Read a first time.

The Hon. A. PICCOLO (Light—Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:36): I move:

That this bill be now read a second time.

The Housing Improvement Act 1940 was initiated to address concerns in relation to the standard and supply of housing in South Australia at a time of a shortage of housing arising from the Depression of the 1930s. Today, it is the older existing dwellings which provide a majority of the affordable housing within South Australia. A selection of owners continues to ignore their obligation to provide safe and suitable accommodation, exposing occupants to significant health and safety hazards.

Those in need of affordable housing, including the disadvantaged, the vulnerable and those on low incomes, are the most significantly impacted and find their choice of accommodation is often at an unacceptable standard. Although less than 1.5 per cent of private rental properties have a housing improvement declaration, the impact is higher on individual occupants. Occupants are impacted in various ways, including a lack of basic amenities, structural failure and substandard electrical or sewerage systems. An issue of concern—

Ms Chapman interjecting:

The Hon. A. PICCOLO: Be nice, member—identified during public consultation was the impact on some international students, whose lack of knowledge and preference for low-cost options make them particularly vulnerable.

What are the proposed changes? The bill continues the regulation of minimum standards for existing houses and the regulation of rent payable for unsafe or unsuitable housing. The bill will extend the application of standards from within the local council areas to all of South Australia. The bill vests authority with the minister, removing the shared responsibility between the South Australian Housing Trust and local government, and will repeal the current act. The South Australian Housing Trust will not lose any powers required for its usual activities by the repeal of the act.

The bill introduces a key objective of raising community awareness. A key principle is the concept of a general duty which provides for balanced obligations of both owner and occupant. The bill minimises the risk that tenants are evicted or treated unfairly if they make a complaint by now requiring that, if the premises have been the subject of an inspection in the previous six months, a notice to terminate or to vary the lease must be confirmed by the Residential Tenancies Tribunal.

The bill now gives the tribunal jurisdiction in lieu of the District Court to hear housing improvement/tenancy disputes. The same regime is established for conciliation of disputes as under the Residential Tenancy Act 1995. The bill requires housing improvement information to be provided to prospective tenants in addition to prospective purchasers to assist tenants to make an informed decision before committing to a lease.

Minimum amendments to the current processes are anticipated due to the alignment of the objectives of the bill with the current act. Administration of the act will continue to be in response to complaint from an occupant or referral from a support organisation. The bill is for continued regulation of minimum housing standards and does not impose new requirements.

Any existing orders issued under the current act will continue under the authority of the new act. Regulations for the new act based on the Housing Improvements Standards Regulations 2007 are proposed with feedback received during consultation included in the drafting instructions for parliamentary counsel.

The approach for enforcement of repairs will use the least costly instruments of persuasion and warning letters expected to achieve compliance from the majority of owners. Where there is noncompliance, enforcement through prosecution may be deemed the appropriate action.

Housing SA is currently modernising its total ICT systems and will incorporate the capability to manage the requirements of the new act. It is anticipated that preparation of regulations required under the new act will be completed in approximately 14 months with the commencement of the act late in 2014.

I seek leave to incorporate the rest of the explanation in *Hansard*.

Leave granted.

A review of the Act has found that the regulation of minimum standards for existing houses, and the rent control of sub-standard houses, continues to be relevant today, but the provisions to enforce minimum housing standards under the Act are ineffective in ensuring owners carry out necessary repairs. Substandard houses identified in the review were characterised by poor building condition through lack of essential maintenance, or defective work carried out by owners. Specific issues included structural failure and substandard electrical or sewerage systems. Without taking action to address this, some owners will continue to ignore their obligation to provide safe and suitable accommodation, exposing their occupants to significant health and safety hazards.

Those most impacted are low income households, migrants and students who need affordable housing. Many of these people, including tenants receiving government private rental assistance, have little choice but to accept housing of an unacceptable standard. Although less than 1.5 per cent of private rental properties have a Housing Improvement declaration, the impact is high on the individual occupants. Occupants are impacted in various ways, including health and safety impacts due to the condition of the property, such as lack of basic amenities, blocked fire exits due to overcrowding, or poor health causing inability to work.

Emerging issues identified during consultation include the increase in demand in rural and remote areas for rental accommodation by mine workers and associated contractors, resulting in low income residents being displaced into unsatisfactory accommodation. Also of concern was the impact on some international students, whose lack of knowledge and preference for low cost options make them vulnerable. The international education industry is the State's fourth largest export, accounting for more than 6,500 local jobs. Students are avid users of social media, and negative comments about South Australian housing can travel quickly and have a major impact on where future students choose to study.

The proposed *Housing Improvement Bill 2013*:

- continues the regulation of minimum standards for existing houses with more effective provisions for compliance and enforcement; and
- regulates the rent payable for unsafe and unsuitable housing; and
- introduces a key objective of raising community awareness of the minimum housing standards.

A key principle on which this Bill is based is the concept of a general duty, which provides for balanced obligations of both owner and occupant.

The ability to fix rent by regulation is an appropriate response to ensure that disadvantaged people do not pay excessive rent for substandard housing. There is also a need to be able to direct the owner to repair items which pose unacceptable risk.

Raising community awareness is an important objective. History has shown the need to retain the regulation of minimum housing standards, but has also shown that many owners are willing to comply when they know of the requirements. This Bill provides essential support to ensure that the quality of affordable housing is maintained. The quality of life for South Australians is not only influenced by the cost of housing, but the quality of affordable housing.

During preliminary consultation in 2010, a discussion paper providing an overview of the proposed regulatory framework was presented for discussion to Government agencies, local government, and peak industry bodies. Feedback indicated general support for the continuation of regulation of minimum housing standards, and a general duty to ensure premises are safe and suitable for occupation. There was strong endorsement from tenant support organisations for continuation of rent control for substandard houses.

The *Housing Improvement Bill 2013* was put out to consultation during July and August 2012. Information sessions were attended by sixty seven people from local government, real estate agents, tenant support and industry organisations. Sixteen written submissions were received, including various representative groups for landlords, tenants, real estate agents and local government.

The Bill repeals the *Housing Improvement Act 1940*. Historically the Act provided the legislative authority to the South Australian Housing Trust (SAHT). The *Housing Improvement Bill 2013* vests authority to the Minister in lieu of shared responsibility between the SAHT and local government, with minimum standards for existing houses becoming applicable to residential premises throughout this State.

Part 3 of the Bill sets out the main suite of tools that will secure compliance with basic housing standards. These are housing assessment orders, housing improvement orders, housing demolition orders, notices to vacate and rent control notices.

A housing assessment order is issued to an owner where the Minister has reason to believe that the premises are, or may be, unsafe or unsuitable for human habitation. Such an order will require an owner to carry out assessments of the premises.

A housing improvement order may be issued to an owner where the Minister has reason to believe that the premises are unsafe or unsuitable for human habitation and that works are required to remediate defects. Such an order may require the carrying out of specified works.

A housing demolition order may be issued to an owner where the Minister has reason to believe that the premises are so unsafe or unsuitable that it would be impracticable or unreasonable to undertake remediation works. Such an order requires the demolition of the premises. This power is continued from the repealed Act, and as has been the case in the past, it is expected that this provision would be used rarely.

With each of these orders $20,000 is the maximum penalty for non-compliance. This contrasts with a maximum penalty of $100 for breach of an equivalent provision under the repealed Act of 1940.

Underpinning this framework are provisions that enable registration of the orders with the Registrar-General. An order is registered against an owner's land with the effect that successive owners of land are bound by any undischarged orders and a charge is placed on the land such that the Minister may recoup expenses incurred by the Minister in carrying out remedial work that an owner might fail to carry out him or herself under such an order.

Part 3 also enables tenants and registered mortgagees or encumbrancees, with the authorisation of the Minister, to carry out the requirements of a housing assessment order or housing improvement order. Where the premises are rented, costs and expenses may be recouped by withholding rental payments.

A notice to vacate is an essential tool to enable premises to be vacated should that be required under a housing improvement order or housing demolition order. Provisions have been included in the Bill to provide for the termination of a tenancy agreement, to secure the ejectment of occupants and, in appropriate cases, to compensate a tenant for resulting loss and inconvenience.

Rent control notices are continued from the repealed Act but with an improved process for inviting an owner to show why such a notice should not be made. A rent control notice will fix the rent of substandard premises after the Minister has taken into account the condition of the premises, the capital value of the premises as determined under the *Valuation of Land Act 1971* and the market rent for residential premises of that kind in the same or similar localities. A rent control notice will continue to apply in relation to premises despite any change in ownership or occupancy of the premises.

Further provisions of the Bill include:

- restricting landlords from entering premises at unreasonable times for the purposes of carrying out the requirements of a housing assessment order or housing improvement order;
- ensuring the correct rent is paid and demanded in relation to premises that are subject to a rent control notice;
- minimising the risk that tenants are evicted or treated unfairly by a landlord if they make a complaint about the condition of premises;
- requiring disclosure in statements made in the advertising of the sale or lease of residential premises, of the fact that the premises are subject to an order or notice under the Bill.

The Bill gives the Residential Tenancies Tribunal jurisdiction to hear housing improvement tenancy disputes. Such disputes are disputes about matters arising under the Act or any matter that may be the subject of an application under the Act. The same regime for conciliation of complaints is established for disputed under the Act as for disputes under the *Residential Tenancies Act 1995*.

It is anticipated that the comprehensive and robust framework of measures contained in this Bill will support this government in its endeavours to achieve and maintain safe and suitable standards of housing in this State well into the 21st century.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Objects of Act

This clause sets out the objects of the Act, which are—

- to ensure that housing meets the prescribed minimum housing standards; and
- to regulate unsafe or unsuitable housing and the rent payable in respect of such housing; and
- to raise community awareness of the prescribed minimum housing standards.

4—Interpretation

This clause defines key terms used in this measure.

5—Prescribed minimum housing standards

This clause sets out a regulation making power to establish prescribed minimum housing standards that must be met for residential premises to be considered safe and suitable for human habitation. It sets out a non-exhaustive list of matters that may form the subject matter of such regulations including matters relating to construction, amenity, cleanliness, sanitation, safety and access.

6—Application of Act

This clause clarifies how terms used in this Act are to be interpreted when applied to sites and dwellings that are subject to residential park agreements within the meaning of the *Residential Parks Act 2007* and to premises which are subject residential tenancy agreements, or to rooming house agreements, under the *Residential Tenancies Act 1995*.

Part 2—Administration

Division 1—Minister

7—Functions

This clause sets out the functions of the Minister in connection with the administration of the Act. A key aspect of the Minister's role is to ensure that adequate measures are taken to achieve compliance with its provisions. To further promote the aims and effectiveness of the Act the Minister may also fulfil a role in developing or adopting codes, practices or guidelines. For example, the Minister may set standards in connection with activities, materials, substances or equipment which are used in connection with domestic housing. The Minister is also to be a primary source of advice to the Government about preserving, protecting and promoting safe and suitable standards of housing.

8—Delegation

The Minister will be able to delegate functions and powers under the Act.

Division 2—Authorised officers

9—Appointment of authorised officers

The Minister may appoint a suitably qualified person to be an authorised officer for the purposes of the Act. The appointment can be made subject to conditions or limitations. An authorised officer remains subject to the Minister's direction.

10—Identity cards

This clause requires that the Minister must, as soon as reasonably practicable after appointing an officer, issue him or her with an identity card that complies with this section. An officer who intends to exercise power under the Act must produce the identity card on request.

11—Powers of authorised officers

This clause establishes that in administering or enforcing the Act an authorised officer may enter and inspect residential premises at any reasonable time. During the course of the inspection the officer can—

- ask questions of any person found on the premises;
- inspect any article or substance found in the premises;
- take and remove samples from any substance or other thing found in the premises;
- require any person to produce any plans, specifications, books, papers or documents;
- examine, copy and take extracts from any plans, specifications, books, papers or documents;
- take photographs, films or video recordings;
- take measurements, make notes and carry out tests;
- remove any article that may constitute evidence of the commission of an offence.

An authorised officer may require any person to answer any question that may be relevant to the administration or enforcement of the Act.

This clause further provides that an authorised officer may use reasonable force to enter residential premises if—

- the officer has the authority of a warrant issued by a magistrate; or
- if the officer believes, on reasonable grounds, that the circumstances require immediate action to be taken.

A magistrate must not issue a warrant unless satisfied that there are reasonable grounds to suspect the commission of an offence under the Act or that the issue of the warrant is otherwise reasonably required.

Subsection (6) makes it an offence attracting a maximum penalty of $10,000 for a person to—

- hinder or obstruct an authorised officer, or a person assisting an authorised officer, in the exercise of a power under this section; or

- fail to answer a question put to him or her by an authorised officer to the best of his or her knowledge, information and belief; or
- fail to provide reasonable assistance in relation to the inspection of premises.

The ground of self-incrimination cannot be used as an excuse for failure to furnish information required under subsection (6). The standard provisions regarding the evidentiary use that may be made of information provided by a person in compliance with subsection (6) are included at subsection (8).

Part 3—Orders, notices and other action to deal with unsafe or unsuitable housing conditions

Division 1—Housing assessment orders, housing improvement orders and housing demolition orders

12—Housing assessment orders

The Minister may issue a housing assessment order to the owner of residential premises if the Minister has reason to believe that the premises are, or may be, unsafe or unsuitable for human habitation. Failure to comply with a housing assessment order attracts a maximum penalty of $20,000.

A housing assessment order must include a requirement for assessments to be carried out of the nature and extent of defects at the premises, and for a written report of those assessments to be submitted to the Minister. In addition, such an order may require a person with specific qualifications to carry out or provide a report of the assessments and may require assessments to be carried out on behalf of the Minister by an authorised officer or other person authorised by the Minister. The order must state that the person may, within 28 days, appeal against the order to the District Court.

13—Housing improvement orders

The Minister may issue a housing improvement order to the owner of residential premises if the Minister has reason to believe that the premises are unsafe or unsuitable for human habitation and that works are required to remediate defects in respect of the premises. Failure to comply with a housing improvement order attracts a maximum penalty of $20,000.

A housing improvement order may require the person to whom it is issued to prepare a plan of works for the premises or to carry out specified works within a specified period. The order may authorise the work to be carried out on behalf of the Minister by an authorised officer or other person authorised by the Minister and may require the premises to be vacated and remain unoccupied for a time. The order must state that the person may, within 28 days, appeal against the order to the District Court.

In contrast with the regime for housing assessment orders and housing demolition orders (below), this clause provides a system for dealing with cases where urgent action is required to address unsafe or unsuitable conditions of residential premises. In such cases an authorised officer may issue an emergency housing improvement order to impose requirements of a kind that may be imposed under subsection (2). Such an order may be issued orally, but in such a case the person must be informed of his or her right to appeal against the order to the District Court. An emergency housing improvement order will expire within 3 business days unless it is confirmed by a written order issued by the Minister and served on the person.

14—Housing demolition orders

The Minister may issue a housing demolition order to the owner of residential premises if the Minister has reason to believe that the premises are so unsafe or unsuitable that it would be impracticable or unreasonable to undertake remediation works. Failure to comply with a housing demolition order attracts a maximum penalty of $20,000.

Such an order must require the premises to be demolished not less than 28 days after issue of the order. The order must require the premises to be vacated and remain unoccupied until the completion of demolition or of specified works. The order may also authorise the demolition to be undertaken on behalf of the Minister by an officer authorised or other person authorised by the Minister. The order must state that the person may, within 28 days, appeal against the order to the District Court.

15—Registration of housing assessment order, housing improvement order or housing demolition order

This section enables a housing assessment order, housing improvement order or housing demolition order to be registered with the Registrar-General in relation to land owned by the person on which the premises are located.

