

**HOUSE OF ASSEMBLY**  
**Wednesday, 21 September 2016**

*Parliamentary Procedure*

**SPEAKER, ABSENCE**

**The CLERK:** I advise the house of the absence of the Speaker. The Deputy Speaker will take the chair.

The Deputy Speaker took the chair at 11:02 and read prayers.

**The DEPUTY SPEAKER:** Honourable members, I respectfully acknowledge the traditional owners of this land upon which the parliament is assembled and the custodians of the sacred lands of our state.

*Motions*

**ELDER ABUSE**

**Ms COOK (Fisher) (11:03):** I move:

1. That in the opinion of this house, a joint committee be established to inquire into and report on matters relating to elder abuse in South Australia, and in doing so consider—
  - (a) the prevalence of abuse (including but not limited to financial abuse, physical abuse, sexual abuse, psychological abuse, social abuse, chemical abuse and neglect) experienced by older people in South Australia;
  - (b) the most common forms of abuse experienced by older persons and the most common relationships or settings in which abuse occurs;
  - (c) the types of government and/or community support services sought by, or on behalf of, victims of elder abuse and the nature of service received from those agencies and organisations;
  - (d) the adequacy of the policies, resources, powers and expertise of specialist agencies (including South Australia Police, Office of the Public Advocate, Aged Rights Advocacy Service, Legal Services Commission, Public Trustee, Domiciliary Care South Australia) and other relevant service agencies to respond to allegations of elder abuse;
  - (e) identifying effective ways to improve reporting of and responding to elder abuse to assist in establishing best practice strategies for multi-agency responses;
  - (f) identifying any strength-based initiatives which empower older persons to better protect themselves from risks of abuse as they age;
  - (g) the effectiveness of South Australian laws, policies, services and strategies, including the South Australian Strategy for Safeguarding Older People 2014-2021, in safeguarding older persons from abuse;
  - (h) innovation for long-term integrated systems and proactive measures to respond to the increasing number of older persons, including consideration of their diverse needs and experiences, to prevent abuse;
  - (i) the consideration of new proposals or initiatives which may enhance existing strategies for safeguarding older persons who may be vulnerable to abuse or prevent such abuse, including with reference to international best practice;
  - (j) identifying ways to inform older South Australians about online scams to which they may be vulnerable; and
  - (k) any other related matter.
2. That in the event of a joint committee being appointed, the House of Assembly shall be represented thereon by three members, of whom two shall form a quorum of assembly members necessary to be present at all sittings of the committee.

3. That a message be sent to the Legislative Council transmitting the foregoing resolution and requesting its concurrence thereto.

I started volunteering in nursing homes as a St John Ambulance cadet in my teens. Prior to this, I had had very little to do with older people and certainly did not understand the pathophysiology or psychology in terms of the consequences of dementia and other age-related disease processes. I found it challenging at times and even confronting but, with the support of a very caring, gentle and patient nursing staff, I learnt a lot about older people and this inspired me to follow my heart into a career in nursing.

In fact, my first paid job was in a very small 15-bed nursing home tucked away in Westbourne Park. The owners of this facility were a decent and kind family—the Whelans. I learnt a lot from the Whelan family. They also were patient, kind and gentle. On my first shift, I was introduced to a very genteel older man called Reg. I smiled sweetly and said, 'Good morning.' Then I promptly bolted as Reg chased me from his room armed with a metal urinal. Challenging, unpredictable and, most of all, vulnerable are our elderly who live in care. Caring for them can be difficult. It takes patience and skill. There is a science, but most definitely an art, to this care. It takes a special kind of person.

Like tens of thousands of Australians on 25 July, I sat watching *The 7.30 Report* horrified. I was horrified at the vision captured on a hidden camera placed strategically in the room of a bed-ridden, 89-year-old Clarrie Hausler. The vision showed a staff member appearing to attempt to suffocate Mr Hausler. The vision showed this staff member appearing to violently force-feed Mr Hausler with a spoon. Mr Hausler was sneezed on, pinned down and subjected to torments such as having his ears flicked. This staff member then actually ate Mr Hausler's food. I was sick to the stomach, I was upset and I cried.

I then saw his daughter—his brave and loving daughter who knew that her dear dad had not been himself for a while. Noleen Hausler is a highly skilled, neonatal intensive care nurse. I have known Noleen for many years. She was the agency nurse I would ask for when we were overwhelmed with very sick, very tiny premature babies at Flinders Medical Centre. I would often ask the agency to call her, even if she was not on duty, and ask if she would come in, and she would, often for longer shifts that were required—that was Noleen.

Noleen is here in the gallery. Thank you, Noleen, for being so brave, and for bringing this awful act out into the open. They picked the wrong family. Nothing describes the impact of elder abuse better than Noleen's victim impact statement as read in the Magistrates Court on 2 June of this year when the case against her dear dad's attacker was heard. I will read her statement:

What happened to my father in the hands of a Carer has deeply traumatised my father.

The incident has changed both of our lives significantly.

To have your loved one in care when you can't be there is always distressing on many levels.

You do not know what happens to them in your absence.

Especially, as my father is, totally dependent on all aspects of care and is mostly non-verbal.

To be vulnerable when you have no voice, power or ability to alert appropriate authorities when you are a victim would be the most terrifying situation to endure.

Father used to be relaxed, comfortable and responsive (albeit, relative to his demented state of health).

He enjoyed holding hands. Often if he couldn't communicate any other way he would respond by squeezing my hand or through the alertness in his eyes, the raising of an eyebrow or an attempted smile.

He responded positively to gentle and reassuring touch.

His eyes were clear and expressive. He enjoyed eye contact when communicating with him.

Due to father's degenerative sight and hearing loss these special ways of responding was his way of telling me, and me knowing he was okay in his restricted world.

Food is one of father's last remaining pleasures and he always ate well.

Due to years of failing health he is now bedridden and totally reliant on assistance for all his daily living needs.

Father is 89 years old with long term progressive dementia.

Over approximately 6 months I witnessed my father's general behaviour change dramatically which was generally inconsistent with his medical problems (diabetes + dementia).

Father became very withdrawn. He wouldn't visually engage with me when I tried to speak to him.

His eyes were often 'fearful', distant and teary (very out of character).

Father's posture was tense and often curled in a fetal or protective position.

He had difficulties swallowing his food. When asked if his throat hurt he would nod 'yes'.

He became very disconnected with me which distressed and concerned me immensely.

I was so devastated and emotionally drained by continually being dismissed while trying to achieve answers through the correct channels at the Care Facility, I (in desperation) utilized means that would be indisputable in providing evidence and answers to my concerns and underlining suspicions. I placed a camera in my father's room to monitor what happened to him when I was not there.

I had to protect my father as he could not completely verbalise what was happening to him and I refused to be silenced until I knew my father was safe.

It is one thing to be suspicious of indiscretions towards your loved one but it is more devastating to actually witness what unfolded.

The impact of what happened to my father destroyed any faith I had, or now have, in believing I had placed father (12 yrs ago) in a safe, caring environment to see out his final years.

As a result of this incident father has experienced ongoing 'sleep terrors' and has a fear of unfamiliar touch.

Again management disbelieve concerns I have raised stating father demonstrates 'no adverse behaviour'.

It shames me to the core to imagine what father mentally was, and must now, be enduring.

Having to live in fear with no means of escape from those who are meant to care for the vulnerable would be worse than fear itself.

I have been by my father's side nearly every day since the event (for hours at a time) to provide physical and mental support during this distressing time to assist in his recovery.

He is making slow progress but how can we ever know the degree of distress he endured and is now coping with after such a despicable and cruel level [of] abuse.

Financially, (emotionally distraught), I couldn't go back to work until I knew father was in a safe situation.

I had to minimise the days I would normally work to spend time with father until he displayed positive changes which made me comfortable that he was ... safe.

My commitment to paying the shortfall for father's Care fees (his pension is insufficient to cover the fees) has been further embarrassed by this restriction for me to work.

Mentally, I'm not sleeping well.

I continually wake reliving what I had witnessed and wondering what more I could have done to prevent this.

I feel disturbed and ashamed that father had to endure what he did and I feel I failed to protect him.

I have sought professional counselling to cope with the distress and turmoil caused by this event.

Initially, for legal reasons, I was restricted to fully explain to our family and friends the extent of the incident. This was so consuming and equally distressing.

As a result I was unable to have support from these people.

At a time when your loved ones should be your most important avenue of support. Our rights were restricted.

The nature and circumstances of the incident has caused an 'uncomfortable conflict' with Management and staff at the Care Facility where father has remained.

Management were aware of the circumstances of the incident but floor staff were not.

Staff are always suspicious of my increased presence and changes to father's care to ensure his care and safety.

It is very awkward having to be hyper vigilant ensuring that father is receiving proper care.

Staff are uncomfortable with me doing this but I am powerless to explain my actions.

The behind the scenes 'talk' is often defamatory (toward me) in content by a number of the staff who were/are friends of the perpetrator. Dealing with this victimisation is demoralizing and hurtful.

I have had to put my personal and private life, including my Community Volunteer work, on hold to spend more time with father. Not to mention the hours spent seeking legal assistance and support, documenting issues/events and tolerating the bullying tactics of the Service Provider as a direct result of this unspeakable incident.

The impact of the Court Case has been further time consuming, frustrating and restrictive in coming to a verdict so that the truth can be revealed and life can begin to return to a normality it had prior to this life changing event.

As an Intensive Care Nurse I am personally and professionally appalled by the actions of the perpetrator.

A health professional's duty of care is to deliver a high standard of care to all people regardless of their situation, in a manner with utmost respect to privacy, dignity and individual needs.

Father was denied all of this.

I believe what happened to my father is not an isolated event delivered by this Perpetrator.

I plead with the Court to do whatever is possible to reveal the full extent of the behaviour of this individual.

In sentencing I would remind Your Honour my father is an 89year old, defenceless, bed bound, vulnerable human being, in his own private room, who, had no means to raise an alarm or any opportunity to protect/defend himself against the perpetrators' deplorable, premeditated, repeated assault.

Vulnerable elderly citizens in care [and, indeed, in the community] deserve the right to be treated with dignity and respect.

They should feel safe and comfortable in the confines of their own private room.

After all, this is their final home and their last experiences of life.

That was Noleen's victim impact statement and it is Mr Hausler's voice. That is why we must act now. We must act swiftly.

I cannot imagine going through this with my own parents, and I thank the Hon. Kelly Vincent in the other place for bringing this motion to the Social Development Committee last year in October. Thank you, Kelly, for being a voice for the vulnerable. Thank you for working with me to bring this important inquiry forward as a joint select committee in order to get this issue dealt with in a timely manner.

We are already, as a government, doing a lot of work in this space protecting older South Australians, and I do believe that communities are judged by how they deal with and how they advocate for their most vulnerable citizens. Knowing your rights, advocacy, negotiation with care providers—it is all happening, and I promise Noleen that this will continue. I look forward to making real change, and bringing this awful issue out into the open. I commend the motion to the house.

**The DEPUTY SPEAKER:** I understand the member for Torrens is going to second the motion.

**Ms WORTLEY (Torrens) (11:15):** I take great pride in seconding this motion. We know the state government is committed to ensuring the elderly in our community are supported through the existing elder abuse action plan, including the elder abuse phone line and website that is administered through the Aged Rights Advocacy Service. The University of South Australia also trains nurses to help them recognise elder abuse.

We are also progressing current research into elder abuse, so the establishment of the joint committee will further this work. This work is important in ensuring that the devastating issue of elder abuse is addressed. The committee will consider matters, including:

- (a) the prevalence of abuse (including but not limited to financial abuse, physical abuse, sexual abuse, psychological abuse, social abuse, chemical abuse and neglect) experienced by older people in South Australia;
- (b) the most common forms of abuse experienced by older persons and the most common relationships or settings in which abuse occurs;
- (c) the types of government and/or community support services sought by, or on behalf of, victims of elder abuse and the nature of service received from those agencies and organisations;
- (d) the adequacy of the policies, resources, powers and expertise of specialist agencies (including South Australia Police, Office of the Public Advocate, Aged Rights Advocacy Service, Legal

- Services Commission, Public Trustee, Domiciliary Care South Australia) and other relevant service agencies to respond to allegations of elder abuse;
- (e) identifying effective ways to improve reporting of and responding to elder abuse to assist in establishing best practice strategies for multi-agency responses;
  - (f) identifying any strength-based initiatives which empower older persons to better protect themselves from risks of abuse as they age;
  - (g) the effectiveness of South Australian laws, policies, services and strategies, including the South Australian Strategy for Safeguarding Older People 2014-2021, in safeguarding older persons from abuse;
  - (h) innovation for long-term integrated systems and proactive measures to respond to the increasing number of older persons, including consideration of their diverse needs and experiences, to prevent abuse;
  - (i) the consideration of new proposals or initiatives which may enhance existing strategies for safeguarding older persons who may be vulnerable to abuse or prevent such abuse, including with reference to international best practice;
  - (j) identifying ways to inform older South Australians about online scams to which they may be vulnerable; and
  - (k) any other related matter.

Elderly South Australians—our parents, our grandparents and future generations—deserve to be treated with respect. I hope that the establishment of this joint committee and the work this committee carries out will ultimately address these issues that have been raised in recent times.

**Mr WILLIAMS (MacKillop) (11:18):** First of all, might I say that the opposition supports this motion and the establishment of a joint committee. In doing so, the opposition recognises that this is an enduring problem and, indeed, one that is growing. We recognise that abuse of the elderly comes in many forms and that there are many perpetrators. It is a bit like the scourge of domestic violence where the abuse occurs within families, and that is something that makes both of those issues incredibly difficult to tackle.

I think probably the best thing we can do to support those who are suffering from such abuse is to give them the tools to look out for themselves and to seek help. One of the problems that I think is currently working against the elderly who find themselves in abusive situations is that they are just unaware of where to turn. By holding a forum, such as a select committee, we can indeed not only expose a number of forms of abuse and styles and types of perpetrators, who may not seem evident at the moment on the surface, but we will also highlight the issue and hopefully bring it to the front of mind for a lot of people in our community.

It is not just the elderly, but a lot of people who are endeavouring to support the elderly and not just their own family members but the little old lady next door or down the street, etc. There are, in our society, a huge number of fantastic people who are willing to go above and beyond the call of duty of their responsibility and obligations to their own families and are more than happy to support other people in their community, particularly the elderly. Unfortunately, there is also a very small minority, but certainly a significant minority of people, who will traverse abuse, particularly on their elderly relatives and the abuse can take, as I said, all sorts of forms.

One of the phenomena of the last 40 or 50 years is the increase in life expectancy of Australians. Unfortunately, along with that increase in life expectancy, our capacity to look after ourselves in the last few years of life has diminished, and I think it is timely that we take this action to see if there is something that we can do as a legislature and an advocate for the people we represent in this parliament to try to support the elderly in our community. I fully support the motion to establish this select committee, and look forward to the select committee getting underway and getting on with its good work.

**Ms COOK (Fisher) (11:22):** Again, I want to thank Noleen Hausler for attending this morning and look forward to her input as we move along with this inquiry. I want to thank the member for MacKillop for his support personally and also for reflecting the support of the opposition in regard to this important matter. I want to thank the member for Torrens also for her passion and immediate offer to participate in the select committee. She is very driven to help support change moving forward.

I really look forward to getting this committee underway as soon as we can. I would ask now that we vote on the matter.

Motion carried.

*Parliamentary Committees*

**PUBLIC WORKS COMMITTEE: KANGAROO ISLAND AIRPORT UPGRADE**

**Ms DIGANCE (Elder) (11:23):** I move:

That the 548<sup>th</sup> report of the committee, entitled Kangaroo Island Airport Upgrade, be noted.

Kangaroo Island is Australia's third largest island, located approximately 110 kilometres from Adelaide. It has a permanent population of over 4,500, but this grows exponentially, with 200,000 visitors annually. As you would be aware, the island is accessible by air, with at least twice daily service from Adelaide to Kingscote, and by sea, via ferry from Cape Jervis to Penneshaw.

Currently, the airport and runway are unable to accommodate larger interstate aircraft. The committee heard that there is a demand from the tourism sector for interstate flights direct to Kangaroo Island. There is a perception that Kangaroo Island is too difficult to get to, and for the time-poor travellers, the extra day of travelling can be a game-changer.

In addition, the current aircraft used by Regional Express, the island's only airline, are no longer being manufactured. At the end of their useful life, these aircraft will need to be replaced with an alternative. To ensure ongoing air service to the island, the current runway needs to be ready to accommodate whatever aircraft this might be. Following investigations into the viability of upgrading the airport and runway, a proposal was provided to the federal government.

In December 2015, \$9 million was committed to the project from the National Stronger Regions Fund. Specifically, the works are to lengthen the runway by 700 metres, to a total length of approximately 2,100 metres. This will allow for code 3C regional jet aircraft, such as the Fokker 100 or the Embraer 170, which have a carrying capacity of 100 to 200 seats. Works will also include:

- modifications to taxiway A and the apron to accommodate these larger code 3C aircraft;
- a terminal extension and/or upgrade to cater for one Fokker 100 and Saab 340 aircraft arriving and departing simultaneously; and
- planning provisions for the installation of security equipment and upgrades to meet the legal requirements for aircraft greater than 20 tonnes.

The upgrade to the airport and the lengthening and strengthening of the runway are estimated to cost \$18 million exclusive of GST. The state government has committed the remaining \$9 million to the project. Kangaroo Island Council informed the committee that, from the analysis that is been undertaken, current passenger numbers should increase by 25,000 to 30,000 per annum within three years. It is also anticipated that the gross regional product for Kangaroo Island will increase by 12 per cent to \$29.8 million by 2021, with the creation of over 200 full-time equivalent jobs.

The expansion of the airport will support other private sector projects, either proposed, or due to be commenced. These included an 18-hole links-style golf course and accompanying accommodation, the new American River 200-bed resort and expansion of the existing hotel accommodation in Kingscote. Some of these projects are dependent on the expansion of the airport.

The committee did have some concerns regarding the project, including the governance and delivery of the project. We have been reassured by DPTI that they are part of the project control board responsible for making key decisions, including around the scope, budget and time frames, and that they are actively involved in delivering this project in collaboration with the Kangaroo Island council. The initial design plans and investigations for the works are already well underway, with construction due to commence later this year. It is anticipated that the works will be completed by late 2017.

As part of the upgrade, the runway will be strengthened and resealed. In order to undertake these works, the runway—the only one bitumised at the airport—will need to be closed for several weeks. At this early design stage, it is predicted to be February to March 2017. The committee has

some concerns around this, both with the timing during peak tourist season and with regard to ongoing air access.

It is vital that an air service to the island remain in operation at all times, especially for those who may be travelling to receive medical treatment, and the committee did stress this. The committee was informed that discussions are being held with the current air service provider, Regional Express, regarding the use of an alternative runway during this period. If this is not possible, other contingency plans are being prepared to ensure ongoing air services.

The exact timing of the closure is yet to be confirmed. However, we were informed that the works for the resealing need to be undertaken in the warmer months. DPTI has agreed to review the construction process proposed, with the possibility of identifying alternative arrangements for construction that minimise the duration and/or timing. Given the number of concerns regarding this project, DPTI and the council have agreed to keep the committee informed of the project's progress on a regular basis regarding this and other matters. Witnesses from the department and the council presented to the committee at our meeting on 4 August.

This is a very interesting and exciting project and I wish the Kangaroo Island community every success. This project has the potential to grow the regional economy sustainably, not only from a tourist perspective but also through the agricultural sector. Direct flights to the east coast will also allow some fresh produce with short shelf life, such as abalone, to reach Melbourne and Sydney in a more timely manner and, potentially, increase market demand for the island's produce.

I would like to thank my fellow committee members for their time in considering and reviewing this interesting and important project, and we certainly spent a number of hours deliberating and hearing from witnesses on this project. I would like to name the members for Colton, Torrens, Finniss and Chaffey for their commitment to this project, and also the committee staff for the work that they have done. Given this, and pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public works.

**Mr PENGILLY (Finniss) (11:29):** I support the project, as does the member for Chaffey. As indicated by the member for Elder, it was an extended hearing. We had many questions, particularly from me. Some of those questions remain unanswered. The member for Elder referred to my major concern during her comments; that is, the arrangements for the Rex service to continue during the necessary closure of the main runway are still unsatisfactory. My view is that, unfortunately, we were fed a certain amount of nonsense on that by the council.

I also refer to the Rex aircraft. Rex is the biggest regional airline in Australia. The member for Elder referred to the aircraft having a timetable before they are replaced. They are still buying these aircraft, they are still bringing the aircraft into Australia and they have a good 10 years at least of life left in them. They are an excellent aircraft and they fit well into the hub and spokes operation—the hub being Adelaide Airport and the spokes being the airports they go to.

My view, and I have expressed it there and I will express it again, is that the treatment of Rex by the council CEO, in particular, has been less than required. In fact, Rex were pushed to one side and ignored for a certain amount of time. I have taken steps, through the committee, to rectify that. I am now comfortable, given that Mr Don Hogben and Mr Jon Whelan are part of the project management board with the council CEO from Kangaroo Island, that now there is a bit more control over it.

The sum of \$80 million is a considerable amount of taxpayers' money to go into this project. I welcome the expense of the project. I point out that it is 30 years since the last upgrade, which I think was opened by a former minister for transport, the Hon. Peter Morris, a federal minister. There is a plaque at the airport to that effect. Thirty years is a good while and the work will commence reasonably shortly, I hope—I am not quite sure, but we will get a report perhaps tomorrow or at the next meeting on just where things are at the moment.

I guess the impetus for this project, though, originally came from Kristina Roberts, who was the executive officer of the old KI Futures Authority. She was the one who kicked it along. Also, Phil Baker, a former manager of the airport at Adelaide, did a report, and this is where it gets a little bit devious. I had trouble getting hold of Mr Baker's report for some time until it fell off the proverbial

truck and a copy was made available to me, which was gratefully received. However, Mr Baker's chief recommendation was that it makes no economic sense at this time to proceed with the airport upgrade. I think that is something that they tried to bury away, but you cannot bury these things away because eventually they come out.

I am quite keen to make sure that local contractors on the island get the majority of the work; indeed, we will wait to see what comes out of that. It is going to employ a few people during its construction. Of course, this project had a business plan that was put together for the federal authorities to consider, but I am far from convinced that that business plan stacks up. You can put anything down in words; however, in saying that, I know that there is a good deal of expectation by some local producers of various products that it will make available the opportunity to send their products interstate.

I refer to the small volume products because the main product of the island is meat—whether it be beef, lamb or mutton—and wool, and of course, to a much lesser extent, grains and cereals, oil seeds, etc. The egg producers have capacity to put product on planes, and there is one oyster producer and a large abalone farm, so they will take up the opportunity because it all hinges around regular flights to the Eastern States and beyond.

It was difficult to extract any sort of honest answer from the CEO in relation to who would be flying in or out. They kept talking about commercial-in-confidence, etc. That is fine, and I understand that, but my investigations have brought to my attention the fact that at that stage Virgin had not been contacted since 2012. Qantas, who flew in and out a few years ago, came and went. Who knows what they will do? There are various airlines around, but we will have to wait and see. I say again that I hope it is a success. It needs to be successful. The input of that amount of taxpayers' funds demands some degree of success.

I would add that of the other projects we have talked about only two at the moment are a sure thing on the island: one is the \$18 million worth of taxpayers' money to fund the construction of the airport, which will happen; the other one is the approximately \$5 million of taxpayers' money that has gone into the Flinders Chase walking trail. That is fine, and I am quite happy about that, do not get me wrong, but I point out that is for the government's own business enterprise. That is what it is for; it is not for the private sector.

The only way the private sector will benefit out of that is from people who go over to the island to go on this walking trail, who will catch either the ferry or, probably to a lesser extent, the air service. More than likely, they will take everything with them, as many people do, and they will walk the trail for four or five days and they will go back. So, it is for the government's own enterprise. I welcome it. It is going to be good. I think the opening is in October. I think the Premier is going over to open it, as he would—he needs to have some good news to talk about, the way he is going. The fact of the matter is that they are the only two projects that are certain at the moment.

The member for Elder talked about the American River project and the golf course. I was advised last week that the Deputy Premier has now advised KI Council by letter that the proposed ferry and marina at American River are no longer going ahead. I think that needs putting into perspective. Of course, if that does not happen, it will make it difficult to build the hotel, I would suggest. That is not to say that it will not happen, but we will wait and see what outcome there is. A lot of people have had their hopes built up over a variety of expenditure that is proposed for the island, and I say 'proposed'. We will wait and see what happens, but the airport is going to happen.

I also would like to thank the former member for Mayo, Jamie Briggs of blessed memory, who was involved in the project through his former role as member for Mayo. His input was no doubt valuable. He has gone on to do other things, as people do. As to the airport project, as the member for Elder indicated, we will be getting regular reports coming back to the committee. I will be following it quite closely, as I just want to make sure that it is done properly. I want to make sure that there is no funny business that happens. I want to make sure that what is promised happens.

As I said before, I have a lot of faith in Mr Hogben and Mr Whelan and a lot less faith in the council CEO. That said, the fact of the matter is that it is going to happen and \$18 million is going to be spent. I look forward to the completion of the project. I do hope that future air services will pick up that the number of air travellers has reduced dramatically over the last few years. The cost is



prohibitive. That is the problem with getting back and forward to the island, whether it be by plane or by ferry—the cost is prohibitive and high. It precludes a lot of people from going over there. My view is that we need to fix up the cost of the water crossing. It is not the ferry operator, but the water crossing that needs doing. I look forward to seeing this airport project being completed.

**Mr WHETSTONE (Chaffey) (11:39):** I, too, would like to speak about the Kangaroo Island airport upgrade, the 548<sup>th</sup> report of the Public Works Committee. As a regular visitor to Kangaroo Island, pursuing two of my loves, which are fishing and diving, I think the airport upgrade, jointly funded by the state and federal governments, is an important project to boost the region. Not only will it be an economic boost, it is also about giving further accessibility.

I am hoping that this airport upgrade will give a capacity to put some competition into this space. As the member for Finniss rightly said, it is a very expensive exercise to make the journey over to Kangaroo Island. Obviously, the project includes the lengthening, strengthening and apron expansion, and the upgrade to the existing terminal located at Kingscote. The cost of \$18 million is split fifty-fifty between the state and federal governments.

This upgrade will enable the airport to what I would consider feed the local economy with more demand for accommodation. Just as importantly, in my role as the shadow minister for investment and trade one of the more exciting prospects of this project is the potential for Kangaroo Island producers and exporters to be able to take advantage of what they do really well over there, which is produce pristine high-end products. Obviously, seafood, honey and the agricultural-based products will be the beneficiaries.

Likewise, the upgrade will encourage tourism. That will give the island access from the eastern seaboard and, I believe, Western Australia too, on top of the 200,000 visitors who already visit the island. It is predicted that the 25,000 to 30,000 new visitors per annum who will visit the island within three years of operation will inject a vital stimulus into the local economy, because we have noted that there has been a continual decline in visitor numbers. I think that is not because people are not wanting to go to Kangaroo Island, just that the accessibility and the cost have been barriers.

I note the member for Finniss raised concerns about some potential options for planes to use other runways during construction. Again, those talks are still underway and we will hear more about that from council and the existing airline, Rex, that uses airport. In conclusion, I support the project. I think it will be a valuable piece of infrastructure for the island ongoing, and I think Kangaroo Island's economy will be one of the main beneficiaries of the upgrade.

**Ms DIGANCE (Elder) (11:43):** I would like to thank both the member for Chaffey and the member for Finniss for their contributions. This certainly is a project of great significance and complexity, which the Public Works Committee did spend a lot of time deliberating over and hearing evidence about. We certainly will be watching this closely with a lot of interest. We look forward to our regular updates based on the reassurance of the governance and transparent structure that has now been put in place. With that, I recommend the report.

Motion carried.

#### **PUBLIC WORKS COMMITTEE: UPGRADE OF MAIN SOUTH ROAD BETWEEN OLD COACH ROAD AND MALPAS ROAD, ALDINGA**

**Ms DIGANCE (Elder) (11:44):** I move:

That the 549<sup>th</sup> report of the Public Works Committee, entitled Upgrade of Main South Road between Old Coach Road and Malpas Road, Aldinga, be noted.

This project upgrade will address safety concerns on Main South Road at Aldinga. Between 2005 and 2014 there were 50 recorded casualty crashes between Old Coach Road and Malpas Road. Unfortunately, this has included three fatalities. 78 per cent of the crashes occurred at four key intersections with Main South Road, namely Malpas Road intersection, Little Road intersection, Port Road intersection and Old Coach Road intersection. The T-junction at Port Road and Main South Road is the worst, with a crash history ranking for unsignalised intersections in the metropolitan area of 67 out of 3,690.

The Motor Accident Commission has provided \$11.2 million (GST exclusive) for DPTI to improve the section of road. The proposed works include:

- a single lane roundabout at Main South Road and Port Road intersection to provide safe right turn access into and out of Port Road, as well as access to Little Road;
- pavement widening and shoulder sealing along Main South Road to improve safety for cyclists, as well as motorists;
- median wire rope between Malpas Road and Port Road to prevent vehicles straying on to the wrong side of the road. This was the cause of two of the fatalities;
- road lighting at Port Road and Malpas Road junctions;
- new signage and line marking;
- drainage and service relocation;
- realignment of the overtaking lane near the Malpas Road T-junction. This will reduce rear-end collisions between vehicles overtaking and those slowing to turn right;
- partial closure of Old Coach Road to allow left only turns; and
- speed limit reductions between Seaford Heights and Aldinga, from 100 km/h to 90 km/h, and between Little Road and Hart Road, from 80 km/h to 70 km/h.

The committee has concerns that the changing speed limits may be confusing to motorists with at least three different speed limits on this short, three-kilometre section of road. The committee has requested that DPTI review the changing speed limits and report back to the committee in due course.

Construction works are due to commence shortly, with completion in mid-2017. This is a very worthy project that certainly will address some very serious issues in that particular stretch of road. With that, I would like to thank my fellow committee members, particularly those sitting opposite: the member for Chaffey, the member for Finniss, the member for Torrens and the member for Colton and I would also like to thank the committee staff for their work. Given this, and pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public works.

**Mr PENGILLY (Finniss) (11:47):** This project is on a major road that leads into my electorate and the town of Sellicks Beach, so I took a great deal of interest in the project when it came before the committee. Once again, I thank the DPTI officers. I suggested that a briefing to the Sellicks Area Residents Association be put in place. That has taken place. I did not attend that night, but my understanding is that it went well. What concerned me is that people need to have an understanding as to what is going to happen, they need to know what restrictions are going to be in place during the project and they need to know what the outcome is going to be afterwards regarding roundabouts, etc.

One of the main concerns, and other members of the committee picked up on this at the time, was the great number of varying speed limits. We sought some more information on that. That section of road is heavily used. The number of people who now commute regularly—from my area particularly of Yankalilla—to Adelaide is growing and continues to grow. Indeed, I have one staff member who comes up from Yankalilla when the house is sitting—they are not here today, I might add. So, this road is heavily used and is also the main conduit. As was pointed out by one member of the committee, the majority of ferry traffic is heading down to Cape Jervis. We need answers on it. A section of that road is particularly bumpy and wavy. In the long term something will have to be done with that.

