LEGISLATIVE COUNCIL

Wednesday 19 September 2012

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:03 and read prayers.

STATUTES AMENDMENT (NATIONAL ENERGY RETAIL LAW IMPLEMENTATION) BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:03): I move:

That the sitting of the Legislative Council be not suspended during the conference on the bill.

Motion carried.

STATUTES AMENDMENT AND REPEAL (TAFE SA CONSEQUENTIAL PROVISIONS) BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:04): I move:

That the sitting of the Legislative Council be not suspended during the conference on the bill.

Motion carried.

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:04): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time and statements on matters of interest, notices of motion and orders of the day, private business, to be taken into consideration at 2.15pm.

Motion carried.

CHARACTER PRESERVATION (MCLAREN VALE) BILL

In committee.

(Continued from 18 September 2012.)

New Clause 8A.

The Hon. R.L. BROKENSHIRE: I move:

Page 4, after line 27—After clause 8 insert:

8A—Restriction on wind farms

Despite the *Development Act 1993*, a proposed development in the district consisting of construction of a wind farm is noncomplying development of the purposes of that act.

This is actually a wind farm clarification and, despite the Development Act 1993, a proposed development in the district consisting of construction of a wind farm is noncomplying for the purposes of this act. In this section, wind farm means a faculty for the harvesting or harnessing of energy from the wind.

What I am really seeking to do here is to put all landholders back in the position that they were in before the DPA was imposed, except as otherwise confined—obviously, for example, subdivisions under this act. The interim DPA restriction on wind farms as noncomplying is to be retained, so I was just trying to absolutely clarify and confirm that wind farms were being focused on with respect to this bill. My understanding is that The Barossa Council and the wine industry sector support this amendment.

The Hon. G.E. GAGO: We do not seem to have a copy of the amendment.

The Hon. M. PARNELL: While the minister is organising herself I will speak to this amendment. I am sure that I, on behalf of the Greens, probably agree with the Hon. Rob Brokenshire that there are some forms of development that are inappropriate in the Barossa and McLaren Vale. The type of development that consists of 10, 20, 50 or 90 massive wind turbines is probably inappropriate in those locations. I imagine that that is what the Hon. Rob Brokenshire

primarily had in mind; that is, where the character of areas is being protected, massive wind farms are probably inappropriate in those two locations. However, we do have a problem with the way the honourable member has drafted the amendment, because what he seeks to do is insert a new clause 8A, which provides that:

> Despite the *Development Act 1993*, a proposed development in the district consisting of construction of a wind farm is non-complying development for the purposes of that Act.

One of the difficulties we have is that the term 'wind farm' is not actually defined in the Development Act. In fact, it is not even defined in the development regulations where one of the schedules to the development regulations has a list of commonly-used terms (and they are defined) and this is not one of those. The only reference in the development regulations to a wind farm is in schedule 8 of the regulations which, as members are all thoroughly aware, is the list of all the different types of development where various authorities need to be consulted.

What it says in schedule 8 is that wind farms have to be referred to the EPA. You can understand why that makes sense because, if there are noise issues and the EPA is the noise regulator, that is an appropriate referral, but for the purposes of schedule 8, there is a definition of 'wind farm'. I am not saying that therefore, as a matter of statutory interpretation, this definition will apply to the honourable member's amendment, but what it says is that 'wind farm' means an undertaking where one or more wind turbine generators, whether or not located on the same site, are used to generate electricity that is then supplied to another person for use at another place.

What that definition, I think, is seeking to do is to make sure that a person who has a single turbine or even a couple of turbines on their own property for generating their own electricity is not regarded as a wind farm and therefore is not caught by this need to refer it to the EPA. But there are circumstances, especially in more remote parts of the state—and I am not sure how much of the Barossa or McLaren Vale this would apply to—where people are off the grid and they are self-sufficient and it is possible for farmers, usually, to install a single generator.

I should declare an interest from about 10 years ago where my late brother-in-law was the agent for one of these wind turbine companies providing small wind turbines for farmers who were off the grid. The difficulty I have is that if, for example, two farmers decided to get together and put a single turbine on their boundary and share the electricity that came from it, then under this definition in the development regulations, that would be regarded as a wind farm.

We are not talking about things that are 100 metres or 150 metres; we are talking about towers that are not that high. They are certainly a bit higher than the old-fashioned windmills that we see on the landscape, but they are basically steel structures. They can be raised and lowered with a utility; it did not require a massive construction team on site—pretty small-scale stuff—and that would be caught.

The Hon. D.W. Ridgway interjecting:

The Hon. M. PARNELL: The Hon. David Ridgway says that you would not get enough energy to run a fridge. In fact, you can run a fridge; you can run a household. Many of these off grid systems actually have battery backup.

The Hon. D.W. Ridgway: And solar.

The Hon. M. PARNELL: Some of them have solar as well, but what they do is generate electricity when the wind is blowing and then store as much of it as they can in batteries. We are talking about people who are energy self-sufficient. They are off the grid and they are primarily farmers.

People will say, looking at the Hon. Rob Brokenshire's amendment, 'Clearly he did not have that in mind. It was not individual farmers with individual turbines.' He can speak for himself—maybe he did have that in mind—but where I think this amendment would have been more appropriately drafted is if it did in fact refer to what they call the industrial-scale massive wind farms where the blades are 130 metres across or whatever, which I think are inappropriate for these locations. However, the amendment as drafted does not have a definition of wind farm.

It has the potential to exclude even small-scale wind generators that are designed just for one or two farms and, whilst it does not prohibit them, it says that they are noncomplying and we know from the discussion that we had with the minister yesterday that noncomplying does not mean you cannot do it but what it does mean is that the odds are stacked against you being able to do it. It means there is a presumption against being able to do it. If the relevant authority, whether it

is the council or the Development Assessment Commission, decides you cannot build it, you have no right of appeal.

In fact, it is a tougher standard to meet, and I think there is the potential, given that there is no definition of wind farm, for legitimate, renewable energy projects that do not impact on the character preservation qualities of these districts to be unfairly discriminated against. I do not believe that it is the member's intention to wipe out or make it difficult for small-scale, renewable energy projects to go ahead (I think he has his eyes set on the bigger facilities), but given that difficulty with the way this amendment has been drafted the Greens will not support it.

The Hon. G.E. GAGO: Unfortunately, the government is not able to support this amendment either, although we are obviously sympathetic to what the member is trying to achieve. However, we will have to oppose it because of the legal ambiguity around the definition of wind farms and the fact that there is some overlap with the development plan, albeit unintended. In terms of a policy principle, obviously this government is supportive of the underlying principle. In fact, the minister has already made wind farms noncomplying in both districts. We believe it is probably better and safer to leave wind farms in planning policy rather than try to incorporate it into a statutory or legislative framework. So, unfortunately we are not able to support it at this time.

The Hon. D.W. RIDGWAY: I indicate that the opposition will support the Hon. Robert Brokenshire's amendment, but I suspect that he may not be successful in getting it through this chamber. However, I want to put on the record that we have seen this government's love affair with wind farms, and now we are seeing an ever-increasing concern in the community about their inappropriate location. In early days they were more remote; now they are being proposed closer to human habitation. Of course these two areas are to be preserved for their iconic heritage and tourism—all the things we discussed yesterday—so it would make absolute sense to make sure that wind farms are not allowed in these particular areas.

I suspect the government, if it has any sense with its statewide ministerial DPA on wind farms, may well declare the Barossa and McLaren Vale—these protection zone areas—as areas in which they do not wish to see wind farm developments. I think the statewide DPA will probably have some zones—the Adelaide Hills and Mount Lofty Ranges, the Barossa and McLaren Vale—where they may well say that it would be inappropriate development. The opposition is very happy to support this on the basis that we want to signal to the community that we think that this government has gone over the top with its passion for wind farms and that there are some areas of this state that simply should never have wind farms.

The Hon. G.E. GAGO: The Hon. David Ridgway is quite right: we are considering the locations of wind farms in our state DPA and we are looking to exclude those areas from having wind farms. Our intention is to use that planning mechanism as a way of dealing with preserving the integrity of the character of these districts.

The Hon. R.L. BROKENSHIRE: Just a few points on my colleagues' comments in the chamber. First, while I am not in a position to pre-empt what may come up with respect to the wind farm committee, which the Hon. David Ridgway chairs and on which some of us sit—the Hons Ann Bressington, Mark Parnell and myself—

The Hon. D.W. Ridgway: And Carmel Zollo.

The Hon. R.L. BROKENSHIRE: —and of course the Hon. Carmel Zollo—two key points with wind farms are relevant: first, the concern that many residents have about their location and, secondly, the issue of the former premier's DPA on wind farms, which actually gave unprecedented support in favour of developers. We know now that, even if in the future there is a change by the government, like the Leader of the Government has just said, with respect to the Planning Act and wind farms, all of those companies that have put forward applications since former premier Mike Rann allowed for applications without third party consideration and so on will be able to develop those wind farms.

Some of us in the south put a lot of effort into opposing a wind farm up on Sellicks Hill, right on the edge of the area covered by this particular McLaren Vale character preservation bill, the reason being that it was in the wrong area and totally different from an area such as Starfish Hill, down towards Cape Jervis. It created a lot of angst in the community, and there was a big effort by the community to stop it. There was a lot of support from the government to allow the developer to roll this over. In fact, one developer sold the concept to another developer and probably financially did alright out of that.

The concern of quite a few people I have spoken to with respect to McLaren Vale and the Barossa Valley and the preservation of the character is that, if these wind farms were to get up in those regions we are talking about, it would have an enormous impact on the character of the region. I take the Hon. Mark Parnell's point about the drafting—and I strongly support and place on the public record my appreciation of parliamentary counsel—but this was the best way we could draft it. But the emphasis is on wind farms.

As a farmer myself, there is no way I would want to see someone who wanted to put a Davey-Dunlite on their shearing shed, for example, to generate some power being prevented from doing that. I would argue that, under the intent of the wording, that is not a wind farm: a wind farm is erected with the intent of commercial gain and selling that power on, not someone who is not on the power grid or who wants to go into renewable energy for themselves.

I could foreshadow recommitting this to give us a chance to talk about some rewording of the second part of my amendment with respect to the area where it deals with the individual situation. However, the advice is that, for all intents and purposes, this clause is to ensure that it continues to be noncomplying ongoing through this bill. I understand that the City of Onkaparinga, as an example, understands that noncomplying under the Barossa/McLaren Vale interim DPA will lapse once the bill is through. But the problem there is that it could then be complying, and I think this is a good way of protecting these two regions.

If we are going to have a character preservation bill, why not make it noncomplying for a wind farm development? As the Hon. Mark Parnell said, they can still get approval for that, but it just puts up a few more hurdles for them. It is probably an interesting change to put a few hurdles in front of these developers than the other way round, where the hurdles are all put in front of residents. I still commend the amendment to the committee, but I foreshadow that I would look at recommitting with an amendment if during a division this new clause is not passed.

The Hon. M. PARNELL: I have a brief observation on the Hon. Rob Brokenshire's remarks. Whilst I focused my remarks on the difficulty with interpreting the phrase 'wind farms', there is a more fundamental issue at stake here, and that is that, when we step back and we look at these bills and what they are trying to achieve, there are two fundamental things we need to make sure go through with this legislation, and most of the other detail, I think, is for another day and for another forum. The first thing we need to make sure is that we get the boundaries right and that we make sure the boundaries are in texta colour, not in pencil that can be easily erased.

The second thing is that, if these bills are about stopping urban sprawl, the heart of urban sprawl is land division, and that is why land division is singled out in the legislation. What we could do is get out the whiteboard and go round the room and work out what other forms of development are inappropriate in the Barossa and McLaren Vale: cement works, toxic waste dumps. You could come up with a whole range of developments that are, I think we would probably mostly agree, inappropriate in McLaren Vale and the Barossa. Yet we are not seeking—or the government has not sought, and the Greens are not seeking—to add these forms of development to the list of noncomplying activities in the legislation.

As the minister has pointed out, they have already made a decision that wind farms will be noncomplying in these areas, and they are doing that through the DPA. Similarly, I think members will find that cement works and toxic waste dumps are also probably going to be noncomplying in the DPA. So at a fundamental level I think we are having a debate about the level of detail to go into the bill compared to the level of detail to go into the DPA. I wanted to put that on the record.

The other thing I want to put on the record again, given that I have said we are not supportive of this particular amendment, is that the Greens are strong supporters of renewable energy, but we believe that renewable energy should be sited in appropriate locations. We are also on the record as saying that we believe the community should be engaged in the process and not cut out in the way they were through the wind farm DPA. That is why I am on the record as opposing that DPA, for the way it cuts people out of genuine debate over the future of their areas.