The effect of such registration is either or both of the following:

- the order will become binding on each successive owner of the land;
- the registration of the order against the land will operate as a charge on land, securing payment to the Minister of costs and expenses incurred by the Minister in taking action required by the order.

Further provisions of this section set out procedural requirements for cancelling the registration of the order.

16—Action by Minister on non-compliance with housing assessment order, housing improvement order or housing demolition order

This section enables the Minister (or an authorised officer or other person authorised by the Minister) to carry out the requirements of a housing assessment order, housing improvement order or housing demolition order in the event of non-compliance with such an order by the owner.

17—Recovery of costs and expenses incurred by Minister

This section enables the Minister to recover reasonable costs and expenses incurred by the Minister in taking action under a housing assessment order, housing improvement order or housing demolition order as a debt from the person to whom the order was issued. Also recoverable under the section are the amounts prescribed by regulation for any registration or cancellation of an order. Subsection (3) sets out the method of recovery of these amounts including as a charge on land (if the order has been registered) or in the form of rent. Subsection (6) sets out how the priority of a charge imposed under the section ranks as compared with other charges, namely, it will have priority over—

- any prior charge imposed on the land (whether or not registered) that operates in favour of a person who is an associate of the owner of the land; and
- any other charge on the land other than a charge registered prior to the registration of the order.

Subsection (7) gives the Minister the same powers as a mortgagee under a mortgage in relation to any default in payment of an amount that is a charge on land under this section.

18—Action, and recovery of costs and expenses, by registered mortgagee or encumbrancee or by tenant

This section provides that certain persons other than the owner (namely a tenant or a registered mortgagee or encumbrancee) may take action as authorised by the Minister in respect of a housing assessment order, a housing improvement order or a housing demolition order which has not been complied with. A tenant may recover the costs of doing so either as a debt due by the person to whom the order was issued or as a deduction in rent. A registered mortgagee or encumbrancee is entitled to recover the amount as a debt or by adding it to the principal of the mortgage.

19—Owner of residential premises may seek reimbursement of costs and expenses from other owners

This section enables an owner of residential premises who has been issued with a housing assessment order, housing improvement order or housing demolition order to seek an order from the Tribunal to recover all or some of the costs incurred in connection with the order from one or more other owners of the premises.

20—Interaction of this Division with *Real Property Act 1886*

This section gives precedence to the provisions of Division 1 relating to registration by the Registrar-General and the priority of charges over the *Real Property Act 1886*. A charge imposed under the Division is not discharged by the exercise of a power of sale or foreclosure under that Act or by the exercise of a power of sale under any other Act.

Division 2—Notice to vacate

21—Notice to vacate

This section requires the Minister to issue a *notice to vacate* premises if a housing improvement order or housing demolition order has been issued in respect of the premises requiring the premises to be vacated. A notice to vacate is issued to the occupiers of the premises (who may or may not be the owners) and requires them to vacate the premises by a specified date. If the premises are occupied under a residential tenancy agreement, the notice must state that the tenancy will be terminated on a specified date, that the tenants must give up possession of the premises on or before that date and that the landlord is authorised to take possession of the premises on that date. The notice must state that the persons may, within 28 days, appeal against the order to the District Court.

Failure to comply with a notice to vacate or to sublet premises to which it applies is an offence attracting a maximum penalty of $5,000.

An order for compensation may be sought from the Tribunal by a tenant against a landlord and an order for ejectment of occupants may be sought from the Tribunal. Subsection (6) provides for enforcement of an order for ejectment by a bailiff of the Tribunal.

Division 3—Rent control notices

22—Rent control notices

This section allows the Minister to declare, by a *rent control notice* published in the Gazette, that premises in respect of which a housing improvement notice has been issued are to be subject to rent control. Before doing so, the Minister must give a preliminary rent control notice stating his or her intention to control the rent and the maximum proposed rent. In fixing the maximum proposed rent the Minister must have regard to the condition of the premises, the capital value of the premises as assessed under the *Valuation of Land Act 1971* and the market rent for similar premises.

The preliminary notice gives the person 14 days to make representations to the Minister as to why a rent control notice should not be issued, after which the Minister decides whether or not to proceed with the notice.

A rent control notice comes into operation on the date of gazettal or a later date specified in the notice and remains in place for the period specified or until revoked by the Minister. The notice continues to apply despite any change in ownership or occupancy.

23—Offence to charge more than maximum rent under rent control notice

This section makes it an offence attracting a maximum penalty of $5,000 or expiation fee of $315 for a person to charge, demand or receive rent above that fixed in a rental control notice.

Division 4—Special provisions relating to prescribed residential tenancy agreements

24—Landlord must give notice of intention to carry out inspections or works under housing assessment or housing improvement order

This section provides for the manner in which a landlord may enter and inspect premises in respect of which a housing assessment order or housing improvement order applies. In most cases, entry will only be permitted after written notice is given to the tenant between 7 and 14 days before the day of entry. Exceptions are provided for remote locations, if a person is required to accompany the inspection or in the case of emergencies. Works required under the order may be carried out between 8am and 8pm on any day except Sundays and public holidays and after the tenant has been given at least 48 hours notice. It should be noted that this section does not apply to premises that are rented under a residential park agreement within the meaning of the of the *Residential Parks Act 2007*, under a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1995* to which that Act applies or under a rooming house agreement within the meaning of the *Residential Tenancies Act 1995*. That is because such agreements are governed by similar provisions in those respective Acts.

25—Landlord must keep and provide record of rent if rent control notice applies

This section requires a landlord to keep a record of rent details if a rent control notice applies to the premises. The records must include details of the date and amount of payment, who paid the rent, the period of the tenancy to which the rent relates. Records must be kept for two years. If rent is paid other than into an ADI account, the details must be given to the tenant within 48 hours. If paid into an ADI account, the landlord need only give the details on request by the tenant. Failure to comply with the section is an offence attracting a maximum penalty of $2,500 and an expiation fee of $210. As with the previous section, it should be noted that this section does not apply to premises that are rented under a residential park agreement within the meaning of the of the *Residential Parks Act 2007*, under a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1995* to which that Act applies or under a rooming house agreement within the meaning of the *Residential Tenancies Act 1995*. That is because such agreements are governed by similar provisions in those respective Acts.

26—Termination of prescribed residential tenancy agreement by tenant

A tenant under a prescribed residential tenancy agreement of premises that are the subject of a housing assessment order or housing improvement order is entitled to vacate without reason on at least 7 days notice. Again, this section does not apply to premises that are rented under a residential park agreement within the meaning of the of the *Residential Parks Act 2007*, under a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1995* to which that Act applies or under a rooming house agreement within the meaning of the *Residential Tenancies Act 1995*. That is because such agreements are governed by similar provisions in those respective Acts.

27—Termination or variation of prescribed residential tenancy agreement by landlord

This section provides certain protections for tenants who occupy premises that have been the subject of an inspection by an authorised officer within the past 6 months or to which an order or notice under this Part applies (other than a notice to vacate). It enables tenants to speak freely about the condition of premises without fear of being evicted. A notice given to a tenant by a landlord terminating or varying such a tenancy must be in the prescribed manner and form, rely on at least 1 ground prescribed by regulation, and be confirmed by the Tribunal.

The section enables the genuineness of factors motivating the giving of a notice of termination or variation by a landlord to be tested by the Tribunal, thus reducing the likelihood of retaliatory action on the part of a landlord.

If satisfied that the notice is genuine, the Tribunal may confirm the notice, however if it is not satisfied of the genuineness of the notice, it may set aside the notice, and/or make an order reinstating the tenancy on such condition as it considers appropriate.

The Tribunal may, when considering the application, make an order compensating the tenant for loss or inconvenience resulting from the termination or variation of the tenancy.

It is an offence attracting a maximum penalty of $2,500 for a landlord to grant a fresh tenancy over the same premises within 6 months without the consent of the Tribunal.

Again, this section does not apply to premises that are rented under a residential park agreement within the meaning of the of the *Residential Parks Act 2007*, under a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1995* to which that Act applies or under a rooming house agreement within the meaning of the *Residential Tenancies Act 1995*. That is because such agreements are governed by similar provisions in those respective Acts.

Division 5—Obligation to publicise orders and notices

28—Orders and notices under this Part to be displayed on premises

This section requires an owner of premises which are the subject of an order or notice under Part 3 of the Act (other than a preliminary rent control notice) to display the order or notice legibly and prominently at the premises as directed by the Minister. Failure to comply with this provision is an offence attracting a maximum penalty of $5,000 or an expiation fee of $315.

29—Orders and notices under this Part to be declared in advertisements for sale or lease of land and in lease agreement

This section requires the vendor of premises to which an order or notice under Part 3 of the Act applies (other than a preliminary rent control notice) to include in any advertisement for the sale of the premises a clear statement that such order or notice applies to the premises. Failure to comply with this provision is an offence attracting a maximum penalty of $5,000 or an expiation fee of $315.

Similar clear disclosure must be made in respect of the advertising for the lease of such premises and in the lease agreement. In addition, if a rent control notice applies to the premises, any oral or written representation to the lessee concerning the rent must make disclose that the rent is fixed by a rental control order. Failure to comply with this provision is an offence attracting a maximum penalty of $5,000 or an expiation fee of $315.

Statements required to be made under the section in an advertisement or document must be in legible form and appear in a reasonably prominent position in the advertisement or document, with a failure to comply with the requirement an offence attracting a maximum penalty of $5,000 or an expiation fee of $315.

If a landlord fails to make clear to a lessee that the rent is fixed under a rent control notice the lessee may give notice not to be bound by the lease.

Division 6—Appeals

30—Appeals to Court

This section sets out the appeals that may be made to the District Court. A person who has been issued with a housing assessment order, housing improvement order, housing demolition order or notice to vacate may appeal against the order or notice or a variation of the order or notice. The owner of premises in respect of which a rent control notice has been made may appeal to the Court against the notice or any variation of the notice. An appeal must be made within 28 days after the order or notice is issued or made or any variation of the order or notice is made.

Part 4—General duty

31—General duty

This Part creates a statutory duty that requires an owner of property to ensure that the premises are safe and suitable for human occupation. There is a general duty with the following specific obligations:

- a landlord must take reasonable steps to ensure that the premises are and remain safe and suitable for human occupation;
- a tenant must take reasonable steps to comply with the landlord's actions to discharge his or her obligations and ensure that the premises are maintained in a reasonable state for the purposes of human habitation.

In determining what is to be regarded as being reasonable for the purposes of this clause, regard must be had to matters including—

- prescribed minimum housing standards;
- relevant codes of practice under the regulations;
- the impact on occupants of the premises of a failure to comply with the general duty.

A failure to comply with the general duty does not of itself render an owner liable to civil liability or criminal action, but compliance may be enforced by the issuing of a housing assessment order, housing improvement order or housing demolition order.

Part 5—Residential Tenancies Tribunal

Division 1—Definitions

32—Definitions

This clause provides definitions of *conciliation* and *conciliation conference*, terms used in Part 5.

Division 2—Role of Registrars and magistrates

33—Registrars may exercise jurisdiction in certain cases

This clause provides for the jurisdiction of the Registrar or a Deputy Registrar.

34—Magistrates may exercise jurisdiction in certain cases

The jurisdiction of the Tribunal is conferred on magistrates subject to a scheme for listing of matters before magistrates to be prescribed by the regulations.

Such regulations cannot be made except after consultation with the Presiding Member of the Tribunal and the Chief Magistrate. A magistrate exercising the jurisdiction of the Tribunal under this Act is taken to be a member of the Tribunal.

Division 3—Proceedings before Tribunal

35—Constitution of Tribunal

The Tribunal is to be constituted of a single member and may, at any 1 time, be separately constituted for the hearing and determination of a number of separate matters.

36—Duty to act expeditiously

The Tribunal is required, where practicable, to hear and determine proceedings within 14 days or, if that is not practicable, as expeditiously as possible.

Division 4—Jurisdiction of Tribunal

37—Jurisdiction of Tribunal

The Tribunal is given exclusive jurisdiction to hear and determine a housing improvement tenancy dispute.

However, the Tribunal has no jurisdiction to hear and determine a monetary claim for more than $40,000, unless the parties to the proceedings consent in writing (and such a consent will be irrevocable).

If a monetary claim is above the Tribunal's jurisdictional limit, the claim and any other claims related to the same residential tenancy agreement may be brought in a court competent to hear and determine a claim founded on contract for the amount of the claim.

38—Application to Tribunal

This clause deals with the making of applications to the Tribunal.

Division 5—Conciliation

39—Conciliators

This section provides for the appointment of conciliators by the Commissioner.

40—Conciliation by conciliator nominated by Commissioner

This section provides that the Registrar or Deputy Registrar may refer applications to the Commissioner for conciliation if they are of a class prescribed by the regulations. The Commissioner then will nominate a conciliator who may call a conciliation conference. If a conciliation is terminated by the conciliator for any reason, including because it appears that it is unlikely that an agreed settlement can be reached within an agreed time, the conciliator must refer the matter to the Registrar or Deputy Registrar for listing before the Tribunal.

41—Conciliation by Tribunal

Before making an order to determine a housing improvement tenancy dispute, it is the duty of the Tribunal under this section to use its best endeavours to bring the parties to the dispute to a settlement that is acceptable to the parties. The Tribunal may refer such a dispute to a conference of the parties to the dispute to explore the possibilities of resolving the matters at issue by agreement. Each party to the dispute (or a representative) may be required by the Tribunal to attend the conference. A member of the Tribunal, the Registrar or another officer of the Tribunal authorised by the Presiding Member will preside at the conference. If a party to such a dispute fails to attend a properly convened conciliation conference, the Tribunal may determine the proceeding adversely to the absent party and make any appropriate orders.

42—Duties of conciliators

Conciliators have the following functions in the conciliation of a housing improvement tenancy dispute:

- to seek to identify the issues in dispute and to narrow the range of the dispute;
- to encourage the settlement of the dispute by facilitating, and helping to conduct, negotiations between the parties to the dispute;
- to promote the open exchange of information relevant to the dispute by the parties;
- to provide to the parties information about the operation of this Act relevant to a settlement of the dispute;
- to help in the settlement of the dispute in any other appropriate way.

43—Procedure

This section specifies a number of procedural matters applying to conciliation conferences. For example, a conference will be held in private unless the conciliator determines otherwise. The conciliator may exclude from the conference any person apart from the parties and their representatives. If a conciliator is not legally qualified, he or she may refer a question of law arising at the conference to a member of the Tribunal who is legally qualified for determination. A settlement to which a party or representative of a party agrees at a conference is binding on the party provided it is not inconsistent with the principal Act. The settlement must be put into writing and signed by or for the parties. The Tribunal may make a determination or order to give effect to the settlement. A member of the Tribunal who conducts a conciliation conference in relation to a housing improvement tenancy dispute may not hear and determine proceedings concerning the dispute unless the parties otherwise agree.

44—Restriction on evidence

Evidence of anything said or done in the course of conciliation under this Division is inadmissible in proceedings before the Tribunal unless all parties to the proceedings consent otherwise.

Division 6—Intervention by Minister

45—Intervention by Minister

The Minister may intervene in proceedings before the Tribunal or a court concerning a housing improvement tenancy dispute.

If the Minister intervenes in proceedings, he or she becomes a party to the proceedings and has all the rights (including rights of appeal) of a party to the proceedings.

Division 7—Evidentiary and procedural powers

46—Tribunal's powers to gather evidence

This clause provides for the Tribunal's powers to gather evidence.