My view is that, given the accident ratios that were given to the committee and the feedback we had from questions asked of the officers, I believe this project is well and truly justified. I am not into restricting speeds. I think this nanny state nonsense on speed limits has gone too far, but down there, where they are proposing to make these alterations to speed limits, it will probably work reasonably well.

In reference to the speed limits, I drove to Darwin and back during the break with my wife to visit family. The roads in the Territory are far superior to our roads; the verges of the roads are so much wider that you can see what is happening. When I discussed this recently with a couple of worthy people from South Australia, they correctly pointed out that the Northern Territory does not have a native vegetation act and they put people's lives and road safety first and not vegetation on the side of the roads. I thought that was a really important point.

Having said that, I digress somewhat from the report, but I will talk about that at another time—I may talk about it later today. It is a good project, and I look forward to its completion. No doubt there will be plenty of grumbles during construction.

**Mr WHETSTONE (Chaffey) (11:51):** I, too, will make a small contribution on the 549<sup>th</sup> report of the upgrade of South Road between Old Coach Road and Malpas Road at Aldinga. That is a notorious stretch of road. Over time, there have been 50 recorded casualty crashes on that section of Main South Road. Sadly, there have been three fatal and five serious accidents over a stretch of time between 2005 and 2014.

What we will see down there is that the 17,900 vehicles that use that road daily—not just passenger vehicles, it is also a major freight route—will see the benefits once this project is finished. One point I would raise, as other members have, is that it is about the hotbed of speed restrictions down there, the continual change. There are three speed zones there and that will confuse motorists. I think it will be a hotbed of speed camera zones that will see a bit of a revenue-raising exercise. We are constantly under pressure to keep to our speed limits. When you see the up and down speed limit zones, it creates confusion and a lot of uncertainty.

We asked that DPTI review that part of the project and give more consideration to a consistent speed zone area. With the casualties that have happened on that road, with the amount of traffic we see on that road, the growing number of vehicles using it every day, it will be a welcome upgrade, so I commend the report to the house.

**Ms DIGANCE (Elder) (11:53):** I thank the members for Finniss and Chaffey for their contributions on this particular project that the Public Works Committee looked at in great depth. Certainly, we all share the concerns. We know that this section of road needs to be addressed, and we do share the concerns over the varying speed limits. We will continue to monitor how this project pans out. With that, I recommend the report to the house.

Motion carried.

#### **PUBLIC WORKS COMMITTEE: MOUNT GAMBIER PRISON EXPANSION**

**Ms DIGANCE (Elder) (11:54):** I move:

That the 550<sup>th</sup> report of the committee, entitled 'Proposal to expand Mount Gambier Prison—additional 112 beds', be noted.

Mount Gambier Prison currently accommodates 453 low and medium security prisoners. It is situated approximately 19 kilometres west of Mount Gambier and it is surrounded by agricultural land. This project will see the prison expand to accommodate a further 112 low and medium security prisoners. The works will include the construction of five two-storey accommodation blocks that will each incorporate four independent living units. There will also be a new support building, comprising an officers' station, multifunctional programs, education rooms and indoor recreation space.

This accommodation layout mirrors the model used in the recently completed expansion at Mount Gambier Prison and the current expansion that is occurring at Port Augusta Prison. In this model, the accommodation blocks are built around a central courtyard that allows prison officers to visually monitor all the accommodation blocks and yards simultaneously from their officers' station, which is part of the circumference of the complex. It is a more efficient approach to the ongoing monitoring and management of prisoners.

Other works to be undertaken as part of the project are a refit of the existing administration building for a new visitor centre, with the existing visitor centre refitted to incorporate new medical facilities and videoconferencing. There will also be an expansion of the prison industries building and

an upgrade to the electronic security infrastructure to bring it into line with the other correctional facilities in South Australia.

The total cost of this project is \$58.2 million, exclusive of GST. Initial early works have already commenced, with construction due to commence by November this year. The project is expected to be completed by mid-2018. Consultation has occurred with the local community and the District Council of Grant. Individual discussions have also occurred with the owner of the property that abuts the prison, and this will continue throughout the project. There have been some concerns raised about the security classification of the prisoners to be accommodated at the prison.

The department has confirmed that the additional prisoners would also be low and medium security prisoners. Changing the classification of prisoners accommodated at Mount Gambier Prison would require significant and substantial changes to the operations of the prison, including what programs are presented at the prison and the accommodation structure. The department is again working with the local council to facilitate local contractor participation in the project works. This was done well quite successfully with the previous expansion of the prison, and it is hoped that it can be replicated with this particular project.

Briefing sessions will occur for potential subcontractors on the parameters of the project and to encourage their participation in tendering for works. I would like to thank the department for presenting the important project to the committee, my fellow committee members, the members for Colton, Torrens, Finniss and Chaffey, and also the committee staff for the time and effort they have put into it. Given this, and pursuant to section 12C of the Parliamentary Committees Act 1991, the Public Works Committee reports to parliament that it recommends the proposed public works.

**Mr WHETSTONE (Chaffey) (11:58):** As a committee member, I listened intently to information about the upgrade of the Mount Gambier Prison. Having visited the last upgrade of the prison, I was somewhat mystified as to how we could have such an upgrade so quickly after the last upgrade.

It is a medium to low security prison. Some of the questions that were raised during the hearing about the prison security fencing included why we have to have high security fencing and whether this was a sign that the prison is now being turned into a high security prison. Those questions were asked of the department. They said, 'Never rule out anything into the future,' when I asked if that potentially meant that it would become a high security prison. Of the 112-bed upgrade, I would be thinking about just exactly how long it will last before the prison is at capacity again. Are we going to see a continual expansion of our prisons? I know there is room for that prison to further expand. I seek leave to continue my remarks.

Leave granted; debate adjourned.

#### *Bills*

### **CONTROLLED SUBSTANCES (MISCELLANEOUS) AMENDMENT BILL**

#### *Second Reading*

Adjourned debate on second reading.

(Continued from 7 July 2016.)

**Dr McFETRIDGE (Morphett) (12:00):** I will not hold up the house for long on this bill. This is a technical bill. It just corrects some inadvertent anomalies that were introduced in a previous amendment. It also harmonises some of the records of sale of some schedule 7 poisons across Australia. The bill was introduced in July and proposes to make three technical amendments to the Controlled Substances Act 1984. The first is harmonisation of records of the sale of schedule 7 poisons.

For the information of the house, a schedule 7 dangerous poison is a substance that has high to extreme toxicity, can cause death or severe injury at low exposures, requires special precautions in its manufacture and handling, may require special regulations restricting its availability, possession or use, and is too hazardous for domestic use or use by untrained persons. The bill intends to make it easier for retailers to find out the requirements to record information in

relation to sales of schedule 7 poisons which, as I said, are dangerous poisons used for agricultural or industrial purposes, such as arsenic, cyanide or strychnine.

Currently, there are requirements in the Controlled Substances Act itself, as well as in the poisons regulation under the act. A set of uniform controls over poisons that includes the information recorded about schedule 7 poisons sales was developed by the Australian poisons regulator and confirmed by COAG. All jurisdictions have agreed to amend the relevant legislation to reflect these uniform controls. The reform process is expected to be completed in 2017. South Australia is the only jurisdiction that currently requires sellers to record the purpose of the purchase of schedule 7 poisons.

Other changes relate to administering schedule 4 drugs to animals. Clause 5 of the bill clarifies the regulation of schedule 4 prescription drugs, such as antibiotics. Changes to the Controlled Substances Act in 2011 inadvertently omitted the requirement that a person is only permitted to administer a schedule 4 prescription drug to an animal if the minister has licensed that person to do so. This bill seeks to reinstate that requirement. The third thing it seeks to change is clarification on the grounds of a prohibition order.

Clause 6 of the bill seeks to clarify that the minister's powers under section 57 of the act to issue a prohibition order against a person includes when a person has sold a prescription drug in an irresponsible manner. Section 57 of the Controlled Substances Act is intended to apply particularly to pharmacists to prevent potentially dangerous sales of prescription drugs. The minister can apply a prohibition to a person who has, in the opinion of the minister, prescribed, supplied or administered a prescription drug in an irresponsible manner.

The legislation is straightforward. It is a technical amendment. It is one of those bills that has been through the COAG process and I think it is a very sensible amendment. With that, I wish the bill a speedy passage.

**Ms DIGANCE (Elder) (12:03):** I rise to speak in support of the bill before us, the Controlled Substances (Miscellaneous) Amendment Bill 2016, and will make particular reference to the process of record keeping for schedule 7 poisons sales. To deliver a seamless national economy in this space, the Council of Australian Governments responded to an identified inconsistency in poisons regulation. Record keeping for schedule 7 poisons transactions is inconsistent between jurisdictions and poses unnecessary complexity and compliance costs for businesses operating in more than one jurisdiction.

Proposed changes to the Controlled Substances Act 1984 will make it easier for users to find the requirements for the information that retailers must record when selling schedule 7 poisons, which include industrial and agricultural poisons such as arsenic, cyanide and strychnine, by prescribing all the information that must be recorded under the Controlled Substances (Poisons) Regulations 2011. Retailers sell schedule 7 poisons which may include agricultural products such as pesticides; zinc phosphide, which is mouse bait; soil fumigation, which market gardeners would use; herbicides (paraquat); and animal supplements and treatments such as drenches and cattle or sheep dips.

Under condition of licence, retailers are only permitted to sell schedule 7 chemicals to licensed or accredited purchasers. Purchasers are licensed pest control operators and primary producers such as farmers who are trained to hold a current chemical user accreditation to use these poisons. Currently, there are two requirements for record keeping in the act and four requirements in the poisons regulations. Record keeping for schedule 7 poison transactions is one of the areas of regulation that is inconsistent and needs to be addressed across borders. This amendment to the act provides the necessary change for South Australia to give effect to a national agreement between jurisdictions to achieve consistent poisons regulations.

Jurisdictions agreed to amend relevant legislation to reflect national uniform controls over poisons and include a control that prescribes the information retailers must record. The act already requires businesses to comply with other national uniform controls over packaging and labelling of poisons. Referring to the national controls over record keeping through this amendment will reduce the amount of information to record by removing a uniquely South Australian requirement, which is quite a hurdle, to record the purpose of a poison purchase, and it means the businesses will no

longer need to understand and comply with multiple sets of different poisons regulations if they operate in more than one jurisdiction. I believe that will be quite a timesaver.

From what I understand this amendment will have economic benefits for South Australian retailers by reducing their regulatory burden through nationally consistent poisons regulation. The economic benefit and cost savings are expected to arise from harmonising record-keeping requirements nationwide, which reduces compliance costs and also reduces the amount of information for South Australian retailers to record.

Australian industry expects that implementing this nationally consistent approach to poison controls will in fact bring these nationwide cost savings. The major South Australian schedule 7 poison retailer was consulted about this amendment, and the retailer supports having nationally-consistent record keeping and does not foresee associated transition costs but only, in fact, benefits. I support and recommend this bill to the house.

**The Hon. P. CAICA (Colton) (12:08):** I will not hold the house for very long. I think all that needs to be said has been said, but there are a few things I would like, with the indulgence of the house, to reinforce. The first point I would make is about the red tape reduction that was mentioned by the honourable member for Elder. It is true that changes to this bill are of a technical nature, but they are very sensible changes.

In regard to the red tape reduction, it is fact that it will reduce the regulatory burden for businesses that sell schedule 7 poisons but, at the same time, it is putting different requirements on the recording of schedule 7 poisons, which is an important thing. People have to know what it is that is being administered, and it is quite appropriate for that to be properly labelled and properly recorded. I know you would be aware, Mr Acting Speaker, that there are 161 licensed retailers in South Australia comprising agricultural merchandise outlets primarily, of course, in rural locations. Everyone in this chamber knows that we on this side support our rural areas and the commitment we have to that very important part of South Australia.

Schedule 7 poisons include industrial and agricultural chemicals such as arsenic, cyanide and strychnine. Whilst I admit that it is hard to quantify the economic benefit that will occur from this red-tape reduction, I am told that industry does expect there to be minimal cost savings. It is also important to note that the clause of this particular bill will only become operational once national standards on poisons are set. Another point I want to reinforce is that those people in South Australia who operate across borders are required to meet different criteria than exist in South Australia. This is a harmonisation process, and that can only be a good thing for the management of these poisons, and these very important prescription drugs.

On the matter of prescription drugs for animals, I am told that based on the Crown Solicitor's advice these were undertaken to provide extra clarity on the sale of schedule 4 prescription drugs. In the context of this bill, the concentrates (schedule 4 prescription drugs) for animals are for antibiotics. That is what this bill is about, to provide that extra clarity. I mentioned that earlier: the ability to be able to know what it is that you are administering and what the impacts and effects of it may well be. This extra clarity provides for the licence conditions for organisations like the RSPCA and the Animal Welfare League, and I am told that they are supportive of these particular changes.

On the other matter of prescription drugs for animals, part of the changes being made are for the administrative update of language regarding the minister's power to prohibit a person, or supply, or administer a prescription drug, and I think that is quite a sensible move. That is addressing something that was introduced, as I understand, back in 2011, which we have now decided is something that needs to be revisited—and it makes sense.

An amendment in this clause will also include terms of 'sell' and 'supply' to remove any ambiguity for the courts when a prohibition order is active. Of course, I do not come from a legal background, but I think one of the underpinning and important aspects of our legal system is to make sure that there is clarity, and this delivers that in this particular instance.

As I said, and as the member for Morphett mentioned, they are amendments of a technical nature. They are important. A significant amount of consultation has been undertaken with respect to these amendments. They also, simultaneously, harmonise certain aspects of our legislation with

that legislation that applies interstate. I commend the bill to the house, and I congratulate the minister on bringing this important bill to the house.

**The Hon. J.M. RANKINE (Wright) (12:12):** I also rise to support this bill which, essentially, in a nutshell provides uniformity across Australia. It provides clarity in relation to the use of prescription drugs, and it rectifies an omission in some previous legislation that has passed this house. It is important that we have clarity and uniformity across our borders in relation to the use of these highly dangerous poisons. In saying that, it is also important that those industries that are reliant on the use of these products are able to access them and use them knowing, very clearly, what their rights and responsibilities are.

We know industries operate across our state borders, people have agricultural properties across state borders, and it is a nonsense to have different regulations. So, it is really important that we have consistent regulation and operation of these highly dangerous poisons, which can be very detrimental if used in an inappropriate manner. It is important that we have proper record keeping and that people understand exactly what their responsibilities are. It is also important, however, to ensure that we continue to have appropriate oversight over the supply chain for these schedule 7 poisons.

The act will still require retailers (those people selling these poisons) to determine the purpose of the purchase before proceeding with the sale. I think that is very important. Under the uniform controls that are being introduced, it will require the retailers to record the proof of the purchaser's authority to purchase these poisons, and their records will need to indicate the purchaser's occupation and the use of those particular poisons.

I mentioned in my opening comments an omission. Prior to 2011, the Controlled Substances Act made reference to people being permitted to administer schedule 4 prescription drugs. Changes to that act inadvertently omitted a reference that allowed organisations, such as the Museum, the RSPCA and people working with animals, to administer these drugs, so this is simply rectifying something that was omitted back in 2011.

Clause 6 provides the power to issue a prohibition order against a person who has sold a prescription drug in an irresponsible manner. What this does is provide some clarity in relation to the terms 'supply' and 'sell', so it will make it very clear that, when a pharmacist is selling the prescriptions, they are not actually inadvertently caught up in this legislation, again, just providing clarity in relation to services that are very important in our community. With those few comments, I am pleased to be able to support this bill.

**Ms COOK (Fisher) (12:16):** I rise to make some brief remarks regarding this bill. There is no need to go over the ground that has already been covered, but to highlight that this actually just offers some clarity to the supply and use of some scheduled poisons. It also allows for some uniform regulation for the people who are selling and supplying the poisons, as well as some omissions being corrected in regard to previous versions of the bill.

I want to highlight that, in terms of where we are moving forwards into the 21<sup>st</sup> century with the use of communication systems and databases, it makes great sense to ensure that we have some consistency across our borders in terms of that usage. Also, it makes great sense with our state borders being so liquid as they are that in moving from one side of the border to the other there is some consistency around the regulation of these substances. In saying that, I would like to add that we cannot take our eye off the ball from a South Australian point of view in terms of how we regulate and monitor the supply of these scheduled poisons to our rural friends and how we support the safe use of them.

Our land, animals and reputation are always at stake in regard to this, so having good legislation, which underpins the use of all of this, I think is very important because it is what we fall back to when we are able to spruik our record of safety within South Australia. I think the poisons that we are talking about, such as the cyanides, are worrying from the point of view of the general public, and the general public trusts us to make sure that we have tight regulations around the use and supply of them.

That said, it is not about making our rules so arduous that they cannot be followed without being broken, so there must be clarity. Having had a look over this bill, I believe that clarity is in there to make it easier for people to understand. I think people expect that we are looking at the impact of these poisons on our environment, on the watertable and on other members of the community who are in the vicinity when they are being used, so it is absolutely vital that we make sure people who are supplying them for use understand these consequences and are able to inform the community about that.

I am also interested in the clause that talks about the remediation of the omission regarding delegation of authority. I am sure groups such as the RSPCA appreciate the reintroduction of this clause of the bill and the clarity around their delegation of authority to be able to supply substances under this act. With that, I will conclude my remarks and commend the bill to the house.

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (12:21):** I rise to speak on this bill in response to what has been a bevy of glowing support of the intent behind this bill. I am so enthused by this glowing support that I have to say three things. First, this is a bill that actually is done when a premier walks into a cabinet room and says, 'What the hell are we going to do in a few months' time? Find me some tidy-up bills that we can deal with so we can fill up a bit of time.' Let me explain why.

First, this bill is not about reducing red tape or doing something fabulous for farmers, it is to clarify the grounds on a prohibition order, ostensibly on the basis that the minister is not quite sure, if she issues a prohibition order against somebody (a pharmacist in particular), whether she might get caught on a technicality that he is selling the product and not supplying it. Not one single case has determined that alleged anomaly. The minister says she needs to tidy this up in this legislation to ensure that we do not have any confusion. What utter nonsense. This is a complete furphy. Clearly, someone handing over a drug over a counter, whether you pay for it or not, is a supply of a drug. That is a nonsense.

Secondly, the purpose of this bill is to ensure that, when we give drugs to animals, a person has to be licensed. This is a clause that was actually removed in a 2011 rendition of this act. This act has been open several times since then and I have been here in the parliament doing it. Did they come back in and say, 'Look, we're sorry, we mucked that up in 2011 and we need to fix it up'? No, they did not. When the bill is open, minister, go around your department and find any other little things that they have stuffed up along the way or that need technical amendment and put it in at the time. You do not need to bring another bill in and create this time to do it.

Thirdly, when everybody is singing *Kumbaya* in harmony, lovely harmonisation around Australia crap, let me say this—and be alert on this poisonous aspect, and I am glad the Minister for Regional Development is present—we are now signing up to a COAG agreement to all be harmonised on the basis that we are dumbing down the circumstances which will now apply in South Australia compared to what it has been. Why? Because we are all rushing to go into this harmonised, in-sync arrangement, which certainly has some benefits for the cross-farming and cross-business enterprises across states—granted.

However, do not come in here and tell us you have been to a COAG meeting, minister, and you have signed up to something that is lower and less effective than what we already have. That is not acceptable and it should not be to anybody in this house. These ministers have a responsibility to go there and fight for the highest standard. If it is going to be applied across the country and we have the best, it should apply across the country. We should not accept some trumped-up, weakened and watered down piece of nonsense from the other states. With that, I let the bill pass.

**The ACTING SPEAKER (Mr Odenwalder):** Thank you, member for Bragg, and I will overlook on this one occasion your use of the unparliamentary word 'crap'.

**An honourable member:** Really?

**The ACTING SPEAKER (Mr Odenwalder):** Speaker Eastick in 1982.

**The Hon. T.R. KENYON (Newland) (12:24):** Fantastic. You just set a new precedent and one that is much more flexible. Traditionally, regulation from the Chair constricts debate, I have to say.



**The ACTING SPEAKER (Mr Odenwalder):** No, I want open debate.

**The Hon. T.R. KENYON:** I am glad to see the Chair setting a new precedent opening up debate, overturning 34 years of precedent set by Speaker Eastick. We have seen it overturned and I am very pleased to see it.

**The ACTING SPEAKER (Mr Odenwalder):** And I will afford the member for Newland the same courtesy.

**The Hon. T.R. KENYON:** Following on from the ruling, the member for Bragg's contribution was crap. The member for Bragg's contribution was crap, and it is very—

**Ms CHAPMAN:** Point of order.

**The ACTING SPEAKER (Mr Odenwalder):** Yes; order!

**Ms CHAPMAN:** You upheld Speaker Eastick's—

**The ACTING SPEAKER (Mr Odenwalder):** Member for Bragg, I did say the word 'once'. I will overlook it once.

**Ms CHAPMAN:** Thank you.

**The Hon. T.R. KENYON:** You said it once and she said it once, and in the long-held parliamentary tradition, I believe the technical argument is, 'What's good for the goose is good for the gander.' If it is overlooked once, it can be overlooked a second time, and you have set the precedent now, so thank you; I am very pleased to hear it.

On the one hand, those members opposite will talk about deregulation, cutting red tape and making things easier. At one point when, in this case, the Minister for Mental Health and Substance Abuse has tried to do exactly that, they say, 'It is terrible; we should never agree to this. We are dumbing down.' What was a virtuous deregulation held up by those opposite has suddenly become a dumbing down and a weakening of standards. In fact—

**Mr Picton:** We need more red tape!

**The Hon. T.R. KENYON:** More red tape. The argument by the member for Bragg is essentially, 'We have the best red tape in the country; everybody should come up to our standard of red tape.' Be that as it may, I think the second reading speech admirably outlines how the information recovered under the bit that is being removed is captured elsewhere. It is not that the information is not captured; it is captured in a nationally uniform and, I suspect, less invasive way for farmers and those buying these chemicals.

As other members have pointed out, we are dealing with some particularly hazardous chemicals. It is right and proper, as the member for Bragg said, that there should be a safety regulation around these things. The chief beneficiaries of that regulation are not, in fact, the government; in my view, they are the farmers themselves. There needs to be some regulation around dangerous substances. Most people—and this includes farmers—are happy to get along with their jobs and trust in the regulatory and safety systems that are around us. That is probably one of the great luxuries of Western society. We have good regulatory systems, we have good safety systems, and they are improved over time. Sadly, that is often on the back of unhappy experience.

One of the reasons for improved recordkeeping is to make sure that when we do have an unhappy experience and we discover, for instance, the possibility down the track that a chemical or a substance is more dangerous than we thought it was, good records allow us to go back and talk to those people who are affected, assess them for exposure to these chemicals and whether they have been affected in the ways that may have been discovered. This is obviously a hypothetical situation.

I do not think that is a bad thing in any way. It will speed up the efficiency of retrospective treatments, should they be required. It will speed up the efficiency of knowledge gathering, should that be required. Heaven forbid that we ever get to this point, but it will also ensure the widest possible compensation and that the legal arrangements in their own right are more efficient or more widespread in the event that that would need to happen. I do not think the collection of information

on substances that are as dangerous as these is a bad thing. I do not think it is unnecessary red tape; I think it is proven red tape, and I think that is important.

The second thing I want to talk about is the use of antibiotics, particularly with the RSPCA. It clears up some of the arrangements around that. I am not a lawyer. The member for Bragg made some points about supply and sale. She may well be right, but it does not hurt to clarify that in a bill, seeing as it is here and we are talking about it. I think the impetus of this was not just to open it up for that particular point; the impetus was to conform with a national arrangement. Seeing as we are doing that and the bill is open, then we may as well address that.

It may or may not be a point that will ever come up, but what I do know about lawyers is they can always find an argument one way or another. That is what they are paid to do. Presumably, at some point, some defence lawyer somewhere will try to find a way, and if we have given them a way when we know we could have shut it down, that would be a shame. It may be a technicality but, in my experience, for the general public seeing someone get off on a technicality is the most frustrating miscarriage of justice you can come across. If this shuts it down, then I think that is a good thing.

Coming back to the RSPCA and their supply of antibiotics, firstly I would take the opportunity—since we are talking about the RSPCA, or at least I am—to thank them for the work they do in the community and the contribution they make. In some cases they are even taking over a prosecutorial role, which is a whole other issue in itself; that is something they undertake. I do not think anyone here could doubt the good intentions of the RSPCA or the Animal Welfare League or any of those organisations. They do a lot of work for abandoned animals, they pick these animals up.

It is an interesting exercise to think about what our society and our community might look like if there was no-one doing that role. There would be a lot more stray animals roaming the streets, I think. There would be a lot more animals that would not live as well as they do. Sometimes they are in their final days, but they would not live as well as they do without organisations such as the RSPCA and the Animal Welfare League, who not only take care of the animals but also lobby on their behalf, advocate on their behalf, to those of us who are members of parliament and also to the general community. I thank them for that role.

I do have some concerns about the use of antibiotics in animals, mainly as a result of the effectiveness of antibiotics in general over the long term and the effectiveness of antibiotics in the human population. I think there is a tendency, and in my view it is a worrying tendency, for individuals to spend more and more on the veterinary needs of animals, the healthcare needs of animals, such that health care for animals is beginning to resemble health care for humans in the way it is applied and the amount of money that people will spend.

Personally, I find that disturbing. I find it disturbing for many reasons. They are people's pets, it is their own money, and they are of course entitled to spend that as they see fit, but it seems a shame to me that such outstandingly large amounts of money are spent on animals when there is such a crying need for spending on our fellow people in society. It is more a reflection of Western society, one of the darker sides of Western society. I have talked previously about the advantages, but I think one of the darker sides of human society is the increase in the amount of money that we spend on pets and animals, often at the expense, as a society, of our fellow human beings.

That is a general concern of mine, as is the use of antibiotics. The more we use antibiotics across society—and we are seeing a movement away from the use of antibiotics in food production, for instance—the more we as humans get generally exposed to these antibiotics. More importantly, some of the pathogens and viruses, and others—not so much viruses with antibiotics—the bacteria and illnesses that we have been fighting so hard against for most of the course of human history are developing mutations and resistance to antibiotics.

That is a bad thing because, again, the catastrophic consequences to human society of widespread resistance to antibiotics by bugs, these so-called superbugs, will be deadly. It will have impacts on our society that are very difficult for us to imagine now because it is such a long time since we have been exposed to them, but there was a time when things like smallpox were common and there was no cure. Children, and weaker and infirm adults, were particularly—

**Ms Chapman:** This is getting very off topic.

**The Hon. T.R. KENYON:** Bear with me, member for Bragg. People were regularly dying from what is now a disease that is preventable. In fact, in every sense of the word in common experience across our community, it has been eradicated. Even in the poorest parts of the world, smallpox has been eradicated. Imagine if it were to come back, or if something similar, a bacteria that we now currently combat with antibiotics, were to come back and become so virulent that it would have a similar effect across our community as smallpox did not so long ago.

**Ms CHAPMAN:** Point of order, Deputy Speaker: much as this is very interesting, it is completely irrelevant. Unless the member is going to propose that we are going to give cyanide to pet cats or we are going to have prohibition orders against people introducing antibiotics for children, frankly, this has nothing to do with this bill.

**The DEPUTY SPEAKER:** I am sure he is going to make it relevant.

**The Hon. T.R. KENYON:** I am, ma'am. I was just coming to it actually.

**The DEPUTY SPEAKER:** Isn't that a wonderful phrase? I am sure he is going to make it relevant.

**The Hon. T.R. KENYON:** I was just coming back to it. I think there needs to be some consideration on the application of antibiotics to animals. Perhaps in a veterinary sense or in a wider agricultural sense, there needs to be some consideration, and I think it needs to be at a national level, either through a ministerial council or through a federal government taking its own initiative.

There needs to be consideration of how widespread the application of antibiotics is. What are the possible effects of that application? How do they permeate through the food chain? How do they permeate into our human experience? What effect are they having on bugs and everything else? What sort of resistance is being built up by bugs, and how widespread are these bugs?

Otherwise—and it is the history of human experience—we will continually ignore warning signs until a catastrophe or a very difficult situation occurs, then we panic and try to catch up. We do everything we need to do and we spend inordinate amounts of resources on playing catch-up to something we could have considered at an earlier stage. This bill, and its regulation or changes to regulation or the way it treats the administration of antibiotics to animals, is a good starting point for discussion on where we might go with our use of antibiotics in our society, particularly in relation to animals. With that, I commend the bill to the house.

**Mr PICTON (Kaurua) (12:33):** I should note that I think the Acting Speaker, the member for Little Para, was doing an excellent job. I am sure that you, Deputy Speaker, apply the same leniency to all members.

**The DEPUTY SPEAKER:** Is that to say you didn't miss me?

**Mr PICTON:** Of course, we missed you greatly.

**The DEPUTY SPEAKER:** Silly, silly boy.

**Mr PICTON:** He applied a flexibility in his rulings that you often do not, Deputy Speaker. I will not use the liberties required by the member for Bragg and the member for Newland in my contribution and I will stay within the parliamentary language. I am very keen to speak in support of the Controlled Substances (Miscellaneous) Amendment Bill. I think 'miscellaneous' is perhaps not the best term to describe what is a very important bill as part of our COAG process for the national seamless economy.

This is a process that has been going on for a very long time, since 2008, when the then commonwealth government set up the work on a seamless national economy. These are very important projects that are being undertaken in a whole range of different areas. For instance, the Personal Property Securities Register, which is now set up, came through that process under COAG. The Australian Consumer Law, which has clarified the rights of consumers across Australia, came through that COAG process. Now this is the latest work on making it easier for businesses to trade and to operate across the whole country.

I think this government has been very supportive of that agenda across a whole range of different fronts, and we want to make sure that our businesses can operate across the country. I

think this is just another way in which we are doing that. I think this is very important for those businesses that operate in this space, and I understand that there are 161 licensed retailers in South Australia and many of them operate in regional areas. We want to make sure that the regulatory burden on them is consistent with other states.

At the same time, we want to make sure that the regulation is appropriate because these are very dangerous substances that we are talking about and regulating. We want to make sure that there is a consistent and strong regulatory approach. That is really where it comes down to asking: what is red tape or what are the actual regulations that need to be in place? I think the minister, through her work as well as that of her predecessors, has argued a very strong case for South Australia and agreed to provisions that make sure that we have a good regulatory approach for these poisons in South Australia but that we do not go over the top.

For instance, one of the issues that has been discussed through this process is the uniquely South Australian requirement that we had to record the purpose of the purchase of a schedule 7 poison. That was only in place in South Australia. Changing that, however, will not reduce the overall regulatory oversight of the supply chain, and that is because schedule 7 poisons have other requirements under the Controlled Substances Act that requires retailers to satisfactorily determine the purpose of the purchase before proceeding with the sale.

There is also a requirement under the national uniform control that retailers record the proof of the purchaser's authority to purchase the poison that indicates the purchaser's occupation and context of use. That shows that there is a clear balance between getting rid of some of the regulation that applied just in South Australia and not in other states but also making sure that we have the information we need to make sure that those substances are only being sold to the right person.

To be honest, when I woke up this morning I was not expecting to talk on the Controlled Substances (Miscellaneous) Amendment Bill, but I was so drawn by the member for Bragg's comments earlier, which I thought were really her saying that she wanted to keep as much red tape as possible in place here in South Australia. I think that is definitely not something that this government agrees with. We want to make sure that we have simplified regulations, and that is something the Premier has made very clear, and he has announced a repeal date which will happen on 15 November later this year.