The reason for me putting these extra remarks on the record is that I am not sure that—even with recommittal—this clause, even if we were to tinker with the definition of wind farm, would save it, from our point of view. I think we are going down a path of adding too much specificity to the bill; these are things that really need to be contained within the DPA.

The Hon. J.A. DARLEY: I will not be supporting the Hon. Robert Brokenshire's amendment.

The committee divided on the new clause:

AYES (9)

Bressington, A.	Brokenshire, R.L. (teller)	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I.
Ridgway, D.W.	Stephens, T.J.	Wade, S.G.

NOES (10)

Darley, J.A.	Finnigan, B.V.	Franks, T.A.
Gago, G.E. (teller)	Gazzola, J.M.	Hunter, I.K.
Kandelaars, G.A.	Parnell, M.	Vincent, K.L.
Zollo, C.		

PAIRS (2)

Dawkins, J.S.L.	Wortley, R.P.

Majority of 1 for the noes.

New clause thus negatived.

Clause 9.

The Hon. G.E. GAGO: I move:

Page 4—

Line 29 [clause9(1)]—Delete 'involved in the administration of' and substitute:

responsible for issuing statutory authorisations under

Line 31 [clause9(1)(a)—Delete 'a statutory authorisation under the relevant Act' and substitute:

such a statutory authorisation

Lines 35 and 36 [clause9(1)]—Delete 'obligations imposed on the person or body under this Act' and substitute:

objects of this Act in relation to the statutory authorisation

This amendment and government amendment Nos 14 and 15, which are consequential, clarify that a request for information can only be made under clause 9 by an agency responsible for issuing statutory authorisation in relation to that statutory authorisation. This will prevent unnecessary requests for information being made that are unrelated to applications for licences, approvals, permits or other authorisations under another law.

As an example, it will enable a natural resources management board to request information from a council in a district that is relevant to understanding the character of the district as it may apply to and affect the application for, say, a water licence in the district. However, a board would not be able to request information that is unrelated to an application before the board, nor would an agency which has no responsibility for issuing statutory authorisations. This amendment is being proposed consistent with the request by the Barossa Council in relation to the Barossa Valley bill, with the support of the Onkaparinga council as well.

Amendments carried; clause as amended passed.

Clause 10.

The Hon. G.E. GAGO: I move:

Page 5, after line 3—After subclause (1) insert:

(2) In conducting the review, the Minister must (in such manner as the Minister thinks fit) consult with, and consider any submissions of, relevant councils.

This amendment requires the minister to consult with and consider any submissions of councils within the district in conducting the five-year review of the act required by clause 10. This

amendment is consistent with the request by the Barossa Council in relation to the Barossa Valley bill and with the support of the Onkaparinga council.

The Hon. M. PARNELL: Just a question in relation to this, this is the review of the act clause and the minister is proposing to include an obligation to consult. The words are 'in such manner as the minister thinks fit'. My understanding is that the Barossa Council and the government have had a task force to work through a number of these issues and my understanding is that the Barossa Council had requested a little bit more certainty that the consultation would be genuine, rather than simply 'as the minister thinks fit' which, at a worst case scenario reading, could consist of a phone call to the mayor the day before a decision is to be made and that might be all the minister thought was required for consultation. My questions of the minister are: what happened in those discussions, and what does the minister envisage is meant by consultation 'in such manner as the minister thinks fit'?

The Hon. G.E. GAGO: The consultation may involve things like written communication, meetings, forums, discussions, whatever is deemed to be appropriate for that particular issue and situation. Parliamentary counsel's advice was to go with the option of not being overly prescriptive and burdensome, and ultimately the decision is that of parliament. If parliament is not satisfied with the process that has been undertaken, I can absolutely guarantee you there will be complaints from stakeholders made to members of parliament, and ultimately parliament can be the judge of that to ensure that that process has been adequate.

The Hon. D.W. RIDGWAY: I guess the definition of 'as the minister thinks fit' means that if a minister chose not to consult, they do not have to consult. They could just make a decision without consulting.

The Hon. G.E. GAGO: No, not at all. The advice I have received is that they are required to consult; however, it is the manner in which the consultation occurs that the minister has some discretion over. Ultimately, as I said, parliament has the ultimate say as to whether or not that process has been satisfactory.

The Hon. D.W. RIDGWAY: My understanding is, as the Hon. Mark Parnell alluded to, there was a task force set up when the Barossa Council wrote to all members saying they wanted this bill opposed. There was a task force of, I think, planning officers, council officers and others. In effect, there was a level of frustration in the Barossa Council that not one of the recommendations that was put forward from that task force has been adopted in this legislation.

The Hon. G.E. GAGO: Absolutely not so. The member is misinformed. In fact I think there are 25-odd amendments that incorporate, in some way or another, the issues of concern that came out of those forums. So, it is outrageous that you would suggest otherwise. It is just mischievous.

The Hon. M. PARNELL: I appreciate the minister's answer, where she said that because this clause is effectively about a review of the act, it will ultimately be up to the parliament as to whether or not the act is eventually changed. To go back to the process, whilst I appreciate that the minister may have taken advice that being less prescriptive about consultation mechanisms might be desirable from a drafting point of view, I think this parliament still wants certain assurances that the most modern and inclusive public consultation practices will be followed.

Those practices include public calls for submissions. When the submission are received, they are to be put on a government website so that everyone can see what submissions are made. Clause 10 of this bill requires that:

> (3) The Minister must cause a report on the outcome of the review to be tabled in both Houses of Parliament...

Now, we would expect that the report on the outcome of the review would also include a report on the process of consultation that was undertaken for the review. So, can I get the minister to further elaborate on what the government has in mind in terms of consultation. The minister has mentioned a range of things that could happen, but to pose the question directly: firstly, will there be a call to the public and to local council for formal submissions, and secondly, will responses to those submissions be made publicly available on a website?

The Hon. G.E. GAGO: The minister is required to consult, and there is a reasonable general understanding around what consultation would entail. Consultation means that you are communicating with appropriate stakeholders and availing them of adequate information for them to input into decision-making. There are a whole range of ways to do that, and the advice is that it

is foolish to be over prescriptive. A lot can now be done electronically, so there is no need to be calling public meetings and the like.

There are also problems with making submissions publicly available. There are some instances where the submitters are providing very commercially confidential or other sensitive information that they are happy to share, but not have published on a website. So, they might accept that some part of their submission be made publicly available but not necessarily all.

So, again, it is very difficult. Obviously, our objective is to be as open and transparent as possible wherever we possibly can, but there are real-life limitations around that that are very difficult to write up and prescribe in legislation. So, that is why we have gone down this track. However, as I said, there is a reasonable standing and expectation around what consultation entails: that is, that you must provide adequate information or exchange of information to enable people to be informed about something that is relevant to them and for them to have an opportunity to input their views, and that their views have to be considered.

It is not just a paper exercise, but they have to be considered in some way and there has to be some rationale for accepting, rejecting or doing otherwise. That is a reasonable understanding of what consultation is and that, I guess, is already captured. The other assurance is that, in terms of the five-year review that is required within this bill, the results of that review are required to be tabled in both houses of parliament, so that is a publicly available document.

The Hon. R.L. BROKENSHIRE: I will not talk about my further amendment to this, which you highlighted before, until you call me for it. However, I did want to ask the minister a question with respect to this amendment of the government and also to alert colleagues to the fact that (and I apologise for this but it has come up as part of this deliberation here now) there is a late amendment to this clause I have just tabled to colleagues in the chamber.

There are concerns that, whilst we acknowledge through the minister, any changes have to come before both houses of parliament, the amendment of the government states that 'the minister must, at intervals of not more than five years'. I ask the minister: given the way it is drafted, is it therefore quite possible that your government or a future government minister could decide in 12 months to start reviewing the township boundaries?

The Hon. G.E. GAGO: I am advised that, yes, it is possible but it would be highly unlikely. The wording reflects the five-year review period for the planning strategy in the Development Act and that is the intention—to set that outer parameter. Yes, what the member proposes could happen but, as I said, it would be highly unlikely and improbable.

The Hon. R.L. BROKENSHIRE: Further to that, if minister Gago were the minister for the next five, 10, 15, 20 years, then I might feel a little less concerned, but governments come and governments go. As a former minister myself, I am very much aware that ministers come and ministers go but that communities and the parliament stay; therefore, what we have now is confirmation that we could actually have a review as early as 12 months or thereabouts.

There is concern in the southern community (the McLaren Vale and wine region, tourism, and conservation coalition within that area), as I understand it from contact I have had with them—and it is different from the Barossa Valley, where I understand they are probably more comfortable with the five-year issue. I do not believe that the majority of the key stakeholder representative groups that have done the work on behalf of the community would be happy with that potential risk, and the risk is that you could get someone wanting to buy some land on the peripheral fringe of the township boundary who then spends a couple of years putting pressure on the council and government to push out those boundaries.

Yes, there is the democratic process of both houses of parliament then having to approve, but we never know the future make-up of both houses, so I would actually feel, on that basis, that this should really be opposed. I again alert colleagues to the amendment I have put up where it would be 20 years and I will talk more about that when that amendment comes to be debated.

The Hon. G.E. GAGO: In the interests of brevity, the bottom line is that a minister can basically decide to review an act any time they like, if they want to. I do not see what the member is getting hung up about. Basically, a minister can review any piece of legislation or any aspect of any piece of legislation whenever they like.

The Hon. K.L. VINCENT: I have not so much a question as, I suppose, a couple of cases in point, regarding what I think the minister termed 'a general understanding of what consultation should look like'. Surely, but unfortunately, we need only look at the current cases of the Cadell

ferry and the Blackwood overpass to know that governments cannot always be trusted to do the right thing when consultation occurs. Surely, while we do not want to be too prescriptive, there does need to be something of a stronger code in terms of broaching these issues when it comes to consultation.

Amendment carried.

The Hon. R.L. BROKENSHIRE: I move:

Page 5, lines 4 to 7 [clause 10(2)]—Delete subclause (2) and substitute:

(2) The review must include an assessment of—

(a) the state of the district, especially taking into account the objects of this Act and any relevant provisions of the Planning Strategy; and

(b) the family, social, economic and environmental impacts of this Act; and

(c) the impact of this Act on local government in the district; and

(d) any steps that have been taken or strategies that have been implemented to address any negative impacts of this Act,

and may include such other matters as the Minister thinks fit.

This amendment codifies some terms in the review. Given the significant impacts of the bill, we seek to expand the current wording of the section so that, when the review takes place, family, social, economic, environmental and local government impact, and steps taken to remedy negative impacts—for instance, compensation—are considered in that codifying of the terms of review.

The reason for that is that we have been concerned for some time that family impact statements, local government impact statements and environmental impact statements are not always initiated and are certainly not transparent. They often become part of a cabinet document and we do not see them. Whilst I take the minister's point that they will be tabled—after the Hon. Mark Parnell, I think, questioned that—I think we have to implement an amendment that will ensure that those impact statements are actually delivered.

These two bills are clear examples of where there is merit in such specific assessment of impact on councils and I think it is only fair in the circumstances of the quadruple bottom line that we consider family, social, economic and environmental impacts. Just to make it really nice and tidy and know exactly what we have to consider in the review, I commend the amendment to the committee.

The Hon. G.E. GAGO: The government supports this amendment.

The Hon. M. PARNELL: I note that the government is supporting the amendment. I was not inclined to support it and I just wanted to put on the record briefly reasons for that. Whilst I appreciate that what the honourable member is seeking to do is to codify a list of important things that should be considered as part of any review, the difficulty I have with it is that many of the phrases and words used in this are just so open as to be impossible to address in any objective way.

If we take, for example, something I know the honourable member's party—the Family First Party—is very keen on, namely, family impact statements, I can give you two impacts straightaway: impact No.1—this bill is stopping subdivision in the Barossa Valley and McLaren Vale. If you wanted to take the viewpoint that there are all these cheap house and land packages, which are now off the agenda, you could come up with a review that says, 'This is terrible for families; we're still growing grapes in the Barossa when we could be growing houses, and they'd be cheap houses.' First, I do not accept that that is true, but the idea of a family impact statement in relation to a bill whose primary purpose is to prevent urban sprawl, makes no sense to me at all.

Similarly, when we are looking at the impact on local government, it is very difficult to know what impact that could be. We are debating the relative responsibilities and powers between state and local government, but it is difficult to know what other impact there might be. Perhaps if we were to cover the Barossa Valley and McLaren Vale with houses, the rate revenue would go up, so we could say that this is a negative impact on local government because they are getting less rates. I do not see that identifying these as issues to take into account will give us a better review.