47—Procedural powers of Tribunal

The Tribunal is empowered to—

- hear an application in a way that the Tribunal considers most appropriate;
- decline to entertain the application if it considers the application frivolous or trivial;
- decline to entertain an application, or adjourn a hearing, until the fulfilment of conditions fixed by the Tribunal with a view to promoting a settlement;
- proceed to hear and determine an application in the absence of a party;
- extend a period within which an application or other step in respect of proceedings must be made or taken (even if the period has expired);
- vary or set aside an order if the Tribunal considers there are proper grounds for doing so;
- adjourn a hearing to a time or place or to a time and place to be fixed;
- allow the amendment of an application;
- hear an application jointly with another application;
- receive in evidence a transcript of evidence in proceedings before a court and draw conclusions of fact from that evidence;
- adopt, as in its discretion it considers proper, the findings, decision or judgment of a court that may be relevant to the proceedings; and
- generally give directions and do all things that it thinks necessary or expedient in the proceedings.

The Tribunal is empowered to determine an application without proceeding to a hearing in certain circumstances.

The Tribunal's proceedings must be conducted with the minimum of formality and in the exercise of its jurisdiction the Tribunal is not bound by evidentiary rules but may inform itself as it thinks appropriate and must act according to equity, good conscience and the substantial merits of the case.

48—General powers of Tribunal to cure irregularities

The Tribunal may, if satisfied that it would be just and equitable to do so, excuse a failure to comply with a provision of this Act on terms and conditions the Tribunal considers appropriate.

The Tribunal may amend proceedings if satisfied that the amendment will contribute to the expeditious and just resolution of the questions in issue between the parties.

Division 8—Judgments and orders

49—General powers of Tribunal to resolve housing improvement tenancy disputes

The Tribunal may, on application by a party to a housing improvement tenancy dispute—

- restrain an action in breach of this Act; or
- require a person to comply with an obligation under this Act; or
- order a person to make a payment (which may include compensation) under this Act for breach of this Act; or
- modify a residential tenancy agreement to enable the tenant to recover compensation payable to the tenant by way of a reduction in the rent otherwise payable under the agreement; or
- relieve a party to a residential tenancy agreement from the obligation to comply with a provision of the agreement; or
- terminate a residential tenancy agreement or declare that a residential tenancy agreement has or has not terminated; or
- reinstate rights under a residential tenancy agreement that have been forfeited or have otherwise been terminated; or

- require payment of rent into the Fund until conditions stipulated by the Tribunal have been complied with; or
- require that rent so paid into the Fund be paid out and applied as directed by the Tribunal; or
- require a tenant to give up possession of residential premises to the landlord; or
- make orders to give effect to rights and liabilities arising from the assignment of a residential tenancy agreement; or
- exercise any other power conferred on the Tribunal under this Act; or
- do anything else necessary or desirable to resolve a housing improvement tenancy dispute.

The Tribunal does not have jurisdiction to award compensation for damages arising from personal injury.

50—Special powers to make orders and give relief

The Tribunal may make an order in the nature of an injunction (including an interim injunction), an order for specific performance, or an order for payment to the Fund of exemplary damages.

However, a member of the Tribunal who is not legally qualified cannot make such an order without the approval of the Presiding Member of the Tribunal.

The matters to be taken into account by the Tribunal before assessing an amount to be ordered in the nature of exemplary damages are—

- any harm to persons or detriment to the public interest resulting from the contravention;
- any financial saving or other benefit that a person stood to gain by committing the contravention;
- any other matter it considers relevant.

The Tribunal may also make interlocutory orders, binding declarations of right and ancillary or incidental orders.

51—Conditional and alternative orders

The Tribunal may make conditional orders or orders in the alternative so that a particular order takes effect, or does not take effect, according to whether stipulated conditions are complied with.

52—Enforcement of orders

An order of the Tribunal may be registered in an appropriate court and enforced as an order of that court.

A contravention of an order of the Tribunal (other than an order for the payment of money) will be an offence attracting a maximum penalty of $10,000.

53—Application to vary or set aside order

A party to proceedings before the Tribunal may, within 1 month, apply to the Tribunal for an order varying or setting aside an order. The Tribunal may allow an extension of time.

54—Costs

The Governor may, by regulation, provide that in proceedings of a prescribed class the Tribunal will not award costs unless—

- all parties to the proceedings were represented by legal practitioners; or
- the Tribunal is of the opinion that there are special circumstances justifying an award of costs.

Division 9—Obligation to give reasons for decisions

55—Reasons for decisions

The Tribunal will be required to state written reasons for a decision or order if asked to do so by a person affected by the decision or order.

Division 10—Reservation of questions of law and appeals

56—Reservation of questions of law

The Tribunal may reserve a question of law for determination by the Supreme Court.

57—Appeals

An appeal lies to the Administrative and Disciplinary Division of the District Court from a decision or order of the Tribunal.

An appeal must be commenced within 1 month of the decision or order appealed against unless the Court allows an extension of time.

If the reasons of the Tribunal are not given in writing at the time of making a decision or order, and the appellant then requests the Tribunal to state its reasons in writing, the time for commencing the appeal runs from the time when the appellant receives the written statement of the reasons.

Division 11—Representation in proceedings before Tribunal or at conciliation conference

58—Representation in proceedings before Tribunal or at conciliation conference

A party to a housing improvement dispute may be represented by a lawyer if—

- all parties to the proceedings agree to the representation and the Tribunal is satisfied that it will not unfairly disadvantage a party who does not have a professional representative; or
- the Tribunal is satisfied that the party is unable to present the party's case properly without assistance; or
- another party to the dispute is a lawyer, or is represented by a professional representative; or
- the Minister has intervened in, or is a party to, the proceedings.

A party may be represented by a person who is not a lawyer if—

- the party is a body corporate and the representative is an officer or employee of the body corporate; or
- the party is a landlord and the representative is an agent, or an officer or employee of an agent, appointed by the landlord to manage the premises on the landlord's behalf; or
- all parties to the proceedings agree to the representation and the Tribunal is satisfied that it will not unfairly disadvantage an unrepresented party; or
- the Tribunal is satisfied that the party is unable to present the party's case properly without assistance.

59—Remuneration of representative

A representative of a party to a housing improvement tenancy dispute in proceedings before the Tribunal or at a conciliation conference may not be remunerated unless the representative is:

- a lawyer or a law clerk employed by lawyer; or
- an officer or employee of a body corporate; or
- an agent, officer or employee of an agent representing the landlord in the proceedings.

Contravention of this provision is an offence attracting a maximum penalty of $15,000.

Division 12—Miscellaneous

60—Entry and inspection of property

The Tribunal is empowered to enter, or authorise another person to enter, a land or a building to carry out an inspection the Tribunal considers relevant to a proceeding before the Tribunal.

A person who obstructs the Tribunal or a person authorised by the Tribunal, who, in exercising a power of enter or inspection under this section, is guilty of a contempt of the Tribunal.

61—Contempt of Tribunal

A person who interrupts the proceedings of the Tribunal or misbehaves before the Tribunal, insults the Tribunal or an officer of the Tribunal acting in the exercise of official functions, or refuses, in the face of the Tribunal, to obey a direction of the Tribunal, is guilty of a contempt of the Tribunal.

62—Punishment of contempt

The Tribunal is empowered to punish a contempt by—

- imposing a fine not exceeding $5,000;
- suspending the right of a person to represent parties to housing improvement tenancy disputes for a specified period or until further order; or
- committing the person to prison until the contempt is purged subject to a limit (not exceeding 1 year) to be fixed by the Tribunal at the time of making the order for commitment.

63—Fees

The Governor is empowered to prescribe fees in relation to proceedings in the Tribunal.

The Registrar is empowered to remit or reduce a fee if the party by whom the fee is payable is suffering financial hardship, or for any other proper reason.

64—Procedural rules

The Governor may, by regulation, prescribe procedural rules.

The Presiding Member of the Tribunal may make the Rules of the Tribunal relevant to the practice and procedure of the Tribunal.

The *Subordinate Legislation Act 1978* does not apply to Rules of the Tribunal.

Part 6—Register

65—Register

This section provides that the Minister must keep a register that records—

- the address of residential premises to which an order or notice under Part 3 applies;
- the maximum rent fixed for residential premises to which a rent control notice applies; and
- any other prescribed information.

The register must be made available for free inspection by members of the public. However, the Minister has an absolute discretion to exclude particular details in the register from inspection.

Part 7—Miscellaneous

66—Contract to avoid Act

An agreement or arrangement that is inconsistent with this Act or purports to exclude, modify or restrict the operation of this measure, will be (unless the inconsistence, exclusion, modification or restriction is expressly permitted under this measure) to that extent void.

A purported waiver under this measure will be void.

A person who enters into an agreement or arrangement to defeat, evade or prevent the operation of this measure (directly or indirectly) will be guilty of an offence attracting a maximum penalty of $10,000.

67—Protection from liability

This clause provides that an authorised officer or person engaged in the administration of the Act will not be subject to civil or criminal liability for any acts or omissions done in good faith in the exercise or discharge of a power, function or duty or in the carrying out of any direction or requirement under the Act.

68—Offences by bodies corporate

If a body corporate is guilty of an offence against this Act, each director and manager of the body corporate will be guilty of an offence and liable to the same penalty as is prescribed for the principal offence whether or not the body corporate has been prosecuted and convicted for the offence, unless the director or manager (as the case may be) proves that he or she could not by the exercise of reasonable due diligence have prevented the commission of the offence.

69—Tribunal may exempt agreement or premises from provision of Act

The Tribunal is empowered to grant exemptions which may be conditional. Contravention of a condition of an exemption order is an offence attracting a maximum penalty of $2,500.

70—Service

Provision is made for the service of a notice or document on a person or agent of the person by giving it to the person or an agent of a person—

- personally; or
- by leaving it for the person or agent at the person's or agent's place of residence, employment or business with someone apparently over the age of 18 years; or
- by posting it to the person's or agent's last known place of residence, employment or business; or
- by sending it to the person or agent by fax or email to an address provided by the person or agent for the purposes of service under the Act.

In the case of service on a tenant, subtenant or occupier of residential premises, service may also be effected by fixing it on a conspicuous part of the premises or by some other manner permitted by the Tribunal.

If two or more persons are owners, occupiers, landlords, tenants or subtenants of residential premises, service need only be effected in relation to one of them.

An order, notice or other document required to be given to an occupier or subtenant under this Act need not address the occupier or subtenant by name.

71—False or misleading information

A person must not make a statement that is false or misleading in a material particular, whether by inclusion or omission, in respect of any information given or record made under the Act. Contravention of this clause is an offence attracting a maximum penalty of $20,000.

72—Continuing offences

If an offence against a provision of this Act is committed by a person by reason of a continuing act or omission, the person will be liable to an additional penalty for each day during which the offence continues of not more than one-fifth of the maximum penalty for the offence.

If an offence continues after the person is convicted of it, the person will be guilty of a further offence against the provision and will also be liable to an additional penalty for each day during which the offence continues after the conviction of not more than one-fifth of the maximum penalty for the offence.

73—Commencement of proceedings for summary offences

Proceedings for an offence against the Act may only be commenced by the Minister or an authorised officer within 3 years of the date of the alleged commission of the offence. The Attorney-General may authorise an extension of time.

74—Orders in respect of contraventions

This section provides that if the court finds that there has been an offence committed under the Act that has caused injury or loss or damage to property, the court may, in addition to any penalty—

- order the defendant to take specified action to prevent further injury, loss, or property damage; or
- order the defendant to pay an amount to a public authority or person if the public authority or person have incurred costs or expenses in preventing the injury, loss or damage or if the person has suffered injury or loss, or damage to property.

A person who has contravened the Act may also be ordered to pay the Minister an amount into the consolidated account not exceeding the court's estimation of the amount of economic benefit he or she is estimated to have accrued. This includes an economic benefit obtained by delaying or avoiding costs.

75—Recovery from related bodies corporate

This clause provides that if an amount is payable by a body corporate to the Minister, its related bodies corporate will be jointly and severally liable to pay the amount.

76—Joint and several liability

Where an amount is recoverable by the Minister from 2 or more persons, the provision is to be construed as if those persons were jointly and severally liable to pay the amount to the Minister.

77—Evidentiary provisions

This section outlines the evidentiary requirements applying to proceedings commenced under this Act.

78—Regulations

Provision is made for the making of regulations.

Schedule 1—Related amendments, repeal and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Residential Parks Act 2007*

2—Clauses 2 to 11—Amendment of various provisions of *Residential Parks Act 2007*

Clauses 2 to 11 amend various provisions of the *Residential Parks Act 2007* that are consequential on, or related to, the *Housing Improvement Act 2013*.

Part 3—Amendment of *Residential Tenancies Act 1995*

3—Clauses 12 to 23—Amendment of various provisions of *Residential Tenancies Act 1995*

Clauses 12 to 25 amend various provisions of the *Residential Tenancies Act 1995* that are consequential on, or related to, the *Housing Improvement Act 2013*.

Part 4—Repeal of *Housing Improvement Act 1940*

4—Clause 24—Repeal of Act

This clause repeals the *Housing Improvement Act 1940*.

Part 5—Transitional provisions

5—Clauses 25 to 31—Transitional provisions

These clauses contain transitional arrangements for the implementation of the measure. They continue declarations made under section 23(1) of the repealed Act, and notices under sections 52(1), 52(3), 54, 57 and 58 of the repealed Act.

Debate adjourned on motion of Dr McFetridge.

HOUSING AND URBAN DEVELOPMENT (ADMINISTRATIVE ARRANGEMENTS) (URBAN RENEWAL) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:42): Further matters raised by the LGA relate to references that the precinct authority may establish a community reference panel, may establish a design review panel and various obligations about how the community consultation is undertaken. Here, the LGA is highly concerned; clearly they say it must be a requirement that a community reference panel be established, not just 'may' but, given the precedent of the government's behaviour in its lack of consultation with the public on a number of developments I have outlined, we share their concern.

The design review panel is also important. I think in this regard, the government has attempted to introduce a level of design into future developments and bring in expert advice in that regard, and that has been welcomed. Again, the LGA makes the point that that should be required. Then we come to this rather curious provision in which the public, under the proposed 7H(11) is not actually able to say anything. An authorised person can attend but specifically, under the proposed law, not to participate in any meetings of the panel established by the precinct authority.

This is the ultimate silencing of the public but, in any event, that at least has been raised as a concern of council's because the LGA considers it reasonable that it play a very significant role. It is a representative, duly elected body and it ought not to be restricted to an observer role. The opposition shares that concern, especially if individuals are going to be wiped out of the process. On the precinct plans themselves, the bill refers to the development of the precinct master plan, and section 71 largely sets out the rules that are to apply to that.

Again, I think in summary the LGA are seeking some more prescriptive criteria and detail about how that is to be applied—size of land, siting of land uses, etc.—and what are the rules that are going to apply to that issue. On the precinct implementation plans, which is under proposed section 71(4), the LGA raised a concern that it is not clear what power a precinct authority will have to compel or direct government agencies in relation to social and physical infrastructure provision. This high level of prioritisation and coordination of infrastructure is a critical success factor for urban renewal. Clearly, the details as to what is to be in it and how it is to apply needs some prescription. They raise the very interesting aspect in relation to waste collection, because they say, quote:

> Details of the arrangements for waste collection must be considered as part of the precinct plan. There are existing issues with urban renewal developments that have not made adequate provision in the design and layouts of roads for Council waste collection. This is problematic given the Public Environmental Health Regulations 2006 compel metropolitan Councils to provide a weekly kerbside waste collection to residential properties.