There is also a whole range of other work that is happening to look at the regulations that we have that we need, what regulations we have that could be simplified, and what regulations we could get rid of entirely because they are outdated or not needed at all. I think that is exactly the right process the minister has gone through in this bill, and I think that that should be commended. I am shocked really that this does not have bipartisan support.

Every time we hear the Liberal Party say that there is too much red tape in South Australia, I think we should look back to the 21 September 2016 contribution in the house by the member for Bragg when she got up in this house and opposed removing red tape in this area. That will show really what the view of the Liberal Party is when it comes down to it and how a lot of what they said is just pure rhetoric they do not necessarily believe in when it comes down to it.

Also, I think it is important to consider that, if they were to be in government one day, what approach they would take to these important COAG processes. Would they engage with them, would they collaborate on a national basis with other governments—whether Liberal or Labor, as almost undoubtedly there are always some of different flavours across country? We, as a government, have worked on those processes and achieved some great results. I think what we are seeing from the other side is that they are not keen to engage in those national processes and do not see having national streamlined legislation across the country as a good and desirable goal that we should be aiming for, whereas we do.

We think that you can get the right balance, where we have the right regulations here in place in South Australia but also make sure that we have a streamlined economy right around the country. I very much support this bill. I think there are some other provisions in the bill that are very important that have been discussed by other members of this house, particularly the member for Newland, the member for Colton and the member for Fisher. They have gone through some of those other

important regulations about the animals, licensing and prescriptions under this bill and also some of the issues in terms of pharmacy.

It is important when we find things that need to be fixed up that the minister does the right thing in bringing them to the house so that we can address them in this way. I commend the bill to the house.

**Mr ODENWALDER (Little Para) (12:44):** I, too, rise to make a very brief contribution to the debate on the Controlled Substances (Miscellaneous) Amendment Bill 2016. I agree with the points made by many of the previous members about clarification. I do not know if I would go as far as the member for Newland to say that the primary purpose of parliament is to frustrate the work of lawyers. I consider it a happy by-product. I will just reiterate what has been said by other members, particularly around clause 6, to begin with, about the power of the minister to prohibit certain activities.

Currently, as we know, the Minister for Mental Health and Substance Abuse does have the power under the current act to prohibit a person from certain activities if that person has, in the opinion of the minister, prescribed, supplied or administered a prescription drug in an irresponsible manner. However, as we have covered, the terms 'supply' and 'sell' are not used interchangeably in the act. This does need clearing up, as the member for Newland has explored. There is always a chance that a lawyer or another person is going to interpret something in a very strict way, and we are left with unforeseen and unwanted results.

For example, when a pharmacist dispenses a prescription, they are considered to be selling the medicine to the consumer, rather than supplying it. This amendment will include the terms 'sell' and 'supply' to remove any ambiguity around the nature of these activities. Clarifying the ministerial powers, as I said, will make sure that issuing a prohibition order is a regulatory option available to regulators when they investigate alleged irresponsible dispensing of prescription drugs by pharmacists.

As previous members have, I want to touch on clause 5, which is the regulation of schedule 4 prescription drugs. Currently under the act, of course, the minister does have the power to grant licences to organisations, including the RSPCA. I want to echo the sentiments of the member for Newland about the good work the RSPCA does in our community, and the Animal Welfare League too, particularly up in Elizabeth. My office regularly donates items to the Animal Welfare League, most of it at the behest of my mum, who is a very keen supporter of the Animal Welfare League and is always in my ear about animal welfare issues.

It does currently give licences to these organisations to administer schedule 4 prescription drugs, such as antibiotics, to animals. Licensing, of course, enables these organisations to operate effectively and to do the good work that they do. Conditions applying to these licences do control their activities, largely to protect public safety. As has been explored prior to the changes made in 2011, the act did make reference to a person being permitted to administer a schedule 4 prescription drug to an animal, if the minister licensed that person to do so.

This bill proposes an amendment, which I agree with, to the act, that will return to the previous provisions by reinstating this reference. This will provide certainty to licence holders and regulators that a person is permitted to administer a schedule 4 prescription drug to an animal, when licensed to do so by the minister. This amendment will also make it clear to a person, who may not have held a licence in the past, under what circumstances it is appropriate for them to apply for a licence. With these words, I join others in commending this bill to the house.

**Mr BELL (Mount Gambier) (12:48):** I rise to support the Controlled Substances (Miscellaneous) Amendment Bill 2016, which was introduced to the House of Assembly on 7 July 2016. It is my understanding that this bill proposes to make three technical amendments to the Controlled Substances Act 1984. The first is the harmonisation of records on the sale of schedule 7 poisons. Basically, the bill intends to make it easier for the users to find out the requirements on retailers to record information in relation to sales of schedule 7 poisons, which are dangerous poisons used for agriculture or industrial purposes, such as arsenic, cyanide and strychnine.

Many from the city would not be aware of those poisons in practical use. However, those from regional areas, particularly the South-East, use those poisons for a variety of reasons. I guess one of the main issues is the proximity of the Victorian border to South Australia and the bringing in together of a national jurisdiction.

Currently, there are requirements in the Controlled Substances Act itself as well as in the poisons regulations under the act. A set of uniform controls over poisons that includes the information recorded about schedule 7 poison sales was developed by the Australian poisons regulators and confirmed by COAG. All jurisdictions have agreed to amend their relevant legislation to reflect these uniform controls, which again is fantastic for conformity across state borders. It is expected that these reforms will be completed at the end of 2017. South Australia is the only jurisdiction that currently requires sellers to record the purpose of the purchase of schedule 7 poisons.

The implication is that when the regulations are updated, they will cover the names of the purchasers of those poisons (section 16(4)(a)) but will not require to state the purposes for which they were purchased. The name will be recorded but the intended purpose will not. The current government asserts that the change will not reduce overall regulatory oversight of the supply chain for schedule 7 poisons because of the requirement under the Controlled Substances Act that retailers satisfactorily determine the purpose before proceeding with the sale and a requirement under the national uniform control that requires retailers to record proof of the purchaser's authority to purchase poison that indicates the purchaser's occupation and the context of use.

Given the security context, I think the minister should be questioned as to why we would reduce information recorded and searchable in relation to dangerous poisons. Regarding the administering schedule 4 drugs to animals, clause 4 of this bill clarifies the regulation of schedule 4 prescription drugs such as antibiotics. Changes to the Controlled Substances Act in 2011 inadvertently omitted a requirement that a person is only permitted to administer a schedule 4 prescription drug to an animal if the minister has licensed that person to do so. This bill seeks to reinstate that requirement.

Clause 6 of the bill seeks to clarify that the minister's powers under section 57 of the act to issue a prohibition order against a person include when a person has sold a prescription drug in an irresponsible manner. Section 57 of the Controlled Substances Act is intended to apply particularly to pharmacists, to prevent potentially dangerous sales of prescription drugs. The minister can apply a prohibition to a person who 'has, in the opinion of the Minister, prescribed, supplied or administered a prescription drug in an irresponsible manner'.

The government is concerned, I guess, that when a pharmacist dispenses a prescription they are selling the medicine to the consumer, not supplying it. I think the deputy leader addressed that quite well in her comments. We would like to see a reference in there to 'selling' as well as supplying drugs, just to remove any ambiguity around that. To the point of cutting red tape, I will take a little bit of interest in that. This current government is one of the few bureaucracies that could have a \$15 million regional investment fund that costs about \$13 million to administer.

Just yesterday, we had a guest speaker come in and talk to us from the livestock industry. I was amazed that out of the drought concessional loans, \$6.7 million, I believe, was distributed to farmers in need at a cost of about \$4 million to \$5 million in administrative costs. When we start talking about cutting red tape, I would like the government to reflect on its own practices of excessive bureaucracy and the excessive costs required to administer some of these programs.

The current one which affects my area is the dairy concessional loan, which, to date, I do not think anybody has applied because the bureaucracy requirements are so high that it would be untenable for them to do so. God knows what the cost of administering that program would be. When the government talks about cutting red tape, I think it needs to have a good, hard look at itself and some of the costs associated with its bureaucracy. With those comments, I conclude my remarks.

**The Hon. L.A. VLAHOS (Taylor—Minister for Disabilities, Minister for Mental Health and Substance Abuse) (12:55):** I would like to thank all honourable members who have made a contribution today.

Bill read a second time.

*Third Reading*

**The Hon. L.A. VLAHOS (Taylor—Minister for Disabilities, Minister for Mental Health and Substance Abuse) (12:56):** I move:

That this bill be now read a third time.

Bill read a third time and passed.

*Sitting suspended from 12:56 to 14:00.*

*Ministerial Statement***SMALL BUSINESS ROUNDTABLE**

**The Hon. M.L.J. HAMILTON-SMITH (Waite—Minister for Investment and Trade, Minister for Small Business, Minister for Defence Industries, Minister for Veterans' Affairs) (14:01):** I seek leave to make a ministerial statement.

Leave granted.

**The Hon. M.L.J. HAMILTON-SMITH:** Around 30 representatives of small business associations attended today's Small Business Roundtable, the seventh since it was established by the Weatherill government in 2014. The round table is a great opportunity for small business associations, which represent thousands of small businesses, to have direct access to ministers on a range of topics. Today's forum received an overview of the South Australian economy from Chief Economist, Mark Duffy, and considered the 2016-17 state budget initiatives to support small businesses, with a presentation from the Treasurer.

The Minister for Transport and Infrastructure provided an overview of growth corridors and strategies for road and rail infrastructure, which had been requested by business associations at previous meetings. Concerns were raised about issues to do with population growth and getting out the positive messages about South Australia to increase confidence in this state. These are important issues and will be addressed at the next Small Business Roundtable.

The round table was also an opportunity to hear from businesses how we can support them through the new Small Business Statement. This statement is being developed in partnership with the small business community and will highlight the importance of small business associations across the state. Small business and industry groups are invited to have their say about the priorities and challenges facing small business and how government and industry could work together to address these issues.

The feedback, ideas and business intelligence gathered through the consultation will inform a new Small Business Statement for South Australia to support small business growth and jobs. The survey has been open for some time and will close on 23 September. To have your say, visit the [yoursay.sa.gov.au/small-business-statement](http://yoursay.sa.gov.au/small-business-statement) website. The new Small Business Statement for South Australia will build on the state government's recent reforms in areas important to small business, including taxation, ReturnToWorkSA (formerly WorkCover), planning and liquor licensing.

The statement will also be complemented by Simplify Day, a red tape repeal day being held on 15 November 2016 to remove outdated and redundant legislation that makes it difficult to do business in South Australia. The government looks forward to the cooperation and support of those opposite in getting rid of that red tape. The government has consulted with major business organisations and again today with representatives of small business through the Small Business Roundtable, and we thank them for their advice.

*Parliamentary Procedure***PAPERS**

The following paper was laid on the table:

By the Minister for Transport and Infrastructure (Hon. S.C. Mullighan)—

Approval to Remove Track Infrastructure—Annual Report 2015-16

*Parliamentary Committees***LEGISLATIVE REVIEW COMMITTEE**

**Mr ODENWALDER (Little Para) (14:04):** I bring up the 29<sup>th</sup> report of the committee, entitled Subordinate Legislation.

Report received.

*Question Time***CHILD PROTECTION**

**Ms SANDERSON (Adelaide) (14:05):** My question is to the Minister for Child Protection Reform. Is the minister still going ahead with the merging of the Salisbury, Elizabeth and Gawler Families SA offices at a cost of \$15 million without consultation with stakeholders and as announced prior to the royal commission being released? With your leave, and that of the house, I will explain.

**The SPEAKER:** Well, no, the arrangement I have with the opposition is there are no explanations, so you don't have my leave. Deputy Premier.

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:05):** I will take that question on notice.

**CHILD PROTECTION**

**Ms SANDERSON (Adelaide) (14:05):** My question is again to the Minister for Child Protection Reform. Is the minister comfortable that about 84 per cent of the 5,408 screened-in notifications received in the Elizabeth office are being closed with no action, leaving potentially 4,542 children in danger?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:06):** I am not aware of whether the member's arithmetic is correct, but I think it has been stated in this place, both by me and by the minister, that it is a fact acknowledged also, I think, in the royal commission report that one of the problems we have at the moment is that a large number of what are otherwise described as 'tier 2' matters do not actually find their way into a circumstance where they are actioned, and that is not okay. We have never said anything other than it is not okay, and the royal commission says it is not okay.

That is one of the reasons why serious reform in this area is necessary. It is why we are taking all the steps we are now taking in relation to this matter. It is why we had royal commissioner Nyland look at the matter. It is why she has made some 260-odd recommendations. It is why we have accepted so far 38 of them. It is why we have three bills presently in the parliament, and we intend to proceed in an orderly way to work our way through the rest of the recommendations. We want to be in a position where, first of all, if possible, we are able to intervene in these families where children might potentially be at risk to give them enough support so that the things do not deteriorate.

*Members interjecting:*

**The Hon. J.R. RAU:** If that is not possible, we want to get in there and deal with the situation as soon as possible. So, the short answer again to the question as to whether or not tier 2s not being reached and dealt with is okay: no, it's not okay.

**Mr Gardner:** Hasn't been for 14 years.

**The SPEAKER:** I call to order the members for Hartley and Morialta, and I warn for the first time the member for Morialta.



*Parliamentary Procedure***VISITORS**

**The SPEAKER:** I welcome to parliament students from Prospect Primary School, who are guests of the member for Adelaide, and students from Tenison Woods Catholic Primary School, who are guests of the Treasurer and member for West Torrens. The leader.

*Question Time***CHILD PROTECTION**

**Mr MARSHALL (Dunstan—Leader of the Opposition) (14:08):** My question is to the Minister for Child Protection Reform. Did the government allow David Waterford to, and I quote, 'slip away' to manage the media fallout from the Shannon McCoole case, given that an email sent by the then deputy chief executive for child protection, David Waterford, to Tony Harrison on Saturday 26 July 2014 stated, and I quote:

I am happy to make a statement to the media if that will assist in managing the fallout. However, I am also happy to slip away and refuse to make any comment.

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:09):** I don't know anything about this particular email. I will make inquiries, and I will get back to the parliament.

**CHILD PROTECTION**

**Mr MARSHALL (Dunstan—Leader of the Opposition) (14:09):** Supplementary, sir: was managing the media fallout for the Shannon McCoole case the government's priority in the weeks after the McCoole arrest?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:09):** I don't have any special knowledge of what Mr Waterford might have meant or not meant by the words he chose to put in that email, if indeed it is a fair reporting of what he put in his email.

**CHILD PROTECTION**

**Mr MARSHALL (Dunstan—Leader of the Opposition) (14:09):** Supplementary, sir: will the Deputy Premier commit to discussing with the member for Wright if she discussed the options with Mr Waterford slipping away, or whether Mr Waterford discussed those things with Mr Harrison directly?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:10):** No.

**Mr MARSHALL:** For clarity, the Deputy Premier doesn't want to get to the bottom as to whether or not this was—

**The SPEAKER:** The leader is called to order for a flagrant abuse of question time. The member for Light.

**GOVERNMENT INVOICES AND ACCOUNTS**

**The Hon. A. PICCOLO (Light) (14:10):** My question is to the Treasurer. Will the Treasurer update the house on the latest government account payment performance statistics and advise of any areas of government where improvement is needed?

**The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy) (14:10):** I am happy to update the house on the latest account payments performance data.

**Mr Pengilly:** The power to my office hasn't been paid for 6½ years.

**The Hon. A. KOUTSANTONIS:** Okay. Treasurer's Instruction 11 requires chief executives of each public authority to ensure undisputed creditor accounts are processed promptly. The government's expectation in relation to payment of accounts remains unchanged. It is expected that all undisputed invoices will be paid within 30 days, and continuing improvement remains a focus for all of us in the public authorities.

Of course, there are many valid reasons why an invoice may be paid late and not within the standard 30-day time frame. There may be faults with goods, the invoice may not have the correct information on it, the invoice may be noncompliant for GST purposes—

**Mr Whetstone:** Blame someone else.

**The Hon. A. KOUTSANTONIS:** Blame someone else? Or the government may be in dispute with the vendor over the quality of the goods or services provided. I note the shadow minister for trade interjecting that it's not good enough to pay your bills late. I can inform the house that in 2015-16, the state paid a total of 2.5 million invoices. The value of these invoices totalled \$13.6 billion. In 2016, at a whole-of-government level the total number of invoices—

*Mr Duluk interjecting:*

**The Hon. A. KOUTSANTONIS:** I note the member for Davenport also interjecting that it's not good enough to pay invoices late. The total number of invoices paid within 30 days improved to 94.7 per cent, compared to 92.2 per cent in 2015. Only 5.3 per cent were paid in more than 30 days. Despite claims from members opposite, there is no advantage to the government delaying the payment of invoices. We don't use cash accounts—it's not a Wokinabox we are running here. We run a government: we use accrual accounting. So, Mr Speaker—

*Members interjecting:*

**The Hon. A. KOUTSANTONIS:** I sought advice.

*Members interjecting:*

**The Hon. A. KOUTSANTONIS:** I sought advice.

**The SPEAKER:** The Treasurer will not respond to interjections. The Treasurer will be seated. I call to order the members for Schubert, Mount Gambier, Finnis and Chaffey. I warn the members for Morialta and Chaffey, and I warn for the second and the very last time the members for Morialta and Chaffey. Treasurer.

**The Hon. A. KOUTSANTONIS:** I have sought the advice of those agencies who are sitting below the whole-of government account payments performance average of 94.7 per cent. I was appalled to find that the Leader of the Opposition's office pays just 90 per cent of its invoices on time, with nearly 10 per cent—nearly 10 per cent—of his invoices being paid more than 30 days after the due date.

A Greek word comes to mind: hypocrisy. Fancy criticising us without noticing the log in his own eye. How ironic that the Leader of the Opposition is out there criticising us about 94.7 per cent being not good enough, when he is not paying 10 per cent—pay your bills on time! His office, I understand, is one of the prime offenders—

**Mr PISONI:** Point of order, sir.

**The Hon. A. KOUTSANTONIS:** —part of the guilty party, Mr Speaker.

**The SPEAKER:** Point of order, member for Unley.

**Mr PISONI:** Thank you, sir. The minister is entering debate.

**The SPEAKER:** I will listen to the minister very carefully. Minister.

**The Hon. A. KOUTSANTONIS:** Mr Speaker, on 23 September last year I tabled a report in parliament prepared by Shared Services—

*Mr Gardner interjecting:*

**The SPEAKER:** The member for Morialta will leave the chamber for the next hour.

*The honourable member for Morialta having withdrawn from the chamber:*

*Mr Wingard interjecting:*

**The SPEAKER:** The member for Mitchell is very close to being named. He is called to order, and he is warned twice. Treasurer.

**The Hon. A. KOUTSANTONIS:** I tabled a report in parliament prepared by Shared Services advising that the automation of late payment interest was not justifiable and should not be progressed. This was backed up by the Small Business Commissioner, with a former Liberal staffer to the former premier John Olsen, who noted that the current system of inviting businesses to apply for interest on any outstanding accounts was the more efficient method, not to mention the additional costs and FTEs from implementing an automated system.

The government is transparent about this issue, with information on account payment performance by agency published by the Department of Treasury and Finance. What we need less of is hypocrisy and more bills being paid on time.

#### FAMILIES SA STAFFING

**Mr MARSHALL (Dunstan—Leader of the Opposition) (14:15):** My question is to the Minister for Child Protection Reform. Will the Deputy Premier commit to asking Mr Tony Harrison if he discussed the option of Mr Waterford 'slipping away' prior to Mr Waterford's written resignation being given to the media? Will he also bring the result of that discussion with Mr Harrison back to the parliament?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:16):** No, and I don't see what me speculating on what he might or might not have meant in any email, and quizzing people about his email, is going to achieve.

#### FAMILIES SA STAFFING

**Mr MARSHALL (Dunstan—Leader of the Opposition) (14:16):** My question is to the Minister for Child Protection Reform.

*Ms Chapman interjecting:*

**The SPEAKER:** The deputy leader is called to order.

**Mr MARSHALL:** Mr Waterford resigned for his mistakes in the Shannon McCoolle case. Has any other Families SA employee lost their job as a result of the agency's catastrophic failure?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:16):** The last bit of that question was slightly—

**The SPEAKER:** Out of order.

**The Hon. J.R. RAU:** —out of order, but I am assuming—

*Mr Marshall interjecting:*

**The Hon. J.R. RAU:** —that that colourful language was meant to—

*Mr Marshall interjecting:*

**The SPEAKER:** Has the leader finished interjecting?

**Mr Marshall:** Yes, absolutely.

**The Hon. J.R. RAU:** I assume that language was meant to convey the question: has anybody else in the department been terminated or disciplined in respect of the McCoolle matter? If that is the question, I will seek advice.

**The SPEAKER:** Yeah, if you want to ask a question, normally you rise.

**Mr MARSHALL:** Yeah, okay I'll ask one. My question is to the minister for child—

**The SPEAKER:** Maybe you shouldn't. The member for Wright.

*Mr Whetstone interjecting:*

**The SPEAKER:** The member for Chaffey will leave the chamber for the next hour.

**The Hon. J.M. RANKINE:** My question is to the Minister for Small Business.

**The SPEAKER:** The member for Wright will wait until the member for Chaffey has left.

*The honourable member for Chaffey having withdrawn from the chamber:*

**The SPEAKER:** Member for Wright.

### PROCUREMENT REFORM STRATEGY

**The Hon. J.M. RANKINE (Wright) (14:18):** Thank you sir. My question is to the Minister for Small Business. Can the minister explain how the procurement reform strategy is supporting small business in South Australia?

**The Hon. M.L.J. HAMILTON-SMITH (Waite—Minister for Investment and Trade, Minister for Small Business, Minister for Defence Industries, Minister for Veterans' Affairs) (14:18):** I thank the member for Wright for this important question, because the government has listened to the needs of small business by implementing a major procurement reform strategy aimed at—

*Mr Pisoni interjecting:*

**The SPEAKER:** The member for Unley is called to order.

**The Hon. M.L.J. HAMILTON-SMITH:** If they have something to contribute on small business, we would like to hear it, Mr Speaker, but there is silence. The government is undertaking a major procurement reform strategy aimed at supporting small local businesses by modelling best procurement practice and by being a better customer. The reform strategy will:

- reduce red tape and adopt a less complex, more agile procurement framework;
- increase the simple procurement threshold to \$550,000 and simplify the market approach process;
- increase the standardisation of procurement practices and documents across government;
- use simple, plain English invitation and contract documents that are easy for both public authorities and suppliers to use and understand; and
- ensure public authorities consult with the Office of the Industry Advocate to facilitate the government's industry participation policy requirements.

For small business suppliers bidding for government works, these reforms deliver the following benefits:

- the government will be held to account;
- faster procurement decision-making and reduced costs will apply;
- greater opportunities will exist to win work;

- improved buyer behaviour and a better understanding of the needs of suppliers will apply;
- a reinforced commitment to working with local suppliers will be in place; and
- we will be using smarter procurement to achieve greater efficiencies.

The reform strategies will help make the government a better customer by adopting the Premier's Better Customer Charter for Business throughout the procurement process. The charter reaffirms the government's commitment to supporting suppliers who do business with government, and outlines what current and potential suppliers can expect when they bid for goods and services procurement opportunities.

There have also been significant changes to the liability requirements of government contracts which present a significant barrier for small business. The new requirements mean that the contract does not require the supplier to provide indemnities, allows the selection of a default liability gap between one and five times the value of the contract, and does not require the state to be named on insurance policies or to be provided with a copy of an insurance certificate. For low to medium-risk procurements, the new standard goods and services contract also reflects the level of public liability insurance to be set at a minimum level that can be purchased, which is \$1 million.

The procurement process has been significantly simplified by procurements up to and including \$550,000, with public authorities now able to seek a minimum of one quote up to \$33,000, a minimum of three written quotes to be sought from \$33,000 to \$220,000, and a minimum of five written quotes to be sought from \$220,000 to \$550,000. There is also a reduction in the value of which forward procurement plans for procurement will be published to \$220,000, down from \$550,000.

The government is building commercial capability and acumen by providing training to public authorities in order to better understand the needs of suppliers and the business environment. Some public authority procurement governance committees will also include at least one external commercial advisory representative with relative experience. Finally, agencies will be accountable for more productive and efficient procurement through agreed benchmarks to be monitored through regular reporting agencies. In all of this, the government is doing what it should do, which is to encourage small business to thrive, grow and employ.

#### CHILD PROTECTION

**Mr MARSHALL (Dunstan—Leader of the Opposition) (14:22):** My question is to the Minister for Child Protection Reform. Can the minister explain why the most recent Australian Institute of Health and Welfare data shows that children in South Australia receive child protection services at the lowest level of all the states in the nation and at just half the rate of the children in New South Wales?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:23):** I'm not aware of the particular statistics to which the leader refers. If we are dealing with the sort of interstate comparisons that I regularly see in relation to other government performance, there is often some difference in the way in which measurements are taken in different places, but I am not familiar with the detail.

We, as a government, have acknowledged that we need to improve the child protection system in South Australia. We have had a royal commission about it. We are in the process of working our way through the recommendations that came to us from that royal commission. We are in the process of legislating to improve the position. We are in the process of drafting a new child protection bill. We accept that we have to do better in this area. There is no contest about that and we intend to do better.

**CHILD PROTECTION**

**Mr MARSHALL (Dunstan—Leader of the Opposition) (14:24):** Supplementary: if the minister is not aware of the Australian Institute of Health and Welfare metric, what metric has the government used to benchmark its performance against other states?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:24):** If you want to go on particular metrics, I can find out from the department exactly what metrics they use, and I can get back to the Leader of the Opposition. The point I am trying to convey is much simpler.

If the Leader of the Opposition thinks that quoting numbers which may or may not be correct and making comparisons which may or may not be valid is designed to prove that we have a problem with child protection services in South Australia, we acknowledge that the child protection services need improvement. That is not a matter of contest. That is why we have had a royal commission, which we called, to get to the bottom of what the issues were and try to improve things. That is what we intend to do.

*Mr Bell interjecting:*

**The SPEAKER:** I warn the member for Mount Gambier.

**CHILD PROTECTION**

**Mr MARSHALL (Dunstan—Leader of the Opposition) (14:25):** As a supplementary, sir, and this question is to the Minister for Child Protection Reform: how does the minister reconcile the fact that South Australia's child protection services have been described in Margaret Nyland's royal commission report as being in 'a state of disarray and crisis' with the fact that this government provides the lowest level of child protection services of all the states in this nation?

**Mr Pisoni:** Didn't need a royal commission for that.

**The SPEAKER:** The member for Unley is warned.

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:26):** I think I have explained my position on this in answer to the last two questions and it remains the same.

**CHILD PROTECTION DEPARTMENT**

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:26):** My question is to the Minister for Child Protection Reform. Did the minister or his department make any inquiry in respect of Ms Cathy Taylor's performance as deputy director-general of the Queensland Department of Communities, Child Safety and Disability Services before agreeing to her appointment as chief executive of the new department of child protection?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:26):** I was not personally involved in the selection process. I didn't personally undertake any particular role in respect of that appointment. There was a process that was gone through using all of the available resources that we had.

As to which particular questions were asked by whom, and what answers were received, that is a matter not within my knowledge. My belief is that, given this was such a senior appointment and given that it was a matter that was of concern to the government, there would have been due diligence undertaken in respect of the application.

**CHILD PROTECTION DEPARTMENT**

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:27):** My question is again to the Minister for Child Protection Reform. The minister may want to take this on notice. Is the minister aware of any investigations being undertaken in respect of the performance of the Queensland Department of Communities, Child Safety and Disability Services and, in particular, the regional area within the responsibility of Ms Taylor as deputy director-general?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:27):** I have no knowledge, for the reasons I have just explained, as to what was or was not done. I wasn't involved personally in the process but I can make enquiries.

**The SPEAKER:** Deputy leader.

**CHILD PROTECTION DEPARTMENT**

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:28):** A further question to the Minister for Child Protection Reform: does the contract between the Premier and Ms Cathy Taylor include a performance agreement that obliges her to ensure interagency collaboration in child protection matters and measure that performance, as per recommendation 244 of the Nyland royal commission?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:28):** I have not seen any performance agreement or contract that exists between the Premier and the future chief executive. I am not even aware as to whether such a document has been executed—

*Mr Pisoni interjecting:*

**The SPEAKER:** The member for Unley is warned for the second and final time.

**The Hon. J.R. RAU:** As I said, I am not even aware as to whether there has been a formal execution of such a document, so I will just have to take that on notice.

**CHILD PROTECTION DEPARTMENT**

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:28):** Supplementary (the Minister for Child Protection Reform could take this on notice if he does not know): what is the annual salary to be paid to Ms Taylor, and is there any provision for any bonus payment in that contract?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:29):** I don't know what the arrangements are; I will take it on notice.

**REPATRIATION GENERAL HOSPITAL**

**Mr DULUK (Davenport) (14:29):** My question is to the Minister for Health. Has the minister been advised that the consortium of RSL bodies which came together to bid for the Daw Park site is at risk of dissolving?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:29):** If there were any issues there, I wouldn't be commenting on them. That would be entirely a matter for those RSL organisations. I have complete confidence in the future of the Repat site and the capability of the consortium, who have entered into a contract with the government to take over that site, to proceed.

**REPATRIATION GENERAL HOSPITAL**

**Mr DULUK (Davenport) (14:30):** Supplementary: minister, the question was about whether you were aware of any issues, not whether you would comment on any issues.

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:30):** My answer remains the same.

#### GLENSIDE HEALTH SERVICE

**Mr DULUK (Davenport) (14:30):** A further question to the Minister for Health: can the minister confirm that the PTSD unit at Glenside is on its fourth set of plans to ensure that the construction costs are within budget and that there has been more than a \$6 million blowout in the estimated cost of running the centre?

**The Hon. L.A. VLAHOS (Taylor—Minister for Disabilities, Minister for Mental Health and Substance Abuse) (14:30):** As recently as this morning, I was briefed that it was on budget and on time.

#### CHEMOTHERAPY TREATMENT ERROR

**Dr McFETRIDGE (Morphett) (14:30):** My question is to the Minister for Health.

*The Hon. A. Koutsantonis interjecting:*

**The SPEAKER:** The Treasurer is warned.

**Dr McFETRIDGE:** Given that the Pehm report last week reiterated systemic failures within the culture of SA Health, will the minister now establish a comprehensive judicial inquiry with the power to compel those responsible to give evidence under oath and produce documents to explain why this tragedy occurred?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:31):** No, I won't be.

#### HEALTH STAFFING

**Mr DULUK (Davenport) (14:31):** My question again is to the Minister for Health. How does the minister reconcile his claims in this house that we do not have enough allied health staff in our hospitals, with plans by the Southern Adelaide Local Health Network to reduce staff over the coming years?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:31):** We will be realigning the way our allied health staff work across all different sites. We certainly want to have a significant shift to out-of-hospital care for patients so that patients can receive rehabilitation at home. All these things will mean that we can actually do more rehabilitation, and we will be realigning our workforce requirements and allied health staff as required.