Whilst I accept that the government has already agreed to this amendment, I think it is creating a bit of a rod for its own back, and I pity the person whose job it is to draft the review

because they will have a dickens of a job trying to make sense of what the parliament is telling the reviewers to take into account.

The Hon. D.W. RIDGWAY: If the government is prepared to accept the amendment, the opposition also is certainly prepared to accept it. If we are to have a review it should encompass the whole range of components the honourable member has suggested.

Amendment carried; clause as amended passed.

New clause 10A.

The Hon. G.E. GAGO: I move:

Page 5, after line 9—After clause 10 insert:

10A—Reviews relating to townships

(1) The Minister must, at intervals of not more than 5 years, undertake a review to determine whether any alterations should be made to the boundaries of the areas marked as townships in the plan referred to in the definition of *township* in section 3.

(2) In conducting a review, the Minister must (in such manner as the Minister thinks fit) consult with, and consider any submissions of, relevant councils.

(3) The Minister must cause a report on the outcome of the review to be tabled in both Houses of Parliament within 12 sitting days after its completion.

This amendment requires the minister to undertake a review of the township boundaries within the district every five years; in undertaking that review to consult with and consider any submissions of councils within the district; and, it is anticipated that this review could be undertaken, together with a review of the act and the five-yearly review of the planning strategy required under the Development Act 1993. This amendment is being proposed consistently with the Barossa Valley bill, following discussions with Barossa, Light, Adelaide Hills and Onkaparinga councils.

The Hon. R.L. BROKENSHIRE: I move:

Page 5, after line 9—Proposed section 10A(1)—delete subsection (1) and substitute:

(1) The Minister may, not less than 20 years after the commencement of this Act, undertake a review to determine whether any alterations should be made to the boundaries of the areas marked as townships in the plan referred to in the definition of *township* in section 3 (and the General Registry Office at Adelaide must not accept deposit of any new plan for the purposes of that definition unless such a review has been undertaken).

I know that the government's advice on this would be that it has to come through both houses of parliament, so whether the government actually starts to do a review in one year, as the house has already been told, could be quite likely. It is legal anyway, but probably not likely but realistically it could. We have these pressures almost straightaway on the boundaries.

When members in this place supported the Willunga preservation bill that I put up before the last election, that bill was based on similar parameters to this bill, but I had a real focus on the Napa Valley in particular and also on the Swan Valley in Western Australia, and to a lesser extent the Sonoma Valley. I visited the Napa Valley and the Sonoma Valley back in about 1995 and 1996 and had a look at what was going on there. Interestingly enough, just in the last year or two I understand that the government in California has supported legislation to extend the protection of the Napa Valley for, I think, another 25 years.

Even if technically we knew that both houses of parliament would have to support any recommendations from a review, which any government may implement within one year or up to five years, by having this amendment in the bill the least it would do is signal to the members of parliament in both houses that, when the bill is implemented, it would be 20 years before there would be any opportunity to extend the boundaries of the township.

I think that would give substantial credibility to the bill, but it would also stop those people who might like to buy land on the edge of those townships and then apply pressure. We have seen that pressure applied in the last few years, in terms of developers. What a wonderful signal it would send if we knew we had continuity for the next 20 years and a real chance to assess the positive benefit of these bills.

The Hon. G.E. GAGO: The government rises to oppose this amendment, which was lodged only a short while ago; nevertheless, we are happy to consider it at this point. Obviously, the government prefers its own wording around the review period. In the bill, it would mean that

township boundaries are reviewed every five years. The amendment the Hon. Robert Brokenshire proposes would remove that scrutiny and that requirement to review every five years for up to 20 years. So, there would be no review of the township boundaries for 20 years.

As I said before, the reality is that a minister can review an act, or any part of an act, whenever they like. If a minister wanted to review these boundaries at some time, they could anyway. The real issue for us is that, if any changes are made to the boundaries, parliament has to approve them, and that is where the scrutiny is and the protection is, and those protections remain in place. I just do not think we should be hung up about the review process because that in itself is not arbitrary but, as I said, a minister can initiate a review at any stage anyway. The issue is parliamentary scrutiny, and that is in place and that is what is going to be important about the long-term integrity of these regions.

The Hon. M. PARNELL: I appreciate what the honourable member is seeking to do through this amendment—to effectively say that, once these boundaries have been set through this legislation, there should be a degree of certainty. But I think the minister's point is well made in terms of the minister can review whenever he or she wants.

But if you want to step back a little bit, if this bill is about stopping urban sprawl, urban sprawl comes from two directions: it either comes from the outside in, or it starts on the inside and works its way out. What we would effectively have with this amendment is that the government would be able to review the external boundary and shrink it—in other words, allow urban sprawl to encroach into the Barossa and McLaren Vale—but it would not be allowed to even think about expanding the township boundaries out. My strong view is that I do not want either of those things to happen because I want urban sprawl to be constrained.

The Hon. G.E. Gago: I want to go up.

The Hon. M. PARNELL: The minister interjects, 'I want to go up.' Well, given what the minister said yesterday in terms of the amount of land that is already within the township boundaries, I do not think there is a need for high rise in any of the Barossa or McLaren Vale townships for probably 100 years or maybe 200 years. I do not see high rise as being at all likely in those areas, but that is not to say that there is no scope for more densification within the existing townships.

But I think that the logical consequence of supporting the Hon. Rob Brokenshire's amendment is that we would open up the prospect of a review looking at shrinking the boundaries and urban sprawl from without, but we would prevent ourselves from having a discussion about urban sprawl from within.

Leaving all of that to one side, the parliament is the parliament and, if the parliament decided that it wanted to review the boundaries, it would delete this clause that has just been included. It would delete the 20-year clause and it would remain a five-year clause. I appreciate the honourable member putting on the agenda his view, which I share; that is, I do not want to see these boundaries tinkered with willy-nilly, I do not want to see them messed with. I think they should stand the test of time and we should not need to be adjusting them.

Having said that, in terms of parliamentary sovereignty if the parliament decides at some period in the future that it does want to mess with the boundaries that will be up to the parliament to do. I do not think this amendment adds anything to the protections that have been implemented through this bill, and the Greens will not be supporting it.

The Hon. D.W. RIDGWAY: I indicate that the opposition will not be supporting the amendment for very similar reasons as the Hon. Mark Parnell outlined. I think the biggest threat to these areas is increment from the external boundaries, not from the townships. We have seen that incremental nibbling away at Seaford by this last government. I accept that land had been rezoned for many, many decades, but this government chose to put it on the market and sell. Notwithstanding the very difficult times the previous Liberal government went through with the State Bank debacle, it still chose not to put it on the market. I think the biggest risk is to the external boundaries, not the internal boundaries. For the same reason, it appears that the parliament will have final say over the boundaries. I understand what the member is trying to achieve but, because it is very late amendment and we have not had a chance to consult on it, we will not be supporting it.

The Hon. R.L. BROKENSHIRE: In wrapping up, I thank colleagues for their contribution and want to qualify a couple of things. Certainly, this amendment has no direct impact on what

would happen with the external boundary, because that could happen either way. In fact, what we are voting on here, right now, could happen if the parliament agreed to shrink the boundary. I would love to see a way where we could protect that in perpetuity but we can only work realistically—

The Hon. M. Parnell: We cannot protect the community from future parliaments.

The Hon. R.L. BROKENSHIRE: That's right; God help the community. I just wanted to put that on the public record. This amendment was not as a result of my own doing but as a result of representation I had from some of the key stakeholders. However, I will just leave this on the public record as well. If you look at Clarendon and Kangarilla as two examples of townships that have pretty well been left as they were for 100 years or so, that is the vision we have.

Anything we could do to reinforce that to future parliaments would, I think, be advantageous to future generations. I know for a fact (as we all know) that when we do consider what may happen in the future, members of parliament generally look back at the original legislation, the debate and the amendments, and then make their decisions based on that. I move this amendment as another strong foundation stone for the long-term protection of two iconic regions. That is in the best interests of the state.

Amendment negatived; new clause inserted.

Clause 11.

The Hon. G.E. GAGO: I move:

Page 5—

After line 13 [clause 11(1)]—Before paragraph (a) insert:

(aaa) make provision in relation to the referral of any application for development authorisation to the Development Assessment Commission for the purposes of section 8(2); and

(aa) prescribe fees in respect of any matter under this Act and provide for their payment, recovery or waiver; or

After line 28—After subclause (3) insert:

(4) Before a regulation is made under this Act, the Minister must (in such manner as the Minister thinks fit) consult with, and consider any submissions of, relevant councils.

These amendments are consequential.

The Hon. M. PARNELL: Clause 11 is the regulation-making power. One of the questions which has been put to me and which I would like to put to the minister is: in this list of regulation-making powers, what powers will the minister have under this clause that the minister does not already have under the Development Act, given that we have now agreed that the Development Act minister is this minister? What additional work does this regulation-making power have to do?

The Hon. G.E. GAGO: The honourable member is very astute. There are no differences, I am advised—none whatsoever. We have been adhering to technical advice that brings about consistency and places the matter beyond any doubt whatsoever.

The Hon. M. PARNELL: I thank the minister for her answer. I just want to double-check; if the minister could just clarify this one point. I want to look at the list of things in subclause (2) that the regulations may cover, certainly paragraph (a), in terms of prohibiting or restricting the undertaking of specific activities.

We have had a debate already that the planning system is not about prohibiting things: it is about making things non-complying. Can I just check whether the word 'prohibiting' in paragraph (a) has a different meaning? Paragraph (b) talks about being able to impose prescribed requirements or conditions. I just want to get the minister to check whether there is an equivalent power in the development regulations to impose prescribed requirements or conditions on development.

The Hon. G.E. GAGO: Just as a point of clarity to make sure that I have not misled this place, when the Hon. Mark Parnell asked the question I answered it in terms of reference to the amendments having the same effect as the Development Act, which they do. However, given the additional questions, the Hon. Mark Parnell is referring to the overall clause, and there are differences in the overall clause, as he has identified. Indeed, the issue of prohibition is more expansive than that of the Development Act but, ultimately, parliament will determine the

appropriate use of that and, at this point in time, we have no intention to develop regulations around that. So, it would be a safety valve, if needed, at a later date.

The Hon. M. PARNELL: I thank the minister for that clarification. Yes, I was referring to the regulation clause as a whole rather than the specific amendment. The specific amendment No. 18 refers to regulations making provision for the referral of any application for development authorisation to the Development Assessment Commission.

At this point, I might just make the observation that I think it is a power that is increasingly being misused by government: the ability to take away from local councils decision-making about certain classes of development and giving it to the state-appointed body instead, giving it to the Development Assessment Commission. We saw it some time ago in the City of Adelaide, where developments over $10 million were automatically taken from the council and given to the Development Assessment Commission.

I originally had an amendment drafted to restrict the ability of the government to nominate the Development Assessment Commission as the relevant authority; however, for largely technical reasons I did not proceed with it because the power already exists under the development regulations, where the government can put in a list of activities that have to go to the DAC rather than the local council. So it fell into the too-hard basket, I am afraid. I just want to put on the record that the Greens are increasingly concerned that more developments are being taken away from councils and given to the Development Assessment Commission.

Back on clause 11 as a whole, in terms of regulation, the minister has acknowledged that the regulations are more expansive, and that would be an argument for rejecting them, but I accept that the minister has said that they have no intentions to pass specific regulations at this point in relation to this bill. I guess, as I have said a number of times, if we are going to step right back, if we are giving these two areas a status that is greater than other parts of the state, then there is an argument for a regulation-making power that gives the executive more authority. Although I make the point as well, from a parliamentary point of view, it is certainly easier to knock off a bad regulation than it is to knock off a bad development plan amendment.

Given that many of the things referred to in the regulation-making power could also be done via a DPA, possibly the parliament has not lost out, but I just leave those as observations. The Greens will be supporting the government's amendment No. 18 and also amendment No. 19 (also to clause 11) because that requires the minister to consult with councils, although it does still suffer from the words that I referred to before: 'in such manner as the minister thinks fit'. However, the minister has elaborated as to her views at least on what appropriate consultation is.

The Hon. D.W. RIDGWAY: The opposition will be supporting the government amendments.

Amendments carried; clause as amended passed.

Schedule 1.

The Hon. G.E. GAGO: I move:

Page 6, after line 8 [Schedule 1, clause 3]—After subclause (2) insert:

(3) Section 22—after subsection (4a) insert:

(4aa) Before making any alterations to the Planning Strategy to incorporate provisions which address any character values of a district recognised under a character preservation law (or to alter any such provisions), the Minister must (in such manner as the Minister thinks fit) consult with, and consider any submissions of, relevant councils (within the meaning of the character preservation law).