I will refer to another waste issue that we have already dealt with, under the design principles that were published for the Bowden site development, for example, which is under the current DPA zone process and which is under the management the Urban renewal authority. I can recall reading a design principle which identified the need to have five separate rubbish bins in a dwelling presumably to separate rubbish and help with that. That is very important, sounds good, looks good and is very green, etc., etc., but who is going to pay for it? Who is going to pay for the extra collection of these things and is that cost then going to be sent back to the councils to meet? I think the LGA make a very good point.

There are also questions about what are complying classes of development. Again, they are seeking more detail. The plan must have regard for the provisions of any development plan applying in precinct areas, and councils are expressing concern about that. The provisions largely make reference to a document or standard prepared by a prescribed body. There seems to be a reasonable degree of flexibility for the precinct plan to reflect a particular set of circumstances at a particular time, but we need to clarify who and what a prescribed person or body may be.

It is like reading some sort of secret code, this bill, but obviously the LGA have been concerned about a number of matters that have also been raised by the opposition. The precinct plan under the proposed bill may provide that the minister, precinct authority or any other prescribed body or person has discretion over how any matter or thing is to be determined, dispensed with or regulated. This is under proposed section 71(6). Again, clarity is sought.

I will skip over some of the more minor ones, if I may. I do not mean any disrespect to the LGA, they are important, but I think I have covered them otherwise in the address. For proposed section 7K(1), the precinct authority may be granted a specific statutory power to grant approval, consent, licence or exemption, or to provide a service or infrastructure, or impose and recover a rate, levy or charge. Not surprisingly, this raised some significant responses from the LGA. Obviously this is a very broad level of powers. In the consultation that I had with the government, I

requested in the details of legislation what power this would give a precinct authority, who we expect to principally be the Urban renewal authority, and what acts they could override.

Given the comments I made yesterday during the contribution on this matter, that I had not received a response from the minister's office on matters raised in the briefing, I confirm for the record that at 4.30 yesterday this information as sought had been provided by Mr Golding, who is from the minister's office. I thank him for that. I would urge the minister to ensure that in future (I have put this request before) if we ask for information we at least have that information provided even on the morning before we start the debate, not three or four hours into the debate, but I appreciate that we have it.

The types of powers that are most likely to be used are contained in the acts that are scheduled, and I will quickly read those. This is the list provided from the minister's office: Crown Land Management Act 2009; Electricity Act 1996; Environment Protection Act 1993; Gas Act 1997; Highways Act 1926; Local Government Act 1934; Local Government Act 1999; Natural Resources Management Act 2004; Passenger Transport Act 1994; Private Parking Areas Act 1986; Rail Commissioner Act 2009; Roads (Opening and Closing) Act 1991; and the Road Traffic Act 1961.

Members following this debate would be, I am sure, familiar with the rules these acts cover, but I particularly draw attention to the Environment Protection Act. As members know, this act is there to ensure that in all the operations we have in the state we ensure that there is recognition and respect for the environment. There are very clear obligations and very significant powers vested under that act to ensure that that protection is heeded. From time to time, it is exempted.

I recall recently being advised of a public announcement by the government that there would have to be some ministerial approval before there be any attempt to impose any further environment obligation or conditions on the Nyrstar operation in Port Pirie. Everyone is aware that there are obviously public health risks attached to that enterprise, and people are still working to ensure that the operation can continue to minimise those risks but obviously provide the important economic outcome for the community and the state.

I make this point: if we are going to have a power in this urban renewal authority body, or indeed any other precinct authority that is appointed, we need to be very clear about what it is going to be used for. For example, members would be aware that the government's ill-fated Newport Quays development, which was a Land Management Corporation proposal with a private developer, ended up in the Supreme Court and is now under another review.

One of the issues clearly related to that development was the indication that there be proposed dwellings for residents adjacent to, or at least within the vicinity of, contrary to a distance recommended, a superphosphate facility. Again, we do not need to go into the rules about this, but the reality is that certain rules are set and certain guidelines and world standards are imposed that basically say that it is not safe to put dwellings in close proximity to things like a superphosphate facility. Infotech Pivot operates in that precinct.

Dr Close interjecting:

Ms CHAPMAN: Sorry, did I pronounce that incorrectly?

Dr Close: Incitec.

Ms CHAPMAN: Incitec Pivot, who operate in that vicinity quite legitimately, came up against this proposal. There was a public outcry about a number of aspects of this development. As I say, it ended up in the Supreme Court. I just make the point that when we are looking at developments, if we are looking at overriding these obligations, we need to be very clear about what they are and the public needs to be informed about them.

I am also advised, as I was at the briefing, that the level of power that will be applicable will be similar to that provided under the Economic Development Act. We are talking about very significant powers here to override a very significant number of important acts, and that therefore needs to be quite clear.

On this whole question of the capacity to impose and collect a rate or service charge, not surprisingly, the LGA on behalf of councils is concerned to know, 'How is this going to fit with the rating obligations that we have and our entitlements? Is there going to be further complexity of bureaucracy?' and the like. So, there a number of aspects that the councils are unhappy about.

There is capacity for the statutory authority in relation to approvals, consents, licences or exemptions that are primarily invested in a council. Again, they are not happy to have these roles

assumed by this new precinct authority. If there is going to be a conferral of any power that is primarily vested in a council to a precinct authority, it should require—it should 'require', not just 'think about' or 'may'—consultation with that relevant council.

Another matter that is raised is that, if a power of direction is not made available, a copy of the advice provided by councils should be made publicly available, along with a report, with the precinct authority outlining the extent to which it took regard to the council's advice and providing an explanation of any departure from the advice provided. The LGA also says that it does not object to the precinct authority imposing and collecting a rate, levy or charge as an infrastructure cost recovery mechanism, provided this is in addition to the rates that would ordinarily be paid to the council. Again, this all has to be sorted out.

In separate correspondence from the City of Charles Sturt—because they have had this experience of dealing with the Bowden development, which operates under a ministerial DPA—it has also raised a number of these matters, including this question that, if the raising of rates, levies and charges is going to be overridden, there be some transparency on that and there must be full public disclosure if there is any deviation from that. The City of Charles Sturt also makes this point:

> Council By-laws are reviewed regularly in consultation with the community. They are established to manage community expectations and competing interests in the public realm. Variation or exemption from existing by-laws should be clearly articulated in any master plan and precinct plan so that both Council and the community have the opportunity to provide comment and advice on what some of the unforeseen negative consequences might be. This is in the best interest of everyone.

They have had an experience and they want to be absolutely clear about who is doing what. In respect of the actual allocation of levies and things for infrastructure—which I think already is a challenge for most developments, and who is going to pay what, what level of government, and what contribution there is going to be—I met with the Mount Barker council recently. They have now established a levy arrangement with the government, which they briefed me about, as well as what they expect to do in progressing the development. The development has an unhappy history, but I think the Mount Barker council should be commended for getting on with the responsibility. They got off to a rough start, but they are trying to do the best they can.

If there is going to be some assessment of the infrastructure costs for any future development, then there is this vexed question. If landowners are going to have to pay it as they subdivide their properties, then how is this going to be fair, if other people who do not proceed to subdivide their properties and develop them, in circumstances where they will enjoy the fruit of the levies paid by others towards infrastructure levies, infrastructure is built and those who are sitting on their properties who are not proceeding with a development get the benefit?

Some will say, 'Well, we haven't been able to resolve other issues in the community or there are some other things holding it up so they shouldn't have to be paying it anyway,' but clearly this act is designed to give power to whoever the precinct authority is to set out the rules in relation to these infrastructure levies and be able to impose them on everyone. I think there are going to be some issues surrounding that, but, nevertheless, it may be justified. I am a bit disappointed that the government have not been a bit more particular in detail about how they propose this will work.

Nevertheless, we in the opposition have been consistently calling for clear arrangements in relation to infrastructure before developments proceed, particularly as we have had that awful experience in Mount Barker. We need to be sure that existing people in the community are confident that they are not going to be left with a large bill, and that new members who will be welcomed into the community are not inadequately provided for in the infrastructure that they will need. The powers there clearly need to be dealt with.

I have raised this question of inconsistency; who has the right to be able to be the precinct authority if there is a dispute? The obligation that it is necessary to disclose if an existing bylaw needs to be overridden—the City of Charles Sturt has raised it in detail, and the LGA remain concerned about this.

The other matter the LGA brought to my attention, which I think is very valid, is that according to the advice we received from them, the transitional provisions in this bill make provision that in the first 12 months after its commencement, a precinct plan may be prepared without any consultation. That is extraordinary, and I think the LGA share the opposition's concern about how is it that, for a year, they can do whatever they like. This seems very odd. There may be some legitimate explanation for it. I would be very concerned about that, but we will certainly want there to be some explanation, if there is a valid rationale for it, to be shared with the house.

The other matter I outline is, again, as Mr Golding had provided in his material yesterday, as we understood, only the URA, EPA, DEWNR, LGA, UDIA, and the Property Council were consulted. During the briefing, I had not noted whether the Department of Environment, Water and Natural Resources had been consulted, but it is important that they have been, and we note that.

The Environmental Defenders Office—members would be aware that the Environmental Defenders Office is basically a community legal centre which specialises in public interest, environmental and planning law. It is made up of a group of legal people who are experienced in this area, and they have been told about this. I think it is fair to say that they are not overly happy with some of the aspects of the bill. They, like the rest of us, are keen to look at where improvements to the development process can be achieved, and that it is to be welcomed.

Indeed, the Environmental Defenders representative, Melissa Ballantyne, has confirmed in her submission to me—and I assume that this has similarly gone to the government—that the Environmental Defenders Office is in principle a strong supporter of legislation that serves to promote urban renewal. However, they outline a number of concerns, such as the sloppiness (that is my word, not theirs) of the lack of definition in the bill, and a number of aspects that have been raised. They also raised this conflict of interest point. I briefly refer this aspect of their submission to *Hansard*. They make the following point:

> There is also no requirement under the HUD Act to consult in relation to the appointment of members of statutory corporations. Hence, unless a council is appointed to the precinct authority, it is our submission that the provisions of the Bill that appear to confer a level of independence to the precinct authority can be disregarded. Furthermore, unlike the conflict of interest provisions that council members must adhere to as procedural requirements to manage actual or perceived conflicts of interest, they may well arise as a serious concern. However it is unclear whether a council could legitimately assume the role of Precinct Authority as the Bill contains provisions...that act to fetter the discretion that a council is bound to exercise, and in conferring directly, and by regulation, wide ranging powers to a Precinct Authority, the Bill empowers a Precinct Authority to assume many of the functions but not the responsibilities of a council.

This is a really important point. They raise a number of other issues, and I am sure that they have been brought to the attention of the Attorney and the minister but, if they have not, we will be seeking an explanation about some of them in another place. I thank the Environmental Defenders Office for providing a legal perspective and, of course, its particular interest in this area of law.

The other aspect I wish to draw to the attention of the house arises from the presentation of the UDIA. The UDIA has provided the opposition with some draft amendments in the act which primarily provide for a restriction on the functions of the precinct authority. It does so by suggesting that under this legislation the precinct authority should have deleted from its functions the power to initiate or undertake residential, commercial and industrial development, except in certain circumstances, and instead of that its functions should be restricted to supporting and promoting residential, commercial and industrial development by the public sector in the public interest.

It proposes that the public sector be defined as a person or persons or any partnership, company, joint venture or undertaking of persons that is not the Crown, or agency or instrumentality of the Crown, a minister, the department, the URA, or a council. Consistent with that, it has then set out that development in the state is something the private sector would undertake but confined to or in the context of being in the public interest in respect of urban renewal—so that would be its charter.

However, it also acknowledges that there will be circumstances where some areas might not be attractive to or are not suitable for the private sector to become involved. It might not even stack up financially. Quite frankly, we are with the LGA on this aspect; that is, it would seem to me that if a precinct proposed development is not viable and there is not a business case to give it some level of qualification, there have to be very serious questions about why it would be done.

I am not talking about the exclusion that might result from what I am saying, that affordable housing or housing to provide for our vulnerable and poor or for those with high needs is therefore ignored; quite the contrary. We are supposed to have a Housing SA facility that, as a landlord, provides and looks after this type of service—and some of that is now provided in the NGO sector, in community housing and the like. We do not want to interfere with that, we do not want to restrict it; in fact, we welcome it.

It was disappointing yesterday or the day before when the Premier stood up to announce that he was going to put an extra $35 million or $40 million into public housing, yet not tell the people of South Australia how many houses he sold off in the last 12 months or what he was going to do with all the people who are about to be tipped out of accommodation in the city square that

has been all over the media. We, on this side of the house, recognise that there is a high level of demand for that.

The UDIA in their presentation to us, I think, fully understand that there will be circumstances where it is in the community interest, in the public interest, and that it is important for the state that certain developments occur and that the private sector does not want to do it. It is too far away, there is not enough profit in it, whatever the reason is that they might present. That is a matter for them, but in acknowledgement of that they recognise that there would be residual opportunity for the government through the urban renewal authority to do so. That has been a very helpful submission from the UDIA.

The opposition is giving it consideration. It has only recently been provided to us. We see that, in some way I suppose, as going towards the two principles that we say need to operate. One is there needs to be a clear delineation between the entity (usually public) that is going to be responsible for the planning, regulation, scrutiny and the assurances that there is compliance with whatever the legislation is there to protect or promote and, that separate to that, we have the opportunity for the private sector to be able to get on with the job within those parameters.

It is always of concern to the opposition. I can remember last year when it was announced through the budget process that the government had spent $16 million to buy the Caroma site in metropolitan Adelaide. It is an important strategic site and it is one which the government, through the minister, indicated that they would like to see developed in a manner that provided for mixed development and so on, consistent with all the principles the government had previously outlined.

They were very keen to acquire the site, notwithstanding that we are all running out of money, because essentially they needed to ensure that it was done properly. I must say I found that very puzzling as to why a minister, who has all of the effective control under the Development Act and has the right to come back to the parliament to expand or to remedy any defect in those powers to set the rules and ensure they are implemented, would have some capacity to mistrust the very industry who are experienced in undertaking this work, that we could not somehow trust them to do the right thing.

The rules are there and the rules are set for good reason, and they have to comply with them. They are the experts in the property development world and, provided they work legally within those boundaries, then they ought to be trusted. They are actually the experts in this field. It is that level of comment by the government—in this instance, by the former minister and I hope the current minister does not share that type of attitude—which is unhelpful, abrasive and really creates a level of tension and conflict which is completely unnecessary.

We need private enterprise to be working hand in glove with the government of the day to ensure that they have the best opportunity of developing for the benefit of all South Australians. I am very concerned about that and I hope that it is not promoted by the current minister. I will conclude by saying that in Victoria, unlike other jurisdictions that are referred to as having presented master planning or precinct planning roles within their planning laws, minister Matthew Guy announced on 21 May 2013, as follows:

> The state government will hand back planning powers to local councils for 21 significant sites across Melbourne, including South Wharf and the Whitten Oval redevelopment. The planning minister, Matthew Guy, said local councils were best suited to manage local planning decisions and he would return powers to them for some strategic sites in the next few weeks. A number of these sites to be redeveloped, such as the Fountain Gate Town Centre and sites of local significance, will require detailed council input and, as such, the coalition government believes that the relevant local council is best placed to manage them.

That is the sort of expressed sentiment of what I see as a cooperative working relationship with local government, not a takeover situation, which is, I think, being promoted here, without any adequate definition or delineation and about which, quite rightly, the representative body (the LGA) has raised a number of concerns. Of the constituent membership of the councils, we have received submissions from only one. As I have said, some councils indicated to me that they had not even heard of this until they saw it in the newsletter from the LGA.