#### DAIRY CONCESSIONAL LOANS

**Mr BELL (Mount Gambier) (14:31):** My question is to the Treasurer. Can the Treasurer explain to the house why water licences and stock are not considered as assets by PIRSA in the assessment of dairy concessional loans?

**The Hon. A. KOUTSANTONIS (West Torrens—Treasurer, Minister for Finance, Minister for State Development, Minister for Mineral Resources and Energy) (14:32):** That is a good question. I don't know; I will find out and get back to you.

#### MOUNT GAMBIER HOSPITAL

**Mr BELL (Mount Gambier) (14:32):** My question is to the Minister for Health. Following an incident at the Mount Gambier Hospital of an intruder with mental health issues threatening staff and putting patients at risk in the high dependency unit due to no security and no doors that lock, will the minister commit to installing security doors on both the high dependency and maternity units at the Mount Gambier Hospital?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:32):** I am aware of that particular incident, and I undertake to get back to the member for Mount Gambier with what actions will be taken arising out of that particular incident.



**MOUNT PLEASANT DISTRICT HOSPITAL**

**Mr KNOLL (Schubert) (14:33):** My question is to the Minister for Health. Can the minister please explain when the nine additional commonwealth-funded high care residential bed licences awarded to the Mount Pleasant hospital in 2014 will be activated?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:33):** We are really getting into the granular detail now. I am happy to get a report back to the member for Schubert with an explanation.

**ROYAL ADELAIDE HOSPITAL**

**Dr McFETRIDGE (Morphett) (14:33):** My question is to the Minister for Health. Why did the minister say last year that it would be reckless and dangerous to open the new Royal Adelaide Hospital during winter, but indicated recently that he is actively considering opening the new hospital in the winter of 2017?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:33):** Obviously, patient safety is an absolute priority. If we were to do a move in the winter period, I would need to be convinced beyond any doubt that it could be done so safely. I would also be seeking external advice that that was the case. At this stage, we are not prepared to rule anything out while we consider what the options are, but I hope in the near future, once the work is done providing me with some reassurance about the cure plan that was provided to the government by SAHP, there is a date that we can have some certainty around. Then we will be in a better position to make some definitive decisions. But I have to say that it would certainly be a very brave health minister indeed who moved hospitals in winter without a lot of safeguards around it. As long as I am health minister, I will not in any way compromise patient safety.

**ROYAL ADELAIDE HOSPITAL**

**Dr McFETRIDGE (Morphett) (14:34):** I have a supplementary question. Can the minister also inform the house how long the transition from the old RAH to the new RAH will take and what the budget for that transition will be?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:35):** The overall budget for the transition is already on record, but that's not just for the one week, and that's because obviously it is not something that is just done in a week; it is a process that takes many months if not years to plan for. The government announced additional funding a couple of years ago, I think it was, with the funding around that, so that is already on the record.

With regard to how long the transition will take, we expect that it will be about a week but, having said that, it would be preceded by a lead-up period of ramp down. We need to decant as many patients from the existing Royal Adelaide Hospital as we safely can do, and we anticipate it will probably be at about half capacity when we do that. We will be moving activity from the Royal Adelaide Hospital to other hospital sites. We will probably take advantage of our peri-urban hospitals to help us to do that. That would be a period of about six weeks or so to do that, and then it would probably take another six weeks after that for us to have the new Royal Adelaide Hospital running at full capacity.

In terms of the actual movement of patients, we would see that happening in a relatively short period of time. There are significant risks involved in having two hospitals running in parallel, so it is important that we get that done as quickly and safely as we possibly can.

**ROYAL ADELAIDE HOSPITAL**

**Dr McFETRIDGE (Morphett) (14:36):** I have another supplementary question. The minister talked about running two hospitals in parallel. Can he tell the house what the budget is for repairs and maintenance of the old Royal Adelaide Hospital for the period to next winter?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:36):** It hasn't changed. Obviously we need to make sure that the existing Royal Adelaide Hospital is safe and that maintenance is done to keep it in a safe and effective running

order. Obviously we have continued with the normal maintenance regime. Obviously we wouldn't be doing significant changes that weren't deemed essential to quality patient care, but everything else is proceeding as normal. There is no particular reduction or anything like that of the essential maintenance that is going on in the old hospital.

#### ROYAL ADELAIDE HOSPITAL

**Dr McFETRIDGE (Morphett) (14:37):** I have a further supplementary on the same topic. Will the same range of outpatient services that is currently being delivered at the old Royal Adelaide Hospital be delivered on site at the new Royal Adelaide Hospital, as former health minister Hill said?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:38):** That is certainly my expectation. We are consulting with clinicians at the moment. Obviously, the outpatient arrangements in the new hospital are very different from the arrangements that happen at the old hospital. We are also engaged in outpatient reform right across the state. At the moment, there are lots of significant areas where we can improve the way outpatients are done right across the state.

There are occasions when, because of information flow between the hospital and the referring GP, people are booked multiple times. In fact, I was speaking to the College of General Practitioners just yesterday and one of the issues they said they had was that they make multiple bookings for the one patient for the outpatient appointment to get that person on the list. That, of course, is not an efficient or effective way of running an outpatient system. We are looking at having a more centralised system to enable those outpatient referrals from GPs to happen far more smoothly than they currently do so that people are waiting less time for outpatients.

The reform process happening within the new RAH is not in isolation; it is part of an overall rethink about how we do outpatient referrals right across the state. We are confident, following reforms that have been tried and tested interstate, that there is a lot of room that we can improve our outpatient performance in South Australia, and we are keen to push ahead. That, combined with outpatient changes that will be happening as part of the new Royal Adelaide Hospital, I think will lead to a far better outpatient system than we have had in the past.

**Dr McFETRIDGE:** Supplementary, Mr Speaker.

**The SPEAKER:** One can only have three supplementaries.

**Dr McFETRIDGE:** We can make it another question then, if you like, Mr Speaker.

**The SPEAKER:** Well, we will do that then, even though it doesn't conform to the list.

#### ROYAL ADELAIDE HOSPITAL

**Dr McFETRIDGE (Morphett) (14:40):** Can the Minister for Health tell the house what transition arrangements are in place for both catering for patients and equipment sterilisation between the transfer from the old Royal Adelaide to the new Royal Adelaide?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:40):** I'm more than happy, if the member for Morphett has an interest in this, to arrange for him to be briefed by the project leaders in this particular area. If he has detailed questions about all these sorts of things, I am happy to arrange for him to meet with them. They can go through it.

There is an enormous amount of work being done. The move from one hospital to the other is the biggest project, I think, in this state's history, or one of them anyway. It has significant complexity and many, many aspects.

*Mr Marshall interjecting:*

**The Hon. J.J. SNELLING:** The Leader of the Opposition interjects, 'It's is a mess.' He is only interested in running down this very, very important reform. He has absolutely no interest—

**The SPEAKER:** The minister is now debating the answer. I have anticipated this all question time: the member for Kavel.

### MODBURY HOSPITAL

**Mr GOLDSWORTHY (Kavel) (14:41):** My question is to the Minister for Health. Is an operating theatre available for emergency surgery at the Modbury Hospital and is it available for patients, other than overnight elective surgery patients, given that on 11 February the minister advised, and I quote:

We made a change so that there will be an emergency theatre available to overnight patients who have elective surgery for at least six months while we assess this program.

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:41):** If the member for Kavel is asking if what I said was true, yes, that is correct, that is the case. As part of the reforms of surgery at Modbury Hospital, in part of our consultation with clinicians one of the issues they raised was what would happen if there was a patient who was admitted overnight and deteriorated overnight and had to be taken back into theatre.

The clinicians were keen, and thought it important in terms of safety, that there be the facilities so that that patient could be brought back into theatre at the Modbury Hospital, as opposed to having to be evacuated to another hospital. That is something that we agreed to, that is something that has been trialled. I haven't been updated, but my understanding is that if it has been used it has been very, very rare. I am happy to get a report back as to how that trial is progressing. Certainly, I am not aware of there having been any issues with that particular arrangement.

I think I had a similar line of questioning from the Leader of the Opposition before the break. That is quite different from a patient presenting at the emergency department and requiring emergency surgery. In those instances, as soon those patients are stable they are transferred to the Lyell McEwin Hospital, where there is a dedicated emergency theatre for those patients to have emergency surgery—so quite different issues.

### MODBURY HOSPITAL

**Mr GOLDSWORTHY (Kavel) (14:43):** Going on from that question, and the answer provided by the minister, has a blanket ban on emergency surgery still been put in place at Modbury Hospital, or has that been lifted?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:44):** There is no ban. We don't go sacking people for doing emergency surgery. No, what there is is an arrangement whereby, as I said, patients who present to the emergency department at Modbury Hospital and need emergency surgery are stabilised and they are taken to generally the Lyell McEwin Hospital, just depending on the complexity of whatever surgery they require. Exactly the same arrangement would happen at any number of our country hospitals—any number of our country hospitals, exactly the same arrangements, an arrangement which works very well.

If the opposition is suggesting that we should have emergency surgery at all our 70-odd country hospitals, I think that would take most people by surprise. The simple fact is that, for emergency surgery, if you present at the emergency department, then you are transferred, exactly the same as happens at any number of our country hospitals. It works very well and to the benefit of patients.

As I have said before, this is something that is quite different. We have an arrangement as a trial with our clinicians that if you are a patient who has already been in theatre, and you are at the Modbury Hospital overnight and you deteriorate and need to be rushed back into theatre, then, yes, that can happen. We have an ability to call in clinicians, call in nurses and call in the surgeon to come and operate on a patient who has had a sudden deterioration. They are quite different things.

### CHEMOTHERAPY TREATMENT ERROR

**Mr DULUK (Davenport) (14:45):** My question is again to the Minister for Health. Given that the terms of reference of the Pehm report explicitly did not address issues of individual responsibility, what action is the minister going to take to assess that responsibility and take action?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:46):** I think you are referring to the quality safety report into the

chemotherapy issue. Of course, it is not the responsibility of the Australian Commission on Quality and Safety in Health Care to undertake disciplinary action against individual clinicians. There are two agencies responsible for that. The first one is AHPRA (Australian Health Practitioner Regulation Agency). They are undertaking investigations at the moment.

They will make a decision about what professional action to take against clinicians who are found to be involved in any wrongdoing. That is happening at the moment. As well as that, and parallel with that, the department is running its own internal disciplinary investigations into those clinicians to decide what disciplinary action, in terms of an employment arrangement, happens with those clinicians. There are two sets of investigations happening at the moment into clinicians who have been involved in this particular matter.

#### **PATIENT ASSISTANCE TRANSPORT SCHEME**

**Mr TRELOAR (Flinders) (14:47):** My question is to the Minister for Health. Is it true that PATS claimants still have to get signatures from specialists and scan and send referrals if they are applying through the new online portal?

**Mr Marshall:** This couldn't be true.

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:47):** 'This couldn't be true'—he doesn't even know what he's talking about. What a goose!

**The SPEAKER:** The Minister for Health is called to order for responding to interjections.

**The Hon. J.J. SNELLING:** My understanding is that the online portal has been very well received. There haven't been any issues that have been brought to my attention with any concerns about it, but if the member for Flinders has any particular concerns, then I am more than happy to have a look into them and see how those can be resolved.

**Mr Marshall:** He's just asked a specific question.

**The Hon. J.J. SNELLING:** 'A thpethific queththion.'

**The SPEAKER:** The Minister for Health is warned.

#### **PATIENT ASSISTANCE TRANSPORT SCHEME**

**Mr TRELOAR (Flinders) (14:48):** My question is again to the Minister for Health. What was the cost for Country Health SA to procure software to replace the existing PATS database and application process and, minister, why did it take two years to implement?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:48):** It did take longer to implement than we expected. I have been briefed on the particular issues around it. With regard to the cost, I can get back to the member for Flinders with an answer.

#### **LOCAL HERITAGE MANAGEMENT REFORM**

**Mr GRIFFITHS (Goyder) (14:48):** My question is to the Minister for Local Government. Has the minister been briefed about the Local Heritage Discussion Paper, released by the government recently, and what is his position on the implications if the suggestions in that paper become legislation?

*Ms Chapman interjecting:*

**The SPEAKER:** The deputy leader is warned.

**Mr Knoll:** The deputy leader is correct.

**The SPEAKER:** I am sorry, the member for Schubert was seeking the call, was he?

**Mr Knoll:** The minister was still on his feet.

**The SPEAKER:** The member for Schubert is warned. Deputy Premier.

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:49):** The reason I am answering this question is because the issue of the heritage discussion paper is one which, on behalf of the government, I am managing. The heritage discussion paper is now presently in circulation. It is something that is out there to stimulate public conversation about the issue of local heritage—not state heritage, local heritage—and the important issues here arise largely through the work of the Hayes expert panel which, some time ago, as members might recall, did a very extensive report into our planning system.

That report recommended that, amongst other things, we should have a new planning act, which the parliament has now dealt with. It also suggested that we should look at reforming and modernising the question of heritage. It was the judgement of the government, at the time that we introduced the planning legislation, that to incorporate heritage into that already enormously complex bill would have been to simply make the bill so complex that we would find great difficulty in explaining the whole bill to all members of parliament and especially some in another place. So, we decided that we would do it in a two-step process. The first step would be to do the planning reform bill, which was—

*Members interjecting:*

**The Hon. J.R. RAU:** So, that's the background to it. We have now circulated this particular discussion paper. The discussion paper does not purport to be a statement of government policy: it purports to be what it is, which is a discussion paper. Today, I had the great privilege of speaking at a forum which was convened by the Lord Mayor in the Adelaide City Council chambers. This forum was attended by, if I am not mistaken, the member for Goyder. I saw his smiling face in the audience. I think we would have had 80 or 60 people or something of that nature there.

The good news is that, at the very beginning of this, the person who was the emcee for this event, as part of the warm-up, went through a galaxy of local government personalities, as they were reading out the list of people who were attending. There were mayors, there were councillors—

**Ms Chapman:** Even the Lord Mayor thinks it's a dud.

**The Hon. J.R. RAU:** The Lord Mayor was there. It was like the who's who of local government there this morning. They were there, they were attentive and, indeed, I was invited very kindly to say a few words about the heritage paper. I explained to them, as I am explaining now to the parliament, that the paper is nothing more or less than a discussion paper. I even invited them to ask me a few questions, if they wished. There were a couple of questions asked, and I explained again that this was a discussion paper: it wasn't a policy document.

I explained that I was looking forward to hearing from them and, just to make it even more reasonable, I have extended the period because I was asked by the Lord Mayor to extend the period for consultation. I think, on something like this, you can't consult too much. I really believe that, particularly about heritage.

The Lord Mayor said to me, 'Why don't you extend the consultation period?' I said, 'Okay, we are extending the consultation period.' Now, we have extended the consultation period out to I think about the 14<sup>th</sup> of next month, and I am expecting that the local government people will be spending a lot of time during that period talking to one another and will send in some really helpful suggestions.

#### CORONIAL INVESTIGATIONS

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:54):** My question is to the Minister for Health. Will the minister now review the Health Care Act to consider the concerns of the Coroner when he raised the difficulty in receiving relevant information into his court to fulfil their role in investigating deaths?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:54):** I am sure I have answered this question before, and the answer hasn't changed. There are a couple of issues. Obviously, we made changes—they were proclaimed

changes—with regard to the safety learning system entries being, essentially, protected under the Health Care Act. We did that a couple of weeks ago, and those changes are now in force. They weren't really related to issues raised by the Coroner. They were because of recommendations arising from the review into the chemotherapy issues, and being able to provide information to patients and other clinicians.

With regard to the specific issues raised by the Coroner, his issue has been about having access to the root cause analysis which is done after there has been an adverse event. A priority, if there is an adverse event, is to quickly get to the heart of the matter, find out why it occurred, and make sure that we rectify anything that needs to be rectified to make sure that it isn't repeated.

It has been a very longstanding bipartisan position under both Labor and Liberal governments—not only here in South Australia, but right around the country—that those root cause analyses are protected. The reason for that is that we need clinicians who have been involved in that adverse event to speak freely about why the adverse event happened, including any mistakes they may well have made. If those RCAs are not protected, then clinicians won't say anything which may, potentially, incriminate them, and we will have a very long and drawn-out process to get to the bottom of why an adverse event happened.

That's fine in, for example, the AHPRA investigations—an AHPRA investigation with regard to what happened, whether a clinician should be deregistered or not—but when we are in a hospital and an adverse event happens, it is important we get to the heart of it quickly, find out what went wrong, and get it fixed as soon as we possibly can. That is why there has always been, under both governments—both political parties—a bipartisan position on root cause analysis having that protection under the Health Care Act. It is something that has never been disputed within parliament.

The Coroner, I know, has a different point of view, and I respect that. That is not something, to my understanding, that is shared by any other coroners in any other jurisdictions, and I certainly do not have any plans to change the Health Care Act so that root cause analyses lose their protection. Having said that, of course, we will always work with the Coroner to try to overcome any particular issues that he has, but we certainly won't be removing the protection that currently exists under the Health Care Act for those RCAs.

### CORONIAL INVESTIGATIONS

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (14:57):** Supplementary question: given the minister's indication that he won't amend the Health Care Act to cover these concerns raised by the Coroner, will he consider making the information in the root cause analysis reports available to the Coroner on a confidential basis so that they can continue to conduct their inquiry? In other words, protect it in a protected circumstance not being used against the practitioners?

**The Hon. J.J. SNELLING (Playford—Minister for Health, Minister for the Arts, Minister for Health Industries) (14:58):** If the Coroner made that request, I would certainly give it careful consideration. To my knowledge, that's not a request he has made.

### COURTS ADMINISTRATION AUTHORITY

**Mr TARZIA (Hartley) (14:58):** My question is to the Attorney-General. When will the Attorney-General provide the court system (the Courts Administration Authority) with enough funding to ensure water doesn't come through the court ceiling when it rains?

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (14:58):** It is a very important question from the member for Hartley, and a matter very close to my heart. I have been and continue to be concerned about the conditions in which our judiciary, particularly the District Court and the Supreme Court judiciary, are currently housed. Those conditions are not adequate. They are in buildings that require work, and they require maintenance. I remain hopeful that, with good arguments and good fortune at my heels, I may one day persuade the whole of cabinet that this is a priority to be escalated up the list.

But, until that time, we are providing money—in fact, I think, if I am not mistaken, in this budget that was handed down recently by the Treasurer in this respect has been very good. I think you will find in the budget papers some millions of dollars have been allocated by the Treasurer to assist in the maintenance and proper repair of the courts. I am hopeful, now that he is onto this track, that he will continue to think—

*The Hon. J.M. Rankine interjecting:*

**The SPEAKER:** The member for Wright is called to order.

**The Hon. J.R. RAU:** —kindly about them. We recognise they need repair and we recognise they need maintenance and, as I said, if my memory serves me correctly, the Treasurer was very good and, in his budget, provided a sum of money to help those facilities be repaired and maintained.

There is no argument from me, or anybody else, that those buildings are very aged buildings. One, in particular, the Supreme Court building (as the member for Hartley might know; others might not know) is a 19<sup>th</sup> century building which was originally the old Magistrates Court, strangely enough, and that is now the Supreme Court. It is a magnificent building, if any of you have visited the building to have a look around, but you will notice signs of ageing around the building. It does need repair, I accept that, and so does the Samuel Way Building. The Samuel Way Building does also require, from time to time, maintenance—

**Mr Picton:** It used to be a department store.

**The Hon. J.R. RAU:** —and that has got, indeed, a very colourful history. Charles Moore's, I think, was the original title of that building, and there are some here who might even have parents who remember that it burnt down once many years ago. It has since been restored, but it does cost money.

**The SPEAKER:** We were both alive at the time of its burning down.

**The Hon. J.R. RAU:** I was trying to make us sound a bit younger, Mr Speaker—at least you got the joke. The Speaker was paying attention to that one. Yes, they do need repair and they do need maintenance. As I understand it, there was money in the budget. I am concerned about it, and people in the Courts Administration Authority are rightly concerned about it.

As Mr Speaker has often pointed out, there was an opportunity some time ago, during his tenure in my current office, for a move to be made to what is now the SA Water building and, for whatever reason at that time—and there was some controversy, I have heard, if that is one way of putting it, between the present Speaker and a former chief justice about exactly what did or didn't happen, but there was an offer, anyway—the offer was not taken up. So, now we have this situation where we are, unfortunately, housing these people in buildings that require a lot of work.

### OAKLANDS PARK RAIL CROSSING

**Ms DIGANCE (Elder) (15:02):** My question is to the Minister for Transport and Infrastructure. Minister, can you inform the house how the government is consulting with southern suburbs residents about the potential upgrade of Oaklands crossing?

**The Hon. S.C. MULLIGHAN (Lee—Minister for Transport and Infrastructure, Minister for Housing and Urban Development) (15:02):** Can I thank the member for Elder for her question and also her tireless advocacy on this important matter. It would be fair to say that she has been first, foremost, loudest and most prominent amongst southern suburbs MPs in advocating for this issue.

The state government has been working to remove dangerous and congested level crossings across our state. We have removed level crossings at the Glenelg tram overpass on South Road and the Port River Expressway, and we are currently removing a major level crossing on South Road in Croydon as part of the Torrens to Torrens project and another as part of the Torrens Rail Junction project on Park Terrace at Bowden. Upgrading the Oaklands crossing to separate rail and road traffic is a priority of this government, as is evidenced by the project's inclusion as part of the 2013 Integrated Transport and Land Use Plan (which was about the same time that the member for Elder was advocating for it).

Currently, the existing Oaklands rail crossing imposes significant traffic delays on Morphett and Diagonal roads, with traffic modelling showing that grade separating road and rail (either via an overpass or underpass) is essential to cater for future traffic volumes beyond 2031. To accommodate current rail service levels, boom gates are active for a significant period of time during peak periods, in particular. Further, the popularity of the state aquatic centre, as well as ongoing development within the Marion domain precinct, is adding further pressure to this intersection.

As the house would be aware, the federal government did commit \$40 million towards the upgrading of the Oaklands crossing; however, as all members would be aware, this falls well short, with the project estimated to cost approximately \$190 million, depending on the engineering solution chosen.

**Mr Wingard:** How do you know how much it is then?

**The Hon. S.C. MULLIGHAN:** If the member for Mitchell had looked at an article back on the Adelaidenow website from 2012, he would have seen the plans released.

**The SPEAKER:** The minister will not respond to interjections, and the member for Mitchell is on two warnings.

**The Hon. S.C. MULLIGHAN:** From tomorrow until Saturday, representatives from the Department of Planning, Transport and Infrastructure will be on site at Westfield Marion shopping centre to seek feedback on potential options to separate the rail level crossing from the road. This is an important opportunity for the people of the southern suburbs to have a say on what solution they believe will work best for them and, of course, community engagement is an important part of every infrastructure project we undertake.

As one of the busiest intersections in the southern suburbs, this project has the potential to improve travel times, as well as safety, for tens of thousands of people, whether they are heading to or from work, school, Westfield Marion, the aquatic centre, or for other purposes. I would urge the Leader of the Opposition to get on board and support this project. His silence in the media on this has been deafening, and I would encourage him and the rest of the state opposition to do what the member for Elder has been doing and advocate on behalf of the people of the southern suburbs for the benefit of this project.

#### *Grievance Debate*

### **SOUTH-EAST DRAINAGE NETWORK**

**Mr WILLIAMS (MacKillop) (15:06):** Today, I rise to talk about an incident that has occurred in my electorate over the last couple of weeks. The electorate of MacKillop is rather unique in South Australia for a number of things, not the least of which being that it probably enjoys more rainfall than most parts of the state over a significant area. As a consequence, before white settlement it basically became inundated. In fact, George Goyder stated in 1886 that in his estimation at least half of the region between Salt Creek and the Victorian border became inundated to between one and six feet deep every winter. It is naturally a very wet area.

The colonial government of South Australia undertook, particularly from the late 1860s onwards and almost up until the last couple of years, an extensive drainage program throughout the region with the farming community. It is probably the preeminent agricultural part of the state. Some other members might disagree with that, but the total value of production that comes out of the South-East is substantial relative to the total agricultural production of the state as a whole.

This year, right across South Australia we have enjoyed a very good season, particularly with regard to rainfall. We have probably had above average rainfalls across the state, and that has certainly been the case in the South-East. It has been very welcome to see such rainfall across most of the region, particularly after the last couple of years, when we have had well below average rainfall; indeed, parts of the Upper South-East have suffered what can only be described as drought.

I had a phone call last Friday from a distressed constituent. His farmland, and that of a number of his neighbours, is adjacent to Bool Lagoon, which is just south-west of Naracoorte in my electorate. Bool Lagoon is the terminus for Mosquito Creek, which rises over the border in Victoria. It drains a significant area and delivers that water into Bool Lagoon, and then the water from Bool



Lagoon can be diverted, since the completion of drain M in the early 1970s which is probably about 70 kilometres of drain, to outfall into Lake George, which is adjacent to the seaside township of Beachport. It then flows from Lake George into the sea.

I have been involved in debates on water for most of my life, and farmers never have the right amount of water: they either have too much or too little. It is very hard to get the right amount. What has happened in and around Bool Lagoon is that we have had these very good rainfalls, but we have seen the water level in the Bool (as it is known) get so high that it has flooded adjacent farming land.

Back in 2006 or 2007, a management plan was developed in consultation with the local landholders, the drainage board and numerous other stakeholders, including, obviously, environmentalists concerned with Bool Lagoon itself, which is a fantastic wildlife habitat, particularly for bird life. There was an agreed level at this time of the year of 48.81 AHD, I think, and the level in the Bool Lagoon had almost got to that point. The local farmers contacted the drainage board and said, 'Can you start releasing some water, because the Bureau of Meteorology has forecast substantial rain over the next week or week and a half.'

Under normal conditions, that would have happened, but the staff that used to be part of the drainage board have now been taken over by the Department for Environment. When it was fed back through the system that the water was going to be released from Bool Lagoon, the instruction was to not do that until they had done some further work. As a result of that action, I understand that the release of water was delayed by at least half a day.

My understanding is that the water flowing into Bool Lagoon was flowing in at the rate of 250 megalitres an hour, and water can only be released from the Bool Lagoon at about 57 megalitres an hour. As a consequence, the water level in the Bool Lagoon rose over a foot in the old money, flooding, I am told, some 10,000 hectares of land. That could cause damage of \$10 million to \$20 million in loss of production out of that area. I think the Department for Environment needs to be a bit more responsible in managing water flows and water levels in the region.

**The SPEAKER:** While the member for MacKillop is on his feet, I was in the Tatiara in the western districts just over a week ago, and I was just wondering whether the rainfall, particularly in the Wimmera River catchment, had been enough to get Poocher and Scown's runaway holes running?

**Mr WILLIAMS:** I cannot give the Speaker a definitive answer on that, but I would be surprised if there were not water flowing through runaway holes right across my electorate, particularly in the northern part and the eastern part adjacent to the border. I expect the water table across the South-East to rise considerably as a result of this season.

**The SPEAKER:** Thank you, member for MacKillop.

#### SPORTING EVENTS

**Ms BEDFORD (Florey) (15:12):** I wanted to inform the house about the sporty weekend I had last weekend. I note, sir, you are in the Woodville West-Torrens guernsey.

**The SPEAKER:** Yes, that is correct. That would account for the hostility of some Sturt supporters on my left today.

**Ms BEDFORD:** No, that's disgusting. AFL will feature in this talk, but I want to start with last Friday night, when I had the pleasure to represent the Premier and the Minister for Education at the sixth Ice Factor Spectacular at the Hilton, Adelaide. This year's theme was 'One moment in time', which was the song sung on the night by Grace Bawden, our own wonderful Adelaide vocalist.

This event and the Challenge Cup utilise skills taught during the on-ice training and life skills sessions which are applied in a practical effort to show at-risk and disengaged students how these attributes can be used beneficially in any life situation. We heard from Marie Shaw who has passionately championed this program since 2005, and we heard some great stories of huge personal growth and success by several successful participants of the course and also a recently returned Olympian, who made a really welcome appearance at the evening.

Two hundred and fifty male and female students from the years 8 to 13 cohorts in 18 local schools, with another school due to come online next year, are involved in this life-changing experience which is often a turning point in self-confidence and community connection for the young people involved.

Thanks go to the comperes, Cherylee Harris and Mark Holden, who give their time every year, and to Tanya Powell Modelling Agency, who makes sure the young people are ready and choreographed on the catwalk to present the clothes supplied by Peter Shearer Menswear and Miss Gladys Sim Choon. We would also like to thank all the sponsors—too many to name in the time available here this afternoon—as they make this event possible. The room was filled with families and supporters, and we also need to thank Bernard Booth for looking after the auction that was held later in evening to raise money for this very worthy cause.

Early on Saturday morning, I continued my sporty weekend with a visit to the Valley View Tennis Club to recognise the achievements of players in their very successful 2016 winter season. Around 40 certificates were presented to juniors of all ages, both girls and boys, with recognition of the significant achievements of Thien-an Tran, the winner of the Member for Florey Trophy for the best and fairest player, and Shorup Sharma, who won the Mayor of Salisbury Trophy.

Many thanks go to Jim and Sophia Zissopoulos and all the parents and friends who support these young players at this great community club. Exciting times lie ahead with recent upgrades of court surfacing attracting new members, encouraging the club to begin the search for additional court space to satisfy the expanding demand in our local area.

I then visited the Modbury Vista Soccer Club presentation day. Despite the dire weather forecast, parents and friends and supporters saw over 600 juniors from 44 teams being presented on stage throughout the day. This year's presentations were brought forward to accommodate the exciting facility upgrades that will soon begin. The works will see improvements to the grounds themselves and, in recognition of the growing women's teams, women's change rooms will be installed for the first time.

I was lucky enough to be able to present the trophies to one of the girls' teams on the day. They have done very well in their division this year. I would like to thank and congratulate all the coaches, assistants, team managers, support staff and the club executive involved; chairman, Mr Rick Shrowder; vice chair, Mr Neil Kendera; secretary, Mr Michael Sentshuk; coach co-ordinator, Mr Zack Jackman; and everyone who puts in to give the players such a supportive environment to pursue their personal best in their chosen sport.

Lastly, I travelled to Thebarton Oval to support the Modbury Hawks in the Division 2 South Australian Amateur Football League grand final against St Peter's Old Collegians. The game started with a strong gusty wind favouring the team kicking to the north, and after half-time the weather changed for the worse to heavy rain resulting in very slippery conditions. I am very happy to report that Modbury led at every quarter and went on to win by 49 points, 16.9 (105) to 8.8 (56). The 2016 Fred Bloch Medallist for the best and fairest player in Division 2 was Tim Davey, who kicked four goals on the day, and Modbury's Matt Fogden was awarded Best on Ground.

Big congratulations go to all the coaching and support team, led by senior coach Nathan Grainger. Thanks, too, to club president, Dennis French; vice president, Gary Noble; secretary, Janice Byles; and treasurer, Julie Wells, for all their hard work over the season. Modbury has been rewarded with promotion to Division 1 for next season, which will see a return to the great Tea Tree Gully Wolves/Modbury Hawks rivalry. I know the member for Newland and I will have to keep a close eye on having some sort of trophy in the final, or the derbies, for that division this year coming. Congratulations to everyone involved in what was a really great weekend of sport.