This is consequential.

Amendment carried.

The Hon. G.E. GAGO: I move:

Page 6, line 11 [Schedule 1, clause 4, inserted subsection (5a)]—Delete 'or incorporate'

This is consequential.

Amendment carried.

The Hon. R.L. BROKENSHIRE: I move:

Page 6—

Lines 18 to 23 [Schedule 1, clause 5(2)]—Delete subclause (2)

Lines 27 and 28 [Schedule 1, clause 6, inserted subparagraph (x)]—Delete ', acting at the request of the Minister responsible for the administration of a character preservation law, '

These are consequential.

Amendments carried.

The Hon. R.L. BROKENSHIRE: I move:

Page 6, line 34 [Schedule 1, clause 6, inserted subparagraph (x)]—Delete 'making the request'

The reason why I move this amendment—and there has been some confirmation both in the house during this debate and also with a letter that I have received from the honourable planning minister, the Hon. John Rau—is that once these bills are assented to, they will put a mechanism in place to bring in a new DPA which will then offset the problem that I have highlighted for some time on behalf of a lot of constituents. Other colleagues in this house have, too, and have had representation.

Whilst we understood the requirement to bring in an interim DPA to stop speculation of subdivision—and I strongly supported that—it was overkill to make non-complying the basic council merit-appointed planning processes which have actually caused a lot of difficulty in the regions when it comes to property values and banks' attitudes to loans they have had with constituents and so on.

This amendment is an important amendment, because there are over 2,000 owners who are potentially affected by this. To summarise what we are really doing with this amendment now, we are saying that the amendment would ensure that, as soon as bill is assented to, there would be certainty again, so people would not have to wait until the government brings in a new DPA.

In the government's response indicating its attitude to my amendment, I would ask the minister to advise the committee how long the minister thinks it will be before a new DPA would come in. I understand the intent is that they would try to get that DPA in within six months or thereabouts, but if six months becomes 12 months or 18 months that makes it quite difficult for these property owners.

So, protecting from sub-division and further sprawl, yes, but we should give people what I believe is a democratic right under the Westminster system, provided they have an envelope and meet the normal building and planning processes in a way that complies with council requirements. In my opinion, we should accelerate the certainty back to those people, and that is essentially what this amendment does.

The Hon. G.E. GAGO: The government rises to oppose this amendment. The amendment purports to restore certain rights to landowners and directly overrule a development plan amendment currently in process. The government understands the need for certainty for landholders and the intent of the amendment; however, we feel that the amendment is partly based on a false premise and, in any event, is not the best way to address the concern raised by the member.

As I have already indicated in a response to a question from the Hon. Mr Darley, and as the Minister for Planning stated in the other place when he introduced the bills, the development plan amendment which this amendment seeks to overturn was put in place to prevent inappropriate urban development from occurring while parliament debates this legislation. There is not, nor was there, any intention that this freeze would remain in place once these bills have (hopefully) been passed by this parliament. If these bills are passed by parliament, subject to the advice of the DPAC, the government will return planning policy to the position prior to the bill's introduction.

The Hon. R.L. BROKENSHIRE: Can the minister give to the chamber a guaranteed timeline as to when that new DPA would come into effect, so that the confusion and financial difficulties of up to 2,000 people can be rectified with some certainty? When would that actually be gazetted?

The Hon. G.E. GAGO: I am advised it would be from the day the act commences, and I am advised that the minister believes that would be in the beginning of next year (2013).

Amendment negatived.

The Hon. G.E. GAGO: I move:

Page 6, lines 35 and 36—[Schedule 1, clause 6, inserted subparagraph (x)]—Delete 'or a township'

The CHAIR: I think that amendment is consequential, is it not?

The Hon. G.E. GAGO: Yes, it is consequential.

Amendment carried.

The CHAIR: Because of a clerical error we will go back and deal with [Brokenshire-7] 1, which is consequential. It has been moved by the Hon. Mr Brokenshire.

Amendment carried.

The CHAIR: The Hon. Mr Brokenshire can move his amendment [Brokenshire-8] 1, which is consequential.

The Hon. R.L. BROKENSHIRE: I move:

Page 6, line 36 [Schedule 1, clause 6, inserted subparagraph (x)]—Delete 'the relevant' and substitute 'a'

Amendment carried.

The Hon. G.E. GAGO: I move:

Page 6, after line 37—After clause 6 insert:

6A—Amendment of section 46—Declaration by Minister

(1) Section 46(3a)—delete subsection (3a) and substitute:

(3a) A declaration under this section cannot apply with respect to a development or project within—

(a) the Adelaide Park Lands; or

(b) a character preservation rural area.

(2) Section 46—after subsection (16) insert:

(17) In this section—

character preservation rural area means an area that is defined as a rural area under a character preservation law.

That is consequential.

Amendment carried.

The Hon. R.L. BROKENSHIRE: I move:

Page 7, line 3 [Schedule 1, clause 7]—Delete 'responsible for the administration of the *Development Act 1993*'

Amendment carried.

The Hon. R.L. BROKENSHIRE: I move:

Page 7, line 4 [Schedule 1, clause 7(a)]—Delete 'that Act' and substitute:

the *Development Act 1993*

Amendment carried.

The Hon. G.E. GAGO: I move:

Page 7, lines 7 and 8 [Schedule 1, clause 7(b)]—Delete ' or a township, or part of the district or a township'; and substitute:

, or part of the district

Amendment carried.

The Hon. G.E. GAGO: I move:

Page 7, after line 13 [Schedule 1, clause 7]—After paragraph (b) insert:

and

(c) (in such manner as the Minister thinks fit) consult with, and consider any submissions of, relevant councils in relation to the matters specified in paragraphs (a) and (b).

The Hon. G.E. GAGO: That is consequential.

Amendment carried.

The Hon. R.L. BROKENSHIRE: I move:

Page 7, after line 13—Insert:

8—Application of Barossa Valley and McLaren Vale—Revised—Protection Districts

(1) This clause only applies to a proposed development on an allotment that existed on the prescribed day.

(2) If—

(a) it would have been possible to grant development authorisation to a proposed development in the district in accordance with the provisions of the applicable Development Plan as in force immediately before the prescribed day; but

(b) the proposed development would not be able to be granted development authorisation in accordance with the provisions of the applicable Development Plan as varied by amendments specified in the Development Plan Amendment,

those amendments will be taken not to apply in relation to the proposed development (and will be taken to have never come into operation in relation to the proposed development).

(3) If it would have been possible to grant development authorisation to a proposed development in the district in accordance with the provisions of the applicable Development Plan as in force immediately before the prescribed day, any subsequent amendment to the applicable Development Plan must preserve the ability to grant development authorisation to that proposed development.

(4) In this clause—

applicable Development Plan means the Development Plan under the *Development Act 1993* that applies to the location of the proposed development;

Development Plan Amendment means the *Barossa Valley and McLaren Vale—Revised—Protection Districts Development Plan Amendment* that came into operation on an interim basis under section 28 of the *Development Act 1993* in accordance with the notice published in the Gazette on 11 April 2012;

prescribed day means 28 September 2011.

I have already spoken on this amendment.

The Hon. G.E. GAGO: The government has already indicated its reasons for opposing this amendment previously.

Amendment negatived.

The Hon. D.W. RIDGWAY: I will not be moving amendments Nos 16 and 17.

Schedule as amended passed.

New schedule 2.

The Hon. R.L. BROKENSHIRE: I move:

Page 7, after line 13—After Schedule 1 insert:

Schedule 2—Amendment of Development Plan

1—Interpretation

In this Schedule—

designated area means the area within the township of Willunga bounded by St Mary's Street and Green Lane on the western side, St John's Terrace on the southern side, St Matthew's Street on the eastern side and Kirk Street and a line running from the end of Kirk Street (directly along the prolongation of that street) so as to connect to St Mary's Street on the northern side;

Development Plan means the *Onkaparinga (City) Development Plan* under the *Development Act1993*.

2—Amendment of Development Plan

(1) The Development Plan is amended so that any land within the designated area is zoned Residential (Foothills) (R(F))—see MAP Onka/103 and MAP Onka/104 in that Development Plan.

(2) The Minister responsible for the administration of the *Development Act 1993* must, by notice in the Gazette, make such amendments to the Development Plan as are necessary to give effect to subclause (1) and those amendments will have effect according to their terms and without any other step being required under the *Development Act 1993*.

The Hon. G.E. GAGO: The government rises to oppose this amendment and I will give our reasons. This amendment, in essence, attempts to rezone a specific portion of land to remove it from the Hills Face Zone. There are a number of reasons why the government opposes this amendment, for similar reasons to Mr Brokenshire's earlier amendment. The government believes such an amendment would set up legal ambiguities and set an unfortunate precedent for interference in the zoning system.

However, the government does appreciate the issue that the Hon. Robert Brokenshire raises. The government is very aware that there are a number of areas which are part of the Hills Face Zone for historical reasons but which are essentially anomalous, as they do not form a visible part of the Hills Face proper. This is a result of the history of the zone which started life, as members know, as the limit of the former E&WS department's technical capacity to service new housing allotments.

Since first established, the zone has taken on an important role in preserving the Hills landscape as an impressive and ever-present backdrop to Adelaide's urban area. In many ways, however, this has been a product of happenstance rather than design. We believe that the best way to address this anomaly in the boundaries of the Hills Face Zone would be through a proper public inquiry and that changes such as the amendments are undoubtedly the least desirable way to address the issue. The government cannot support this amendment, but we would be happy to discuss further with the Hon. Rob Brokenshire and other members perhaps other alternative ways for these matters to be reviewed and addressed at a later date.

The Hon. D.W. RIDGWAY: I indicate that the opposition is sympathetic to what the Hon. Rob Brokenshire is attempting to do but, for very similar reasons to those the minister has outlined, we think it may set up a dangerous legal precedent. Some of the members of the opposition—Iain Evans and others—have raised that there are certain little pockets of the Hills Face Zone that are a bit like the one outlined by the Hon. Robert Brokenshire that really do not add to the backdrop to the city, as the minister spoke about, but have been captured virtually by the fact that they are in the Hills Face Zone.

Certainly the opposition would be very happy to work with the government and other members to work out some way of reviewing those odd little pockets that are a bit different from what we all love and treasure as the Hills Face Zone. We cannot support the amendment, but we will be very happy to work with the government, as the minister said, either to review or look at some way of addressing those anomalies.

The Hon. M. PARNELL: I think that at the heart of this amendment is a frustration on the part of the honourable member that I absolutely share, which is that there are anomalous situations or just bad outcomes that come from planning schemes. The development plan does not always get it right and, as I have said earlier—and I will not repeat myself at any length—the parliament has very limited capacity to deal with bad zoning or planning decisions.

Members of the community have even less power to deal with them. In fact, the only option open to members of the public who think that the zoning rules are wrong is to bring what I think of as a due process-type appeal in the Supreme Court, or maybe the ERD Court, arguing that the process of zoning was wrong, but there is no ability to argue the merits of zoning. You cannot argue that this is in the wrong zone. Provided the minister has gone through the correct process, these decisions are, in effect, unimpeachable.

I agree with the remarks of other honourable members that we do need to have more discussion about the appropriateness of zoning in certain locations, but I would also like to have a debate in this place about whether the parliament and the community should try to reassert some

control over planning schemes, and I for one am a fan of merits, appeals, against planning schemes. That fills a lot of departmental people and planners with dread, the idea that the parliament or members of the community would argue against a planning decision that was made in terms of zoning or the rules that apply to development, but I think that is the direction in which we will have to head, whereas the government is going in the opposite direction. It is looking for more ministerial power and control and less fettered discretion, and as a result the communities miss out.

Whilst I appreciate what the honourable member is trying to do, he has taken advantage (I do not mean that in a negative sense) of the fact that this bill is before us. He has identified a problem with zoning and sought to fix it. I think the question is a broader one, and I am keen to work with all members to come up with amendments to the Development Act that give communities and the parliament more control. For the reasons the government has outlined, we will not support this particular amendment today.

The Hon. R.L. BROKENSHIRE: I thank colleagues for their contribution. I used this as a test. I place on the public record that there are a couple of families in one little pocket of the township who are totally disadvantaged in day-to-day activities because, when the township boundary was changed, the work was not done, as has been pointed out by the Hons Mark Parnell and David Ridgway. They are disadvantaged, even though they are within a township boundary, because of that anomaly.