I confirm the opposition's disappointment that the government has said one thing and done another in respect of the consultation process of this bill. We remain committed to the advancing of any beneficial amendment to the development laws in this state that we see as demonstrably of benefit. In its present form, we do not think that quite fits it. We clearly are not going to be stopping this legislation going through the house. We are keen to look at reform if it is necessary, but the manner in which this bill has been imposed and rushed through the house remains very disappointing.

The Hon. R.B. SUCH (Fisher) (16:17): I will just make some brief comments.

An honourable member interjecting:

The Hon. R.B. SUCH: 'Brief' means very brief. There are a whole lot of aspects that one could raise in relation to urban planning and urban infill. I think we are seeing some of the consequences of poor planning, or lack of planning. I am not sure which is worse: bad planning or no planning. We are seeing some of the infill people now living in little boxes. That is fine if that is their choice. We often see that, in some of these dwellings and around them, there is no greenery. They are completely either concrete or pavers, with no room to plant any significant vegetation. My fear is that, if this trend continues, we are going to see Adelaide basically turned into a city which is less than desirable.

We see it in some of the commercial developments as well. I have argued for a long time that, when people want to put in a commercial development, they should have to take into account the character of the area, and I will give members a couple of examples. I do not want to pick on Mr IGA of Hahndorf, but you would think that, in a community like that, which has a German heritage, a supermarket would be required to fit in with the theme of the heritage of that area. It is done in other places in the world.

You can even have McDonald's and the equivalent of Hungry Jacks but, if they want to set up in a locality, they have to fit in with the heritage and other design aspects of that area. Here, we let people off the hook. There is a classic recent one in the City of Mitcham, on Belair Road, just north of the member for Waite's office. There is a hideous development there. They have not been able to lease it, probably because anyone who goes in there, their business will take a downturn anyway. The council opposed it, but they were overridden by another body. Next time you drive up Belair Road, as I say, just north of the member for Waite's office there near the Torrens Arms Hotel, you will see that hideous monstrosity which has happened in recent times.

We have seen the Adelaide Development Company, which seems to have a lot of political clout, develop what they called Blackwood Park, which is actually Craigburn Farm. I do not think any of the blocks sold for less than $200,000. I think now you would not get one, if you could get one, for less than $300,000. There is no social infrastructure whatsoever; 1,200 dwellings I think is the cap there. I live not far from there—I am not the local member—but I tried to get provision, and I even asked them to provide a block of land so that, in the future, there could be a community centre. What did they get? Nothing—a couple of playgrounds and that is about it.

We see that at Flagstaff Pines, another one of their developments: expensive housing, plenty of fresh air, plenty of sea breezes, but no social infrastructure of any kind that I can see. They might get a playground if they are lucky. Good planning should consider not just drains and kerbs, but the social aspects as well. Ultimately, the residents pay for it—let's not kid ourselves. It should be factored in and part of the overall planning for developments, whether they are large or small.

We do not want people just plonked in a place or just allowed to live in a place. You need to have a sense of community, and that comes from having some commitment to aesthetics and good design principles, and also a commitment to social infrastructure. In areas of upper middle class, you may not end up with the same social problems as in areas where the people are not as well-off, but you will still have suppressed social problems.

I note that the Mayor of the City of Onkaparinga has been visiting here, and that is good, because one of the great things about the City of Onkaparinga is that they have in their developments—not Flagstaff Pines unfortunately—created community centres so people from overseas can learn English, or people can have cookery classes, or enter during the week men and women's groups, which is fantastic. That is what should be available to every citizen, not just to some, and that comes down to good planning.

I think councils, or whatever planning body there is, should have the power to actually retrospectively look at some of the poor, inappropriate developments of years ago, and that means, in some cases, requiring people who have built great asphalt carparks to vegetate them so that they do have shade trees and some appropriate landscaping.

I do not normally support retrospective legislation or powers, but we have done it for certain things—we did it to catch paedophiles—so I think we should have retrospective authority to require people who have built a hideous block of flats 20 or 30 years ago to bring their property up to a

standard in terms of aesthetics and having some vegetation, because that contributes to the wellbeing of the community.

We need also in planning to ensure that we are catering for people—that is what the whole purpose is for, I would assume—and that we have proper provision for walkways, cycleways, areas where people can walk their dog or child if they have one, kick a footy or throw a netball. That has been one of the costs, I think, of urban in-fill, that a lot of those precious little areas where people used to be able to throw a ball or play with their kids are disappearing and gradually being removed or diminished in quality.

Whatever planning regime we have, I think there needs to be greater focus on those sorts of facilities, which are not just social infrastructure, but also I guess go beyond that to encompass environmental considerations. We know from studies that if people can see greenery, it does help their mental health. You can make a judgement from being in this place: it is probably why we are all mentally well balanced—because we are surrounded by greenery, but I am being a bit flippant.

An honourable member interjecting:

The Hon. R.B. SUCH: Well, I do not want to draw invidious comparisons with any other organisation, body or group meeting, but studies show (and members can check this out if they do not believe me) that people in hospitals who can see greenery actually recover more quickly than those who cannot. They are probably looking to escape.

In our situation, we have to ensure—and this has not been happening in many situations lately—that there is provision for trees and other vegetation not only to generate oxygen and so on but also to contribute to a sense of wellbeing. After all, the more you disassociate humans from nature, the more likely they are to have psychological and psychiatric issues.

There are a couple of other points I would like to make. We have seen with some of the infill the so-called hammerhead. Some of these are done reasonably well, but some of them are atrocious. My wife and I were looking at a house not that long ago, and the council in question required the house on the hammerhead to actually touch the existing house. We are getting crazy outcomes in terms of some of these so-called infill policies, and I think they need to be looked at very closely and very carefully.

In terms of landscaping, I notice that we now import a lot of things from China—and I have nothing against the Chinese people; they are wonderful and very productive people—but I do not know why we have this obsession now with planting Chinese trees along a lot of our avenues and elsewhere. The ubiquitous Manchurian pear tree is a nice tree but sterile in our environment; it does not support any birds or anything like that. We seemed to be hooked into not only buying Chinese but also planting Chinese trees.

That raises the point of our arterial roads, many of which are hideously ugly—South Road, ugly; Marion Road, ugly; Daws Road, ugly. When planning is done—and it can still be done on those roads—roads need to be planned so that they can have proper decent trees, and a city can be transformed by planting up arterial roads and other areas.

The difference between Burnside and some of the western suburbs is not so much to do with the housing but with the fact that Burnside, Unley and Mitcham have plenty of trees. If you took the trees out of Burnside, Mitcham and Unley, you would drastically lower the value of all the properties, but you would find that there is not much difference between the housing in those areas and the housing in some of the other parts of Adelaide. So, that needs to be addressed.

The final point I want to make is that here in Adelaide we have missed the opportunity to underground power. People are getting pretty heavy electricity bills, so they probably do not want to even think about it. Through planning, more than half of Perth has been undergrounded. It has been done by a combination of funding from the residents and from the power companies, and the residents have actually welcomed it because over time it adds not only to the aesthetics of the area but to the value of their property.

Next time you go to Perth, look at what they have done. What have we done? We have kept the Stobie pole, which is a practical invention but not the most aesthetic object. But what have we done here in the last 20 years to underground power in a systematic way through better planning organisation? Zilch, very little. We have a committee that looks at special locations, but we do not have an overall concept of undergrounding power in Adelaide.

What we are likely to incur, because it is enshrined in federal legislation, is that in putting out the broadband if there is overhead power then legally they can string their washing lines between those poles. That is another issue. It has to be retrofitted. It is not cheap, but if you look at the Western Australian model—and I have inspected it and spoken to people there and corresponded with them—it has worked brilliantly in Perth, so that their city is much more attractive now than it was a few years ago because they have undergrounded their power to the point where it now exceeds 50 per cent of their total area.

I know there is a range of issues relating to planning. I do not think in recent times we have got the planning formula right. If you look at things like the provision of larger infrastructure, the Aquatic Centre should never have been built in Marion. It is in the wrong location, it does not look good, it does not fit well, and it does not suit the people of the north-eastern suburbs or the northern suburbs. It is not in the best location.

We have a bus centre in Adelaide in the wrong location. I argued that it should be integrated with the railway—I could not get agreement. They said it is it a different council area if we want to put it next to the Parklands terminal. If I wanted to have it at the Adelaide station, where it could have gone, with buses coming in off King William Street and going out to Morphett Street, using the old railway building—I could not win that one.

The classic is the O-Bahn. It works, but what we have got is a disjointed, hybrid transport system. I do not know what it is, but in South Australia we have not been able to get planning right. Whether it is infrastructure such as transport, we have not done well. Our scorecard is not good. I hope that, as a result of this bill, in terms of urban renewal, we start to get our act together and create a city with suburbs that are a showcase for the rest of the world.

However, at the moment we have pockets which are attractive, but we have parts of our greater metropolitan area which are looking tired and, in some places, almost tacky. I think as a community we can do better, and I hope that this bill contributes to a better outcome in terms of planning than what we have seen in the last 20 years.

The DEPUTY SPEAKER: If there are no more speakers I will call the minister, and if he speaks he closes the debate.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (16:33): Are you sure there's nobody else who wants to go? I don't think that member for Bragg covered everything off.

Members interjecting:

The Hon. J.R. RAU: All right; very well, I'll speak. I am worried about the member for Kavel hooking into me. Can I say a few things about this? First of all, can I congratulate the member for Fisher, as always, for making a contribution which was erudite and, as always and particularly relevant today, succinct. He was able to condense some very complex argument and very acute observation into what, by my reckoning, was under 20 minutes.

Ms Bedford: Ten minutes; we were timing him.

The Hon. J.R. RAU: Ten minutes; minute for minute the most powerful 10 minutes of this whole debate thus far.

Mr Gardner: This is absolutely irrelevant.

Ms Bedford: In your opinion.

The Hon. J.R. RAU: Member for Morialta, you thought you heard irrelevant earlier on today. I am going to try to explain to you what relevant is.

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.R. RAU: Mr Deputy Speaker, I am congratulating the member for Fisher on an erudite contribution and I am having heckling from the member for Morialta, who cannot recognise erudition when he hears it.

The DEPUTY SPEAKER: I am sure the member for Morialta is going to remain silent.

Mr Goldsworthy: Get on with it. You're not being erudite.

The Hon. J.R. RAU: Oh, no! Member for Fisher, because you were so erudite and succinct and pithy I am going to try to offer some response to each of the points you made, because I am able to actually know what you were saying; it is very important. I do know exactly what you were on about. The first thing is ugly buildings. You mentioned terrible buildings that you have observed in the city.

Can I just say, there is an important distinction in all of this between the development plan and the assessment process; they are two completely different things. Unfortunately, what happens quite often is we shoot the piano player, or the messenger, whichever analogy you want to go with, because the assessing authority, whether it is the DAP of a council or whether it is the DAC, is assessing against a set of criteria of which it is not the author.

You can have a situation where it might well be, if the members of the DAP or the DAC were making the decision about what they like, or do not like, they would come to a particular point of view; but that is not what they are there to do. Indeed, it is one of the reasons why DAPs are still fraught with difficulty. The councillors who are members of DAPs are caught between the political requirements or pressures of their electors and their actual responsibility as a determiner of whether or not a particular application lines up with the development plan, not whether it lines up with the views of the current residents.

The long and short of that point, I suppose, is the answer lies, member for Fisher and others, in having a good development plan, because a good development plan when properly used for assessment purposes will produce good results. The good development plan can and should include design review and design merit elements, which we have done in respect of the Adelaide City Council interim DPA which came through in March of last year, where the design review panel is now dealing with pre-lodgement design review assessment of projects in excess of $10 million.

As far as I am concerned, the broader that concept is in South Australia, particularly in the rest of the city, the better, because that is a very important point. In the end you cannot get away from having decent development plans against which to make an assessment, but I do accept design review could do a lot more work elsewhere, and so far the experiment in the City of Adelaide is working in a positive way. You mentioned something about undergrounding powerlines. This is something that I have been obsessed with for many, many years. I remember years ago writing to my then state member of parliament, Mr Hamilton.

Ms Chapman interjecting:

The Hon. J.R. RAU: Indeed. I used to write to Mr Hamilton, the then member for Albert Park, if I remember correctly. I used to say, 'Dear Kevin, aren't you sick of looking at these terrible stobie poles? When are we going to start doing something about it?' As I recall, he sent me a letter enclosing a PLEC brochure, telling me that we had the solution in hand.

The Hon. S.W. Key: That's right. Got to get on the list, though.

The Hon. J.R. RAU: Yes. I agree with the member for Fisher that that is much less than I would hope for. I also agree with him that it would be perhaps a good idea for us to look at places like Perth, where they have done something about it. I noted in the member for Fisher's remarks that his studies of the Perth model indicate that local communities have been prepared to contribute to the cost of doing that, and the cost is not insignificant.

I must say, I have always wondered why, when we have had things like, for example, the rollout of cable TV—you remember some years ago, during the time of the Keating government there was a thing about rolling out those ugly fat cables down everyone's street. It was an opportunity for local government, the federal government, the telcos and the power suppliers to cooperate in digging the holes and putting the whole lot underground.

That was an opportunity, I think, that was missed, and I think it is a great shame it was missed. Again, I wrote a series of letters which largely went unanswered to various people, suggesting that. They largely ignored me, except, I might say, Mr Ziggy Switkowski. He was going to put some enormous big fat cables in front of my place. I wrote him a letter saying, 'Dear Mr Switkowski, I am writing to you to draw your attention to the horrible cables that are going to be obscuring my view. I have saved my whole life to buy this home so that I can sit here and look out the window, and I never anticipated that I would be looking at those ugly fat cables.

'I have said to my friends, "If I write to Mr Switkowski, he will listen to me because he cares about little people," and they have all replied, "No, he won't listen to you. He's a big businessman. He's just interested in making money." But I know, Mr Switkowski, you do care about little people

like me.' It obviously worked because he did not put a cable down the street. So sometimes it does pay to write a letter to people. Anyway, that deals with underground powerlines.

Another issue is trees. Obviously, there is an 'asymbiosis', if there is such a word, between trees and overhead powerlines. Overhead powerlines mean you have the most spectacularly stupid things, like a perfect, pristine row of Norfolk Island pines cut off at about 10 metres with little sprouts coming up everywhere because they are right under a powerline. How spectacular that is!

You expect a tree with a 20-metre girth at the bottom to go up higher than the ceiling in this building, but it does not: it goes up about as far as the clock and then it is cut off. Why? Because there is a powerline going down the street. Or in places like Ashford, where they have plane trees or some other trees, they have that terrible thing where they just chop off the top of the tree and it sprouts off in different directions. I do not know what they call it, but there is a name for it.

The Hon. R.B. Such: Pollarding.

The Hon. J.R. RAU: Yes, pollarding. The pollarding industry is thriving in Adelaide courtesy of electricity powerlines. So, there we are: decent streets, nice trees, underground powerlines; it is very hard to argue with anything the member for Fisher is saying about that.

He also mentioned transport planning. I have a good bit of news for the member for Fisher: in September or thereabouts we are going to be rolling out a draft integrated land use and transport plan, which hopefully will address a number of the concerns the member for Fisher has raised, and I know they are concerns that many people have had for many years.

We do have a range of different public transport services operating—the O-Bahn, the tram, buses, trains. The question is: how do they all knit together and how do they all serve communities properly? The way the people in Onkaparinga are best served, for example, may not be the same as for people in Norwood. Nonetheless, how are we going to deal with all those people and their public transport needs? These are all very important questions raised by the member for Fisher and, as always, he was succinct, to the point, and it is something that we are going to walk away from here thinking about.