### **ROAD MAINTENANCE**

**Mr PENGILLY (Finniss) (15:17):** I would just like to draw to the house's attention the situation with the broken down, newly constructed reconstruction of the shoulders of the Adelaide to Victor Harbor road between the top of Willunga Hill and Mount Compass. It is causing an enormous amount of chat on social media, on Facebook, and it is also providing my office with numerous complaints. The shoulders of the road were upgraded not so long ago; however, they have all collapsed again, and speed restrictions have been put in place.

I do not know what has happened. In my view, there is a case for it to be investigated for some sort of disastrous action that has been undertaken. It is extremely frustrating. It is frustrating motorists, it is frustrating truck drivers and it is frustrating local residents who travel on that road all the time. I would like the minister to supply me with an answer on what has happened, why it has happened, and when it is going to be fixed up properly.

Commuters and people travelling on that road were put to a great deal of inconvenience while the works were being done initially. Now they are being inconvenienced again because of the fact that it has packed up, and they will be further inconvenienced when it is fixed. All I ask is that it is fixed properly and promptly, because with the approaching summer season, the busy season, it is only going to get worse down there. I suspect the wet winter has had something to do with it, but quite simply, other shoulders have held up while this has not.

While I am on the subject of roads, I indicated this morning that my wife and I drove to Darwin over the break to see family. I would like to make some comments on the way some things are done in the Northern Territory. The roads up there are, in my view, superior to our roads. I acknowledge that the Territory receives copious amounts of federal government funding, and it probably will have to forever and a day because they simply do not have the numbers up there to keep the place going as it should. But the roads are better and the speed restrictions are much more sensible. The speed limit of 130 km/h over many of the roads is a wonderful asset and it enables you to go very long distances in a shorter time.

It is not dangerous. People understand what the roads are like and they drive accordingly. Where the roads are not marked 130 km/h in certain places they are at 110 km/h. A lot of common sense has been used and, indeed, that common sense to some extent is going to be undone by the newly installed Labor government up there who made an election commitment to take out the no speed limit restrictions—unrestrictions or whatever—between Tennant Creek and Alice Springs. I found that when I drove that section I sat on 135 km/h and really was not passed by anybody.

It is something that the former member for Flinders, the Hon. Graham Gunn, went on and on about, giving copious reasons for it making good sense for the West Coast. There is a lot of sense in that. Where you have to travel long distances, you just need to get on with it. A couple of members in this place know that, without going on too much about it. I believe that the roads are substantially better than ours in many places and the verges are much wider and things are done in a better way.

I also add that invariably we are charged to go into many of our national parks here in order to create some sort of income stream for the department. In the Northern Territory, with the multitude of visitors they have from all over the world, the parks are all free. You do not pay to go into national parks up there. In my view, it is a substantially better system there. I do not know how they go about funding them. I think Parks Australia run many of them in conjunction with the Territory administration. I find that people enjoy them. You do not see any rangers around and you do not see any rubbish around; they are run well, and I think it is something we ought to look at in this state.

#### **EQUAL PAY DAY**

**The Hon. S.W. KEY (Ashford) (15:22):** I had the pleasure of representing the Muriel Matters Society at a recent equal pay for women forum. This was sponsored not only by the Muriel Matters Society but also by Business and Professional Women (BPW). The main organisers are Zonta, the Office for Women and the Working Women's Centre.

Equal Pay Day is acknowledged on 8 September each year, noting the time from the end of the previous financial year that women must work to earn the same as men. When you look at the average weekly earnings data from the ABS, calculations of the national gender pay gap is something like 16.2 per cent for full-time employees, a difference of \$261.10 per week.

We were told at the forum that the gap meant that women working full-time needed to work 14 months on average to earn the same as men in the same year. In here, I sometimes think that a lot of us—both men and women—probably feel as if we are working 14 months instead of 12 months. However, there were other statistics that worried me, particularly that the average superannuation balance for women at retirement is 52.8 per cent less than for men and that the proportion of CEOs

who are women in Australia at the moment is estimated to be 15.4 per cent. Of course, I know that there is a low number of women in senior positions across all industries.

As an advocate for workers wages, and having had an interest in this issue for a long time, I know that men and women are basically still in different jobs, in different industries, and that there is occupational segregation. In fact, we often talk about the sex segmentation of the workforce in Australia, and that really has not changed.

I remember being involved in a work-value case, where we looked at the wages of childcare workers compared with toolmakers. It was found that, despite the huge responsibilities in both areas, the male toolmakers were much more valued than the female childcare workers. Sadly, even today, how many male childcare workers does one see in comparison to female childcare workers? One of my women friends is a toolmaker, but I am yet to meet another woman toolmaker.

Addressing the Australian gender gap encourages businesses and the public sector and people basically in employment to do a whole lot of things. They say that just one step in the right direction would be a good case for people to take up. There is a free e-book available that outlines strategies, case studies and actions that can be taken, they say, straightaway. Some of those are fairly obvious to us all. They include flexible work arrangements that do not trade off wages and conditions for women and men with caring responsibilities.

It is pleasing to see that some things have changed, in that there are a number of men who have stepped up to the plate with regard to caring responsibilities both for children and also family members, aged parents. I think that this is a very good change that has certainly happened in my time in the workforce. Other action includes improving quality and accessible and affordable child care, including out-of-hours care. I think we would all agree in this chamber that this has been an ongoing campaign for a lot of us and it needs to continue to improve.

Equal employment opportunity practices in workplaces is where we really try to look at addressing equal pay and employment opportunities in particular. I have mentioned the superannuation gap, which is pretty worrying particularly when you consider what people are going to live on after they retire from the paid workforce. Some recent statistics show the wage gap in different industries. For example, in the finance and insurance sector a man may get \$330,500 versus a woman who may get \$88,500.

### RESERVOIR MANAGEMENT

**Mr WHETSTONE (Chaffey) (15:27):** I would like to rise today to talk about a number of issues relating to water. I am sure all members would be aware of the recent rain events that we have had in South Australia and right across Australia. We all know that if you look at long-term forecasts you would have a much better understanding of exactly how much rain we are going to get, which is exactly what the Minister for Water in South Australia forgot to do.

The minister was busy pumping River Murray water into Mount Bold while he was not looking at long-range forecasts, the long-range weather forecasts that every South Australian had the opportunity to look at that showed that we were going to have above average rainfalls. We have learnt that storage at Mount Bold spilled during the heavy rainfall and spewed into the Onkaparinga River and eventually out to sea. We also found out that just months ago the state government decided to continually pump a significant amount of River Murray water into Mount Bold.

Particularly for my constituents, irrigators and food producers learnt that 11.357 gigalitres of pumped River Murray water had spilled out to sea. I am not even able to describe what they thought, what their feeling was, about a minister who had them on, at that point in time, restricted allocations while he was pumping water willy-nilly out of the river and into Mount Bold. Yes, the conditions had been dry but the long-term forecast was for a wet winter and a wet spring. Other states had already forecast long-term regarding water allocations, and they had a framework in place, which we do not have in South Australia, to take into account the potential for above-average, medium rainfall across Australia.

I understand the importance of ensuring that Adelaide has a reliable water supply, but the state government needs to be looking further ahead. We cannot be reliant on making these critical decisions a week or month out. We must be making these forward planning projections. It seems we

were pumping water without engaging any of these forward projections. All of a sudden, at the end of June, we decided that we were going to stop pumping and then, all of a sudden, we had water spilling out of Mount Bold into the Onkaparinga River. What a waste of water. What a waste of one of the world's most precious resources. The actual value of that amount of water on the open market today is about \$34 million and the equivalent of that in pumped River Murray water has gone out to sea.

The Bureau of Meteorology actually released a climate outlook in March for April to June, which said that the rainfall outlook was above average in parts of southern Australia, so much so that it appeared that South Australia was a 70 per cent chance of exceeding the median rainfall—higher than any other area in Australia. In fact, in April, the Bureau of Meteorology released a climate outlook for May to July which predicted above average rainfall in large parts of mainland Australia, showing that South Australia was a 70 to 75 per cent chance of being above median rainfall.

It is a little bit like the policy that the Liberal Party has just recently announced about forward projections. It is about the scenarios that we were going to put into place so that we can support those food producers and support the South Australian economy, so that we can actually stop the waste and stop this ridiculous bickering that the minister often goes on about. The Minister for Water has said that, at the time, there were no forecasts that we were going to have an amazingly wet year. Well, minister, clearly every other South Australian saw the weather forecasts except you. It is absolutely outrageous.

On another note, it is hard to fathom that the state government has just spent \$91,400 on a Victorian-based business to undertake a cost-benefit analysis for the potential use of Adelaide's desalination plant. Another interstate contract has been given out by the South Australian government. We wonder why there is a lack of jobs here in South Australia. There is a lack of support for business. Would there have been a business in South Australia that could actually have undertaken that work? Yes, there is.

The government is not supporting South Australian business. It is not supporting South Australian jobs. Instead, it is going to Victorian companies with an outcome that has already been forecast. I would like to call on the minister to retract his comments yesterday in the parliament and apologise to me and to the Liberal Party for his inaccuracies in saying that the desal plant would be turned on to give away free water.

Time expired.

#### **DERNANCOURT SCHOOL**

**Ms WORTLEY (Torrens) (15:32):** Recently, I had the pleasure of attending the open night at Dernancourt primary school, not far from tree-lined Linear Park in my electorate of Torrens. It was aptly named 'Learning comes alive at Dernancourt', and students, parents, family members and future students were invited into the school to visit classrooms and specialist areas and also to sit in on educational sessions. School principal, Christine Ferguson, and deputy principal, Kellie Anderson, spoke about the many programs operating within the school. It was an opportunity for the school to acknowledge its high-quality learning programs and share them with the community.

Dernancourt School supports student achievements of success through a focus on the priorities of literacy, numeracy and pedagogy. Music, Japanese and science are specialist subjects. Students with high intellectual potential are supported through a wide range of approaches and extracurricular activities. This year, students were invited to enter the Young Writers Award and the Oliphant Science Awards. Interested students were supported at school, having access to teacher Stephanie Bell and a dedicated learning space for an hour a week.

Their passion was rewarded, with several students receiving invitations to the award ceremony this coming Friday. It will include all the first, second and third-placed entrants and the sponsor prize winners. I met some very proud young Dernancourt primary school finalists eager to show me their entries and share their knowledge. Lessons in neuroscience—the study of how we learn and develop—are taught by the school's neuroscience coordinator, Donna Nitschke. These lessons enable students to access the latest developments in knowledge about the brain. Students

look at how they can help their brains, minds and bodies work together so they can be the best learners they can be. Donna explained:

Even our younger students can talk about what their brains need to be healthy, and enable it to learn. School is a very sociable place. To be the best learner possible, students need to be able to wait, take turns, and to generally have control over their feelings. They need to learn to feel and show empathy and respect for others. These things develop over time for all of us but only if your experiences and environment helps you to build an understanding of yourself and others. Learning to understand and control emotions is an important part of becoming a great learner. It is a main focus of our neuroscience program.

Dernancourt primary school values cooperation, commitment, confidence and respect—all of which underpin the teaching and learning. These values play an important part in the positive school culture and are part of everything they do, every day. The school has a diverse richness of cultures within its community and is proud of the way it celebrates this with Aboriginal Culture Week, Harmony Day, NAIDOC Week and International Children's Day annually, and a Japanese Matsuri Festival biannually. I always welcome the opportunity to attend these acknowledgements and celebrations.

Dernancourt primary school also has two district special classes in which students are involved via the department. I visited these active learning classes where there are eight students in the junior special class in reception to year 2, and 12 students in the primary special class in years 3 to 7. This year, Dernancourt primary school was fortunate to be selected to participate in the Science, Technology, Engineering, Maths, Social Enterprise Learning (STEMSEL) Project. Eight students—Mikayla, Molly, Elke, Neila, Skye, Jak, Jesse and Rory—from one of the year 6/7 classes, represented the school at this event. They were supported by the years 3 to 7 science teacher, Andrew Smith.

The students constructed a radiation counter designed to help people determine whether or not it is safe to enter areas with high UV light. When the project was finished, they attended the Royal Adelaide Show to present the radiation counter to the judges at the Science and Technology Hall. They were given great feedback about their invention and presentation and were praised for their creativity and problem-solving skills. Acting principal, Kellie Anderson, said:

We like to think that we go quietly about our business of education, always striving for improvement. Our vision is to build a learning community which is safe, inclusive and respectful, where all learners develop the confidence and skills to contribute effectively within our changing global society.

The school's logo 'Learning together' is an icon of its positive relationships. It represents a supportive, collaborative environment, positive relationships fostered across the school and, importantly, parents and families are highly valued as part of the Dernancourt primary school community.

#### *Bills*

### **STATUTES AMENDMENT (PLANNING, DEVELOPMENT AND INFRASTRUCTURE) BILL**

#### *Introduction and First Reading*

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (15:38):** Obtained leave and introduced a bill for an act to provide for the implementation of the Planning, Development and Infrastructure Act 2016 by the amendment of certain legislation and the enactment of transitional provisions; and for other purposes. Read a first time.

#### *Second Reading*

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (15:38):** I move:

That this bill be now read a second time.

This bill is procedural in the sense that it enables the government to commence a coordinated, orderly and phased three to five year implementation program for the new planning system under the Planning, Development and Infrastructure Act 2016. This bill is an exercise in transitioning from the

existing planning system under the Development Act 1993 to the much-needed contemporary and competitive planning system under the new act. It comprises transitional and saving provisions as well as consequential amendments to other statutes necessary for the Planning, Development and Infrastructure Act 2016 to come into operation and, in effect, it provides the ability to turn aspects of the new planning system on and aspects of the current system off, as the new planning system is implemented in phases.

Although it is procedural in nature, it is important as it will allow South Australia to begin to realise the economic and social benefits of a contemporary and competitive planning system. The significant planning reform process has been the initiative of this government, which began in 2012 with the appointment of the Expert Panel on Planning Reform.

It is also important to note that a substantive amendment to the act is proposed through this bill. That amendment is to clarify that the responsibility for and ownership of state planning policy rests, ultimately, with the Minister for Planning and government of the day, notwithstanding that their policies will be informed by the commission and its consultations. This amendment corrects an inconsistency between different state planning policies and responsibilities for the same, which occurred due to an amendment of the Planning and Development and Infrastructure Bill in the Legislative Council.

At the request of industry groups, including the Urban Development Institute of Australia and the Property Council, the bill provides the ability to pilot the infrastructure schemes early, upon request. This is a recognition from the development industry of the potential benefits of infrastructure schemes and their willingness to work with the government in testing these schemes early. This government assures that every effort will be made to support business as usual during the engagement and implementation phases of this new planning system until each element of the new system is ready to go live. I seek leave to insert the remainder of the second reading explanation into *Hansard* without my reading it.

Leave granted.

To ensure the most efficient and effective introduction of the changes, preparation for the implementation of the new system is already occurring in partnership with Government departments, councils and industry groups. Indeed, many of them have indicated their support and enthusiasm for the initiatives contained in the new planning system.

Subject to the successful passage of this Bill, broadly the proposed implementation of the new planning system involves:

- Appointing the State Planning Commission (the Commission) by April 2017;
- the Commission leading development of the Community Engagement Charter (the Charter);
- the Commission developing necessary statutory instruments, including the Planning and Design Code (the Code) by mid-2018, in consultation with the community, as provided for in the Charter;
- the Code and new assessment pathways will be implemented by mid to late 2018, supported by the new ePlanning system which is proposed to be fully operational by 2019.

I commend the Bill to the House.

#### Explanation of Clauses

##### Part 1—Preliminary

###### 1—Short title

This clause is formal.

###### 2—Commencement

The various provisions of this measure will be brought into operation by proclamation. Consistent with section 2(2) of the *Planning, Development and Infrastructure Act 2016*, section 7(5) of the *Acts Interpretation Act 1915* will not apply to this measure.

###### 3—Amendment provisions

This clause is formal.

##### Part 2—Amendment of *Planning, Development and Infrastructure Act 2016*

#### 4—Amendment of section 58—Preparation of state planning policies

This amendment provides that the Commission will prepare state planning policies under the Act on behalf of the Minister.

#### 5—Amendment of section 59—Design quality policy

The requirement to prepare the design quality policy is to rest with the Minister rather than the Commission.

#### 6—Amendment of section 60—Integrated planning policy

The requirement to prepare the integrated planning policy is to rest with the Minister rather than the Commission.

#### 7—Amendment of section 63—Special legislative schemes

The requirement to prepare a state planning policy with respect to each special legislative scheme is to rest with the Minister rather than the Commission.

#### 8—Amendment of section 73—Preparation and amendment

These are consequential amendments.

#### 9—Amendment of section 78—Early commencement

This amendment inserts some words that were inadvertently omitted from the Act at the time of its passing by Parliament (and which are obviously intended to appear as provided by this amendment).

#### 10—Insertion of Schedule 8

This clause inserts a new schedule into the Act for the purposes of addressing the various transitional issues associated with the implementation of the new statutory scheme. Any legislation such as the *Planning, Development and Infrastructure Act 2016* requires extensive transitional provisions so that it can be brought into operation successfully. A more detailed explanation of these provisions is as follows:

##### Schedule 8—Transitional provisions

##### Part 1—Preliminary

##### 1—Interpretation

This clause sets out the definitions that are required for the purposes of the schedule. Many of the provisions will have effect from a day appointed by proclamation for the purposes of the particular provision.

##### 2—Saving of operation

This clause makes it clear that a provision of the *Development Act 1993* may still be relevant for the purposes of the schedule even though the provision has actually been repealed (subject to any modification or other provision that may apply under the schedule).

##### Part 2—Definitions and change of use

##### 3—Definitions

This clause will allow the concept of a development authorisation under the new Act to include a development authorisation under the *Development Act 1993*. This may be relevant to, for example, a proposal to apply for a variation to an earlier development authorisation. It is also the case that Development Plans under the *Development Act 1993* may, at least to some extent, be relevant to the assessment of development under the new Act (during a transitional phase). This therefore needs to be reflected in the definition of *Planning Rules*.

##### 4—Change of use of land

This clause sets out a scheme to transition from the current provisions of the *Development Act 1993* relating to changes in use of land to the provisions of the new Act. Included are provisions to provide expressly for periods of discontinuance that may 'straddle' the operation of the two legislative schemes. Another provision will allow sections 4(4) and (5) of the new Act to apply under the *Development Act 1993* in one or more areas designated by proclamation ahead of the whole legislative scheme under the new Act coming into operation).

##### Part 3—Commission and preliminary structural reforms

##### Division 1—Commission



#### 5—Establishment of Commission

This clause sets out a scheme for the commencement of the provisions of the new Act relating to the establishment of the new State Planning Commission and also provides for the commencement of other sections identified as involving or including various functions of the Commission.

#### 6—Commission authorised to assume functions under the repealed Act

This clause will allow the State Planning Commission to assume various functions, powers and duties of certain entities that currently exist under the *Development Act 1993* (so that the Commission may act under that Act ahead of the whole legislative scheme under the new Act coming into operation).

#### Division 2—Regions

#### 7—Regions

This clause sets out specific transitional provisions in connection with the establishment of regions under the new Act.

#### Division 3—Preserving existing authorisations and rights

#### 8—Preserving existing authorisations and rights

This clause sets out a scheme for the implementation of section 7 of the new Act so as to allow a transitional period to apply with respect to existing development authorisations for the division of land or for existing planning consents for the division of land.

#### Part 4—Planning instruments

#### 9—Planning and Design Code

This clause sets out specific transitional provisions associated with the preparation and implementation of the Planning and Design Code. The provisions recognise that a period of time will be required before a comprehensive version of the code will be ready and that in the meantime parts of the existing Development Plans will still be relevant for the purposes of the new Act. In connection with this scheme, provisions of existing Development Plans will be altered or removed as the new code is developed and implemented.

#### 10—Local heritage

This clause provides for places of local heritage value under the *Development Act 1993* to continue to be designated as places of local heritage value under the new code.

#### 11—Significant trees

This clause provides for the designation of a tree as a significant tree under a Development Plan to continue under the new code.

#### Part 5—Relevant authorities

#### 12—General transitional scheme for panels

This clause will allow the scheme for council assessment panels under the new Act to apply for the purposes of the *Development Act 1993* ahead of the complete legislative scheme under the new Act coming into operation.

#### 13—Regional assessment panels

This clause will allow the scheme for regional assessment panels under the new Act to apply for the purposes of the *Development Act 1993* ahead of the complete legislative scheme under the new Act coming into operation.

#### 14—Assessment managers

This clause will allow the scheme for assessment managers under the new Act to apply for the purposes of the *Development Act 1993* ahead of the complete legislative scheme under the new Act coming into operation.

#### 15—References

This clause will ensure that references in other Acts and other instruments and documents to a relevant authority under the *Development Act 1993* may be taken to include a reference to a relevant authority under the new Act (unless the context otherwise requires).

#### 16—Accredited professionals

This clause will allow the accreditation scheme under the new Act to be effectively suspended until a date to be fixed by proclamation.

## 17—Removal etc of private certifier

This clause will expressly allow section 96 of the *Development Act 1993* to continue to operate to and in relation to the engagement of a private certifier entered into before the repeal of that section by this Act.

## Part 6—Existing applications

## 18—Continuation of processes

This clause sets out provisions to ensure that applications lodged and being considered under the *Development Act 1993* before the assessment scheme commences under the new Act will continue to be subject to assessment under the provisions of the repealed Act (but will then be subject to certain provisions of the new Act from the point that a decision is made).

## 19—Appeals

This clause preserves certain appeal rights under the *Development Act 1993* at the time of transition to the new assessment scheme.

## 20—Major development or projects

This clause sets out a transitional scheme in relation to major development or projects.

## 21—Crown and infrastructure development

This clause sets out a transitional scheme for Crown and designated infrastructure development.

## 22—Building work

This clause provides for the application of certain provisions relating to building work and related issues to development approvals given under the *Development Act 1993* and will expressly preserve certain notices and rights under the *Development Act 1993* after the repeal of relevant provisions.

## Part 7—Development Plans relevant to assessments under this Act

## 23—Application of Part

The clauses in this Part will allow for the transition from the existing scheme for planning assessment of various categories of development to the scheme under the new Act. (This is connected to the gradual phasing in of the Planning and Design Code.)

## 24—Complying development

## 25—Non-complying development

## 26—Merit development

## Part 8—Building activity and use

## 27—Classification and occupation of buildings

This clause will provide that the scheme under Part 11 Division 4 of the new Act will not apply to or in relation to a building owned or occupied by the Crown (or an agency or instrumentality of the Crown) before this part of the new Act comes into operation (as the corresponding provisions of the *Development Act 1993* do not currently apply to such buildings).

## 28—Swimming pool safety

This clause will allow the new provisions and scheme for swimming pool safety to take effect under the *Development Act 1993* before the assessment scheme under the new Act commences.

## 29—Fire safety

This clause is a transitional provision relating to the application of the provisions of the new Act relating to fire safety as they apply to buildings owned or occupied by the Crown (or an agency or instrumentality of the Crown).

## Part 9—Infrastructure frameworks

## Division 1—Pilot schemes may be authorised

## 30—General schemes

This clause will allow the Minister to authorise one or more 'pilot' schemes to be implemented under Part 13 Division 1 Subdivision 3 of the new Act if the Minister is acting at the request of a person or body interested in the provision or delivery of infrastructure and if the Minister is satisfied that the scheme is suitable to proceed as a pilot scheme.

## Division 2—Operation of schemes during transitional period

## 31—Operation of schemes during transitional period

This clause reflects the fact that the Planning and Design Code is to be phased in gradually.

## Part 10—Land management agreements

## 32—Land management agreements

This clause will provide for the continuation of land management agreements entered into under the *Development Act 1993*.

## Part 11—Funds

## 33—Funds

This clause will provide for the continuation of various funds under the *Development Act 1993*.

## Part 12—Proceedings to gain a commercial competitive advantage

## 34—Proceedings to gain a commercial competitive advantage

This clause reflects the fact that the Planning and Design Code is to be phased in gradually.

## Part 13—Authorised officers

## 35—Authorised officers

This clause provides for the on-going appointment of authorised officers.

## Part 14—Advisory committees

## 36—Advisory committees

This clause provides that a committee established under section 244 of the new Act will have a sunset provision that takes effect on 30 June 2019.

## Part 15—Other matters

## 37—Proclamation of open space

This clause continues the open space proclamation scheme that has applied under the various planning Acts since the *Town Planning Act 1929*.

## 38—Metropolitan Adelaide

This clause will provide that a reference in any other Act to 'Metropolitan Adelaide' will be taken to be a reference to Metropolitan Adelaide as defined by the *Development Act 1993* before its repeal by the new Act (unless the context otherwise requires).

## 39—References to applications and approvals

This clause deals with various cross-references under other Acts.

## 40—Conditions

This clause provides for the on-going operation of conditions imposed in relation to decisions under the *Development Act 1993*.

## 41—General saving provision

This clause is a general saving provision relating to decisions or authorisations that are given under the *Development Act 1993*.

## 42—General provisions apply

This clause makes it clear that the *Acts Interpretation Act 1915* will apply to the repeal of any provision of the *Development Act 1993* (except to the extent of any inconsistency with this schedule).

## 43—Regulations

This clause will allow the Governor to make additional provisions of a saving or transitional nature consequent on the enactment of the new Act after this schedule has been passed by Parliament.

The remaining Parts of this measure make amendments to a series of Acts that are consequential on the enactment and commencement of the new Planning, Development and Infrastructure Act 2016.

Part 3—Amendment of *Adelaide Oval Redevelopment and Management Act 2011*Part 4—Amendment of *Adelaide Park Lands Act 2005*

- Part 5—Amendment of *Aquaculture Act 2001*  
Part 6—Amendment of *City of Adelaide Act 1998*  
Part 7—Amendment of *Commissioner for Kangaroo Island Act 2014*  
Part 8—Amendment of *Community Titles Act 1996*  
Part 9—Amendment of *Criminal Law Consolidation Act 1935*  
Part 10—Amendment of *Environment Protection Act 1993*  
Part 11—Amendment of *Fire and Emergency Services Act 2005*  
Part 12—Amendment of *Fisheries Management Act 2007*  
Part 13—Amendment of *Freedom of Information Act 1991*  
Part 14—Amendment of *Highways Act 1926*  
Part 15—Amendment of *Liquor Licensing Act 1997*  
Part 16—Amendment of *Local Government Act 1999*  
Part 17—Amendment of *Local Nuisance and Litter Control Act 2016*  
Part 18—Amendment of *Marine Parks Act 2007*  
Part 19—Amendment of *National Parks and Wildlife Act 1972*  
Part 20—Amendment of *Native Vegetation Act 1991*  
Part 21—Amendment of *Natural Resources Management Act 2004*  
Part 22—Amendment of *Ombudsman Act 1972*  
Part 23—Amendment of *Real Property Act 1886*  
Part 24—Amendment of *River Murray Act 2003*  
Part 25—Amendment of *Roads (Opening and Closing) Act 1991*  
Part 26—Amendment of *Strata Titles Act 1998*  
Part 27—Amendment of *Valuation of Land Act 1971*

Debate adjourned on motion of Mr Griffiths.

### ADOPTION (REVIEW) AMENDMENT BILL

#### *Introduction and First Reading*

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (15:41):** Obtained leave and introduced a bill for an act to amend the Adoption Act. Read a first time.

#### *Second Reading*

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (15:42):** 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 *Adoption Act 1988* was a landmark piece of legislation that introduced 'open adoption'.

This meant that parties to adoptions completed after the Act came into force could have access to identifying information about each other once the adopted child turned 18 years of age.

It also meant that parties to a past adoption, which as we know were conducted in a climate of secrecy, could in certain circumstances, obtain access to identifying information about the other parties. Vetoes were also provided for to enable people concerned about their privacy to restrict the release of their identifying details.

Another significant reform at that time was a change in the definition of marriage in the Act to include de facto relationships, extending the right to apply to adopt a child to established couples not legally married.

Of particular importance was the introduction of a definition of Aboriginality and the inclusion of a form of the Aboriginal Child Placement Principle, now known as the Aboriginal and Torres Strait Islander Child Placement Principle. By introducing these provisions, the Act recognised the importance of Indigenous children growing up in their own communities, connected to their identity, culture and heritage.

In 1994, after five years of operation, selected provisions in the Act were reviewed through a public consultation process. As a result, amendments were enacted in 1997 mainly around the provisions relating to past adoption matters and access to adoption information. The amendments also abolished the provision for the adoption of people between the ages of 18 and 21 and a new clause was inserted into the Act to ensure greater flexibility for community consultation on the operation of the legislation.

While this last provision has underpinned regular community and intergovernmental consultations carried out through the Department for Education and Child Development, aside from some minor amendments, there has been no further review of the Act since 1997.

In February 2012, the report on the national inquiry into the *Commonwealth Contribution to Former Forced Adoption Policies and Practices* was tabled in the Senate. This landmark report laid bare for the nation the abhorrent adoption practices of the past which forcibly separated thousands of Australian children from their mothers.

One of the recommendations of that inquiry was that state and territory governments issue formal statements of apology for the harm suffered by so many parents and children who were forcibly separated from each other.

Accordingly, on July 18, 2012, in this House, the South Australian Government was the first Australian jurisdiction after the tabling of the report, to issue an apology on behalf of the people of South Australia. In delivering the Apology, Premier Jay Weatherill expressed 'our determination to ensure that such things never happen again'.

On March 21, 2013, fulfilling another recommendation of the Senate inquiry, then Prime Minister Julia Gillard apologised on behalf of the nation for these past forced practices, and set in motion several national initiatives to provide specialist professional services for people haunted by the experience of forced adoption.

Against this backdrop, the changing landscape in modern adoption practices and community attitudes about how families are constituted, in 2014, the South Australian Government commissioned Associate Professor Lorna Hallahan of Flinders University to undertake an independent review of the Adoption Act.

I sincerely thank Associate Professor Hallahan for her thorough Review and for her excellent report, which has provided a clear framework for examining this sensitive topic through the lens of what is best for the child. Her rigorous approach, her profound understanding of child development and protection and the importance of family relationships, as well as her long experience in developing public policy, have been invaluable in delivering this Bill to modernise the South Australian Adoption Act.

I also would like to thank all those who contributed to the Review. Many people wrote to the Review or met with Associate Professor Hallahan personally to share their experiences, research and insights into this extremely complex and sensitive area.

#### Terms of Reference

First and foremost, the terms of reference required that the Review ensure the rights and best interests of the child remain paramount. Taking into account the impact in South Australia of the broad changes in the field of adoption in the years since the last review of the Act, the Review was to include:

- consideration of national reforms in intercountry adoption;
- recent inquiries, current research, activities and attitudes in Australia in relation to past adoption practices;
- the interface between adoption and children in the child protection system requiring permanent care; and
- any other relevant matters, including concerns the Department for Education and Child Development has in the administration of the Act and Regulations.

Specific issues were to be considered:

- adoption information vetoes;
- adoption of a person over the age of 18 years;
- retention of the child's birth name;

- same-sex couple adoption;
- single person adoption;
- discharge of adoption orders in certain circumstances.

The Review commenced in November 2014, with a public consultation phase spanning early January to 30 June 2015, followed by consultations with specialists in the field.

The Review's report was delivered by Associate Professor Hallahan in November 2015 and published on the Department for Education and Child Development website and the Government's *YourSAy* website on March 5, 2016.