Another family in the Barossa Valley have been to see me, the Liberal Party and possibly other crossbench colleges and also the government through Mr Piccolo, and no-one has been able to offer a solution to help these people. I went to the council on this. The council was sympathetic, but said, 'Oh well, we don't have the money to spend on a development assessment plan and all the work around that until another five years.' I went to the minister and the minister said, 'Well, go to the council.' Effectively those people are stuck between a rock and a hard place, and I thought this was an opportunity to at least bring some debate into the house and get some comment on the public record, which we now have.

I conclude by saying that I would still like to pursue opportunities for those two families and others who may be subject to those anomalies that have been highlighted. I think a process could be developed for the parliament to streamline those anomalies, and on behalf of Family First I would like to work cooperatively with the government, the opposition, the Greens and crossbench members, even if a committee was formed to see how we can address this and try to do some streamlining. It has been around for a long time and it is a significant disadvantage to, sure, only a small number but still important members of the South Australian community.

New schedule negatived.

Title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (12:39): I move:

That this bill be now read a third time.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (12:39): I would like to make a few comments at the third reading, although I suspect that I will not pursue what I was going to initially attempt to pursue. Last night, when we were debating this bill, I moved a suite of amendments. I guess my first amendment was a test clause for the opposition's amendments. I think we were making some reasonable headway. The minister said:

> Yes, I have a new issue...we have spent a lot of time debating this, but this is actually a new issue that has been brought to my attention. That is yet another consequence of the Hon. David Ridgway's amendments—and I think I need to draw this to the attention of the chamber—in that his amendments will allow subdivision for residential purposes in rural parts of the district such as a prime viticulture area...Our clause [meaning the government's clause] 8 prevents that from happening. The Hon. David Ridgway's amendment removes that. Our bill provides for a statutory prohibition to subdivide in rural parts, so for instance in those areas that may be deemed prime agriculture or viticulture areas our bill will prevent subdivision for residential purposes. The Hon. David Ridgway's amendment will allow that rural area to be subdivided. I just thought I would add that as well.

I thought I would also add that those were the minister's comments. Those rural areas are covered by the existing development plans, although anybody, as members would be aware, could apply to subdivide. It would be a noncomplying development; nonetheless, they could still apply to do so.

On reviewing amendments, I am sort of indicating by this commentary that, when we get to the Barossa bill, I will withdraw my amendment that deletes clause 8 because it certainly was not the intention of the opposition. Other members were saying last night during the debate, 'Well, it's obviously a drafting error, and maybe you need to look at it.' I did not want to prolong things last night, but maybe there is an option to withdraw our amendment that deletes clause 8. Therefore, we would have the same outcome in that respect as the government but, in the Barossa bill, still pursue the minister's not having the level of control that minister Gago expressed last night. I am still a little concerned, and I will repeat again some of the minister's comments. The minister said:

> I think that, for fear of being repetitive, I have made it quite clear that, indeed, the status quo does prevail in terms of processes for DPAs that apply to councils. However, the status quo does not prevail—these amendments [the opposition's amendments] change significantly the processes that apply to ministers.
>
> What these amendments do will remove the power for ministers to be able to initiate DPAs; I have already taken pains to outline several times all of the implications and I do not need to do it again. That is the difference; that is the impact this has. I think we have repeated it now several times. I think the issues for members are clear in terms of the impact these amendments have, and I think it is time that we move on.

I asked one final question of the minister, as follows:

> Is the minister saying that if the bill is not amended the minister will be able to implement a ministerial DPA in McLaren Vale or the Barossa?

The minister's response was, 'Yes, consistent with the legislation.'

What we were trying to do with our amendments was to remove the right of the minister to implement a ministerial DPA or to declare a major development and leave it to local communities and councils to control and manage. But, of course, it became apparent then that, by deleting clause 8, there was this opportunity for subdivision to take place, although I think it is remote because I do not believe that local councils would permit further subdivision.

Sadly, Family First members have left the chamber. I think what I might do is seek leave to conclude my remarks and catch up with the other members during the lunch break. If I do not have the support to progress this, the third reading will be a matter of a formality once we return. I seek leave to conclude my remarks.

The PRESIDENT: Is leave granted?

The Hon. G.E. Gago: No.

The PRESIDENT: Leave is not granted.

Bill read a third time and passed.

CHARACTER PRESERVATION (BAROSSA VALLEY) BILL

In committee.

(Continued from 6 September 2012.)

Clauses 1 and 2 passed.

Clause 3.

The Hon. G.E. GAGO: I move:

> Page 2, lines 7 to 9 [clause 3(1), definition of 'designated area']—Delete the definition of 'designated area'

I want to make some general comments first, if I may. As outlined in relation to the committee debate on the McLaren Vale bill, the government intends to propose a number of amendments to this bill. I do not intend to reiterate the proposed amendments to this bill which are in common with the McLaren Vale bill; however, it is important to note matters specific to the Barossa Valley bill for members' attention.

First, as members are aware, the minister originally proposed that the boundaries of the Barossa Valley district would include the land within the Mid Murray Council, forming part of the Eden Valley geographical index. Following consultation, the revised bill did not include this area. This change reflected concern expressed by some that this boundary was too expansive and included areas that were not obviously related to the character of the Barossa Valley or intrinsic to its fabric. It also reflected the minister's view that this area, although within the Eden Valley wine region, is not at risk of urban encroachment in the same manner as other parts of the Barossa Valley area.

In relation to this change, as members would be aware the government has been subject to criticism in the media and by the Hon. David Ridgway. Because of this, the government will be tabling an amendment during the committee stage seeking to restore the boundary that was originally proposed in the bill introduced in September 2011. We have advised the Mid Murray Council, which covers this area of the proposed amendment, of this proposed amendment and that it is being restored at the request of the Hon. David Ridgway.

As with the McLaren Vale bill, I foreshadow that the government will be seeking to move a number of amendments to this bill in the committee, reflecting negotiations with the Barossa, Light and Adelaide Hills councils between the houses. The majority these amendments are the same as those moved in the McLaren Vale bill, and I draw members' attention to the debate on that bill for full details.

In relation to this bill, there are two sets of amendments the government is seeking to move that are specific to the Barossa. First, as I have already indicated, the government will be seeking to change the eastern boundary of the proposed Barossa Valley district to include the area of the Mid Murray Council originally included in the September bill. To do this, the government will seek to change the operative date for reference to the GRO map, which outlines the boundaries of the district to 26 June. This will also include the minor corrections to the township boundaries already outlined. A revised map has already been lodged at the General Registry Office reflecting these changes, but it will not come into effect until this amendment is passed.

Secondly, in relation to the rural living areas, designed as exempt from the operation of clause 8 of the bill, which prohibits residential subdivision in the rural part of the district, the government will, at the request of the Barossa Council, seek to move an amendment which slightly varies this position. At present, the clause allows subdivision freezes in the subdivision, entitlement to the minimum allotment size specified in the development plan, at the date the bill was introduced.

The council has submitted that this prohibition only needs to prevent the council from decreasing the allotment size, that there is no need for the bill to prevent the council from increasing the allotment size should it wish to. The government has accepted this argument and will seek to move an amendment to give this effect.

The Hon. D.W. RIDGWAY: Just in relation to the eastern boundary, my recollection is that minister Rau indicated to me and by public statements that it was at the request of the Mid Murray Council that that area was taken out. I recall that, at the same time, the Barossa Council asked the minister to not proceed with his bill. Can I ask why it took one bit of correspondence for the Mid Murray Council to have the boundary moved, yet a task force and a whole range of actions were put in place to address the Barossa Council's concerns?

The Hon. G.E. GAGO: This government has considered the points of view and input from all of the councils, and many of those points of view are reflected throughout the amendments we have made, and that includes the Barossa. In terms of the Mid Murray raising the issue of the eastern boundary, the minister formed the view that that was a reasonable request, and he believed that it was in everyone's interest to accommodate that.

There are a range of requests that were not considered in the overall general interest and have not been acceded to; however, as I said, we have listened to the points of view and input from all councils and, wherever possible, we have attempted to accommodate those, and they are reflected in the many amendments that the government has made to this bill.

The Hon. D.W. RIDGWAY: In the minister's opening remarks, she indicated that the reason the eastern boundary was shifted was that there was minimal threat of urban sprawl. Is she able to outline the areas on the western, southern and northern boundaries where she thinks there is threat of urban sprawl?

The Hon. G.E. GAGO: That is the advice I have received. I do not have that level of detail with me; I am happy to take it on notice. The advice I have received is that the view around the eastern boundary posed insignificant threat, and the minister agreed. As I said, we considered the views and opinions of all of the councils and attempted to accommodate those wherever we possibly could.

As I said in my introductory statement, these amendments are similar to those we have already gone through. I said that I would not speak to each of them in turn, only to those that are obviously significantly different to the debate that has already occurred under the McLaren Vale bill.

The Hon. D.W. RIDGWAY: I sought some advice from parliamentary counsel about how I might not move my amendment later where I oppose clause 8. I am advised by parliamentary counsel that I am not required to move my first amendment, so I will not be moving that but I will be moving my second one and speaking to that.

Amendment carried.

The Hon. G.E. GAGO: I move:

Page 2, lines 13 and 14 [clause 3(1), definition of district]—Delete 'the prescribed day) but does not include the areas marked as townships on the deposited plan' and substitute:

26 June 2012)

The Hon. D.W. RIDGWAY: I move:

Page 2, lines 11 to 14 [clause 3(1), definition of *district*]—Delete the definition of *district* and substitute:

district means the area defined as the Barossa Valley district by the plan deposited in the General Registry Office at Adelaide and numbered GP 4 of 2012 (being the plan as it exists on 26 June 2012) but not including the areas marked as townships on the deposited plan;

This will be a bit like last night—a test, as to whether I have any support for common sense in what we are trying to do here. I note the minister in her previous remarks was unable to identify any threats on the southern, western or northern boundaries of the proposed Barossa district; in fact, there weren't any on the eastern boundary which is why they shifted the boundary.

It begs the question: what are we protecting if the minister is unable to identify threats to this region? There appears not to be any that she can identify. Clearly, what it would point to is that the local councils, and the regime that exists today with the local development plans, are offering a level of protection that sees no threats to those particular areas. I suspect that if I had asked the same question for McLaren Vale—that is, where were the threats from urban sprawl—it would have been very difficult for the minister to identify these perceived threats. We know these threats have largely been driven by the government's very poor performance in the ministerial DPA in Mount Barker, areas like Buckland Park and the little bit around Seaford.

I come back to the point I was making last night that we absolutely accept that these regions need some special treatment. We absolutely accept that the regions should have, as the Hon. Mark Parnell says, a texta line on a map that is very hard to rub out and how, in fact, you would probably have to get some white-out to cover it so that it is a little more difficult than getting an eraser to rub it out. The town should have boundaries and the locals should manage these regions as they have done in the past. We are almost using a sledgehammer to crack a walnut because there is no threat. As I said, under our amendments, we remove the right of the minister to exercise a ministerial DPA in the rural zones and declare major developments.

We let the council manage those areas the way they have always managed them and we do not want to see any further subdivision in the rural areas. Of course, we know that is consistent with the development plan but we will now accept that there is a slight risk that that could happen, so if we are successful in deleting clause 8 it is our intention not to move the amendments that delete clause 8 so that we can actually just have the current regime that is in place that is being managed by the Barossa Council, the Light council, a little bit of Adelaide Hills and a little bit of the Mid Murray council.

That is why we wanted the boundary to include Henschke's Hill of Grace vineyard, not because we wanted to put special restrictions on the Mid Murray council but just for that to be a designated area that was special. That was within the Eden Valley GI, which is a particular geographic indicator. It was not that we wanted special restrictions placed on it. We think the Mid Murray council has managed it exceptionally well, nonetheless that area should be included in this particular protection zone if we are serious about identifying the areas that are important.

I am not sure what other members' comments are going to be, and I know we are right up against 1pm, so I would urge members to consider this as an option. I know it is a bit cumbersome, and I suspect that if these amendments are supported the minister will be tearing her hair out because we will have two bills that are different.

That is why I would have liked to have sought leave to conclude my remarks on the third reading of the McLaren Vale bill; it was the first time in the 10½ years that I have been in this place that I have had leave refused. It would have only meant another minute of time to deal with that bill and complete the third reading, and I am a bit disappointed that the minister would do that.

Given that we have reached lunchtime, I am asking members to consider my proposal over the lunchbreak, and during question time and matters of interest, so that when we return to government business we can progress this committee stage of the bill. I have moved my amendment No. 2, which is a test for what I am proposing to do but, given that we are at lunchtime, I assume that we will continue this debate later.