Members interjecting:

The Hon. J.R. RAU: I am about to draw a contrast. So, thank you very much, member for Fisher. Hopefully, you appreciate that I agree with almost everything you said. I now turn to the other contribution. I want to address it in three parts: the first hour and a half, the second hour and a half, and the third hour and a half. The third hour and a half reminded me of something called Vogon poetry. Years ago, I saw a film on television, called *The Hitchhiker's Guide to the Galaxy*, in which the hero winds up on this spaceship run by a group of fairly unpleasant looking individuals.

When they capture people they wish to manipulate—so they will either be tortured or the equivalent—they do not use conventional things, like waterboarding (which I could also have compared to the third hour and a half), but they use a thing called Vogon poetry, where they just read this terrible poetry out to people, and people volunteer to jump off the spaceship in order not to listen to any more of the poetry. At least, that is my recollection of the film and, if anyone has not seen it, I think you should have a look at it. It is in about the first hour and a half of the film.

The Hon. S.W. Key: Bring back the poetry!

The Hon. J.R. RAU: Bring back the Vogon poetry, yes. That is really my main comment about the third hour and a half and, to some extent, the second hour and a half.

An honourable member: And the first.

The Hon. J.R. RAU: And to some extent the first hour and a half, but I will come back to more particular issues. Can I suggest to the member for Bragg that it might be a good idea and produce an interesting result if the member for Bragg actually obtained a cassette recording of her second reading contribution and sent it to everyone in her electorate, so that they could listen to it whilst they are considering what they are going to do in March next year.

Those of them with the true grit to sit through it I guarantee will vote for you, member for Bragg. Those that sit through the whole 4½ hours will definitely be supportive of the member for Bragg. The rest of them will at least be more informed as to the member for Bragg's views on a great many things. A couple of other issues came out of it—back to the first 1½ hours now.

There was a bit of discussion in there about the LGA, and there were references made by the honourable member to her forensic skills in determining that Mr O'Loughlin had 'transferred

with a tranche several hundred others across to the urban renewal authority from Housing SA which has been depleted'.

Just for the record, Mr O'Loughlin has indeed 'concealed' his change of work in the conventional way by going to work like everybody else, and telling everybody who asked him. So, that is not exactly a secret. In terms of any potential, actual, figmentary or illusory conflict of interest, I note with interest, because it has been provided to me by the LGA, that a resolution was passed that:

> The LGA Board authorised the LGA Vice President Mayor Lorraine Rosenberg and CEO to finalise a submission to the Minister for Planning on the Housing and Urban Development (Administrative Arrangements) (Urban Renewal) Amendment Bill 2013, based on legal advice received and the submissions made by Councils.

As far as the LGA is concerned, Mr O'Loughlin, in an exercise of absolute probity, has taken himself out of the mix—

Ms Chapman: We accept that; you should have told us. You should have told the parliament; that is the point.

The Hon. J.R. RAU: I am telling you now. Hello!

Members interjecting:

The Hon. J.R. RAU: Let me read that again—

Members interjecting:

The DEPUTY SPEAKER: Order!

The Hon. J.R. RAU: Let me read that again:

> The LGA...authorised the LGA Vice President Mayor Lorraine Rosenberg and CEO to finalise a submission to the Minister for Planning...

So, the LGA did the right thing. We knew what they were doing, and they knew what we were doing. Mr O'Loughlin had never said to the LGA that he did not work for the government; he had never asked them to let him represent them in this conversation. Mr O'Loughlin has acted with complete integrity about this matter, as one would expect. The LGA has operated with complete transparency and integrity in respect of this matter—

Ms Chapman: It's only you that we are criticising.

The Hon. J.R. RAU: The member for Bragg interjects that I haven't; well, that brings me to my next point: Apollo 11. Now, there are people—

Members interjecting:

The Hon. J.R. RAU: There are people who believe that Neil Armstrong, Buzz Aldrin and Michael Collins did not in fact go to the moon in July of 1969. They believe that they—

Ms CHAPMAN: Point of order, sir.

The DEPUTY SPEAKER: Point of order.

Ms CHAPMAN: Unless the minister is proposing to disclose that a precinct plan will be issued for the moon, then this has no interest, merit or capacity to influence the debate, and—

The Hon. J.R. Rau: Coming from you!

Ms CHAPMAN: Although the Attorney has had his little quip about the length of contribution, which I suggest is quite disingenuous about all of those submissions that we have outlined to the parliament from genuine people who have made that contribution, I just make the point and ask for a ruling that, unless there is going to be a disclosure—which should not come in a rebuttal, of course—that there is going to be a precinct plan proposed for the moon, you would rule that this is completely irrelevant.

The DEPUTY SPEAKER: I do not think it is a point of order. The Deputy Premier is obviously using examples in response to contributions that were made earlier in the day, and he is in order.

The Hon. J.R. RAU: Thank you very much, Mr Deputy Speaker. As I was saying, there are some people who believe that when Reg Lindsay sang the son *A Man Called Armstrong*, which

we all recall, and starting with 'On a July afternoon'—the member for Bragg reckons she was a bit young, but others of us—

Ms Chapman interjecting:

The Hon. J.R. RAU: I did tell you about it at some stage when you asked. Anyway, the point is that there are some people who believe that that did not actually happen at all but that at a secret filming at Universal Studios the whole thing was set up.

An honourable member interjecting:

The Hon. J.R. RAU: No, Apollo 11. So Neil Armstrong never actually landed on the moon at all; that was all done in front of a green screen at Universal Studios, and people believe this. There are other people who believe that the vapour trails that come behind aircraft are delivering messages from other planets, and stuff like that.

They are in the same space as some of the allegations and conspiracy theories that have been advanced by the member for Bragg in her first one and half hour contribution: about secret meetings, people not telling people things, people hiding things and saying, 'Oh, it's a conspiracy.' It could not possibly be as simple as Mr O'Loughlin telling everybody that he had a conflict and that he did not get involved; it could not possibly be that simple. Goodness me, wouldn't that be dull.

Then there all of the other allegations we have had this morning of cover-ups and secret meetings and lack of consultation. The interesting question about the Playford conversation that is going on presently—can I give you some of the elements of the secret conspiracy that has been going on there. For the last two or three years the government has been talking to local government and anybody else out in that area who will listen, including all the landowners, about what they would like to see happen in Playford.

Unless the member for Bragg has evidence that all of those people have been sworn to secrecy or have been threatened to silence them, we start to see how absurd this assertion is. A week or so ago we put out a discussion paper—the most comprehensive discussion paper ever distributed in the planning space and we have a 12 or 14-week discussion period ahead of us in relation to that. Where I come from that is called consulting. In fact, we have 14 weeks of consulting as the crescendo to three years of consulting. In fact, consulting fatigue is bearing down on the people of the north. They have been consulted to death.

I dare say that if anyone goes doorknocking in the north in the next few months and they open the door they will say, 'Oh, no, not another consult about the development plan. Please, we've had enough of you.' Everybody knows about it—except the member for Bragg. The member for Bragg is the only one who does not know about the consultation that is going on. All of this waffle that went on for the first and second hour and a half about people not consulting with people and people not knowing about things—as I said, it is up there with Apollo 11. It is just sheer fantasy. It is conspiracy theory and completely wild stuff. The member for Bragg wanted to know why it was that I was in the chamber debating this bill and not the Minister for Infrastructure. The answer is tragic but here it is: I got the short straw. The Minister for Infrastructure—

Mr GARDNER: Point of order, sir: it is unparliamentary to refer to whether members are in the chamber or not.

The Hon. J.R. RAU: I am chastened.

The DEPUTY SPEAKER: All right.

The Hon. J.R. RAU: And I apologise to the Minister for Infrastructure for having said such a thing about him. I am sorry, minister.

An honourable member interjecting:

The Hon. J.R. RAU: Anyway, I am just not going to pursue that particular line of questioning. Now, here we are. Can I go into a couple of matters of detail? I have tried to deal with the general propositions. Mr O'Loughlin, I think I have dealt with him. I haven't seen the expert panel advice. For those who are interested in seeing a letter from Mr Hayes about this document, no problem, it can be done. Can I also say that there has been plenty of time for the member for Bragg and others to get a briefing about this matter between the time the bill was brought in and now. I am not going to try to embarrass anybody by going into the detail of what has happened there—or not happened, as the case might be.

Written submissions: well, I am not hiding them from anybody, if anyone wants to see them. Selective consultation: I think I have dealt with the absurdity of that proposition. LGA not consulted enough: look, we have been consulting (we, me, the department) with the LGA and that is just the truth; we have been. Any assertion to the contrary is absolute unmitigated rubbish. It may be that one or other of the constituents of the LGA might or might not agree with the bill. Well, you know, let a hundred flowers bloom. I don't care. But the assertion that we have not consulted with the LGA is complete and absolute rubbish.

If one or two councils have peculiar concerns or are recalcitrants or absolutely love it, wouldn't one expect that? I mean, they are not all robots. There are 68 of them. You cannot expect them all to think exactly the same thing all the time. So I utterly reject any assertion of a lack of consultation with the LGA. Indeed, just to further that point, I read out into the *Hansard* the other day words that I had undertaken to read in order to assist the LGA and give them words of comfort. I wouldn't have done that if I hadn't talked to them, I wouldn't have thought.

There has been consultation obviously with the URA. We have had more again of the *Apollo 11* story—there is a sniff of conspiracy, there is a conflict of interest here, there is a conflict of interest there. I know that people behind me know but do people over there understand what a conflict of interest actually is? A conflict of interest is a flag. It is not a criminal offence. It is a flag that says there is a risk in maintaining the relationship between this person and this piece of work because of another relationship.

It does not mean that person is necessarily doing anything wrong. It means that they are in a position where they might conceivably be compromised. That can be managed and, on my advice from the department, it has been managed in the instances that have been referred to repeatedly. The Ombudsman, of course, has already examined this particular exercise up hill and down dale, has made his comments, and we had a discussion about that here a while ago and that has been and gone, so for goodness sake let's not go back there.

Mr Goldsworthy: To be referred to the ICAC.

The Hon. J.R. RAU: Just to help the member for Kavel, nobody refers anything to the ICAC, not even the member for Kavel. Significant though his capabilities are, not even the member for Kavel can refer anything to ICAC. Neither can I. What you can do is write a letter to the Office of Public Integrity which may or may not pass it on to the commissioner who may or may not at his discretion decide to investigate it.

That is what you can do, okay? We need to get that right because one day somebody saying that could wind up being prosecuted for saying 'I have done this' when you haven't actually done that and it is an offence to say you have. So I would hate for anything like that to happen to the member for Kavel because it would be a terrible way to end his career. I don't want that to happen.

Playford, lack of consultation: we have already discussed that. The long and short of it is that the opposition says, inasmuch as I did get a sense of what the member for Bragg was saying, 'We support the bill but it is terrible.' I think this bill is actually very important for the people of South Australia. It means that we can have a development authority which is comparable with things that have made the East Perth Redevelopment Authority or the Southbank development authority in Brisbane and other authorities like that do great work.

They pull together local government, state government and people who are entrepreneurs or developers or whatever, and they produce great outcomes with special governance arrangements to deal with the particularities of those project, as they should do. We have a second-rate planning regime until we recognise that we are deficient in not having these sorts of arrangements and that we need to get them.

The other point, before I descend into more particularity, is to say that there is an inherent inconsistency between the propositions advanced by the member for Bragg—on the one hand, complaining about the position from the perspective of the LGA and, in the next breath, complaining about the position from the perspective of the UDIA.

Let's make no mistake about what the UDIA is saying here. They are saying, 'We want local government and state government to get out of the field and hand over these powers to us as private developers.' I say this: No. 1, it is not the policy of this government, and never will be, to say that the government, through its own land management arm, which in this case is the URA, is not able to both assemble and, if it chooses to do so, develop land. If we were to cut off that particular

option from the URA and say, 'You might be able to assemble land packages, but you never, never, ever will be allowed to develop them—

Ms Chapman: Didn't say that.

The Hon. J.R. RAU: Well, read your *Hansard* and read the proposition advanced by the UDIA. The second thing is the idea that the powers contained in this bill should be entrusted to an authority which has no elected government representative on it, neither state government nor local government. Again, I reject that totally. There is nothing wrong with us as a state government, or a local government, partnering with a developer to produce an outcome using the provisions of that legislation—nothing at all wrong with that.

Ms Chapman interjecting:

The Hon. J.R. RAU: I invite the member for Bragg to clarify that position. Is the member for Bragg saying unequivocally that, as far as the opposition is concerned, you are happy to have the statutory powers contained in this bill handed over to a private sector operator—yes or no?

Ms Chapman: No, to develop it themselves.

The Hon. J.R. RAU: All of the powers in this bill given to a private sector developer—yes or no?

Ms Chapman interjecting:

The Hon. J.R. RAU: Is that a yes or a no answer?

Ms Chapman: No.

The Hon. J.R. RAU: Good—it's a no.

Mr Goldsworthy: This is out of order, Michael.

The DEPUTY SPEAKER: Well, take a point of order.

The Hon. J.R. RAU: He's working up to it. So, that is a matter of principle, I think; that is a point of difference. On the one hand, we have, if you want to characterise it, an attack from the free market sort of Tea Party end of the spectrum, and we have an attack from the extreme 'Oh, gee we're worried' LGA end of the spectrum. Two more completely irreconcilable positions I cannot imagine, and we will see in the fullness of time what happens.

Now for a bit more particularity, because I thought I had to deal with the general stuff first. First of all, consultation: the government has sought the views of interested people on this bill while it lay on the table since being introduced on 2 May. I remind members that the bill has the support of the expert panel on planning reform, which provided valuable comments, and the—

Ms Chapman interjecting:

The Hon. J.R. RAU: If you had been listening, member for Bragg, instead of having a convivial with the very, very enchanting guest we have in the gallery today, you would have heard about that. I am happy to provide copies of the expert panel's advice to the opposition or to anybody else. Can I say, again for the record, that this bill has been worked on for some time. It just so happens that the bill was finalised shortly after the panel had been created, and it was thought that, in deference to the panel, even though this work had pre-dated the panel, the panel would be consulted—and they were, and they made comments and those comments were incorporated in the bill.

Since tabling, supportive comments on the bill have been made in the media by a wide number of organisations, including Community Alliance, the Local Government Association, the Property Council, the Urban Development Institute and the Civil Contractors Federation. All of these comments are very welcome and evidence broad spectrum support for the new approach to urban renewal which this bill proposes, subject to, of course, issues of detail.

I have also been pleased that a number of organisations have taken advantage of the opportunity to comment on the bill, and I am happy to provide all of their submissions to the opposition or any other member between the houses. You cannot do better than that, can you? Everybody is entitled to have that. In particular, as I indicated in my second reading remarks, my department has sought to engage with the local government sector.

Since the bill was introduced, engagement with local government has included my attendance at the Metropolitan Local Government Group meeting of mayors and chief executives on 8 May, a specific workshop provided to elected councillors and staff on 21 May, and a number of direct meetings with staff from the Local Government Association. Indeed, I would like to thank the Local Government Association for their close collaboration with my department in facilitating these discussions. The support of Local Government Association has in fact been productive and constructive.

I am particularly grateful to Mayor Rosenberg, Vice President of the LGA, for her assistance during this process, as well as the staff of the LGA Secretariat. Planning staff have also discussed the bill directly with a number of councils as part of the department's regular meeting with local government, and I am advised there is considerable interest from some councils in the potential application of the precinct planning process outlined in the bill for their own urban renewal projects. I understand that the LGA's circulation of the bill for comments from its members concluded last Friday and has informed its submission to the government.