Around 500 submissions were received from the public during the consultation period, many of these submitted on the *YourSAy* website. Approximately 60 private interviews were conducted at the request of individual people, 15 specialist consultations were held and an extensive literature review was also conducted.

The Review also attracted an electronic petition containing more than 15,000 signatures requesting same sex couples be eligible to adopt. I was proud to accept this petition at a reception in Parliament House earlier this year.

Associate Professor Hallahan also held discussions with Ministers of the South Australian Government, other parliamentarians and with Executive Officers and staff of the Department for Education and Child Development.

She also held discussions with Commissioner Margaret Nyland of the Child Protection Systems Royal Commission. I note the Final Report of the Royal Commission considered the question of adoption from care and its findings on that question generally aligned with those of the Review. The Bill reflects the findings of the Royal Commission in respect of adoption and specifically aligns with Recommendation 157.

The Review considered the legacy of the closed adoption practices of the past before the *Adoption Act 1988* established open adoption in South Australia.

It also considered the need for the Act to establish optimal conditions for adoption in this era to ensure past injustices are not carelessly repeated and that children's rights, including their relationship rights, and their life-long welfare and best interests are at the forefront of all adoption proceedings.

In Associate Professor Hallahan's words, the recommendations of the Review focus on both the 'restorative' and 'constructive' functions of the Act, and make a number of specific recommendations for legislative change and improved practice.

Since the publication of the Review report, I have received some community feedback which has been taken into account in the drafting of the Bill, as have some additional administrative matters that have arisen in the process.

The *Adoption (Review) Amendment Bill 2016* is the culmination of this important work and the key amendments to the Act are as follows:

- Expansion of the objects and guiding principles, replacing current section 7, which sets out a general statement of the principle that the child's interests are paramount in all proceedings under the Act. The amendments provide for more specificity, including matters for consideration that the Department and the Court must take into account when contemplating adoption for a child.
- Elevation of the Aboriginal and Torres Strait Islander Child Placement Principle into the objects and guiding principles, updating relevant definitions and enhancing the matters which the court must consider in section 11 when making an adoption order for an Aboriginal or Torres Strait Islander child. The amendments also make explicit that the Court must apply the Principle in making an adoption order in relation to an Aboriginal or Torres Strait Islander child. This change aligns with the findings of the Child Protection System Royal Commission, which included that there is currently no requirement to consult with an Aboriginal organisation in relation to the adoption of Aboriginal children. The Royal Commission considered it appropriate that such a provision be included.
- Replacement of the definition of *marriage relationship* with *qualifying relationship*, throughout the Act. *Qualifying relationship* means 'the relationship between 2 persons who are living together in a marriage or marriage-like relationship (irrespective of their sex or gender identity)'. This supports the adoption of children by same-sex couples, which will be subject to a conscience vote by Government members. This fulfils the Review recommendation that same-sex couples be able to adopt a child, and is in line with the Government's commitment to remove discrimination in South Australian legislation on the grounds of sexual orientation, gender, gender identity and intersex status.
- Inclusion of a requirement that the Court will not make an adoption order in relation to a child unless satisfied that adoption is in the best interests of the child and clearly preferable to any alternative order that may be made under the laws of the State or the Commonwealth.

This amendment aligns with Recommendation 157 of the Child Protection Systems Royal Commission, which provided that the Government consider the question of adoption where it is in the best interests of the child and an Other Person Guardianship order would not be appropriate.

- Reinstatement of powers for the Court to make orders for the adoption of an adult where there has been a significant parent to child relationship between the person and the prospective adoptive parents, and where the person to be adopted understands the consequences on their interests, rights and welfare. Provision for adult adoption was previously removed from the Act by amendments made in 1997. This change brings South Australia into step with most other Australian jurisdictions.

This reflects the Review's findings that under certain circumstances adults should be able to be adopted, with no restrictions as to the age of the person to be adopted. The Review found that this is an important provision for adults who have previously been in care or who have been brought up by a step parent. The amendments also address situations where an adult, who as a child was under the Minister's guardianship pursuant to the *Children's Protection Act 1993*, and their carers are seeking an adoption order.

This new provision is welcomed by the Government because it assists people who have been in foster care as children to formalise their relationship with their carers into adulthood if they wish to. In seeking an adoption order, they are able to make their own decision about what they believe is best for them.

- Provision for single people to adopt on par with couples, providing for a 'prescribed period' for the amount of time a couple has been in a qualifying relationship, or the amount of time a single person has not been in a qualifying relationship.
- Introduction of a new provision for adoption orders to be discharged by the Court on the grounds that it is in the best interests of the adopted person, taking into account their rights and welfare. This provision may be used by parties to an adoption, particularly adopted people, who feel aggrieved by the adoption and seek to have it undone.

During the Review, Associate Professor Hallahan was persuaded by the argument that 'where the state has blundered in effecting an adoption that placed a child in grave risk, the state should have the power to undo such arrangements'.

While the Review report focussed on neglect and abuse within the adoptive family as grounds for discharge of adoption orders, Associate Professor Hallahan also identified that 'bewilderment about identity and belonging is among a range of harms that adoptees may experience'. She therefore suggested 'that the Act incorporate a wide typology of harm including but not confined to certain forms of childhood abuse.'

While a number of Australian jurisdictions provide for discharge of adoption orders in certain circumstances, the Review suggested the Tasmanian model be followed which the Bill has largely done. The key factor here is the case management approach and that the person seeking the discharge of their order does not have to attend the Court hearing as the Department may make the application on their behalf.

- Inclusion of arrangements for consent by parents or guardians under 16 years of age. The amendments provide that in such cases, at least two psychologists will need to state that the parent or guardian has been counselled by the psychologist at least three days before giving consent to ensure they are able to properly do so.
- Provision for retention of a child's original first name, except in specific circumstances. The amendments provide that should a child's name be changed, their second name may become their first name, or they may be given another name of significance to the child themselves.

Throughout the Review, Associate Professor Hallahan examined the issue of identity formation for adoptees. Although there were few submissions addressing name retention, we know how important a child's original name is to their identity formation. Associate Professor Hallahan recommended an adopted child's original first name always be retained except in exceptional circumstances.

- Inclusion of new arrangements for temporary care of a child whose parents are in the process of considering adoption for them. This provides for short term voluntary care, where a parent is able to enter into an agreement with the Chief Executive in respect of a child prior to giving final consent to the adoption. An agreement may be in place for a maximum of one year before an alternative arrangement is made by the family to care for the child or the child is adopted. If the child is in need of care and protection, the necessary orders are sought under the *Children's Protection Act 1993*.
- Insertion of new provisions to address access by an adopted person to information about their grandparents, currently not possible in circumstances where the birth parent who relinquished them was also an adopted person. This creates consistency with current arrangements where grandparents of an adopted person can obtain information about the adopted person once they are over the age of 18.
- Preclusion of release of information by the Chief Executive to another party if it poses a serious risk to the life or safety of a person.

- Repeal of section 27B which provides for the issuing of vetoes. Under current arrangements, vetoes are available to each party to the adoption: the adoptee; the birth parents; and the adoptive parents, who may place a veto that can be renewed every five years. The Bill provides transitional arrangements, including that all existing vetoes will continue for five years from the commencement of the amendments. After the five year transition period all vetoes will expire and will not be able to be renewed.

The Bill provides that a person whose veto expires after at the end of the transition period may make a *statement of wishes* about contact with the other parties to the adoption. This statement will be held into the future by the Department and the Registrar of Births, Deaths and Marriages and is to accompany the release of any associated adoption information to another party to the adoption.

Adoption information vetoes are a sensitive matter and were introduced into the current Act as a way of trying to bridge the gap between past closed secret practices and the new openness in adoption emerging in the 1980s.

Currently, South Australia is the only state jurisdiction that provides for adoption information vetoes. The Northern Territory is the only other jurisdiction that retains adoption information vetoes and only one veto was in place there as at 30 June 2015.

An adoption information veto prevents other parties accessing identifying information about the person who placed the veto. When an adoptee has a veto in place, mothers and fathers cannot find out information about their child who was adopted into another family. Where a birth parent has a veto in place, adoptees cannot know about their origins or reconnect with the family into which they were born.

South Australia's first adoption Act was introduced in 1926. Between then and 1989 when the current Act was introduced, approximately 24,000 adoptions were completed in this State, affecting more than 100,000 people as primary parties to the adoption—adopted people, birth mothers and fathers, and adoptive mothers and fathers.

Since 1989, the Department for Education and Child Development has processed approximately 13,000 applications for identifying adoption information, indicating the overwhelming trend towards openness in past adoption. At 30 June 2016, South Australia had 375 vetoes in place, with 53 being renewed in the 2015-16 financial year. Although this is a relatively small number compared to earlier years, these current vetoes impact on the lives of many South Australians, including the five primary parties to adoption and their extended family members.

The Government recognises that some people seek to preserve their veto and there is a genuine dilemma between the right to knowledge and the previously upheld commitment to privacy. However, the Review found that vetoes 'impinge the principle of open adoption and can preserve life-long identity impairing impacts for adopted persons'. The Government supports this contention. Therefore, the Bill provides that section 27B is repealed with information vetoes to expire after the five year transition period with no introduction of contact vetoes, as recommended by the Review.

This amendment is in line with the recommendations of the 2012 Senate inquiry. A similar provision was brought into effect in Victoria in 2015.

During the five year transition period, the Department will provide services to support people affected by the expiry of a veto.

- Inclusion of new arrangements for the Department to inform birth parents and adopted people if one or the other dies. This enables the Registrar of Births, Deaths and Marriages to check the adoption record on receiving notice of any death. If the deceased is a party to an adoption in South Australia, then the Registrar will notify the Department who will ensure the other party is notified. This will also include notifying birth siblings of an adopted person if they are known to the Department.

This will potentially prevent some of the distress caused when people search for parents or children they have been separated from by adoption, but find it is too late.

- Insertion of new arrangements which will enable the Registrar of Births, Deaths and Marriages to register an adopted child's birth to reflect the 'truest possible' account of their biological parentage and at the same time ensure any certificates produced make clear who is the child's legal parent. The changes to the legislation will introduce retrospectivity, so people adopted in the past can have, on application, an integrated birth certificate showing both sets of parents. This is in line with the relevant recommendation of the 2012 Senate inquiry into the *Commonwealth Contribution to Former Forced Adoption Policies and Practices*.

The Review found that a birth certificate is a foundational document that establishes a person's biological and familial beginnings. For adopted people, Associate Professor Hallahan found that 'this foundational story is disrupted' contributing to a distortion of identity formation.

- Modernisation of penalties within the legislation is also achieved by the Bill.

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 *Adoption Act 1988*

## 4—Insertion of section 3

The objects of the Act and guiding principles for administration of the Act are set out.

## 5—Amendment of section 4—Interpretation

Definitions are inserted for the purposes of the measure, including—

- a definition of the Aboriginal and Torres Strait Islander Child Placement Principle; and
- a definition of *child* that now includes a person who is aged 18 years or more in respect of whom an order for adoption under this Act is sought or has been made; and
- a definition of a *qualifying relationship* for the purposes of adoption, which means the relationship between 2 persons who are living together in a marriage or marriage-like relationship (irrespective of their sex or gender identity).

## 6—Repeal of section 7

The repeal of section 7 is consequential on the insertion of section 3.

## 7—Amendment of section 8—General power of Court

This amendment relates to the expansion of the definition of *child* to include persons aged 18 years or more.

## 8—Amendment of section 9—Effect of adoption order

This amendment is consequential, substituting the term *qualifying relationship* for *marriage relationship*.

## 9—Amendment of section 10—No adoption order in certain circumstances

The amendment provides for a general rule relating to adoption orders for children less than 18 years of age. The Court will not make an order unless satisfied that adoption is in the best interests of the child and, taking into account the rights and welfare of the child, clearly preferable to any alternative order that may be made under the laws of the State or the Commonwealth.

The other amendments are consequential.

## 10—Insertion of section 10A

This amendment proposes to substitute a new section 10A to provide for requirements relating to the adoption of children who have turned 18:

## 10A—Adoption of child who has turned 18

The requirement provided for are—

- that a significant parent to child relationship existed between the prospective adoptive parent or parents and the child before the child attained the age of 18 years; and
- that the child appears to understand the consequences of adoption on the child's interests, rights and welfare.

Certain relevant considerations are provided for, such as whether the child was cared for by the prospective adoptive parents prior to reaching the age of 18 years (including, for example, if the child was placed in their care under the *Children's Protection Act 1993*).

## 11—Amendment of section 11—Adoption of Aboriginal or Torres Strait Islander child

The amendment provides for a general rule relating to adoption orders for Aboriginal or Torres Strait Islander children. The Court will not make an order in relation to an Aboriginal or Torres Strait Islander child unless satisfied that adoption is in the best interests of the child and, taking into account the rights and welfare of the child, clearly preferable to any alternative order that may be made under the laws of the State or the Commonwealth.

Certain other requirements are provided for, including that the Aboriginal and Torres Strait Islander Child Placement Principle be applied.

#### 12—Amendment of section 12—Criteria affecting prospective adoptive parents

Currently, an adoption order may only be made in favour of 2 persons if they are cohabiting together in a marriage relationship for a continuous period of at least 5 years (or less than 5 years in special circumstances). The substitution of existing section 12(1) and (2) with proposed section 12(1) would allow an adoption order to be made in favour of 2 persons if—

- they are in a qualifying relationship and have been living together continuously for at least the prescribed period (irrespective, in the case of married persons, of the date on which the marriage occurred) before the making of the order; or
- they are in a qualifying relationship and the Court is satisfied that there are special circumstances justifying the making of the order.

Currently, an adoption order may only be made in favour of 1 person where the person has cohabited with a birth or adoptive parent of the child in a marriage relationship for a continuous period of at least 5 years (if the Court is satisfied that there are special circumstances that justify the making of an order in favour of 1 person). The substitution of section 12(3) would allow an adoption order to be made in favour of 1 person if—

- the person is in a qualifying relationship with a birth or adoptive parent of the child and—
  - has been living together with that parent continuously for at least the prescribed period (irrespective, in the case of married persons, of the date on which the marriage occurred) before the making of the order; or
  - the Court is satisfied that there are special circumstances justifying the making of the order.

In addition, proposed section 12(3)(b) would allow an adoption order to be made in favour of 1 person if the person is not in a qualifying relationship and—

- has not been in a qualifying relationship for at least the prescribed period before the making of the order; or
- the Court is satisfied that there are special circumstances justifying the making of the order.

The *prescribed period* is a period prescribed by the regulations, or, if no period is prescribed, 5 years.

#### 13—Substitution of section 14

A scheme for the discharge of adoption orders is provided for:

##### 14—Discharge of adoption orders

The grounds for applying for a discharge order are provided for. The scheme then requires that an investigation into the circumstances relating to the application for the discharge order be undertaken and authorises the Court to make a discharge order following an investigation if it thinks an order should be made (unless it appears to the Court that to do so would be prejudicial to the rights, welfare and interests of the adopted person).

The persons who can apply for a discharge order are provided for, as well as procedural matters such as consequential and ancillary orders.

#### 14—Amendment of section 15—Consent of parent or guardian

Certain amendments are consequential.

Another amendment requires the consent of a parent or guardian less than 16 years of age to be endorsed by at least 2 psychologists authorised by the Chief Executive with a statement from each psychologist to the effect that the parent or guardian has been counselled by the psychologist at least 3 days before the giving of consent and the psychologist is of the opinion that the parent or guardian appears to have a sufficient understanding of the consequences of adoption such that the parent or guardian is able to make a responsible decision in relation to the consent.

#### 15—Amendment of section 18—Court may dispense with consents

The ground for dispensing with consent in section 18(1)(d) is proposed to be deleted.

#### 16—Amendment of section 23—Name of child

The substitution of section 23(3) requires that the Court not change a first name of a child on adoption (in addition to the existing requirements in that subsection, which continue to be included in subsection (3)) unless—

- the first name is offensive or unsuitable; or

- another child of the adoptive parents has the same first name.

In addition, if the Court changes the first name of a child, seek to change the first name—

- so that the child's second name becomes the first name of the child; or
- to another name brought to the attention of the Court that is of significance to the child, taking into account the child's identity, language and cultural and (if relevant) religious ties.

#### 17—Insertion of section 24A

A scheme for the making of voluntary custody agreements during consideration of whether to have a child adopted is provided for.

#### 18—Amendment of section 25—Guardianship of child awaiting adoption

This amendment is consequential on the expansion of the Court's power to make adoption orders to include adoption of a child who has turned 18.

#### 19—Amendment of section 27—Right to obtain information once adopted person turns 18

Proposed section 27(3a) provides for an additional circumstance in which the Chief Executive can provide information about an adopted person's birth parents.

The amendment to section 27(5) provides that a person is not entitled to obtain information under the section if the Chief Executive considers it would give rise to a serious risk to the life or safety of a person.

#### 20—Substitution of section 27B

Currently, section 27B allows adopted persons, birth parents and adoptive parents to direct the Chief Executive that information that would enable them to be traced not be disclosed (an 'old section 27B direction', also known as an 'information veto'). The amendment proposes to substitute a new section 27B:

27B—Limitation of right to obtain information relating to adoption prior to commencement of Act in certain cases

Proposed section 27B continues any old section 27B direction in effect at the time of commencement of the provision for another 5 years, at which time it ceases to have effect. The Chief Executive must not disclose information in contravention of an old section 27B direction.

In addition, proposed section 27B also allows a person whose information veto is in effect at the time of commencement of the provision to provide the Chief Executive with a statement of wishes relating to contact, which, once the person's veto expires, is to be sent to any person who obtains information from the Chief Executive about the person who gave the statement.

#### 21—Amendment of section 27C—Interviews

This amendment is consequential.

#### 22—Amendment of section 28—Certain agreements illegal

The penalty is increased.

#### 23—Amendment of section 29—Negotiation for adoption

The penalty is increased. Other amendments are consequential.

#### 24—Amendment of section 30—Enticing child away

The penalty is increased.

#### 25—Amendment of section 31—Publication of names etc of persons involved in proceedings

The concept of 'publication in the news media' is amended with a definition of 'publish' inserted into the interpretation section.

The penalty is increased.

Other amendments are consequential.

#### 26—Amendment of section 32—Publication of certain material related to adoption

This amendment is also related to the change in section 31 relating to 'publication in the news media'.

The penalty is increased.

#### 27—Amendment of section 33—False or misleading statements

The penalty is increased.

## 28—Amendment of section 34—Impersonation

The penalty is increased.

## 29—Amendment of section 35—Presenting forged consent

The penalty is increased.

## 30—Insertion of section 40A

This amendment proposes to substitute a new section 40A:

## 40A—Notification of death of party to adoption

A requirement is imposed on the Chief Executive to take reasonable steps (if appropriate) to inform certain persons of the death of an adopted person (when the Chief Executive is informed of the death by the Registrar of Births, Deaths and Marriages). In addition, if the Chief Executive receives information about the death of a birth parent of an adopted person the Chief Executive must take reasonable steps (if appropriate) to inform the adopted person of the death.

## 31—Substitution of section 41

Currently, section 41 provides that, on adoption of a child, the Registrar of Births, Deaths and Marriages must cancel any former entry in the Register relating to the child and make a fresh entry containing a statement of the date and place of birth of the child and the names of the adoptive parents. However, currently, the Court can direct the Registrar not to cancel an entry (under a scheme set out in existing section 41(2) and (3)).

This amendment proposes to substitute a new section 41 and 41A:

## 41—Registration

Proposed section 41 sets out a scheme relating to the making of entries and access to information in the Register (under the *Births, Deaths and Marriages Registration Act 1996*) with respect to adopted persons.

The Registrar is no longer required to cancel entries on adoption of children. Instead, on adoption, the Registrar must add a note to the entry in the Register of births relating to the child containing the names of the adoptive parents (if the child's birth is registered in this State). For children born outside the State, the Registrar must make an entry containing a statement of the date and place of birth of the child and the birth parents of the child (if known) as well as the adoptive parents.

In relation to an adopted person who is less than 18 years of age, subject to some exceptions, the Registrar must not allow any person access to information contained in an entry in the Register of births with respect to the adopted person. Proposed subsection (4) sets out the exceptions. Basically, the exceptions are—

- a party to an adoption may access information in the Register about the adopted person if a *consent notice* has been given by the parties to the adoption; and
- certain parties are allowed access to certain information (as set out in the subsection).

Where access is given under subsection (4), it includes access to a *cancelled entry*, which is defined to mean any entry formerly made in the Register relating to an adopted person that was cancelled by the Registrar before the day on which proposed section 41 comes into operation.

In relation to an adopted person who is aged 18 years or more, subject to proposed section 41A, the Registrar may allow access to information contained in an entry in the Register of births with respect to the adopted person (see proposed subsection (6)).

Where access is given under subsection (6), it includes access to a *cancelled entry* as follows:

- the adopted person or a birth parent may have access to the cancelled entry; or
- any other person may have access to the cancelled entry if the Chief Executive authorises the Registrar to give access to the cancelled entry.

Such authorisation cannot be given if the Chief Executive is of the opinion that to do so would give rise to a serious risk to the life or safety of a person.

Provision is made for a statement of wishes (about contact) given under section 27B to be provided by the Registrar when giving access to the Register.

41A—Limitation of right to access information on register relating to person adopted prior to commencement of Act in certain cases

The purpose of proposed section 41A is to continue old section 41 directions in effect for 5 years after the commencement of the measure and retain the current rules about access to information on the Register where an old section 41 direction remains in place.

Currently, the Registrar must not, except on the authorisation of the Chief Executive, allow any person access to information contained in—

- an entry cancelled under subsection (1) of old section 41 (being entries cancelled from 17 August 1989 until the commencement of new sections 41 and 41A); or
- an entry in the Register of births relating to a person who was adopted before the 17 August 1989 (the day on which the *Adoption Act 1988* commenced).

Moreover, currently, the Chief Executive cannot give the Registrar an authorisation to allow access to such information relating to a person adopted before the 17 August 1989 if a birth parent of the adopted person has directed the Chief Executive not to do so (an 'old section 41 direction').

Proposed section 41A continues any old section 41 direction in effect at the time of commencement of the provision for another 5 years, at which time it ceases to have effect. The Chief Executive must not, in contravention of an old section 41 direction, authorise the Registrar to allow access to—

- information contained in an entry cancelled under subsection (1) of old section 41 (being entries cancelled from 17 August 1989 until the commencement of new sections 41 and 41A);
- information in an entry relating to a person who was adopted before 17 August 1989.

In connection with the continuation of old section 41 directions, proposed section 41A(3) provides that the Registrar must not, except on the authorisation of the Chief Executive, allow any person access to the information referred to in the above 2 dot points.

However, even while old section 41 directions continue, adopted persons who have turned 18 and birth parents may be given access to information contained in an entry cancelled under subsection (1) of old section 41 without the authorisation of the Chief Executive.

#### 32—Amendment of section 42—Regulations

One amendment relates to ensuring that the terminology in the regulations (which currently refer to 'fit and proper' persons) matches the terminology in the Act ('suitable' persons).

Another amendment allows the maximum penalty for a breach of a regulation to be fixed at \$10,000.

Debate adjourned on motion of Mr Treloar.

### NOTARIES PUBLIC BILL

#### *Final Stages*

Consideration in committee of the Legislative Council's amendments.

(Continued from 20 September 2016.)

**The Hon. J.R. RAU:** I move:

That the Legislative Council's amendments be agreed to.

Motion carried.

### JUSTICES OF THE PEACE (MISCELLANEOUS) AMENDMENT BILL

#### *Final Stages*

Consideration in committee of the Legislative Council's amendments.

(Continued from 20 September 2016.)

**The Hon. J.R. RAU:** I move:

That the Legislative Council's amendments be agreed to.

Motion carried.

### CRIMINAL LAW CONSOLIDATION (MENTAL IMPAIRMENT) AMENDMENT BILL

#### *Second Reading*

Adjourned debate on second reading.

(Continued from 4 August 2016.)

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (15:45):** I speak on behalf of the opposition to deal with the Criminal Law Consolidation (Mental Impairment) Amendment Bill 2016 and indicate that we will be consenting to the bill. This is a bill introduced by the Attorney-General on 4 August 2016 and it substantially amends a division of the Criminal Law Consolidation Act relating to mental competence and touches on provisions under the part covering intoxication.

The most concerning thing about this bill is that it has taken since November 2014 to come to this house. It is an important piece of reform. The Sentencing Advisory Council has, obviously, produced a lengthy report in dealing with the review of mental incompetence and how it is involved and applied in our criminal justice system. It is one which does affect questions of sentencing but, in this case, the bill relates to how we deal with the determination of mental impairment and culpability of a party in respect of their having committed a crime.

The delay is inexplicable. The consultation process by the Sentencing Advisory Council was, clearly, comprehensive and the data extensive, and it is just disappointment after disappointment from this government, when they have a piece of reform which obviously justifies being dealt with in a timely manner, and they drag the chain. In any event, let us go to the report itself. It included legislative reform dealing with the test of mental incompetence, the fixing of limiting terms and the supervision of defendants released on licence (that is, they have been dealt with and found to be mentally incompetent).

The position ought to be made clear (and I think, probably, the Attorney did so in his second reading) that, essentially, we require in our criminal justice system that someone is fit to plead and has the mental capacity to have formed a view and undertaken conduct for which they should be found to be culpable and there has to be a finding, essentially, of that competence—which, it is fair to say, is presumed, unless an application is made for the protection of a finding of mental incompetence.

Historically, members will be aware that this played a very strong part in our criminal justice system and was much sought after in the days when felonies resulted in execution. The death penalty being a very final sentence for someone accused of murder or some other serious felony meant that the accused might favourably consider it as something worthy of applying for if it was to avoid the gallows. Nowadays, I think it is fair to say that, although someone has been declared mentally incompetent, in respect of assessing culpability for an offence and avoiding the conviction and sentencing process, they still have to comply with certain obligations, most often to be released in a circumstance of licence, so that they have to agree to do or not do certain things and that privilege can be withdrawn.

Anecdotally, concern had arisen that this process of applying to be mentally incompetent, almost as a defence to avoid the conviction, was being too easily granted. It was apparently being used by people who did not strictly have mental incompetence standards which would be acceptable or a mental health disorder. In short, I think it is fair to say that, when the statistics were looked at, although they disclosed that almost a quarter of the offenders who had successfully used the mental incompetence argument were suffering from an impairment caused by drug-induced psychosis or from substance abuse or dependence, we did not actually have a breakdown of what degree of impairment was caused by the psychosis and/or the substance abuse.

It is interesting data. I think it is fair to say that when one reads the Sentencing Advisory Council report and looks at the statistics, they are highly qualified in this report for good reason, so although the Attorney-General's office has made provision for these statistics with no reason to doubt them, the fact is that there is no breakdown of the level of comorbidity, if I can use that general description. Therefore, that certainly leaves it open to some criticism, if the development of the amendments here are based on that data, so I do not rely heavily on that in considering this matter or, indeed, advising this side of the house on this matter.

I think it is reasonable to take into account that, aside from the data, the personnel who comprise the Sentencing Advisory Council are senior in their field. They comprise Queen's Counsel, former prosecutors, former Supreme Court judges, and other members of the community who are concerned about mental health, including a representative from the public advocate's office. We have

senior people who know what they are talking about, who have had extensive experience and who represent a very broad spectrum for this consideration. On that basis, I thank them for their report and say that I think it is reasonable that we take into account their views.

The Parole Board chair, for example, Frances Nelson QC, was a member of the board and obviously has expressed the view that she felt that, as a result of the current regime continuing, it is at least likely that there are people currently housed in James Nash House, having received the benefit of a mental impairment diagnosis as such and incompetency declaration, taking up valuable space—they are not her words, they are mine—when frankly they probably should have been in prison.

This is an issue that is dear to my heart because that would be very disappointing, given the precious resource of the number of forensic mental health beds in this state. Whilst there has been a stepdown program added to James Nash House under this government—a small 15-bed facility, I think—we still have a chronic overload of people who are clearly suffering from mental health conditions and are forced to be housed and accommodated in other facilities, particularly prisons. It is totally unacceptable.

This bill suggests that it is remedying an ill—that is, to make sure that those who are in James Nash House and have the benefit of the support in there are truly mentally incompetent. The way this bill addresses a toughening up of the gatekeeping to get into and benefit from that facility is to make it clear that the defendant, to be determined under its definition of 'mental incompetence', is totally unable to control his or her conduct. A partial inability is just not sufficient.

With the remedies that are recommended in the amendments, there is to be a heightening of the concept of community safety being paramount in considering whether someone be released on lease or licence, in addition to making it a harder threshold to be able to actually access and qualify for the mental incompetence protections that come with that. This bill also provides for a 14-day detention for a licensee where future breaches are likely or treatment is required. I note that is unsurprisingly opposed by the Law Society.

Whilst I think it is fair to say they are not overjoyed about the way the government are proposing to tighten the gatekeeping and threshold, they do support an alternate regime for summary and minor indictable offences. They remain totally opposed to a 14-day detention, and there is some merit in that. The fact is that these people, if they are determined to be unwell, should not be detained. If you are not competent to be tried for the offence, then you should not be punished if you then breach a licence.

Frankly, this raises the question about whether they are fit to even enter into the agreement to actually do or not do whatever is required under the terms of the licence in the first place. In any event, I appreciate this is a difficult area. It is difficult for the judges who have to make the assessments and determinations, but it is not unreasonable that the Law Society has raised this issue.

The alternative is that they can be left at large, but this bill is making the determination that they should be detained. My great concern is that by putting a 14-day detention option into this bill, it means that we are doing something that is inconsistent with the way we have treated people in this circumstance. I am with the government on saying, 'Let's toughen the threshold level.' I am not overjoyed about this 14-day detention, but in reality, we know that at present some of these people are going to gaol. I recently asked questions in the parliament on behalf of a 35-year-old woman who was being held at the Women's Prison. I am pleased to report that she has finally been transferred to James Nash House.

It is completely unacceptable that these people be imprisoned. Be that as it may, the reforms are there. As I indicated, there will be a provision to tighten up the definitions under part 8 of the act (the intoxication provisions) as well. I indicate that the opposition is supportive of the bill. We can only hope that if the government's commitment to tidying this up results in some extra bed space for those who are languishing in prisons and other places who should be in forensic mental health places, then that is a good thing.

The public need to be on notice that, to have access to a mental incompetence declaration, they need to have an understanding that they will not be let in easily to this if they are under the influence of drugs, and that is being dealt with by requiring a total inability, rather than a partial inability. Those on drugs are on notice.

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (16:00):** I thank the deputy leader for her contribution today, and can I genuinely say that it is great that we have a unanimity of views about these things. Like the deputy leader, I have come to the conclusion that we did need to close the entry point a bit here, and for those fewer people who get through the entry point I think we need a system with more rigour. Hopefully, we are going to be delivering that with this bill.

I also thank the Sentencing Advisory Council. I think they have done a very good piece of work here. It is a necessary, extremely complex area of law, with lots of complex policy issues sitting behind it, resulting in our having a good report. We have spent some time on it—quite frankly longer than I would have liked, deputy leader, because I like to get things done, but sometimes our best attempts at getting things done are frustrated by circumstances beyond our control.