Progress reported; committee to sit again.

[Sitting suspended from 13:01 to 14:15]

NATIONAL HEALTH FUNDING POOL ADMINISTRATION (SOUTH AUSTRALIA) BILL

His Excellency the Governor assented to the bill.

HEALTH PRACTITIONER REGULATION NATIONAL LAW (SOUTH AUSTRALIA) (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

PAPERS

The following paper was laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. G.E. Gago)—

Boards and Committees Information System—Report, 2012

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:20): I bring up the 14th report of the committee.

Report received.

QUESTION TIME

SNAPPER FISHERY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:22): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding her dereliction of duty.

Leave granted.

The Hon. D.W. RIDGWAY: Even though growth in the tourism industry in South Australia has failed to reach targets set in the State's Strategic Plan, tourism is still vital to the social and economic fabric of rural and regional South Australia. This is particularly true on our coasts and even more particularly so on Yorke Peninsula.

Yorke Peninsula normally expects 1½ million visitors annually. Half of those come for fishing, many specifically for snapper, but with anglers and their families already booked in for their Christmas holiday fishing trip, the minister has yet to announce whether she will extend the snapper fishing ban from November through to January.

I am told that families are thinking of cancelling their trips, tourism operators do not know what is happening, and fishing tackle suppliers cannot order or make plans until the minister finally makes up her mind. The Wakefield, Copper Coast, Yorke Peninsula and Barunga West councils have all asked for urgent meetings with the minister. None have been granted. The shadow minister, Mr Adrian Pederick (member for Hammond), has twice requested a briefing and none has been granted.

One meeting was arranged and then cancelled and the government has still not agreed for it to be rescheduled. The office of the local member of parliament (Mr Steven Griffiths) requested a briefing on 7 September to reiterate the shadow minister's request. Still there is silence from the minister. Local ABC radio this morning attempted to get comment from the minister; the request was denied. My questions are:

1. When will the draft snapper management agreement proposal be finalised and implemented?

2. What assessment has the minister done to measure the effects of closures on local economies?

3. When will the minister and her representatives meet with the shadow minister and the local member of parliament?

4. Given the minister's total disinterest in either tourism or fishing, will the snapper hook line sink her?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:24): He definitely needs a few more omega-3s in his diet, is all I can say. It is very important brain food and it seems to be lacking in the honourable member. I am very pleased to talk about our successful tourism program and I have said in this place before on several occasions that we are very fortunate in this state that we have overall growth in our tourism in this state.

That is in spite of very difficult economic times and real challenges in terms of our dollar and international visitors, etc. Nevertheless, in spite of all of that, South Australia has an overall growth in tourism which we should be very proud of, and that is due to the hard work of our South Australian Tourism Commission and the many staff who work extremely hard and are extremely committed—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —to providing support to our tourism operators. The other part of our success is indeed those very hardworking tourism operators, many of whom are small to medium-sized businesses, many are family businesses, and they also work very hard and in a very cooperative and collaborative way with SATC to ensure successful economic growth in relation to tourism in this state.

If the honourable member actually cared to look at the facts, he would find that the last lot of figures of which I am aware showed that most of our regions enjoyed growth in tourism—I think only two regions did not; one was KI and I cannot recall the second but, overall, tourism grew right throughout regional South Australia, other than in those two regions. It has been a great success story.

In relation to snapper, this is a very important issue. Snapper is an important commercial fish and a very important recreational fish as well, and quite delightful to eat, which is probably why it is so sought after. As the honourable member pointed out, it has tourism implications as well. People come to this state to visit because of our good fishing, particularly our King George whiting but also our snapper, which is under significant challenge at the moment.

Our snapper fishery is under threat. Our fish stock has decreased over the past number of years, and that could put that fishery in jeopardy and jeopardise not only the commercial fishery but also recreation and tourism forevermore. If we do not manage this fishery well, if we do not get this right, we have a lot at stake in terms of this fishery and the economic outcomes from that. So, it is not surprising that, because of the importance of this, we have put in a great deal of work and consideration and have consulted extensively, which we continue to do.

The future management arrangements for snapper are currently being reviewed. No decisions have been made at this point, and it is not because of indifference but because of the incredibly thorough and diligent efforts of officers and their commitment to consult extensively across a wide range of stakeholders. Those stakeholders have different sets of vested interests, some of which are in conflict with each other. It is difficult to find a landing point, and it is important to find a landing point and to take the industry with you, and that is what this government tries to do and what I try to do as minister.

An options paper and a background paper were released for public consultation for a period of 10 weeks, and 253 submissions were received. The comments are being collated by PIRSA, alongside a snapper working group, which was formed to assist PIRSA develop management options for the future sustainable management of the fishery. PIRSA, with other stakeholders, including the commercial and recreational sectors and peak bodies, has evaluated and looked at those options through that working group.

PIRSA is now undertaking additional targeted consultation on a draft proposal with appropriate regional stakeholders. The key outcome of this review will be management

arrangements that optimise snapper spawning and recruitment, to effectively control the level of commercial impact on snapper stocks, and to support a sustainable snapper fishery, one that we can be proud of and one that can be enjoyed by our children and our children's children and indefinitely.

Currently, snapper is managed in South Australian waters using a combination of methods: there is a legal size limit, bag limit and also closures. There are also limits on commercial licences and limits around nets and traps and such like and upper hook limits. While the South Australian Research and Development Institute (SARDI) snapper fishery assessment report indicated that stocks were reasonably healthy, it showed concerning indicators for both Northern Spencer Gulf and Southern Spencer Gulf that related to a lack of recent recruitment to those regions. So, the warning bells are ringing.

The marine scale fisheries stock status report from 2011, published by SARDI, indicated five breaches of reference points, which related to the highest commercial catch in history, reflecting the highest levels of long life effort and catch per unit effort. The total statewide commercial snapper catch in 2010-11 was 972 tonnes, I am advised. The Australian recreational fishing survey estimated that the recreational snapper catch was also significant at 177.6 tonnes, which also includes catches from charter boats (94 tonnes).

Interim measures were introduced from 1 January 2012 to restrict commercial fishers to maximise daily limits to 800 kilograms of snapper per vessel when fishing in Spencer Gulf and Gulf St Vincent. These measures have recently been extended whilst a package of management options are being finalised and a decision is made on future long-term management arrangements. The interim measures were fully supported by the Marine Fishers Association, which has been working collaboratively with PIRSA.

Target consultation is occurring with the draft options. So, we are near a landing point and finalisation of that plan. We are aware that the charter operators have indicated to us that they have already received bookings for the holiday season. We are very mindful of that, and we have indicated to them that we will take that on board and consider that in any final decision. Obviously, our aim is to minimise economic impact on our fisheries while, at the same time, making sure that we have a fishery that is healthy and sustainable into the future.

SNAPPER FISHERY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:33): I have a supplementary question arising out of the minister's answer. Given that the minister said that the government has attempted to take industry and the community with it, why have the shadow minister and the local member been denied briefings?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:33): They have not been denied a briefing. That is just outrageous! I have always indicated in this place that my door is always open. I have an open-door policy. When I am requested, where I possibly can, I attempt to meet with that person, whether it is an individual or a representative of a peak organisation or whatever. I believe that South Australians have the right to meet with ministers and members of parliament to discuss their issues of concern.

I understand that the issue has been trying to find a suitable time that is mutually convenient for these briefings to be had. No briefing has been denied. Members in this place would be well aware that, when they request briefings, my office and my agencies really work very hard to accommodate not just members of parliament but members of the public as well to fit in with their commitments and to make a time that is mutually convenient. At present, my understanding is that we have not been able to find a mutually convenient time. We have agreed to meet, if not with me at least with one of my officers, and the door is and remains open. The briefings will be given; it is simply a matter of finding a time that is mutually convenient for the parties.

WOMEN IN THE WORKFORCE

The Hon. J.M.A. LENSINK (14:35): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question on the subject of women in the workforce.

Leave granted.

The Hon. J.M.A. LENSINK: The newly appointed Commissioner for Equal Opportunity, Anne Gale—and we congratulate her on that appointment—has made some comments regarding

women's lack of advancement through senior ranks, stating that in her view a lot of women unwittingly choose to remain in lower paid roles, which makes it difficult for them to climb the corporate ladder later in life. Notwithstanding some of the good work the government may have done in relation to public sector advancement, does the government have any strategies in relation to assisting women who work in the private sector and the not-for-profit sector?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:36): I thank the honourable member for her most important question. I too congratulate Anne Gale on her appointment. I worked closely with her when I was minister for consumer affairs and liquor licensing and very much enjoyed working with her, and I was delighted to see her go into this very important position.

This government has done a great deal to provide leadership and establish role modelling to the private and NGO sectors in terms of what we believe can and should be done to advance women. I will not go into this in detail, because I know that I have spoken about it at length in this place previously, but we have set women's representation targets for our boards and committees, as chairs of those committees, and in executive positions in our Public Service. We have succeeded in increasing women's representation in all those areas. That assists women to advance into leadership roles and into more senior positions within their organisations, which they justly deserve.

Although women are generally better educated than men in terms of year 12 completion and completion of university degrees, we nevertheless see women underrepresented, and the more senior the position the more underrepresented women tend to become. This is for a range of what we know are fairly complex reasons; nonetheless, they are reasons that we need to tackle head on until we have more equitable representation.

Significant work has been done by the Premier's Women's Council, which has conducted a number of forums involving businesses where they have looked at inviting leading industries along to forums to share information about what successful modelling, progressing and mentoring of women through organisations can look like. That has been a great success.

As I said, this government continues to hold itself up as a role model. I participate in many different forums in both the public sector and the NGO sector, where I talk about the importance of setting gender equity targets, which this government is very committed to—unlike the opposition, where women are significantly more underrepresented than in this government.

The Hon. J.M.A. Lensink interjecting:

The Hon. J.M.A. Lensink: Quality, not quantity.

The Hon. G.E. GAGO: Yes. The government is able to find quality women. Why can't the Liberals find quality women. It is such a furphy argument about merit. So, the Liberals cannot find meritorious women to fill their positions, but the ALP can find meritorious women. It is an absolute furphy. We know that women are generally better educated out there and we know that there are a wide range of cultural, social and structural barriers that disenfranchise women from succeeding, and it is those we need to tackle head on.

WORKCOVER

The Hon. R.I. LUCAS (14:40): I seek leave to make a brief explanation prior to asking the minister representing the minister for WorkCover a question on the subject of WorkCover.

Leave granted.

The Hon. R.I. LUCAS: Members would be aware that for quite some time concern has been expressed about the performance of our WorkCover scheme here in South Australia, the level of unfunded liability greater than $1 billion, the worst performance of all workers compensation schemes in relation to premiums being charged to employers and, most importantly, the worst performance of all schemes in terms of return-to-work performance for injured workers.

Earlier this year there was a dispute—there were a number, I guess, but one in particular—between the WorkCover Ombudsman and WorkCover over the issue of self insurers. Subsequently, Mr Wayne Potter, the then general manager for regulation and education signed a letter to *InDaily*, although the opposition has been informed that even though he had signed that letter it had been authored by the chief executive officer, Mr Thomson.

Information provided to the Liberal Party indicates that, subsequent to that letter being published, there was a dispute between Mr Potter and Mr Thomson over the letter and related issues. This dispute then led to the termination of Mr Potter, with Mr Potter having his belongings at his office desk being packed by other staff at WorkCover whilst he was frogmarched by security from the WorkCover building.

The Liberal Party has also been informed that a letter has been forwarded to the minister for WorkCover, minister Snelling, and the Chair of the WorkCover Board, Mr Bentley, expressing significant concerns about the behaviour and actions of Mr Thomson. This letter raised the issue of the circumstances of Mr Potter's dismissal, but also, importantly, it raised a number of other significant issues as well. My questions to the minister are as follows:

1. Did the minister receive a letter expressing concern about the behaviour and actions of the former chief executive officer of WorkCover, Mr Rob Thomson, and, if so, when did he receive that letter and what action did he take as a result of receiving that letter?

2. When did the Chair of WorkCover, Mr Bentley, first advise the minister that the chief executive of WorkCover would be leaving his position, and what explanation was given to the minister by the Chair of WorkCover as to the reasons why Mr Thomson was leaving his position?

3. Was the minister advised by WorkCover that Mr Wayne Potter had been terminated from his position as general manager of regulation and education at WorkCover, and, if so, what was the explanation given to the minister by WorkCover for Mr Potter's termination?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:43): I thank the member for his important questions. I will take them on notice and refer them to the minister in the other place.