While I am advised that the LGA's submission is still in draft and is yet to go through the formal process of endorsement by its executive—and can I say in parentheses here, this is one thing that is constantly difficult. The timelines for the LGA to go through its extensive process are not always easy to fit into a complementary arrangement with government. That is not a criticism of the LGA; it is just a fact. We appreciate the fact that we are able to consult, nevertheless, prior to that time.

I am grateful to the LGA for providing an advanced copy of its submission to the government to enable it to debate the bill and proceed with this now. It is my understanding that the LGA has also briefed the opposition, which was evident from the opposition reading out the whole letter, and gave them a copy of the draft submission. In addition to the LGA, submissions have been made to the government by the Environmental Defenders Office and the Urban Development Institute, and I am happy to share details of these with members.

In addition, I have received an advance copy of a submission from the Adelaide City Council this morning, which I am also happy to share with members. I have not, at this stage, been in a position to review this submission in detail, but many of the matters they raise are encompassed in the LGA's submission, and the government will be happy to provide a more detailed response once we have digested their comments. Bear in mind, these submissions are coming in pretty late, from our point of view. We are trying to digest them as quickly as we can and get back to people.

I want to repeat the undertaking I made upon the introduction of this bill. I am prepared to discuss reasonable amendment to the bill with any interested parties, and I am willing to provide briefings to any member who desires to inform their deliberations. Indeed, my office has already facilitated briefings for the opposition, which I understand have taken place today and before today with the Greens and the Hon. Kelly Vincent. Further to the debate today, I will be outlining my initial response to the issues raised in the submissions to date, and I am happy to then take any specific questions.

First of all, as to the role of the URA, both the URA and the Urban Development Institute have suggested changes to the function of the urban renewal authority proposed in the legislation. I want to be clear that the government is not seeking to alter the current functions of the URA in any way from those already established in the regulations under which it is currently established.

All this bill seeks to do is to elevate the URA from the regulations to become a creature of statute law. This will ensure the longevity of the URA which is necessary to ensure that long-term urban renewal projects it has been set up to achieve, are realisable using precinct planning powers provided under this bill.

Whilst the list of functions has been abbreviated from that in the regulations, our view is that this does not alter the nature or the form of the organisation in any meaningful way. For this reason, I am disinclined to accept the changes proposed by the LGA, most of which are relatively cosmetic in nature.

In relation to the submission from the UDIA, these would significantly alter the role of the URA and would, in my view, unnecessarily hamper its operations. I am not inclined to accept these, as I have remarked earlier.

In my view, the independent Expert Panel on Planning Reform chaired by Brian Hayes QC, which I established earlier this year, is the better vehicle for those types of issues to be ventilated. From the government's perspective, our intention is simply to transpose the URA in its current form into the statute in an efficient manner.

A number of the comments from the LGA relate to the consultation processes outlined in the bill at various stages of the precinct planning process. I note that, generally, the LGA supports the multiple steps outlined for upfront engagement and consultation set out in the bill and sees them as potentially a better model for many urban renewal projects than the minimum consultation requirements set out in the current Development Act.

However, I note the LGA has expressed concerns that a number of the consultation steps do not set out minimum time periods for consultation at each stage of the process and include discretionary rather than mandatory provisions. These concerns have also been raised by the Environmental Defenders Office. For example, prior to establishing a precinct, the minister is required to consult with any relevant council staff. The LGA has expressed the view that this should include a minimum time period.

Similarly, in relation to the process of public consultation on a draft precinct plan, the LGA has expressed the view that the holding of a public meeting should not be discretionary. The current provision provides only that the minister may require a public meeting to be held.

Another example relates to the establishment of a community reference panel and design review panel to support the precinct planning process. This is presently expressed as discretionary in the minister, whereas the LGA and the Environmental Defenders Office think this should be a mandatory requirement.

A further example relates to consultation with the Development Policy Advisory Committee and the Development Assessment Commission. In both cases, the LGA and the EDO have called for this consultation to be mandatory.

The policy rationale behind the discretionary nature of these revisions is to maintain a degree of flexibility within the precinct planning process. This flexibility is desirable to ensure that the process is scalable, capable of catering for large and small-scale precinct projects with the process tailored, to some degree, to the nature of the project proposed to be undertaken.

In simple terms, the more prescription we put into the process the narrower the range of urban renewal projects it is likely to be suited for. We do not want to design a process which will lock out potential investors because it is too cumbersome for their particular project. However, I accept that a level of certainty is desirable and I am considering making the detail of these consultation requirements matters that will be the subject to regulation rather than ministerial discretion.

Ms CHAPMAN: When will I see those?

The Hon. J.R. RAU: 'Considering' I said. Such an approach would preserve the flexibility we desire and which the Deputy Leader of the Opposition's new-found friends in the UDIA, no doubt, would desire, while also assuring stakeholders that there will be some default expectation application to most projects most of the time.

For example, I consider it would be possible to say that consultation timeframes will be as prescribed by regulation. A regulation would then set a standard timeframe, but could also enable exceptions or abbreviations to that timeframe as appropriate.

Similarly, in relation to consultation with DPAC and DAC, it could be that the consultation requirement is made mandatory, other than in circumstances permitted by regulations. This would preserve the flexibility we are seeking to achieve while providing an appropriate default position and parliamentary oversight of any departure. Accordingly, the government will consider amendment of this nature prior to debate in the other place.

I note a number of other concerns have been raised about the oversight of the precinct planning process by the LGA and the EDO. In particular, the LGA has raised the need for the establishment of a precinct to have tighter criteria and both the LGA and the EDO have raised the need for parliamentary oversight of the precinct planning process. The criteria for establishing a precinct have been drawn from equivalent interstate legislation. So, we are not actually inventing the wheel here. We are not there with our pieces of flint and straw doing this for the first time; this has actually been done before.

They are purposive rather than prescriptive in nature to ensure that we do not rule out potential urban renewal projects by applying criteria that are too limiting in nature. We believe the process for establishing a precinct already has substantial checks and balances. These include consultation with the Minister for Planning. And can we just get this clear? The idea that everybody's in the bathtub together is not right. There is a separation between the Minister for Planning—

Members interjecting:

The Hon. J.R. RAU: I'm losing them, Mr Deputy Speaker.

The Hon. J.D. Hill: Just pull the plug on that image.

The Hon. J.R. RAU: Okay, new image: we are all in the same space. Is that neutral enough?

The Hon. J.D. Hill: Yes.

The Hon. J.R. RAU: We are not in the same space. That is the reason, from an administrative point of view, as far as the machinery of government rules are concerned, there is a separation between the Minister for Planning and the Minister for Infrastructure. The Minister for Planning has certain roles which do not include a whole group of things that the Minister for Infrastructure is involved in—like being responsible ultimately to the parliament for the URA, like building bridges, like building roads, building railways, etc.

However, there is a difference between getting planning approval for a bridge, building a bridge and, as the member for Schubert could tell us, painting a bridge. They are three completely different things. There is already a separation in the government arrangements between the planning and building bit, and this is maintained. This is actually a check and balance within the system.

So, I come back. These include the consultation with the Minister for Planning to check aligning with the planning strategy, consultation with relevant councils, and consultation with DPAC and the Development Assessment Commission. At the master planning stage, checks and balances include consultation with the community, the use of community reference panels and design review panels, advice from the DAC, joint ministerial sign-off (in other words, both ministers have to agree), cabinet endorsement and then, of course, the endorsement of the Governor. In executive terms, this is the Rolls-Royce—

Ms Chapman: This is just you and Tom, and everyone else is a possible; that's all it is.

The Hon. J.R. RAU: Cynical—so, so cynical.

Ms Chapman: What about if you and Tom disagree? You're the deputy.

The Hon. J.R. RAU: I'm asked: what if the Minister for Infrastructure and I were to disagree? Then there would not be the two signatures and there would be a creative tension, as I would call it, between us until we came to a position that we could both live with, at the end of which both signatures would be applied, and there the system would be working. That is a beautiful opportunity for me to explain that.

I also note that the conferral of powers on a precinct authority is to be achieved by regulation and therefore subject to parliamentary disallowance. However, I acknowledge that the bill could be improved by the inclusion of additional checks and balances. For this reason, I will be considering the potential to include changes to the bill which would ensure each stage of the precinct planning process is reported to the parliament's standing Environment, Resources and Development Committee and the ability for that committee to recommend alterations to a precinct master plan or, if necessary, disallowance on a similar basis to a development plan amendment.

I also note the LGA's suggestion that a business case could be prepared to support the precinct declaration, and I will consider how this could be reflected in the legislation. I think such a process could also address some of the issues raised by the Adelaide City Council's submission in an effective fashion. The LGA has raised a number of issues relating to the interaction of this bill with the Development Act.

A fundamental strength of the South Australian planning system is its unitary nature; however, this type of urban renewal legislation is best placed parallel to the normal planning rules. This is consistent with the approach of all other Australian jurisdictions. The rationale for this is that urban renewal legislation is about project management and governance, as opposed to regulatory

policy settings. In this sense it is akin to public works or infrastructure legislation, which also sit parallel to the normal land use planning rules.

Conceptually, we see the precinct planning process as a special mechanism to enable transformational projects that will catalyse urban renewal and regeneration to be undertaken in a more integrated and coordinated manner than the planning system currently allows. In this sense, the precinct planning process enables a project to exit the normal planning system for this public policy purpose. Very importantly, however, the legislation has been designed to then ensure that upon completion of a project there are mechanisms to return the precinct to the normal planning system.

This is similar to urban renewal legislation in other jurisdictions, although the project time frames may be lengthy. Necessarily, by establishing urban renewal processes parallel to the Development Act, careful linkage with business-as-usual planning process is required. The LGA has made a number of suggestions to improve these linkages, which I am prepared to consider; for example, providing direct linkage to the process of council strategic direction reports under the Development Act.

However, a number of the suggestions put by the LGA would fundamentally undermine the purpose of this bill and cannot be agreed to. It is essential that at some point a precinct plan overrides the underlying development plan to the extent necessary and that the precinct authority undertakes the assessment process in lieu of the normal process. Otherwise the whole object of the exercise has been defeated.

I accept the concern expressed by the LGA that precinct plans will need to be detailed and robust if the exercise of the powers to override the development plan and take over the assessment process is to be acceptable. Essentially, the precinct implementation plan will need to have sufficient detail in it to justify the streamlined certification process outlined in the bill, and this is the reason the DAC has a role to play in advising the minister on the merits of a draft implementation plan.

This is something that is best addressed by ensuring there are appropriate checks and balances in the legislation to ensure these decisions are not made lightly and that there is adequate scrutiny of each stage of the precinct planning process, including consultation with councils and government agencies. As already indicated, I am prepared to consider amendments that will strengthen these oversight and consultation requirements to this end.

The LGA has raised a number of suggestions about the interaction of a precinct authority with local government. Most significantly, the LGA has raised concern about the impact of precinct development and the revenue raising powers of a precinct authority upon long-term local government revenue and asset management programs; similar concerns have been raised by the Adelaide City Council. I am happy to respond to these issues.

Firstly, in relation to public infrastructure and assets within a precinct, I want to be clear that there are no powers in this bill that would compel a local council to accept ownership and management of any new infrastructure or public facilities. Secondly, this can only happen by negotiation. Necessarily, this will require the precinct authority to negotiate handover arrangements with local government. These are issues the URA, local government and developers are already well versed in.

Mawson Lakes is a good example of a long-term development involving a negotiated handover of assets to local government. Ideally, a precinct development project should be able to hand over assets with a revenue stream arising from the value uplift created from the precinct development. This is, of course, why it is so important that a precinct authority has revenue powers, conferrable by regulation, that enable it to attract private sector investment and underpin public realm and infrastructure capital upgrades within a precinct.

However, I accept the concern the LGA has raised about this power not being exercised without due regard to its potential impact. It seems appropriate to me that, if this power is to be exercised, there should be strong consultation requirements with the revenue agency concerned and that an assessment of the impact on long-term revenues should be considered prior to conferral.

Indeed, generally I think where a power is to be conferred upon a precinct authority there is merit in requiring consultation with the statutory entity responsible for the usual exercise of that power. I also note the LGA has expressed concern that local government should be represented on

the precinct authority or the consultative panels or committees it establishes. I am willing to consider some form of this between the houses.

Finally, I note the LGA's concern that inconsistency with any council by-laws should be identified early in the precinct planning process to avoid the need for conflict down the track. This seems sensible and I am happy to think about how this could be achieved.

I note that there have been a number of different views expressed about the role of the private sector in delivering urban renewal. The UDIA has expressed the view that private developers should be able to utilise the precinct planning process. At present, a precinct may only be managed under the auspices of a public authority, that is, either local government or the state government.

On the other hand, the LGA and the EDO have both expressed concern that the ability to establish special purpose statutory corporations as precinct authorities under the bill would enable private interests to have undue influence over planning decisions, and I share that concern. I note that members of a statutory corporation will remain subject to the normal public sector accountability controls and will be required to exercise their powers having regard to their fiduciary duties as board members. The practice of nominee directors is not uncommon in the corporate world and it is appropriate for the potential for this to be allowed for precinct development.

I also note that the establishment of a statutory corporation must be done by regulation and is therefore subject to parliamentary disallowance. This seems an appropriate safeguard against improper use of this power to subvert public accountability of precinct authorities. I understand the UDIA is pushing for amendments to the bill which would open the precinct planning process to private sector applicants.

Ms Chapman: No, it doesn't.

The Hon. J.R. RAU: This is not something the government can support.

Ms Chapman: Neither do we.

The Hon. J.R. RAU: That's what we understand. If you don't support it either, that is good; we are in furious agreement. The bill as it stands potentially confers wide powers on a precinct authority. Our view is that these powers should be exercised by a public authority accountable to elected officials—either a council or the state government.

However, this does not preclude joint venture arrangements being entered into by the URA or a council with a private sector, or the potential for substantial precinct planning activity to be undertaken by a private sector developer under the oversight of a public body constituted as a precinct authority. This is no different to the potential for developer-funded development plan amendments, subject to full public disclosure and oversight of these arrangements at all times.

At this stage, I do not consider it appropriate to expand the availability of the precinct planning process further in the manner suggested by the UDIA. I do not think the community or local government is ready for such a radical change, and I think the principle of public accountability would need to be resolved before such a move could ever occur. This is a matter which I expect the Expert Panel on Planning Reform will consider and I would encourage the UDIA to put its submission to the panel as part of its engagement process.

Finally, I note that some concerns have been raised about the transitional provisions in the bill. The intent of this provision is to enable projects which have already undertaken consultation processes under the current arrangements to be converted into precincts without going through all of the consultation steps that would normally be required. Obviously, projects to which this might apply would include Bowden, Tonsley and a number of council-led urban renewal projects.

Bill read a second time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (17:29): I move:

That this bill be now read a third time.

Bill read a third time and passed.

MAGISTRATES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 May 2013.)

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (17:29): The opposition supports the bill.

Bill read a second time.

The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Planning, Minister for Industrial Relations, Minister for Business Services and Consumers) (17:30): I thank the member for Bragg for her assistance in the matter. I move:

That this bill be now read a third time.

Bill read a third time and passed.

POLICE (GST EXEMPTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 May 2013.)

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (17:32): I indicate that I am not the lead speaker on this bill, important as it is. Our shadow treasurer will be, I am sure, making a very significant and appropriate contribution on this bill. However, I do recall, when the bill came into the house, that there were a number of reports, the fees for them and the like, to which the GST would ordinarily apply.

Whilst the opposition, as I am reliably informed, is supporting this bill, it did occur to me at the time of considering the application of the bill as to what circumstances currently apply in the provision of police reports in motor vehicle accidents. Perhaps the minister, in his response on this bill, could cover my question.