Nevertheless, I think it is fair to say that because this has been the subject of quite lengthy consideration, the product is pretty good. I would like to thank all those who have worked on it. I will relay back to those with whom I work the chastisement I have received from the deputy leader about how long things take because, if I am getting a bit of stick from the deputy leader on this basis, I want to share it around with those people who—

**The DEPUTY SPEAKER:** Deserve it more than you?

**The Hon. J.R. RAU:** —do not understand the pressures I am under. They do not understand the pressures I am being put under; that is the problem. Everyone has done a very good job with this. I thank them all and I thank the deputy leader for her support.

Bill read a second time.

*Committee Stage*

In committee.

Clauses 1 to 22 passed.

Clause 23.

**The Hon. J.R. RAU:** I move:

Amendment No 1 [AG-1]—

Page 15, lines 18 to 23 [clause 23, inserted section 269UA(5)(c) to (h) (inclusive)]—Delete inserted paragraphs (c) to (h) (inclusive) and substitute:

(c) with the permission of the Court—any other person with a proper interest in the matter.

Amendment No 2 [AG-1]—

Page 17, line 19 [clause 23, inserted section 269UC(2)]—Delete '6 months' and substitute '12 months'

Amendment No 3 [AG-1]—

Page 17, line 27 [clause 23, inserted section 269UD(2)]—Delete 'person to whom the particular decision relates' and substitute 'defendant'

Amendments carried; clause as amended passed.

Remaining clauses (24 to 29) and title passed.

Bill reported with amendment.

*Third Reading*

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection**



**Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (16:05):** I again thank the Deputy Leader of the Opposition and my advisers for the swift passage of this bill. I move:

That this bill be now read a third time.

Bill read a third time and passed.

### **STATUTES AMENDMENT (SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL) BILL**

#### *Second Reading*

Adjourned debate on second reading.

(Continued from 4 August 2016.)

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (16:06):** I rise to speak to this bill and indicate that we will be supporting the passage of the bill. We are still consulting with some groups, and we indicate that we may need to reserve our position on any possible amendments in the Legislative Council. The Hon. Rob Lucas has assisted the opposition in advising us on this matter, as he covers industrial relations matters for the opposition. I indicate that to date we have received some responses from Business SA and the Australian Industry Group, which does not fill us with confidence in respect of the support for this bill, but there may be a number of other stakeholders who wish to express a view.

I also indicate that I have spoken to some in the profession who deal with areas in respect of employment law, and there has been a general indication of support from those who practise in this jurisdiction. I understand that the Law Society of South Australia has not put in a submission and will not be doing so. We are assuming that they are quite agreeable to the bill that is being presented, otherwise I am sure that we would have heard from them. As I say, there are a number of matters that have been raised by the two significant stakeholders who have responded.

This bill was introduced on 4 August by the Attorney as the Minister for Industrial Relations. The rationale for this bill is that it is to establish a one-stop shop for employment-related disputes at the South Australian Employment Tribunal. It is not a jurisdiction with which I am overly familiar, but my understanding is that apart from back pay disputes, which can relate to anybody in South Australia in an employment situation, largely this is an area of industrial matters that relate to the government as the employer or local government as the employer in disputes with their employees. We are talking about public servants, whether they are supporting local or state government.

Members might recall that some years ago in South Australia this parliament agreed with the government to allow industrial disputes between all except public servants in the state or council arena to be transferred to the Fair Work Commission and dealt with at a federal level. We were left with a structure, I think it is fair to say, that would have been built for a much more expanded area of dispute down to a smaller pool.

When the government in 2014 (I contributed to that debate) appointed under statute the South Australian Employment Tribunal, which was to establish a tribunal with jurisdiction to review decisions on employment and to confer powers to that tribunal, it was to coincide with return-to-work legislation that had been advanced and passed, and there was to be a new era in respect of the return-to-work regime and its implementation and enforcement.

The model that was promulgated in the statute we are now amending followed the model undertaken in SACAT (the South Australian Civil and Administrative Tribunal), which had similarly been established in the preceding year, and then accepted jurisdictions on guardianship and residential tenancy disputes and valuer-general disputes, as I recall. However, largely that entity has been left untouched since, notwithstanding promises from the government that they were going to transfer many other jurisdictions to that entity. We have not seen those bills as promised.

I was particularly looking forward to the transfer of the Freedom of Information Act application appeals, which of course still have to wallow away in the old District Court. Nevertheless, that promise has not been fulfilled. The government went out after the 2014 election in a consultation frenzy of reviews, and we had 'transforming' everything. We ended up with Transforming Health, which of course is a complete disaster. We had Transforming Criminal Justice, which had some good points

and bad, and we also had the Transforming Employment Dispute Resolution issues paper and policy statement, issued in April last year, to deal with reform in this area.

Ultimately, having got through the election, the government were desperate for ideas. They went out to the public to try to get some response to what they might do. It is fair to say that in this jurisdiction it was not unreasonable that, if they were going to have a separate court to deal with workplace injury disputes, it would be extended to other areas of employment law and the disputes that needed to be determined with it.

I could never understand why the return-to-work disputes were not put into SACAT. It is exactly the same model. It was a model that was to bring in a regime where you had a president, a deputy and magistrates and you had power to compel to give evidence. There were to be provisions for expert reports and it was to be a no-cost jurisdiction. This was sympathetic with the industrial dispute regimes that existed, and it was consistent almost exactly with the model that was supplied to SACAT.

Why did it never go into that? The only reason I was ever given was that they needed to get on with transferring other jurisdictions into SACAT, that is, guardianship and residential tenancies. As I say, they were busy doing that and there really was no time. On 1 July, a date that was in imminent—namely, 10 months later—they needed to get something in place for the new WorkCover legislation. That was the explanation given. I suspect it was more in line with those who were members of the various panels and tribunals that have existed independently of SACAT wanting to remain in place and not have their positions wiped out. I suspect that that is the real reason. Nevertheless, having set up a separate tribunal, it is not unreasonable that, under this bill, we then transfer the other areas of employment dispute to the Employment Tribunal.

Consultation on this is interesting. It is fair to say that one of the aspects under consideration is who should appoint commissioners and the like in this tribunal, especially with other existing entities like the industrial commission now to be transferred. The groups consulted were a whole list of employee associations, which, of course, are largely unions—everything from the Ambulance Employees Association of SA to United Voice, with about 40 or so unions or employee representative bodies in between—and the employer associations which, of course, include Business SA and a number of other associations representing industry.

Some judicial members were consulted, which is reasonable, as well as the other 'usual suspects'—if I can describe them that way—including the Law Society and the Australian Lawyers Alliance. The consultation was extensive to the extent of what has been dealt with. Two parties so far have introduced some concern. Firstly, Business SA supported in principle the establishment of the South Australian Employment Tribunal. They are happy to welcome some simplifying process if it reduces red tape and achieves cost-effective outcomes. Those are always welcome initiatives and Business SA confirms that.

However, they are concerned about loss of expertise, lack of stakeholder consultation and what they describe as 'an increasingly legalistic approach to employment disputes'. There was, I suppose, some scepticism as to what would be delivered for the practical outcomes sought by employers. In respect of the claim of loss of expertise, what I have seen in the bill really relates to a new order as to the appointment of those who are to be on the panels, etc. Historically, these personnel have been nominees of the associations or the respective unions or, at least, a number of candidates from whom the government can choose.

I think it is fair to say that, if this was the Attorney's view in having a different regime—which I agree is consistent with what I would now call a skills-based type appointment model rather than a representative body appointment—as much as these associations or unions think they are a voice of their group, the fact is that they usually have only a small number of their membership in those unions or associations. Indeed, if one looks at the profile of the members of Business SA, it is pretty clear that they do not represent the business community in South Australia.

They have some membership of it but, in fact, a number of industries have their own representative bodies and they, too, do not always have amongst their membership anywhere close to a majority of the businesses that operate. It is so, too, for unions, which may well have the interests of their members at heart, but may well not represent the views of an extended group.

Even if one looks at a highly unionised workforce like the train drivers in South Australia, I note that, in the course of a recent enterprise bargaining process, they had their union representative quite appropriately discussing with the government the terms of a new enterprise agreement. There has been a breakaway group. I cannot remember the name of the chap who headed it now but, in any event, he purported to represent those in the driving or signalling community of that industry. This is a real-life, contemporary example of where to simply nominate a particular association or union as being the body that is appropriate to nominate a representative falls foul of what I think is an acceptable test.

In the last 14½ years, I must say there have been plenty of bills that have come into this parliament where the poor old industry groups and unions have been smashed along the way when it comes to being able to actually nominate members of boards, but there are also a number of boards that have just been abolished and repealed. Certainly, I will say the government have been consistent on one thing.

Firstly, they have salvaged a number of unions along the way, but can I say they have at least put into the statutes some skills-based criteria or experience criteria for consideration. Whilst current or future ministers might still have a very large area of discretion in respect of the appointments they ultimately put to cabinet and approve, the fact is there are some guidelines there and there is, I suppose, at least on the face of it, some administrative law that helps to support that.

I also refer to the Australian Industry Group. They actually outright oppose the bill and its intention to extend the Industrial Relations Court. They do not see that it is appropriate for it to have the jurisdiction to deal with damages claims regarding alleged breaches of contract for employment, including claims for reasonable notice where employment is terminated. Currently, those claims need to be pursued in the state courts, such as the District Court.

The Australian Industry Group are very concerned that we are moving into a tribunal model which is not the same I should not say 'standard' because it is a different model approach, but they say that the District Court, Supreme Court or industrial court, which has been transferred, are the better courts to deal with a number of these matters, and that even things such as unfair dismissal matters could of course come into this area.

If I can just say one other thing about this bill, I and, I am sure, other members are mindful of the fact that, when we talk about employment disputes, we are talking about disputes between the government and an employee, or a local council and an employee, for most of the disputes that we are talking about. In the back pay of wages or in return-to-work disputes, obviously, we are talking about everyone but big business and the government because we are talking about all of those who are in—

*The Hon. J.R. Rau interjecting:*

**Ms CHAPMAN:** I beg your pardon, it does include those, and the Attorney is quite right. It deals with those who are bound by the Return to Work Act, that is, government, self-insureds—the former is actually a self-insured—and those who are bound to pay a levy through the Return to Work Act through the corporation, and this tribunal is going to have a much more expanded role.

I am a bit cautious about some of the concerns that have been raised, and the Hon. Rob Lucas has certainly raised some concerns, so I would like to reserve our position on what may be considered in the other place. I see I have just been handed a number of amendments. I am sure the Attorney will explain what they mean and who has asked for them.

**The DEPUTY SPEAKER:** The member for Hammond is going to make a contribution.

**Mr PEDERICK (Hammond) (16:25):** Thank you, Madam Deputy Speaker, for noticing me. I rise to speak to the Statutes Amendment (South Australian Employment Tribunal) Bill, and note that last year the Attorney-General's Department released the Transforming Employment Dispute Resolution, which outlined the rationale for establishing the one-stop shop for employment-related disputes—one being the South Australian Employment Tribunal.

It was back on 4 August this year that both the Statutes Amendment (South Australian Employment Tribunal) Bill and the Statutes Amendment (SACAT) Amendment Bill were concurrently

introduced into the parliament, and my understanding is that the SACAT bill is consequential on this bill. The bill intends to amend the SAET Act, and a number of other acts—quite a few acts, in fact—and bring extra employment-related jurisdiction into the South Australian Employment Tribunal. These acts cover dust diseases. Jurisdictions that already exist are the Industrial Relations Court of South Australia and the Industrial Relations Commission of South Australia.

There are a whole range of acts, which include: the Construction Industry Long Service Leave Act 1987; the Fair Work Act 1994; the Fire and Emergency Services Act 2005; the Industrial Referral Agreements Act 1986; the Long Service Leave Act 1987; the Public Sector Act 2009; the Training and Skills Development Act 2008; and the Work, Health and Safety Act 2012. In education, there is the teachers appeal board and teachers classification review panels, which involve the Education Act 1972, and the Technical and Further Education Act 1975.

I know that this is about employees' rights, but it is a fascinating process, especially in the education sector, not so much with teachers generally, but with how principals and deputy principals apply for appointments and get appointed. It is an interesting process, which I believe certainly does not take into account in some of the cases put before me the wishes of local communities, especially in the country, and especially in country electorates like mine in Hammond.

I believe actions have not been conducted in the appropriate manner, and I have witnessed that, because you get people cherrypicking roles. We had a situation in my electorate where, unbeknown to a school, a teacher had recently taken up a principal's position, and I believe it was for six years. It only lasted a term because the role they really wanted came up for the interview process, and the other hiring processes, and they accepted that role.

It was very unfair on that community. I was pretty close to this. It really makes you wonder about the role of schoolteachers—and there are many excellent schoolteachers, do not get me wrong. It just seemed to me that in this case, and certainly in other cases I have come across, people could pick and choose where they worked. They can sign a contract for six years but then just walk away with no penalty.

I relate that to what happens when you are an employer, even in this role in the parliament when you employ people. When you first come into this place, you find out that the standard practice is to employ someone for the life of a member. That could be four years or 24 years and anything in between, and even longer, perhaps 40 years. That puts on a lot of constraints if you have a problem with a staff member—and these things do happen, I can assure members. It would happen on both sides of the house and, I am sure, in crossbench offices.

As agreements change over time, you have to be very aware, as the direct employer. The Department of Treasury and Finance is actually the lead employer in this case but, as the direct employer, you need to be well aware of what you are signing up for. I became aware, when I had an issue I needed to deal with, that you do not have that three-month trial period at the start of a full-time person's employment. Sure, employees have rights, but the concern I had was that all my rights had gone out the window because I was not aware that the practice of the three-month trial period had gone away.

What happens now—and I am sure I am not the only one doing it—is that if you want to put someone on and try them out, because you have just gone through an interview process and they obviously look like they can do the job and interviewed very well (and people can school themselves pretty well), you put them on a three-month contract, or you can even put them on a two-month contract or one-month contract. You have to do that in case there is a problem. Even with proven staff, once I have got them through the first few months I put them on the initial contract for 12 months. They know why; we have these discussions. It is a two-way street: you need to look after your staff, but I believe they have an obligation as well. As an employer, you just have to be aware of your rights and obligations.

This bill also affects the Equal Opportunity Tribunal, the Equal Opportunity Act 1984, the Police Review Tribunal, the Police Act 1998, the Public Sector Grievance Review Commission, the Public Sector Act 2009, the criminal jurisdiction summary and minor indictable offences Summary Procedure Act 1921 and the common law civil jurisdiction contractual disputes between employer

and employee and common law claims for damages, and this is in part 5 of the Return to Work Act 2014.

The government has made it clear that its intention in drafting the bill was that, where provisions in the act conferring jurisdiction on the South Australian Employment Tribunal replicate measures in the SAET Act, the conferring act's provisions would be deleted. Therefore, the Return to Work Act 2014, the SAET Act and the relevant conferring acts, as amended by this bill, would operate concurrently in the respective jurisdiction. The government has made the point that the bill preserves, in each of the conferring acts, specific functions, processes and powers that are unique or necessary to the respective jurisdiction.

For example, the Police Review Tribunal, although no longer having jurisdiction over terminations and transfers, would continue to have jurisdiction over promotion reviews. If special arrangements or powers are preserved by the amendments to the conferring acts, and these differ from the provisions of the South Australian Employment Tribunal Act, existing provisions in the conferring act will prevail.

From what I understand, the government intends that the relevant provisions of the employment tribunal bill will commence on 1 July 2017, and what will happen, in what I believe is consequential legislation, is that the SACAT Bill will seek to repeal part 12 of the statutes amendment act 2014 to avoid the Public Sector Grievance Review Commission being conferred on SACAT automatically in December this year.

It is to be noted that Business SA supports the principle of this bill, welcoming simplifying processes and supposedly the reduction of red tape and the achievement of cost-effective outcomes, although they are concerned about the loss of expertise, the lack of stakeholder consultation and the increasingly legalistic approach to employment disputes. One fear they have is whether the practical outcomes of this bill that are sought by employers will come.

There are also concerns (and I talked about some employers' concerns a little while ago) that the bill appears to water down employers' representation rights as are current at the moment. It is noted that the Australian Industry Group opposes the bill's intention to extend the Industrial Relations Court of South Australia's jurisdiction to deal with damages claims regarding alleged breaches of a contract for employment, including claims for reasonable notice where employment is terminated. Currently, such claims need to be pursued in a state court, such as the District Court. The Australian Industry Group is concerned that, if this bill were passed in its present form, there would be significant risk of such jurisdiction quickly becoming a de facto unfair dismissal jurisdiction for senior managers at great cost to employers.

I also note that some amendments have just been tabled by the government. As we go into more debate on this bill in the committee stage, it will be interesting to see how those arrangements and amendments will work and how the bill is supposed to improve on the practices we have in this place at the moment. I note that we are not opposing the bill, but we will be having a look at it between the houses on how it comes through the House of Assembly before it heads to the other place.

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (16:38):** I thank the member for Hammond and the Deputy Leader of the Opposition for their contributions. There were a couple of things that were raised, particularly by the deputy leader, which I should put something on the record about so that the position is clarified because I do not want there to be, to the extent that it is possible to eliminate this, misunderstandings, certainly not in the other place where occasionally I have noticed there are misunderstandings. I do not want that to happen, and I do not want people to be agitated about things they need not be agitated about.

To frame up the conversation a little, since WorkChoices came in at a federal level, there has been, in effect, a stripping-out of jurisdiction from the state industrial system. As the Deputy Leader of the Opposition said quite correctly, we are left with basically a residual industrial relations system here, where it is only public sector people who are regulated inasmuch as their enterprise

agreements, awards and suchlike are concerned. It is only public sector people who now utilise the state system.

It is not even all public sector people; it is basically state public servants and local government employees. Even then, it is not all of them. For example, there is an enterprise agreement process being undertaken in respect of train drivers. Train drivers, even though they are state government employees, are actually governed by the federal system because they are subject to federal arrangements through the rail industry. So it is not even all state employees who have that jurisdiction.

Once upon a time (and it was a simpler time) when the state commission had a broad function and pretty much covered all industries in the state, there was an argument that laypeople with experience either through the business or industry side of the equation should be appointed to become industrial commissioners. This was because they brought with them some practical knowledge or experience of industries which could be quite diverse.

Now of course the fact is that none of those industries is in the state system—none of them. The only industry that is in the state system is the public sector, so the rationale for that old structure has basically disappeared. I indicate that the next stage in this process is, once we get this through, we are going to have to have a look at the Fair Work Act and bring that into contemporary times. The state Fair Work Act, if you read it presently, is still behaving as if the whole state industrial system was intact, and of course it is not. The Fair Work Act is almost overwhelmingly a legislative framework for public sector employees, and for that reason we are going to have to have a good look at that.

Luckily, as I understand it, people at the Attorney-General's Department are just champing at the bit to get stuck into this. They cannot wait. They know how much I have been chastised already today by the Deputy Leader of the Opposition for my tardiness in getting stuff done. I got a real tongue-lashing a little while ago about how long it took me to bring in mental impairment legislation and I do not want to be treated that way again. It is very distressing for me, and when I get that distressed I like to share it with the people with whom I work. Distress shared—

**Ms Cook:** She's on the phone.

**The Hon. J.R. RAU:** It is not just for her benefit. Distress shared is distress reduced. That is my theory. The Fair Work Act is going to be worked on, and I can see happy smiling faces around the room indicating that people cannot wait to get started or in fact, even better, cannot wait to finish. The next bit was some discussion about SACAT and the Employment Tribunal.

Can I just make it clear that SACAT is an administrative review body and the analogy for that is the Administrative Appeals Tribunal at a federal level. It is designed specifically not to be a court. It is designed not to be a court, not to be captured by chapter 3 of the constitution. There are a number of good reasons for that, not the least of which is that there is a case floating around which people here may not have had to turn their minds to a great deal called Cable—not named after the great footballer, I don't believe. This Cable case creates an enormous number of problems for courts.

The functions of the South Australian Civil and Administrative Tribunal are administrative review functions; they are not the functions of a court. That is my story and I am sticking to it. I just hope that if it ever gets litigated, whatever court it goes to will form the same opinion, because we have tried very hard to make sure SACAT is not a court.

The Employment Tribunal, on the other hand, is a court. It is designed to be a court, and it is populated by people who, when they are wearing their hats as industrial commissioners or whatever—they call themselves deputy presidents—when they are doing other things, at the moment they are industrial court judges, but under the new arrangements they will be both deputy presidents and District Court judges. In fact, pretty well all of them down there are already District Court judges, but this regularises the whole thing.

The transitional situation is basically this: we have two people who are presently down there who are described as industrial commissioners. These people are remnants of the old system. We do not propose that under the new system there will be more people appointed like them and paid like them to do the job that they were employed to do, because quite frankly that work has dried up like a billabong in the sunshine. Did you like that?

**Ms Chapman:** What have they been doing for the last 10 years?

**The Hon. J.R. RAU:** Good question—but now we are fixing it up.

**The DEPUTY SPEAKER:** No sunshine. No sunshine on the billabong.

**The Hon. J.R. RAU:** I am being corrected: it has reduced significantly. I thought 'dried up like a billabong in the sunshine' sounded better; but it has reduced significantly. There is a concern out there—we have received a lot of representations from different people who said there is some attachment to the concept of a commissioner. It is almost a historical thing, that people do not like to get rid of the word 'commissioner', so the amendments I have just circulated will simply—

*Ms Chapman interjecting:*

**The Hon. J.R. RAU:** It will not change anything. All it will mean is that the people who are presently conciliation officers, and are paid as conciliation officers, and are employed through a completely—this is the other point that was made by the deputy leader. The process of appointing those people is we put an ad in the paper, people express interest, we have a selection panel, and all comers can come forward. We ask the selection panel to recommend the best people and ultimately that comes to the minister of the day to make appointments. That is the process; it is a transparent process. The amendments that I have filed simply say that the people who are presently called conciliation officers will be called commissioners.

**Mr Pederick:** It just puts a new name there.

**The Hon. J.R. RAU:** It just puts a new name there, that is all it does. It does not mean they are attracting all of the current emoluments of a commissioner. It just means that the two existing commissioners—I am not sure how much longer they want to stay there—have been sort of red-circled. When they finish, that will be the end of it.

There are a couple of responses to the concern by Business SA about not being able to have laypeople there. Firstly, as the deputy leader said in her remarks, this is a public sector employment tribunal predominantly in the industrial context. Why Business SA should have any concern about what is going on in there, I do not know, because it really has nothing to do with them. It does not touch them. That is a bit of a furphy, I think.

It was the case, though, that once upon a time both business and employee groups had a view that it was their turn to have somebody put forward for appointment to a job as a commissioner. What I am saying is that that particular regime is going to finish with this, and when the existing two remnant commissioners—and I have not appointed a commissioner in my whole time as an industrial relations minister for the reason that I thought the position had become largely redundant, or increasingly redundant—are gone, that is it. That is the end to it.

The other thing of course is that the deputy presidents are in fact District Court judges. The point made—I cannot remember if it was made by the deputy leader or the member for Hammond—about some people saying that they are a bit anxious about people in the Employment Tribunal hearing certain matters, they need to remember that these people are in fact District Court judges. As to the idea that 'They should not be hearing them there, they should be hearing them in the District Court,' they are actually District Court judges. Two of them are magistrates, that is true, but they basically hear money claims and we are not likely to be doing much to their practical workload.

I hope we can get this thing through both houses successfully. I am very happy to organise briefings for the deputy leader and/or Mr Lucas.

**Ms Chapman:** I have had it.

**The Hon. J.R. RAU:** You have had it, good. If there are any further questions or anything we can resolve between the houses so that we do not have misunderstandings about what we are doing, I am happy to be of assistance and obviously clearly happy to meet with Mr Lucas, if he wishes to do so, to discuss any of these matters. At this stage, what we would like to do is go into committee so that I can deal with the amendments that I have just foreshadowed which, as I indicated, do one thing and one thing only, and that is where in the bill—no, there are some more things.

**The DEPUTY SPEAKER:** We are back to the billabong, I think.

**The Hon. J.R. RAU:** Back to the billabong. I will wait for them to turn up. Let's go into committee.

**The DEPUTY SPEAKER:** Why don't we read the bill a second time first.

**The Hon. J.R. RAU:** That is a good idea.

Bill read a second time.

*Committee Stage*

In committee.

Clauses 1 to 3 passed.

Clause 4.

**The Hon. J.R. RAU:** I move:

Amendment No 1 [IndustRel-1]—

Page 8, lines 7 to 9 [Clause 4(1)]—Delete subclause (1) and substitute:

- (1) Section 3(1), definition of *conciliation officer*—delete the definition and substitute:  
*Commissioner* means a person holding office as a Commissioner of the Tribunal;  
*decision*, of a person or body (other than the Tribunal) under an Act includes a direction, determination or order of that person or body;

Can I just expand on my not entirely comprehensive comment before.

**The DEPUTY SPEAKER:** About the billabong?

**The Hon. J.R. RAU:** What most of this does is take the words 'conciliation officer' and rubs them out and inserts the word 'commissioner'. That is all it is doing. There was another matter that came up, I am reminded, in consultation, which this bill does deal with in due course, which was to assure people that whatever the current arrangements are in respect of costs will not be disturbed merely by reason of this bill being brought in. That was to calm people who might have thought that suddenly a no-cost jurisdiction was becoming a costs-based jurisdiction or whatever. It preserves the status quo in that respect.

Amendment carried; clause as amended passed.

Clauses 5 to 7 passed.

Clause 8.

**The Hon. J.R. RAU:** I move:

Amendment No 2 [IndustRel-1]—

Page 10, lines 36 to 38 [Clause 8(2)]—Delete subclause (2) and substitute:

- (2) Section 9(d)—delete paragraph (d) and substitute:  
(d) the Commissioners; and  
(e) the supplementary panel members.

Amendment carried; clause as amended passed.

Clauses 9 to 12 passed.

New clauses 12A, 12B, 12C and 12D.

**The Hon. J.R. RAU:** I move:

Amendment No 3 [IndustRel-1]—

Page 14, after line 24—Insert:

12A—Substitution of heading to Part 2 Division 3 Subdivision 5

Heading to Part 2 Division 3 Subdivision 5—delete the heading to Subdivision 5 and substitute:



Subdivision 5—Commissioners

12B—Amendment of section 16—Appointment of Commissioners

- (1) Section 16—delete 'conciliation officer' wherever occurring and substitute in each case:  
Commissioner
- (2) Section 16—delete 'conciliation officers' wherever occurring and substitute in each case:  
Commissioners

12C—Amendment of section 17—Commissioner ceasing to hold office and suspension

- (1) Section 17—delete 'conciliation officer' wherever occurring and substitute in each case:  
Commissioner
- (2) Section 17—delete 'member' wherever occurring and substitute in each case:  
Commissioner
- (3) Section 17—delete 'member's' wherever occurring and substitute in each case:  
Commissioner's

12D—Amendment of section 18—Supplementary Commissioners

Section 18—delete 'conciliation officer' wherever occurring and substitute in each case:  
Commissioner

New clauses inserted.

Clauses 13 and 14 passed.

Clause 15.

**The Hon. J.R. RAU:** I move:

Amendment No 4 [IndustRel-1]—

Page 15, lines 36 to 38—Delete the clause and substitute:

15—Amendment of section 20—Who presides at proceedings of the Tribunal

Section 20(3)(d)—delete paragraph (d) and substitute:

- (d) Commissioner;
- (e) supplementary panel member.

Amendment carried; clause as amended passed.

Clauses 16 to 25 passed.

Clause 26.

**The Hon. J.R. RAU:** I move:

Amendment No 5 [IndustRel-1]—

Page 20, lines 8 to 10—Delete clause 26 and substitute:

26—Substitution of section 52

Section 52—delete the section and substitute:

52—Costs

- (1) Subject to this Act or a relevant Act, parties bear their own costs in any proceedings before the Tribunal (other than proceedings assigned to the South Australian Employment Court to which section 26B applies).
- (2) If the Tribunal makes an order for the payment of costs and does not fix the amount of costs, that amount is to be assessed and settled in accordance with the rules.

Amendment carried; clause as amended passed.

New clause 26A.

**The Hon. J.R. RAU:** I move:

Amendment No 6 [IndustRel-1]—

Page 20, after line 10—After line 10 insert:

26A—Amendment of section 53—Costs—related matters

Section 53(1)—delete 'The power of the Tribunal' and substitute:

Any power of the Tribunal under this Act or a relevant Act

New clause inserted.

Clause 27.

**The Hon. J.R. RAU:** I move:

Amendment No 7 [IndustRel-1]—

Page 20, line 14 [Clause 27(1), inserted subsection (1)(a)]—Delete inserted subsection (1)(a) and substitute:

(a) a Commissioner; or

Amendment carried; clause as amended passed.

Clauses 28 to 35 passed.

Clause 36.

**The Hon. J.R. RAU:** I move:

Amendment No 8 [IndustRel-1]—

Page 25, after line 28—Insert:

(5) A person who was, immediately before the relevant day, a conciliation officer of the Tribunal will continue in office as a Commissioner of the Tribunal on the same terms and conditions as applied to the person immediately before the relevant day.

Amendment carried; clause as amended passed.

Clauses 37 to 46 passed.

Clause 47.

**The Hon. J.R. RAU:** I move:

Amendment No 9 [IndustRel-1]—

Page 35 after line 29—After inserted section 22 insert:

22A—Costs generally

(1) SAET may only, in the exercise of jurisdiction under this Act, make an order for costs where specifically authorised to do so under this Act.

(2) Subsection (1) does not apply in relation to proceedings that constitute an appeal under the *South Australian Employment Tribunal Act 2014* in respect of the exercise of jurisdiction under this Act.

Amendment carried; clause as amended passed.

Clauses 48 to 61 passed.

Clause 62.

**The Hon. J.R. RAU:** I move:

Amendment No 10 [IndustRel-1]—

Page 46, line 22 [Clause 62(5)(b)]—Delete 'conciliation officer' and substitute 'Commissioner'

Amendment No 11 [IndustRel-1]—

Page 46, lines 29 to 31 [Clause 62(5)(b)(iii)]—Delete subparagraph (iii)

Amendments carried; clause as amended passed.

Clauses 63 to 90 passed.

Clause 91.

**The Hon. J.R. RAU:** I move:

Amendment No 12 [IndustRel-1]—

Page 55, lines 26 to 28 [Clause 91, inserted Schedule 1(2)]—Delete '1 or more members of the panel established under subclause (1) should sit as a member of the Tribunal' and substitute:

the Tribunal will sit with 1 or more members of the panel established under subclause (1)

Amendment carried; clause as amended passed.

Clauses 92 to 145 passed.

New clause 145A.

**The Hon. J.R. RAU:** I move:

Amendment No 13 [IndustRel-1]—

Page 74, after line 24—Insert:

145A—Amendment of section 220—Contravention of WHS undertaking

Section 220(5)—delete subsection (5)

New clause inserted.

Remaining clauses (146 to 155) and title passed.

Bill reported with amendment.

*Third Reading*

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (16:59):** I move:

That this bill be now read a third time.

Bill read a third time and passed.

### **STATUTES AMENDMENT (SACAT) AMENDMENT BILL**

*Second Reading*

Adjourned debate on second reading.

(Continued from 4 August 2016.)