TOURISM DEVELOPMENT FUND

The Hon. G.A. KANDELAARS (14:44): I seek leave to make a brief explanation before asking the Minister for Tourism a question about the Tourism Development Fund.

Leave granted.

The Hon. G.A. KANDELAARS: Our region has a lot to offer, and having a range of accommodation options is important in attracting tourism. Can the minister advise the council how the fund has been used to further tourism on the Limestone Coast?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:45): I thank the honourable member for his most important question. As members know, the South Australian Tourism Commission (SATC) assists with partial funding for tourism infrastructure projects which address gaps and add to the tourism product available in key areas of the state. This assistance is provided through the Tourism Development Fund.

The fund addresses two key areas of the South Australian Tourism Plan: namely Strategy 3, which seeks to create new and refreshed tourism developments in South Australia, and Strategy 7, which aims to encourage investment in South Australia's tourism assets and experiences. Applicants must highlight the tourism outcomes of their respective projects and how the project will contribute towards the tourism objective in South Australia's strategic plan which seeks to achieve $8 billion in annual tourism expenditure by 2020.

Proposals for funding must meet certain criteria, time lines and reporting requirements. I am pleased to advise the chamber that SATC has recently provided a grant of $105,000 to The Barn in Mount Gambier. This funding will support the development of 14 premium suites—a project that will take The Barn's total number of rooms to 45. The Barn offers high-quality, spacious rooms that have earned an excellent reputation, and it is hoped that the grant will help boost Limestone Coast visitor numbers. New suites supported by the fund will assist South Australia to reach its target for domestic high-yield travellers while also offering the important markets, such as the growing Asian one, a luxury regional experience.

The Limestone Coast Destination Action Plan 2012-15 was launched in June and recommends that 115 new 4-star plus rooms be built to cater for increased visitor demand. The Barn's new rooms will certainly help in this regard. Further, those new suites should help the SATC achieve its goal of increasing visitor expenditure within South Australia's total tourism industry to $8 billion by 2020.

As members may recall, the Destination Action Plans (DAPs) are key for the SATC and the 2012-13 year will see a real focus on the implementation of those plans which are being produced for each of the state's non-metropolitan regions. Eight DAPs have been launched. Twelve will produced in total, with the Flinders Ranges and Outback to each their own DAP. All of these plans include a list of actions that the SATC and regional tourism stakeholders feels are achievable during the next three years.

Priority areas are established in each DAP, and I am sure that members will not be surprised to learn that food and wine are a major focus, along with other tourism experiences like cycling, adventure, coastal landscapes and the arts. Destination Action Plans are also firmly focused on upgrading and expanding the quality of South Australian accommodation. The Limestone Coast is not alone in the need to upgrade accommodation. It gives me great pleasure to wish The Barn every success with their upgrade.

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:48): I have a supplementary question. Can the minister explain why the Tourism Commission's Industry Cooperative Marketing Fund has not been funded this financial year?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:48): The tourism?

The Hon. D.W. RIDGWAY: The Industry Cooperative Marketing Fund. It is in your portfolio. You were just talking about funds and grants.

The Hon. G.E. GAGO: I will have to take that on notice. I do not have those details. I am not aware of changes but I am happy to bring back an answer.

WORKCOVER

The Hon. A. BRESSINGTON (14:48): I seek leave to make a brief explanation before asking the minister, representing the Minister for Workers Rehabilitation, questions about WorkCover's conduct.

Leave granted.

The Hon. A. BRESSINGTON: As members may recall, last week I asked several questions focusing on the incompetence of WorkCover and their claims agent EML in their management of Ms Mandy Jamieson's injuries. It would seem that what I detailed last week was not the full extent of WorkCover's incompetence in this case, as revealed by Ms Mandy Jamieson's section 107B application. When finally receiving her file, as her application was initially lost despite being acknowledged when submitted, Ms Jamieson discovered that WorkCover had purportedly paid an interstate psychiatrist for an independent medical examination of her. However, Ms Jamieson does not have and has never been suggested to have a psychiatric condition and she states that she has never seen the psychiatrist concerned, Dr Doron Samuell.

Members may recall Dr Samuell from questions of mine in 2010, when I detailed the numerous allegations made by constituents of his intimidating manner, verging on bullying, resulting in several being left in tears and feeling retraumatised. Despite raising these serious allegations of impropriety and assurances from the then minister that the use of interstate independent medical examiners would be limited to cases where a local specialist is not available, it is my understanding that Dr Samuell was never fully investigated and continues to be contracted by WorkCover to undertake such examinations and assessments.

Considering these allegations, Ms Jamieson is surely thankful that this consultation did not take place. However, this does not detract from the fact that Dr Samuell was reportedly paid some $1,580, including travel and accommodation expenses, for an examination which never occurred. My questions to the minister are:

1. Will the minister now initiate an investigation into the payment to Dr Samuell for an examination that allegedly did not occur?

2. Will the minister report the outcome of this investigation to the parliament?

3. If that investigation reveals that this is not simply an error, will the minister review all payments to Dr Samuell and other independent medical examiners to determine if this was an isolated incident?

4. Given the commitments made on 24 June 2010 by the then minister for industrial relations in this place, why is an interstate psychiatrist still being engaged by WorkCover when there is no shortage of South Australian psychiatrists available and at a much reduced cost?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:51): I thank the honourable member for her important question. We will refer those to the appropriate minister in another place and bring back a response.

SAFE WORK WEEK

The Hon. CARMEL ZOLLO (14:51): Can the Minister for Industrial Relations provide an update on the plans for Safe Work Week 2012 and entries received for the Safe Work Awards?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:52): I thank the honourable member for her question, and I acknowledge her many years of concern for safe workplaces. It gives me great pleasure to provide the chamber with an update on the preparations for the upcoming Safe Work Week 2012. Safe Work Week is South Australia's annual event for educating the community on occupational health and safety and the need to stay safe at work. The event will be held from 22 to 26 October 2012 and will include a range of events across metropolitan and regional South Australia.

This year's Safe Work Week will have a strong emphasis on the implementation of the harmonised work health and safety legislation and on managing hazards in the context of a new national system. The Safe Work Week program will again present an opportunity for SafeWork SA to provide information and promote safe work practices aimed at reducing work-related death, injury and disease in South Australia.

This year, in the interest of delivering a more varied and dynamic event, we are pleased to welcome on board the South Australian Farmers Federation, the Australian Industry Group and the Master Builders Association of South Australia, who join our existing event partners, WorkCover SA, SA Unions and Business SA.

A variety of free workplace safety workshops will be held throughout the week, suited to both business and individual needs. Registration is easy and it can be submitted online at the SafeWork SA website. This should assist in reaching a wider audience through increased accessibility.

The Safe Work Week program culminates with the Safe Work Awards, which celebrate and publicly recognise South Australia's true workplace safety champions. Applications for the Safe Work Awards have now closed, and we have once again received a range of entries of a very high calibre. It is most pleasing to see that businesses of all sizes, work groups and individuals continue to strive to meet our shared goals of safer working lives, workplaces and work practices in South Australia. Entries have been received for the following award categories:

- Best Workplace Health and Safety Management System, which recognises demonstrated commitment to continuous improvement of workplace health and safety through the implementation of an integrated system approach;
- Best Solution to an Identified Workplace Health and Safety Issue, which recognises excellence in developing and implementing a solution to identify a workplace health safety issue;
- Best Workplace Health and Safety Practices in a Small Business, which recognises high standard workplace health and safety practices in small business; and
- Best Individual Contribution to Workplace Health and Safety. This award recognises individuals who have made an exceptional difference to health and safety.

State finalists and winners will be announced at a gala dinner on Friday 26 October 2012 at the Adelaide Convention Centre. I look forward to updating the chamber of the 2012 Safe Work Awards winners after this event.

SAFE WORK WEEK

The Hon. T.A. FRANKS (14:55): I have a supplementary question. Of the 14 deaths that occurred in South Australia for the year 2009-10 according to Safe Work Australia's website, how many of those were either investigated or prosecuted by SafeWork South Australia?

An honourable member: In your own time, Russ.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:55): Well, if you want a good answer and a proper answer, you'll have to wait. I thank the honourable member for her very important question. I don't have that actual breakdown with me, but I will ensure that the honourable member receives it in the very near future.

CAT AND DOG FUR

The Hon. T.A. FRANKS (14:56): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Business Services and Consumers, a question regarding the use of cat and dog fur in South Australia.

Leave granted.

The Hon. T.A. FRANKS: The minister would no doubt be aware that, although the importation of cat and dog fur is prohibited into Australia under federal legislation as of 2004, which followed the lead of both the US and the European Union, the use of such fur is not banned in Australia in any state or territory.

Disturbingly, tests conducted by the Humane Society International in February 2011 showed that dog fur items are being bought in Australia. A broader investigation conducted a few months later in May last year showed that this was not an isolated incident. In fact, leading retailer Myer's has withdrawn a range of fur-trimmed products from sale. Tests conducted on another chain, Wittner's, showed that vests being sold by them were also either dog or cat fur, leading to a voluntary withdrawal of all fur items sold by that particular company.

Unless tested, dog and cat fur is often indistinguishable from other animals being used by the fur industry that can be legally imported or, in fact, illegally imported, and it slips through the net. It is alleged that these dog and cat fur products are often deliberately mislabelled as rabbit, fox or raccoon dog in an attempt to escape these import bans. Dog products may also be labelled as something called gae-wolf, sobaki or Asian jackal and cat products are often sold as wild cat, goyangi or katzenfelle. It is concerning that this current labelling requirement seems wholly inadequate and is allowing consumers to be misled.

Most fur in Australia, of course, in this area comes from China, where there are no animal welfare laws, and an estimated two million dogs and cats are killed for their fur in China each year, but many millions more—rabbits, minks, foxes and other animals—are also victims of the industry. Investigators have recorded this information and, if any members are interested, the Humane Society is able to provide graphic footage demonstrating the practices where, in fact, animals have been skinned alive. Noting that South Australia has gone along with the ban of the consumption of dog and cat meat in 2004, despite no other state having similar provisions, my questions therefore are:

1. What action will the state government take to ensure that products containing fur sourced from cats or dogs or from related species, such as raccoon dogs (often harvested under conditions of extreme cruelty, with some animals literally skinned alive), will not be permitted to be imported or sold here in South Australia?

2. Is the minister aware that independent scientific examination of fur and leather samples from China showed that they exceeded recommended levels for hexavalent chromium, a toxic and carcinogenic chemical used in the leather tanning process that can cause severe health complications for humans and, in fact, studies have shown that the levels on those products are 133 to 733 times the amount allowed?

3. What action is the minister taking to alert and protect consumers, especially parents, of the dangers that these products are posing to their health and especially the health of babies and young children who may come into contact with these products?

4. Will the state government commit to working with state and federal counterparts across Australia to introduce as soon as practicable a total ban on the importation and sale of fur

sourced from inhumane conditions, or where the provenance of fur cannot be independently verified, to ensure that, as much as practicable, Australian consumers in our state are not unwittingly supporting this cruel and barbaric trade?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:00): I thank the honourable member for her important questions and will refer those to the appropriate minister in another place and bring back a response.

APY LANDS, VOLUNTARY INCOME MANAGEMENT

The Hon. T.J. STEPHENS (15:00): Mr President, thank you for the call, and hopefully it is not for the last time. I seek leave to make a brief explanation before asking the Minister for Communities and Social Inclusion, representing the Minister for Aboriginal Affairs and Reconciliation, questions about the voluntary income management scheme being introduced in the APY lands.

Leave granted.

The Hon. T.J. STEPHENS: On 7 September, it was announced that the commonwealth will introduce a voluntary income management scheme on the APY lands. The model used will quarantine 50 per cent of a person's income for use on food, rent, clothing and essentials only via a BasicsCard. As honourable members know, I have asked questions on this subject before and it is no secret that many Aboriginal groups have been calling for this kind of scheme for a long time.

The NPY Women's Council and the chairman of the APY council have been some of the more vocal proponents. It is interesting to note that, when approached about the subject by the APY Council, the government dismissed it and, when asked by me in March, the minister did not give me an answer and still has not. My questions are:

1. Why did the government not act on this earlier when people on the lands have been crying out for something to be done?

2. Will this government support the commonwealth scheme?

3. Why has the minister not answered my question of six months ago?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:01): I thank the honourable member for his most important questions. I will take them to the Minister for Aboriginal Affairs and Reconciliation in another place and seek a response on his behalf.