When police reports are provided to a victim of a motor vehicle accident and/or their legal representative, they currently pay a fee to the police department for the provision of that record. When the police department provides copies of the police report in respect of that accident, they also provide a copy to the Motor Accident Commission in order for the commission to have the information to deal with the assessment and consideration of any claim by a victim.

My question is: is the fee that is charged by the police department to the Motor Accident Commission any different and, if so, what is the difference? Could we have some explanation as to why there is a difference in fee? This bill, as I understand it, will ensure that there is not a GST penalty applying to whoever is provided with the police report, but I invite the government to advise what the difference is to either of those players.

As I am sure the minister is aware, the parties need to have similar information and, on the face of it, they ought to be getting it at the same price. I am not sure about the reason why this is but, as I understand it, the Motor Accident Commission is provided with this information by the police department as a matter of course. There is a memorandum of agreement between the Motor Accident Commission and the police department to provide this information to that entity. I would appreciate some information on that in this debate. I will now listen with interest to what I am sure will be the succinct contribution of my colleague.

The Hon. I.F. EVANS (Davenport) (17:36): The member for Bragg said she would be interested in listening to the contribution of her colleague—so will I. This is a very simple bill and the opposition is supporting the bill. We have no questions on the bill so this will be a short contribution regarding this matter. This is the Police (GST Exemption) Amendment Bill 2013 and is one of the minister's favourites, I know.

SAPOL currently provides a number of services to the public for which it charges fees. Some of these charges are imposed in accordance with legislation, for example, impounding or clamping vehicles or firearms, etc. Some fees are provided under individual contract, for example, police escorts for over-dimensional vehicles or police aircraft hire. However, there are some services that the police carry out that are under the authority of neither any legislation nor specific contract.

These relate solely to requests from the public for access to information in certain police records, namely, national police certificates, fingerprint reports, fingerprint and history checks, police incident reports, vehicle reports and apprehension reports. Amendments were recently made by the commonwealth government to A New Tax System (Goods and Services Tax) Act 1999. The

amendments state in part that a fee charged by a government agency to supply information that is not required to be provided under Australian law will be subject to GST.

As the aforementioned request for access to SAPOL records are not subject to any legislation they are liable for GST payments from that date unless they can be brought under South Australian law in the meantime. Effectively, what this bill does is to bring them under South Australian law so that those fees do not attract GST. Her Majesty's humble opposition supports the bill.

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (17:38): This is a fairly straightforward piece of legislation to remedy, if you like, potential defects that have arisen because of changes in commonwealth government law. It is extremely straightforward, as the opposition has indicated, and I think we see this as having a fairly speedy passage through parliament.

Bill read a second time.

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (17:39): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) (NO. 3) BILL

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (17:40): On behalf of the Attorney-General, obtained leave and introduced a bill for an act to amend various acts the administration of which is the responsibility of the Attorney-General. Read a first time.

The Hon. M.F. O'BRIEN (Napier—Minister for Finance, Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (17:40): I move:

That this bill be now read a second time.

In addition to the previous portfolio bill, the Statutes Amendment (Attorney-General's Portfolio) (No. 3) Bill 2013, also rectifies a number of outstanding technical issues in various acts committed to the Attorney-General. I note the amendments proposed are minor in scope and are generally of a technical nature. I seek leave to have the remainder of the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Specifically, the Bill makes the following amendments:

Criminal Law (Sentencing) Act 1988

The Bill amends section 44 of the *Criminal Law (Sentencing) Act 1988* to require the Minister for Correctional Services to take into account a victim's views when making a determination to vary or revoke any condition of a bond, or to waive the obligation of a probationer to comply any further with a condition requiring supervision.

Pursuant to the *Correctional Services Act 1982*, the Chief Executive of Correctional Services must keep a Victims Register, containing certain details of a victim (or a victim's family) of an offence for which a prisoner is serving a sentence of imprisonment. When making a determination as to parole, the decision maker is required to consider the possible impact of the decision on the registered victim.

However, when determining whether or not to vary or revoke any condition of the bond, s 44 of the *Criminal Law (Sentencing) Act 1988* requires the Minister (or his or her delegate) to apply considerations which relate to the offender only.

The amendment demonstrates the Government's commitment to victims, ensuring they are appropriately represented, and is consistent with other provisions under the *Correctional Services Act 1982*.

Evidence Act 1929

Section 71A of the *Evidence Act 1929* provides for the automatic suppression of the name of a person charged with a sexual offence. In general the defendant's name remains suppressed until the relevant date. For

major indictable offences the relevant date is defined as the time at which the defendant is committed for trial or sentence.

The *Statutes Amendments (Courts Efficiency Reforms) Act 2012* amends section 103 of the *Summary Procedure Act 1921* and will, once it commences, enable the Magistrates Court to sentence a person who pleads guilty to a major indictable offence in the Magistrates Court (with the consent of both the defendant and the DPP). In such circumstances the defendant will not be committed at all. If the individual is charged with a sexual offence their name will remain suppressed as the relevant date will effectively never occur. This wasn't the intended operation of the *Statutes Amendments (Courts Efficiency Reforms) Act 2012* and it is appropriate to rectify this issue without delay.

Criminal Law Consolidation Act 1935, District Court Act 1991, Supreme Court Act 1935, Trustee Act 1936, Evidence Act 1929 and Legal Services Commission Act 1977

Finally, amendments to the remaining Acts necessary to address inconsistencies in the use of terms. Specifically, the references to 'taxation of costs' are amended to 'adjudication of costs' in the *Criminal Law Consolidation Act 1935*, the *District Court Act 1991*, the *Supreme Court Act 1935* and the *Trustee Act 1936* to reflect changes to the Supreme Court and District Court Rules.

Also the term 'discovery' is now referred to as 'disclosure' within Court Rules and the profession. It is therefore appropriate to amend the *Evidence Act 1929* and *Legal Services Commission Act 1977* to reflect this.

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 *Criminal Law Consolidation Act 1935*

4—Amendment of section 351B—Costs

The proposed amendment changes the reference to 'taxed' costs to 'adjudicated' costs. 'Adjudicated' is the term now used in the Supreme and District Court Rules and relevant legislation is being changed to reflect that.

Part 3—Amendment of *Criminal Law (Sentencing) Act 1988*

5—Amendment of section 44—Variation or discharge of bond

The proposed amendment allows the Minister for Correctional Services to take into account the likely impact on a victim (to whom the subsection applies) before varying or revoking a condition of a bond of a probationer under section 44(1) or before waiving the obligation of a probationer to comply any further with a condition requiring supervision under section 44(2).

Part 4—Amendment of *District Court Act 1991*

6—Amendment of section 40—Interest on judgment debts

This amendment is consistent with the amendment to the *Criminal Law Consolidation Act 1935*.

Part 5—Amendment of *Evidence Act 1929*

7—Amendment of section 33—Disclosure in action for defamation

The proposed amendments reflect a change in terminology from 'discovery' to 'disclosure'. 'Disclosure' is the term now used in the Supreme and District Court Rules and relevant legislation is being changed to reflect that.

8—Amendment of section 71A—Restriction on reporting on sexual offences

Section 71A of the *Evidence Act 1929* provides for an 'automatic' restriction on reporting on proceedings related to sexual offences, and evidence in such proceedings. Generally speaking, the restriction applies until the relevant date. Currently, in relation to a charge of a major indictable offence, the relevant date is defined to mean the date on which the accused person is committed for trial or sentence.

Amendments made by the *Statutes Amendment (Courts Efficiency Reforms) Act 2012* to the *Summary Procedure Act 1921* enabled the Magistrates Court to determine and impose sentence for most major indictable offences in certain circumstances. Hence, the proposed amendment amends the definition of relevant date to reflect this procedural change for major indictable offences arising from the *Statutes Amendment (Courts Efficiency Reforms) Act 2012*.

Part 6—Amendment of *Legal Services Commission Act 1977*

9—Amendment of section 31A—Secrecy

This amendment is consistent with the amendments to the *Evidence Act 1929*

Part 7—Amendment of *Supreme Court Act 1935*

10—Amendment of section 72—Rules of court

11—Amendment of section 114—Interest on judgement debts

These amendments are consistent with the amendment to the *Criminal Law Consolidation Act 1935*.

Part 8—Amendment of *Trustee Act 1936*

12—Amendment of section 68—Court may order costs

This amendment is consistent with the amendment to the *Criminal Law Consolidation Act 1935*.

Debate adjourned on motion of Ms Chapman.

STATUTES AMENDMENT (DANGEROUS DRIVING) BILL

Adjourned debate on second reading.

(Continued from 15 May 2013.)

Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (17:43): I rise to speak on the Statutes Amendment (Dangerous Driving) Bill 2013. I indicate that the opposition will not be opposing this bill but we will reserve the right to consider amendments in another place. The bill may well be a very short one but it has some important consequences. This is a bill that was introduced only a couple of weeks ago by the Attorney-General on 15 May.

Essentially the bill proposes to amend the Criminal Law Consolidation Act 1935, in particular section 19A—Causing death or harm by use of vehicle or vessel and section 19AC—Dangerous driving to escape police pursuit, etc. It also amends the Road Traffic Act 1961, in particular section 46—Reckless and dangerous driving.

In each instance the prosecution is currently required to prove that the accused drove in a manner dangerous to the public. The government has argued that the courts have interpreted the phrase too narrowly and as such 'the public' is not read to encompass a wide range of persons. The bill seeks to amend the respective sections to widen the definition to include 'any person'.

The Attorney-General has cited the 2008 case of R v Palmer to justify the bill. In that case, the accused was charged with causing death by dangerous driving. The accused performed dangerous manoeuvres on a private property. The vehicle fell onto its side and crushed a passenger's skull. The judge directed the jury to return not guilty verdicts for the following reasons:

- the relationship (indeed friendship) between the three passengers and the driver negated the view that the passengers were to be regarded as members of the public;
- the activities in question took place on private property and away from any road;
- the accused and his three passengers were all knowingly engaged in a form of skylarking;
- the four persons willingly got into the vehicle in question together for the purposes of amusing themselves by a particular, and somewhat dangerous, form of recreational activity directly connected with the driving of the vehicle, namely in tight circles with the steering wheel in full lock and the accelerator applied;
- the activity constituted a danger to all four of them, but to nobody else;
- in circumstances where it is proper to regard the activity as a part of a joint escapade on the part of the accused and the passengers, they being the only persons endangered by the activity, then it was not proper to characterise the passengers as 'the public'.

The judge in that case commented that his conclusion may have been different had section 19A read 'driving in a manner dangerous to any other person' rather than 'a manner dangerous to the public'.

The judge applied the reasoning of the New South Wales Court of Appeal in R v S (1991) NSWLR 548, which had a similar factual scenario. After the Court of Appeal handed down the decision in R v S, the New South Wales parliament amended their legislation in similar terms to the current bill. In the case of R v Breuker (2011) SADC 64, in the South Australian District Court, the charge was laid when an individual died after either falling or jumping off the back of the accused's vehicle whilst it was moving, landing awkwardly and fracturing their skull.

The event occurred on a fenced off netball court where people were setting up for a ticketed event. Members of the public had not yet started to arrive. The judge considered the case of R v Palmer and applied the reasoning of the New South Wales Court of Appeal in R v S. They noted Chief Justice Gleeson's comments in R v S that there can be forms of relationships between the accused and the deceased which negate the conclusion that the passenger is to be regarded as a member of the public. In that case, the accused, the passenger and the victim were considered to be engaged in skylarking: engaging in a risky activity, a joint escapade, and as such it was improper to characterise the passengers as 'the public'.

In R vs Breuker, the judge highlighted that other relationships, on the facts of the case, could negate the deceased from being considered a member of the public. The judge considered the fact that the deceased got onto the back of the car meant that he was no longer a member of the public, stating:

> I see no reason in principle why the accused should be in a worse position if the deceased voluntarily and without his agreement puts himself in an inherently dangerous position than if they jointly agreed to that course of action. It is not the presence or otherwise of an agreement between the accused and the deceased which characterises the deceased as a member of the public, it is the characterisation of the relationship that determines this issue.

The trial judge again highlighted that their conclusion may had been different, of course, had section 9A been differently worded.

Section 25 of the South Australian Motor Sport Act 1984 provides for the 'non-application of certain laws' to areas declared by the responsible minister to be areas for a motor sport event under the motor sport act. Section 25(1a) provides that respective sections of the Criminal Law Consolidation Act and the Road Traffic Act, which are to be amended by the bill, do not apply in relation to:

> ...a vehicle or its driver while the vehicle is being driven in a motor sport event within the declared area and during the declared period for the event.

Members are no doubt aware, and I was not until I had been provided with this information by our shadow attorney, that the Clipsal 500, and its predecessor, the Sensational Adelaide 500, is a motorsport event which attracts a declaration under the motor sport act. Since 1999, no other motor sport events, except the 1999 Le Mans, have had the privilege of being conducted within a declared area and, as such, the provisions of the Road Traffic Act and the Criminal Law Consolidation Act have applied.

The Sporting Car Club of South Australia owns and operates the Collingrove Hill Climb (which I presume to be some sort of road) in the Barossa Valley and holds races at the Mallala Motor Sport Park. These are both private venues.

This bill does not bring the relevant law onto private property. The three identified offences can already be applied to dangerous driving on private property. The case seeks to avoid the relationship of the parties to affect the application of the charge. The cases indicate that it is the relationship between the accused and their actions and the deceased, which is usually why the courts have interpreted the provision narrowly.

The bill will widen the scope of the offences so that it would likely apply where an accident occurs on a private motorway, such as the Collingrove Hill Climb, even where the deceased consents to the activity. Whilst any accident, of course, is tragic, drivers and others who engage in motor sport activity consent to do so, and one should not be held criminally liable for an adverse outcome where a risk is willingly taken on.

I am not certain how there would be any application or liability towards someone who was driving a motor vehicle in these circumstances were they to cause injury to a spectator, for example, who might run onto the track. I make that observation because I am in no way familiar with the operations of motor car racing and do not pretend to understand all the detail.

I am only assuming here that these other motor sport activities quite likely do not have the same level of barriers and safety equipment to protect spectators from the potential risks of a motor vehicle that might lose control or roll over or hit something that it should not, or run into another vehicle or whatever dangerous things they do. Whereas major events, such as Clipsal 500, we all see each year being enveloped with all sorts of safety paraphernalia, I am sure not only to protect the public but also for the protection of the drivers and other officials who are working on the tracks.

This bill does significantly reduce the individual's personal freedoms, and there is this question of the potential criminal liability, which may not have been intended or may not be justified. We would want to have a look a little more closely at some of this legislation before we can support it. We will be keen to do that, and we will have the opportunity to do that during the break that we will inevitably have in consideration of this bill.

I conclude by saying that the Liberal opposition is and remains committed to road safety and to holding to account those who flout the law and who have disregard for the safety of others. We think they should be brought to account. We will examine how that can be achieved with what appears to be, on the face of this, the good intentions of the government with this bill. We will give the bill support and consideration, but we will need to identify if there are amendments to be introduced to make that application fair and balanced. I seek leave to continue my remarks.

Leave granted; debate adjourned.

VICTIMS OF CRIME (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council with a message drawing the attention of the House of Assembly to clause 8 printed in erased type, which clause being a money clause cannot originate in the Legislative Council but which is deemed necessary to the bill. Read a first time.

ADELAIDE WORKERS' HOMES BILL

The Legislative Council agreed to the bill without any amendment.

At 17:59 the house adjourned until Thursday 6 June 2013 at 10:30.