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (17:00):** The opposition will support the Statutes Amendment (SACAT) Amendment Bill 2016, as it is consequentially necessary to deal with the outcome of the bill we have just passed. On the assumption that that follows its normal passage, this is required. Can I say, however, how deeply disappointed I am that, when opening the SACAT bill, we are not transferring the next trove of jurisdictions that the government promised they would transfer after Guardianship and the Residential Tenancies Tribunal. On 17 May this year, the Attorney-General made a ministerial statement in which he confirmed SACAT's establishment and its transfer of these jurisdictions, together with the Valuer-General disputes, which the opposition pushed to be included. He said:

Since commencing operation, SACAT has been faced with challenges associated with the centralisation of separate decision-making bodies into a single tribunal. Challenges include the operational challenges of converting from a paper-based working model to an electronic paperless case management system, and workload issues associated with a more accessible tribunal.

He went on to say that, as a result, there was going to be a go-slow progression of this bill. It has obviously gone to completely glacial inaction. That is very concerning because we are the last

jurisdiction in Australia to have an administrative tribunal. We have literally dozens of jurisdictions waiting to be transferred. The District Court is so overburdened that it has two-year waiting lists for trials. We are below the complement of judges in our superior courts; yet, the government persists in not getting this tribunal up and running.

It would have been acceptable if the two areas that were being transferred were actually going to be relocated into another building but, in fact, we had an upgrade of two chambers—for a District Court judge and a Supreme Court judge to have some new rooms and redecoration—and we had a change of a sign above the courtrooms that operated in exactly the same places. The Guardianship Board still operates at Collinswood in the ABC building. The Residential Tenancies Tribunal still operates in the same premises. They literally had to change the headings of the paperwork and the sign above the door.

It is nonsense to think that this government has not been able to progress an important area of reform. We fully supported the government to do it. This started back in 2013, and two and a bit jurisdictions have been transferred—that is all, out of hundreds of areas of reform that were to be transferred. I just cannot believe that the government could be so incompetent that we are opening up this bill to accommodate an expansion of a model in relation to employment law and we do nothing to deal with what are supposed to be all the benefits of this tribunal in the other model. It is very disappointing. The mark out of 10 is minus five.

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (17:03):** Again, a tongue-lashing that I will not be able to forget in a while, like the other one I got earlier today. I assure the deputy leader (member for Bragg), that I am going to take a photocopy of that and send it to those with whom I work and say, 'Look, every time you slow one of my things down, I cop one of these.' It reminds me, actually, of a scene in, I think, *The Philosopher's Stone*, when Ron Weasley receives a Howler from his mother. It might have been the other one, when he took that car that he was not supposed to take. I cannot remember the detail.

The point is that I am as frustrated as the Deputy Leader of the Opposition is about how slow this is, I really am. It is frustrating for me that things take so long. I am pleased though that some of the people who should be hearing this are now obviously within earshot because this is the sort of thing that should have happened ages ago and has not. I accept the criticism, harsh though it is, that things should have moved more quickly.

Nobody is more disappointed than me that SACAT is taking so long to get running at its full strength, but what I have done, Deputy Leader of the Opposition, is something I hope you will approve of. Recently, I called all of the people I needed to speak to into a room and I said, 'Sooner or later, the Deputy Leader of the Opposition is going to get stuck into me about how long this damn thing is taking. I want action.' They promised me that would happen, and I have just checked a few moments ago, and I am told that, very soon, I do not know if we have any idea how soon 'very soon' is so I can put it on *Hansard*—

**Ms Chapman:** Put that in his performance contract.

**The Hon. J.R. RAU:** Yes, it might be in a contractual document that certain people receive. That is a good idea actually, thank you. I thank the deputy leader for that very good idea. Anyway, I hope I will have something here before too long, which means this year, in a week or two, maybe two weeks, which actually transfers the balance of the staff across to SACAT with switches so that we can switch it on as soon as the admin arrangements are done. I do not enjoy these scoldings, but I do act upon them and I do go back to those who I work with and say, 'I have been scolded again. I cannot take much more of this.'

**The DEPUTY SPEAKER:** You are not misleading the house, are you?

**The Hon. J.R. RAU:** I really do not like being chastised for being slow or not getting on with it—that does not sit comfortably with me—so I am going to be taking a copy of this *Hansard*. Some people probably did not hear the full contribution, and I think they need to hear it so they understand that, when we say we are going to do something, we damn well have to do it. It is fair enough for the

deputy leader to scold me about the fact that we have taken too long, but I am reliably informed that, this year, the problem to which she has referred will be fixed.

Bill read a second time.

*Third Reading*

**The Hon. J.R. RAU (Enfield—Deputy Premier, Attorney-General, Minister for Justice Reform, Minister for Planning, Minister for Industrial Relations, Minister for Child Protection Reform, Minister for the Public Sector, Minister for Consumer and Business Services, Minister for the City of Adelaide) (17:07):** I move:

That this bill be now read a third time.

Bill read a third time and passed.

**BIRTHS, DEATHS AND MARRIAGES (GENDER IDENTITY) AMENDMENT BILL**

*Second Reading*

Adjourned debate on second reading.

(Continued from 4 August 2016.)

**Ms CHAPMAN (Bragg—Deputy Leader of the Opposition) (17:08):** I rise to speak on the Births, Deaths and Marriages (Gender Identity) Amendment Bill 2016, and indicate that the opposition has not formed a party position on this bill. In reference to what is colloquially often known as the members having a 'conscience vote', of course, on our side of the house every vote is a conscience vote. Frequently, we meet to form a joint party position on something and that, we hope, adds to the healthy debate and swift passage of legislation but, in this instance, we felt that would be unhelpful as, clearly, there would be an expression of a number of our members to decide, at different levels, their support.

My position is that I will support the bill. I indicate that it is a bill which the Premier introduced on 4 August and subsequently has walked away from, essentially. He has appointed the member for Reynell as his assistant minister to handle the conduct of some bills through the parliament, and we have changed our standing orders to allow that to occur. This is no reflection on the member for Reynell at all because I think that she has, in the management of this bill and another I have dealt with, promptly convened appropriate briefings, made officers available, and although I am waiting on a bit of information, largely she has provided prompt responses.

What is disappointing, though, is that the Premier swans in, makes the announcement, does the second reading and then disappears—gets the publicity for the day on matters in relation to this, and then does not follow that through. I think that demonstrates that it is all about the image of the Premier, rather than following through on matters on which he claims to have a genuine interest in and concern for reforming. In any event, the member for Reynell has had the passage of this.

The SA Law Reform Institute conducted a review in September 2015, which resulted in our gender identity inequity bill, previously dealt with. In February this year, the institute released the first of its further reports concerning the registration and recognition of sex, gender and gender reassignment. Overlapping this, in April this year the Legislative Review Committee completed its review on the Sexual Reassignment Repeal Bill 2014. Both these bodies recommended that the Sexual Reassignment Act 1988 be repealed. I agree that clearly it needs to be repealed. A new act to provide for the simpler and less invasive process for people to formally record their change of sex or gender identity was needed.

However, the level at which evidence was required that an applicant had undergone treatment, counselling and the like, was quite different. It is fair to say that the government has chosen to follow the recommendations of the Legislative Review Committee, and that of itself has brought some public criticism. I think it is fair to say, its being a committee that was presented this year, that members of our party from both houses of parliament were represented on that body, and it was a unanimous report in its recommendations. So, I do not have any difficulty in supporting the bill.

The issue of registration for a 16 year old and over has attracted some controversy. I have thought long and hard about this. I do not see it as a reason why we should not progress the bill. It does not sit comfortably with me, I would have to say. I do not see the urgency for the need to deal with registering a different gender for children who, at birth, have an unclear gender identity because we have not had that problem.

In all the time I have been in the parliament I have never had anyone come to me—a medical professional, or the AMA, or anyone—to say that there is a problem with the identification of a child at birth. There might be some question mark, and there might then need to be tests done to identify that, but no child to my knowledge has been born in South Australia and we have not been able to have some medical assessment to identify what the sex of the child is at birth. To my knowledge, there is no child registered at birth, or subsequently, whose birth certificate says 'gender unknown'.

What we are really talking about here, though, is people who elect or desire to change their sex for the purposes of being recognised at a time after their birth. I think it is fair to say that some parents allow their children (under the age of 18 ) in these circumstances to dress and present in a manner which presents to the world as the opposite sex. I think that is a matter which is reasonable for parents to work with their child on. For that reason, I am not averse to the concept that there be the capacity for the registration of a change of gender under the age of 18 years but, as I say, it is not something I sit overly comfortably with.

Frankly, we have all sorts of restrictions on what people can do under the age of 18 years and it seems bizarre to me that they will be able to go and get married, they need a Magistrates Court order, they cannot fight in a war and they cannot vote, yet they can register their change of sex. I find this a little confusing and I think there is room for some tidying up of that.

But it is not a clear and present danger, namely, an area which requires immediate attention, in my view, as a priority. There would be some people out there who want to have this issue settled, and I think it is fair to say that our current Sexual Reassignment Act 1988 is out of date and, generally, it is agreed that it is an act which needs to be repealed. We have had some very good people inquire into this, including the Hon. Andrew McLachlan, from another place, and the member for Heysen; and, of course, I value their advice and contribution to the committee on this. So, for my part, I will be accepting the bill.

**Mr KNOLL (Schubert) (17:17):** I rise to give some clarification as to the position I have reached at the stage we are with this bill. I have taken the time before the introduction of this bill to read the Legislative Review Committee's report into changes in this area and I would agree that a lot of what has been dealt with here is consistent with that. Also, there is a South Australian Law Reform Institute report that dealt with the same issues and, by and large, came to the same conclusion, with some technical changes.

The chief mischief that I think this bill seeks to address and deal with—again, building on the comments for the member for Bragg—is the harshness, or the difficulty, which people who have reassigned their sex have to go through in order to have that recognised. I can understand, very much, that somebody who has gone through a very difficult and traumatic process, would seek an understanding of the submissions made, especially to the Legislative Review Committee's report.

These people have been through a great deal of stress and hardship, and that final act of humiliation, almost, of having to ask a judge to agree with you about what you believe in your heart is demeaning, and I completely understand that. That is the chief mischief that I think this bill is seeking to address and something that I am extremely comfortable with and would like to support. As a Liberal who believes in a bit of deregulation, we can throw that argument in there as well.

This bill also seeks to do a whole heap of other things, and the whole heap of other things is where I start to have to question support for various parts of this bill. This is something we have had to deal with in two previous pieces of legislation around parenting presumptions and also around the gender identity changes that were made in terms of definitions in the previous act that was passed. What we are seeking to do here, I think, is fundamentally change what our birth certificate is. Currently, to the best of our knowledge, a birth certificate is statement of biological fact. It does, at its best, state the biological fact of, obviously, when you were born and those particulars, but also who your biological parents are and the biological particulars of the child.

I agree that it is not always a perfect document and that there are times when we do not know who the biological father is. There are times now when we have allowed non-biological parents to be on the birth certificate, but now we are seeking to fundamentally change the birth certificate from a statement of biological fact to a statement of identity and of being, and I think they are two completely different things. I am struggling to understand why necessarily the birth certificate is the best place for this and I think that it does, in my view, fundamentally change what a birth certificate is designed to do. It is, obviously, a document, and an important document, but a document that helps to define who people are.

On that point, at this stage I am leaning on the side of not wanting to change this statement of biological fact, especially when, as the member for Bragg also stated, there is no imminent mischief. From what we understand from the registrar, in South Australia there has not been a case where a viable birth has not been able to be identified as being from either gender. That is not to say that there are not cases around the world, but it has not happened in South Australia.

There have been examples where there has been a stillbirth very early on in the pregnancy where that has been difficult to determine, but where there has been a baby that is born and is alive, or even a full-term baby that is stillborn, that issue has not been there. This understanding of non-binary births is not a mischief that we need to fix. It is one that we need to think more deeply about and it is a part of this bill that I am not, at this stage, inclined to support.

This bill also seeks to provide for a process for same-sex marriage. There is a process by which a homosexual couple will be able to manipulate this process in order to get around the current definition of marriage in order to become married. Gay marriage is not something we deal with in this place because I think there is a reasonable opinion that there are some constitutional difficulties if we allow a process in South Australia for gay marriage and, if that is inconsistent with federal law, federal law takes precedence.

I am not entirely sure that what this bill seeks to do, in terms of providing a process for homosexual marriage, is actually constitutional and, again, I think there is a debate that is being had at a federal level and there is a process by which that decision could arrive at a conclusion. I will not go into the plebiscite debate; that has been well-canvassed outside of this place. Having said that, I do not believe that this part of the bill is necessary and, in fact, it has some constitutional difficulty.

The bill also seeks to enact provisions which prevent the change of sex from eliminating a person's entitlement under a will or trust, unless the will or trust provides otherwise. I think that is entirely sensible and an important part of this bill that I would be more than happy to support. It provides for provisions for secrecy where someone changes their gender so that previous genders are not present on the birth certificate but are kept on a background record that is only obtainable in certain circumstances. I think that is entirely appropriate and, again, something we have dealt with in previous bits of legislation.

This bill wraps up a couple of very noble things that are much more difficult for us to deal with. I want to deal now with understanding the changes that we are seeking to make to the process by which someone can change their sex or change their gender. In terms of reducing the process and the red tape that someone over the age of 16 has to go through in order to change their sex, I think that is entirely appropriate and I am willing and wanting to support those measures.

We are now changing what it means to reassign your sex to reassigning your gender. Given that, according to the briefings that we have had, there is now a more fluid understanding of what gender is as opposed to sex, changing a sex on a birth certificate is certainly worthwhile. However, I think changing a gender on a birth certificate moves away from statements of biology to a more fluid concept that I do not necessarily think needs to be changed on a birth certificate. I also have some real reluctance around what happens for sexual reassignment for children under the age of 16. According to research out of the US from the American College of Pediatricians:

According to the DSM-V, as many as 98% of gender confused boys and 88% of gender confused girls eventually accept their biological sex after naturally passing through puberty.

That says to me that we need to be extremely cautious about irreversible changes for people who are under the age of 16. I understand that this bill creates a separate, more onerous process for those under the age of 16, but I do not feel entirely comfortable with where this process is at present.

As the member for Bragg said, there are a number of areas in law where those under the age of 18 are restricted from the things they can do because parliaments all around the world have held to the principle that children need protection whilst they are growing up before they reach a certain point in their lives when they are able to fully make decisions. This, I think, is one of them.

Whether it be being able to consent to having sex, whether it be driving a car, serving in the military, voting, or even leaving school, there are so many areas in which we treat minors differently because we understand they are not fully able to make the most informed decisions for themselves. Given that the research by the American College of Pediatricians shows that the vast majority of children who experience gender dysphoria grow out of it, I would suggest that we need to exercise extreme caution when opening up sexual reassignment or gender identity changes for those under the age of 16.

I want to thank members of the Department of the Premier and Cabinet who were there for the briefing we were provided. According to the federal law at this stage, children under 16 need to apply to a family court in order to undertake irreversible procedures like hormone therapy or surgery. I have not done research into how often it is used, but having said that, it seems that there is a reasonable number of safeguards in place in order to ensure that this is only used in the more extreme cases. The presumption is that we should wait until children have grown up, and if the gender dysphoria they have is resolved through the advent of going through puberty, that leads to a better outcome.

The last thing I want to say on this is that this is a conscience vote for both sides of the house. Where the party discipline breaks down, I think it makes it much more difficult to ask the parliament to make an informed decision. I am not speaking on behalf of the Labor Party because their process may be different, but certainly from a Liberal perspective, when we are dealing with private members bills and government business, we form a party position.

Various shadow ministers provide papers to the party. This allows the party to be informed, and to make an informed judgment. We can also rely on the various strengths of the different members of our party who have expertise in different areas in order to make the best and most informed decision. As a bill progresses and amendments are brought forward, those changes are communicated to the party room and we can continue to be informed as to the latest status of a bill.

What happens in a conscience vote, and I think this is extremely regrettable, is that everybody is in charge of looking after their own opinion, and that is appropriate. But that can mean that some are coming into this place not fully abreast of what is going on, not able to rely upon a party vote in order to help guide them but needing to look into their own conscience. Again, I think that is entirely appropriate, but that means that where a bill is more complex, or where potentially some parts of a bill are worthy of support but other parts potentially are not, it gets quite difficult for this place to be able to deal with it.

What I am leading to is the fact that I think that there are some things that are very worthy to support in this bill, and I would be more than happy to support them, but there are a whole heap of things that are quite complex and quite difficult. Given that this bill has only been out there for a short period of time and there are issues that we would like to flesh out further, I am not at this stage inclined to support the second reading of this bill. If we were to go clause by clause, we would be asking the parliament to deal with very complex issues for which we have had little time and little preparation to be able to answer.

As the member for Bragg said, there is no immediate mischief. If there is an opportunity for the bill to be streamlined to deal with the things that I think need to be solved in relation to changes to the way changing of sex is done, we can all get around that and ensure that those who alter their sex are not discriminated against when it comes to wills and trusts. I think we would all be happy to support those things.

With those comments, I want to say that my mind is still very much open and I would like to be able to find a way to deal with the issues as they exist without our heading down a path of unintended consequences without having fully understood the risks we are taking. I think this bill has some way to go. With that, I will be voting against the second reading stage of this bill, but I look forward to continuing this debate as it happens over coming months.



**The Hon. P. CAICA (Colton) (17:32):** I will not hold the house for very long. It might come as no surprise to anyone in this chamber that I support this bill. I support it on the basis that there is great diversity within our community, that it is based on equity, that it is based on fairness, and it is about ensuring that we offer to those people who identify differently than being just—and I do not mean 'just' in that way—a man or a woman to be able to be properly recognised under the regulations and the law of the land.

To me, it makes a great deal of sense and I will be supporting this particular bill. It is a conscience vote, and I am not going to have a go at anyone. People are entitled to their opinions, and to a certain extent I say that you are entitled to your opinions providing that they are not racist in nature or the like and that you are not going to ram your view down my throat. I will respect that you have that view. I am not being disrespectful, but I just want to touch on a couple of matters raised by the member for Schubert.

We are told all the time that the Liberal Party on every matter has a conscience vote, so I do not really understand in his delivery the complexities associated with a conscience vote, although I do remember a little bit earlier listening to the member for Bragg, who said, 'Occasionally we do get together and consolidate a position within the party.' I accept that, but the reality is that the member for Schubert is talking about the complexities of a conscience vote. I do not believe they exist. You vote the way you feel and what you believe in.

*The Hon. T.R. Kenyon interjecting:*

**The Hon. P. CAICA:** I'm not a whip, and I have no aspirations to be a whip. This is a decision that we make based on our particular conscience. When we go clause by clause, as was said by the member for Schubert, I would like to think that at the very least we would take this and get the consensus of the house to go to a second reading speech so that at least we can debate the clauses which the member for Schubert has so much difficulty supporting.

To me that would make a lot of sense because I think we have an obligation to at least get to that stage where we can have a proper debate on the clauses that are put forward that will allow those people, who may be suffering from a lack of understanding or a belief of unintended consequence, the ability to be able to debate those particular clauses and perhaps get a better idea of what they really mean and what the consequences might be.

I say that the consequences are that we will provide an opportunity for people who identify differently than a man or a woman to be able to be properly protected and recognised under the law, as we all are in this particular chamber. I do not see that it creates any problem at all, and I think that it reflects what is a proper, progressive and inclusive society for us to be putting this in place. I do not want to go through the key features of the bill because that has been done in the second reading. I have made the effort to understand them, and I think that I will just be wasting the chamber's time by going on and on about them.

However, what I want to focus on is that when we come here into this chamber, we have a certain responsibility and, again, without being disrespectful to my colleagues on the other side, it seems to me that on numerous occasions when it suits the people opposite to suggest that they are pro-choice and that they are liberal in their views, when it comes to certain issues that we know are impacting upon people within our community they want to proffer a view that is opposite to the ability to have people choose and to be pro-choice on issues. I find that a particular contradiction.

The work being undertaken and the work that was done previously by the Legislative Review Committee, and certainly worked on significantly by the South Australian Law Reform Institute, has been very good work. It is work that ought be supported in relation to this particular bill. I think it is long overdue that we, as a parliament, agreed that there is diversity in our community, that that diversity requires an approach to equality that recognises that diversification and that we put in place the protections that we can under our constitution and under state law that we know are going to assist those people.

I have two beautiful boys—and I am more than happy to show you, Madam Deputy Speaker, a picture those boys later on. They are outstanding young men of whom I am very proud. But I think to myself—

**An honourable member:** Surprisingly handsome.

**The Hon. P. CAICA:** They get their looks from their mother, and for that they should be thankful.

*Members interjecting:*

**The DEPUTY SPEAKER:** Do you need my protection, member for Colton?

**The Hon. P. CAICA:** No, I don't need your protection. I need to protect myself from responding to certain things. I think, 'What if my boy was born with such a situation that he did not identify as a boy?' Would I allow the situation to occur where he could not be recognised as what it is he identifies as? I love my children and I would do whatever I could to make sure that they are treated the same as everyone else and that they have available to them, within the laws of the land, those things that are going to support them and protect them.

Or do we go back to the days when they used to put electrodes on people's heads and say, 'This is a disability and we can cure this by electrocuting people,' and turning them into whatever with shock treatment. We have gone beyond that. We are a community now, one of the most advanced societies in the world, the greatest place in the world to live. I often say that the people of the western suburbs live in the best part of the best state in the best country in the best place in the world. For that, we need to ensure that our laws reflect diversity, that they reflect equality and that they address those things that are missing at the moment.

One of the things that is missing at the moment is a proper approach to these particular issues—in this case, this bill. I commend this bill to the house and I will be supporting it, as you would expect, and I expect others in the chamber to respect my views as I respect their views. I might not agree with them, but I will respect their right to have that view.

**Mr PEDERICK (Hammond) (17:39):** I rise to speak to the Births, Deaths and Marriages (Gender Identity) Amendment Bill 2016. From the outset, it will probably not come as any surprise to anyone that I will not be supporting this bill. Looking at it, I do believe it is delving into spaces that we are not legally liable for as a state parliament. I certainly believe that it is a Trojan Horse for gay marriage. I say that because people under this bill do not even have to have gender reassignment to alter their idea of where they are in regard to gender.

*The Hon. P. Caica interjecting:*

**The DEPUTY SPEAKER:** Order! Member for Hammond, you are speaking to me. I am listening to you.

**Mr PEDERICK:** Thank you for your protection, Madam Deputy Speaker.

**The DEPUTY SPEAKER:** I will always protect you, member for Hammond.

**Mr PEDERICK:** Thank you, Madam Deputy Speaker. I refer to the definition of a reassignment procedure from the Sexual Reassignment Act 1988, which provides:

...reassignment procedure means a medical or surgical procedure (or a combination of such procedures) to alter the genitals and other sexual characteristics of a person, identified by birth certificate as male or female, so that the person will be identified as a person of a different sex and includes, in relation to a child, any such procedure (or combination of procedures) to correct or eliminate ambiguities in the child's sexual characteristics;

What we see in the bill before us is that there does not have to be a physical reassignment of anyone's genitals. You can have a consultation with a psychologist, a doctor, and that is counted as a clinical assessment. In my mind, that is what brings me to the fact that I believe that this is a Trojan Horse for gay marriage. You may have a gay couple, whether it is two ladies or two gentlemen, and to get around the federal Marriage Act one of them decides that if they are a man they will become a woman and if they are a woman with a lesbian partner they will become a man.

As the member for Schubert also outlined, I believe that could well and truly happen under this legislation. There is nothing ruling it out at all. I will be interested in the ensuing debate to see if there is anything to rule it out. I just cannot see it in the legislation. What does bother me with the bill is the fact that children can alter their gender, but what really concerns me is the fact that it gets to

the case of 16 to 18 year olds being able to make that decision. I can see this causing a lot of issues and not just legally, and that is why I do not believe the law should be passed.

Apart from the legal ramifications, I think that in a home it could create so much angst between parents and a 16-year-old child who suddenly decides that they want to change their gender and the parents are not happy about it but they cannot do anything about it. Certainly, in Australia a child is someone under 18 years of age; that is well known. Parents are responsible for the care of their child until they become 18 years of age. Obviously, they are not in charge of court orders and things like that.

An interesting point is that males and females can consent to intercourse at the age of 17. However, it is an offence to interact sexually with someone under the age of 17, even if both individuals are under 17 and have consented. It is not legal to have sex at 16, but this bill, if it passes and becomes an act, will make it legal to identify a gender change on your birth certificate of all things. I really struggle with that. I do note that the age of 16 has been identified, as the law states, as the age at which children can make decisions about their own medical and dental treatment, but I believe this is a step far too far. An article from the University of Rochester Medical Center on 'Understanding the teen brain' states:

It doesn't matter how smart your teen is or how well he or she scored on [their university entrance exam]. Good judgement isn't something he or she can excel in, at least not yet. The rational part of a teen's brain isn't fully developed and won't be until he or she is 25 years old or so.

In fact, recent research has found that adult and teen brains work quite differently. Adults think with the prefrontal cortex, the brain's rational part. This is the part of the brain that responds to situations with good judgment and an awareness of long-term consequences. Teens process information with the amygdala. This is the emotional part.

In teens' brains, the connections between the emotional part of the brain and the decision-making center are still developing. That's why when teens are under overwhelming emotional input, they can't explain later what they were thinking. They weren't thinking as much as they were feeling.

In its article 'The changing brain and behaviour in teens', the National Institute of Mental Health states:

One interpretation of all these findings is that in teens, the parts of the brain involved in emotional responses are fully online, or even more active than in adults, while the parts of the brain involved in keeping emotional, impulsive responses in check are still reaching maturity. Such a changing balance might provide clues to a youthful appetite for novelty, and a tendency to act on impulse—without regard for risk.

While much is being learned about the teen brain, it is not yet possible to know to what extent a particular behaviour or ability is the result of a feature of brain structure—or a change in brain structure. Changes in the brain take place in the context of many other factors, among them, inborn traits, personal history, family, friends, community, and culture.

My concern with this bill is that on a whim someone can decide to alter their identity on their birth certificate of all things. Then it becomes illegal to publish or use any extract from the actual birth certificate. I have been told in the briefing that your initial birth certificate will be kept in storage somewhere—I guess, in the registry—but the actual certificate that the person will use will be the one that has been amended.

I believe that if people want to go through this process, there should be another way of recording the change. That would be a far better way because I think we need to respect and acknowledge how a child's birth is recorded at birth. As the deputy leader and the member for Schubert have said, it is to be noted that there has not been a single case where there was indeterminate sex at the birth of a child in South Australia. Certainly, in the 10½ years I have been in this place, I have had no-one come to me about this issue we are debating today.

What I will say is people come to their local MP, and it does not really matter what the MP's thoughts are about the world on many issues, from a neighbour's fence being put in the wrong place right through to cases of child abuse, which are terrible stories to hear, and everything in between. Every MP in this place will have those issues. I certainly understand that, with every issue that comes before me, there are at least two sides to a story and sometimes at least three sides, so you need to be reasonably wise in how you react to some of the issues that come in your front door, that come down the email line or that people bring into you.

In regard to passports, they can be issued to sex and gender diverse applicants. You can be male, you can be female or you can be X: indeterminate, intersex or unspecified. I note that, if you are applying for a passport in a sex different from that recorded on your birth certificate or your previous Australian passport, you need to fill out and complete a full passport application form and provide original documents as evidence of your identity, citizenship and preferred sex. If you are also changing your name at that time, you will need to present a change of name certificate issued by an Australian registry of births, deaths and marriages or a legalised foreign equivalent.

As I said, there are issues throughout this bill that I find confronting. I know there are members who will support this bill, but I look at the definition of 'clinical treatment' which states, 'clinical treatment need not involve invasive medical treatment (and may include or be constituted by counselling)'. That is certainly a part that I am really concerned with. It essentially is a massive change from the Sexual Reassignment Act 1988.

The bill goes through the change of sex or gender identity for applicants born in South Australia, and it contains provisions, as I mentioned earlier, about changing a child's sex or gender identity. You have to have material supporting the applications. There is special provision relating to access to the register, and I note the clauses around use of old birth certificate to deceive. Basically, it makes your original birth certificate an illegal document. There are other clauses around South Australian residents who are born outside the country and on the issue of identity acknowledgement certificates.

The South Australian Law Reform Institute and the Legislative Review Committee have had a look at this, and I note that, as the act now stands with births, deaths and marriages, it provides a statutory basis for the registration of births in South Australia. The Registrar of Births, Deaths and Marriages must be notified of all births in South Australia, and the notification must include an indication of the child's sex as either male or female. This must take place within seven days and is usually undertaken by the hospital at which the child is born.

The birth must also be formally registered on the Births, Deaths and Marriages register, again in the prescribed form that requires an indication of the child's sex as either male or female. This must occur within 60 days, and the registrar has the discretion to register a birth even where these details are incomplete. There is an understanding that this discretion has only been exercised with respect to stillborn children. It has not been used to avoid recording the sex and/or gender of an intersex child.

The Births, Deaths and Marriages Registration Act does not prescribe a process for changing a person's sex on the register. However, the South Australian Sexual Reassignment Act 1998 contains a process for obtaining a recognition certificate that can then be presented to the registrar who must then make the required change to the register, but only within the categories of male and female.

It is interesting to note that in different jurisdictions throughout the world, in some places legislative change has taken place, but it certainly has not here in this country. That is why we are debating this bill now. The ACT has a process that is in place, Victoria has a process, and New South Wales has a process. Western Australia only has regulation around specific regulation of sexual reassignment procedures. The Northern Territory has a process, Tasmania has a process, and Queensland has a process. There are also some international jurisdictions that have a process. That does not mean we need to follow them.

I am a firm believer in people exercising their conscience, and I disagree with the member for Colton, who says we are always voting with our conscience on this side of the house. We do have party room positions. We are not absolutely locked in like the Labor Party and the comrades—

*An honourable member interjecting:*

**Mr PEDERICK:** Not on this bill. There is a conscience vote now, but generally on other legislation coming through the place the Labor Party must conform.

**The DEPUTY SPEAKER:** Order!

**Mr PEDERICK:** But we have the right to disagree on other general legislation. It is absolutely correct that this is a conscience matter, as I understand it, for the Labor Party and, obviously, for our party.

I follow the debate with interest. I think people really have to have a good think, and the member for Schubert outlined what it is that we are trying to fix here. What mischief is there? I do not think, certainly in the case of worrying about a child's sex at birth, that there is any mischief to change. I believe there is a whole range of issues about people just being able to go to a counsellor and decide that they are going to change their gender without any physical change. I am sure I will get some correspondence, and that is fine, but people need to respect that we all have different views in this place. I will certainly be interested in how the debate goes through this place and, potentially, the other place.

I do have some major concerns, as I indicated right at the start of my contribution, that this is a Trojan Horse for gay marriage, which we do not even legislate on at a state level. We have the plebiscite that was promised by the Turnbull Liberal government as an election issue, and they are going down that path, but I have major concerns with 16 and 17-year-old children making these decisions of gender reassessment on how they feel about themselves, and I have a major concern that people can flip-flop. For five years they might decide they are a man and the next five they might decide they are a woman. From what I can see in the legislation, there is no reason why they cannot do that, so I do have some major reservations going forward.

Debate adjourned on motion of Hon. T.R. Kenyon.

**ASER (RESTRUCTURE) (FACILITATION OF RIVERBANK DEVELOPMENT) AMENDMENT  
BILL**

*Final Stages*

The Legislative Council agreed to the bill without any amendment.

At 18:00 the house adjourned until Thursday 22 September 2016 at 10:30.