HOUSING SA

The Hon. J.M. GAZZOLA (15:01): My question is to the Minster for Social Housing. Minister, could you outline how your Housing SA staff are allocated to front-line services and what their responsibilities are?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:02): I thank the honourable member for his question and I advise that I can, and I now will. Housing SA's annual report for the year ending 2010-11 reported that the agency employs 1,008 people with 958.7 full-time equivalents. A typical Housing SA regional office is mainly composed of front-line service delivery staff who deliver important services in the following areas: conducting housing needs assessments; conducting home visits; processing bond and rent assistance requests; investigating disruptive tenancy complaints; maintenance response issues; chasing up rent and debt payments; and organising requests and approvals for disability modifications and appropriate housing allocations.

Last week we heard, of course, the Leader of the Opposition in the other place announce that, if the Liberals win government at the next state election in 2014, they intend to cut the numbers in the Public Service from around 100,000 to between 65,000 and 75,000. Of course, we know that she has backtracked on that number but, tellingly, her deputy, Mitch Williams, has come out in support of these comments, saying that Mrs Redmond's comments were 'very consistent with the views of everybody in the party room'.

This is a case of a decision already being endorsed by the Liberal Party room, a decision that they hoped would remain secret until after the next election, a decision they hoped to blame on a Queensland-style audit commission, a decision the Leader of the Opposition revealed

accidentally. Let us be clear: this is a decision that will significantly impact 25,000 to 35,000 workers and their families and in turn impinge on South Australia's much-needed front-line services. We only have to look to Liberal governments in Queensland or New South Wales or indeed Victoria to see what would happen in South Australia under a Liberal government.

Liberal governments in Queensland, New South Wales and Victoria have cut over 30,000 public sector jobs and stripped billions of dollars out of vital front-line services. They have taken a big axe to health, education, police, communities, child safety and disability services. This is the stuff of Liberal governments in Australia—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: This is the stuff of Liberal governments in Australia, and this should be a big warning for the South Australian community.

The Hon. T.J. Stephens interjecting:

The Hon. I.K. HUNTER: The Hon. Terry Stephens is interjecting across the chamber. He interjected yesterday across the chamber when the Leader of the Government was saying that all that the Liberal opposition offers to the state is nothing but cuts, and the Hon. Terry Stephens said, 'Hear, hear!' That was his interjection yesterday. The Liberals have nothing to offer this state but cuts, and he says, 'Hear, hear!' This is a big warning to the people of South Australia.

Only last week we saw 14,000 Queensland public servants told that they would be sacked, despite the Liberal Party going to the recent election promising no forced redundancies and that a reduction in public service numbers would be achieved through natural attrition over several years. Does that sound familiar? The Liberals' proposed cuts in staffing of between 25,000 and 35,000 will have enormous effects on service provisions across a wide range of government services, in particular in the provision of public housing and rental assistance through Housing SA.

How would these cuts affect Housing SA's frontline services? The expected waiting times for important services would increase significantly. This would mean customers would face lengthy delays for bond and rental assistance, hindering their ability to access other private rental accommodation. Home visits, which currently are conducted once every 12 months, might need to be blown out to once every two years or even longer.

The Hon. G.E. Gago: One in four perhaps.

The Hon. I.K. HUNTER: Exactly. The response times for maintenance would likely increase, and tenants could expect to wait longer for repairs, even for those related to health and safety. Delays in responding to disruptive tenancy complaints can be expected, meaning an extending of the time lines and warnings and potential eviction of severely disruptive tenants. Lack of staff in the field would lead to an increased number of properties falling into a state of disrepair and vacant properties taking longer to reallocate to new tenants.

Ultimately, under the proposed magnitude of cuts the Liberals are offering the state, the waiting list for public housing would get longer, including those on category 1. Housing SA public servants facilitate the provision of public housing and private rental assistance for the most vulnerable members of our community. Housing SA staff play an important role in supporting safe and active neighbourhoods within our vibrant city.

Of course, only a small portion of South Australian public servants work for Housing SA. The issue is much broader than the impact on just my own agencies. It is important to remember our public servants are not just faceless bureaucrats sitting behind desks: they are nurses and firefighters; they are teachers and police officers; they are the people who keep us safe and well and keep our children educated.

It appears that the Liberals just do not understand what frontline services mean to everyday people in our community. For the Liberals to argue that they need to make such savage cuts to the Public Service in order to strengthen the South Australian economy demonstrates just how out of touch they really are. As of 30 June 2011 I am advised there were 101,485 public sector workers or 84,882 full-time equivalents.

This represented about 12.3 per cent of the total South Australian workforce. One has to question what is going to be the impact on our economy if you sack 25,000 to 35,000 workers; if you take 25,000 to 35,000 wage earners out of the South Australian economy, what will happen?

We will spiral into a recession. That is the Liberals' plan for the future. That is what they will take to the next election without telling anybody.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: This government acknowledges, of course, that there are opportunities for efficiencies across the workforce. Our approach is to make those efficiencies without impacting on the level of frontline services we provide our community. This is why we have created a new Public Service Act and established the Government Reform Commission and the Public Sector Performance Commission and have pursued the many initiatives developed by those bodies. We will continue to build on this work. This is of course in stark contrast to the South Australian Liberals' plan and the approach being taken in the Eastern States of Australia under Liberal state governments. Let us be clear: the Leader of the Opposition last week was telling the truth. The only mistake she made was letting it out.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: The Liberal Party can—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: The Liberal Party in this state—

Members interjecting:

The PRESIDENT: There would be some future workers in the gallery wondering how some of you people got a job!

The Hon. I.K. HUNTER: Sir, let's be clear—

The Hon. G.E. Gago interjecting:

The PRESIDENT: The minister has the call. He doesn't need any help from the Leader of the Government.

The Hon. I.K. HUNTER: Let's be clear: the Liberal Party might change who the Leader of the Opposition is in the other place—that is entirely their prerogative—but, whilst they have promised an audit commission like they have in Queensland—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: —they have already decided that they are going to sack 25,000 or more public sector workers. That is their decision, and they are just hiding it from the people of South Australia.

LIFELINE

The Hon. D.G.E. HOOD (15:11): I seek leave to make a brief explanation before asking the Minister for Volunteers questions about state government funding for an organisation called Lifeline.

Leave granted.

The Hon. D.G.E. HOOD: Members may recall that I spoke in this chamber on 5 September highlighting the important work done by Lifeline, and I indicated that Lifeline relied extensively on donations and fundraising. It is my understanding that this organisation receives state government funding only in the regional area and not in the metropolitan area, even though its contribution to the community in suicide prevention and counselling for gambling addictions, in particular, as well as other counselling, is extremely valuable. My questions are:

1. Why does the government fund Lifeline in the regional areas but not in the metropolitan area?

2. That being the case, will the minister reconsider this situation and look to extend the funding to Lifeline in the metropolitan area?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:12): I thank the honourable member for his very important questions. The South Australian government's suicide prevention strategy 2012-16 and implementation guide was released on 4 September 2012. The strategy, which has been developed over the past 18 months, provides seven key goals, with key outcomes, actions and activities, to achieve a whole-of-government, whole-of-community approach to suicide prevention in South Australia.

In 2012-13, the government, through the Department for Health and Ageing, is providing $530,900, I am advised, to a range of services aimed at increasing awareness about mental health issues and suicide risk in the community. Those initiatives include $278,000 for *beyondblue* to increase awareness and understanding of depression, anxiety and related substance use disorders; $142,400 for the mental health first aid program provided by Relationships Australia; $110,500 for Centrecare to provide services to young people who are exhibiting depressive, suicidal or self-harming behaviours; and training opportunities for professionals working with young people at risk.

In addition, there are a number of collaborations with the federal government and the not-for-profit sector in providing suicide prevention programs across South Australia. Wesley LifeForce is one organisation working to build community sustainability and awareness of resources available in the community. The Department for Communities and Social Inclusion currently funds two regional Lifeline centres through the Family and Community Development Program.

These are the Lifeline South-East and Mount Gambier and Lifeline Country to Coast SA in Port Augusta. The core service of the centres is a 24-hour telephone crisis support service. Lifeline centres work together as contributing members of this national 24-hour service and take calls from right across Australia. This crisis support service is available to anyone needing emotional support via the one national phone number, and I understand the number is 131144.

Lifeline Adelaide's suicide prevention program, as the honourable member advises, is not currently funded by my agency and, as I understand it, nor is it funded currently by the Department for Health and Ageing, but I have been informed that they are exploring funding options for this very important program with the Department for Health and Ageing.

The government takes this issue very seriously and has developed a strategy, in consultation with key stakeholders. We will roll out a range of programs across the state, working with a number of organisations working in this area. There are a range of services and support available across the state in prevention that work to prevent suicides and to assist people in distress. As I have said, the government welcomes the interest of other parties in this important area. We will continue to work with the community and key stakeholders to implement the best available programs.

LIFELINE

The Hon. T.A. FRANKS (15:14): I have a supplementary question. Given that Uniting Care Wesley, now Uniting Communities, raised this issue of the lack of Lifeline funding in the Adelaide centre with the government, in what time frame would funding be found through the Department for Health and Ageing?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:14): That is not a question I can answer. As I said, we work with a range of agencies. We do not cherrypick agencies and throw funding at just the one: we work with as many agencies as we can that can develop quality programs. My advice is that the Department for Health and Ageing is in consultation with Lifeline Adelaide to work on, and explore with them, funding options for their programs.

TOURISM COMMISSION

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:15): I seek leave to make a personal explanation.

Leave granted.

The Hon. G.E. GAGO: I wish to clarify the answer to a supplementary question that was asked by the Hon. David Ridgway. It has been brought to my attention that the SATC was

considering ways to assist industry in the digital space, and I have been advised that the industry marketing cooperative fund, which the Hon. David Ridgway inquired about, has been reconfigured to a digital innovative and development fund. Obviously this is an operational decision for the Tourism Commission in an attempt to assist industry in the digital space. So that is what has happened to that fund.

The Hon. D.W. RIDGWAY: If I may, I have a supplementary question arising from that answer. Is that in order, Mr President?

The PRESIDENT: It was a personal explanation.

QUESTION TIME

SAFE WORK WEEK

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:16): I seek leave to make a personal explanation.

Leave granted.

The Hon. R.P. WORTLEY: In answer to the Hon. Tammy Franks' question, for the period from 1 July 2012 to 14 September 2012 there were five convictions recorded on the Occupational Health, Safety and Welfare Act, totalling $281,750 in fines. There are 17 defendants currently before the Industrial Relations Court of South Australia facing prosecution for putting the safety of workers at risk. Tragically, some these cases are the result of instances where a worker died or was seriously injured.

These matters allege serious regulatory offences involving alleged breaches of employers' duty of care; serious incidents involving unsafe systems of work; plant operated in an unsafe condition; and failure to provide necessary information and instruction, training and supervision to employees. The purpose of prosecuting these offences is to deter the defendants in question and employers and employees generally from risking safety at work.

For the period from 1 July 2012 to 14 September 2012, 14 files were referred to the Crown Solicitor's Office. One file was briefed to private counsel in a case where a potential defendant is a public sector agency to avoid the perceived conflict of interest that would arise if the Crown Solicitor were involved.

A total of 43 fines were referred to the Crown Solicitor's Office for the previous year. Three further files were briefed to private counsel in cases where the potential defendants are two public sector agencies and a public sector employee. For 2011-12 there were 38 convictions, with total fines of $2,061,800.

The PRESIDENT: That was not a personal explanation: it was something you were answering after you took a question on notice to get back to the member.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. Gago interjecting:

The PRESIDENT: Order! The Leader of the Government should come to order, especially when I am speaking.

An honourable member: Throw her out!

The PRESIDENT: I might, about 4 o'clock. The Hon. Mr Ridgway, I just explain that you could ask a question if you have a question; the same member of the opposition can ask a question if you want to pursue something.

DINGOES

The Hon. J.S. LEE (15:19): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the dingo control Biteback program.

Leave granted.

The Hon. J.S. LEE: Over the last three years, the Biteback program, which helps landowners control dingo numbers south of the dog fence, has been funded by the SA Sheep Industry Fund as well as Australian Wool Innovation. Many landowners have contacted the Liberal

Party raising concerns that funding for the dingo control program in the state's outback has run out. Landowners feel that just three years of support is not enough.

Geoff Powell, Chair of Wool Producers Australia told ABC Radio that dingoes are a growing problem: 'We're seeing more dogs further south all the time, and they're wild dogs, they're quite vicious.' He revealed that funding is mainly an industry initiative. The government is putting very little or no money into dingo control below the fence—it is all industry at this stage. My questions to the minister are:

1. As the Minister for Regional Development, has the minister met with stakeholders regarding the Biteback program?

2. With dingo numbers becoming a growing problem, when will the government intervene to ensure landowners and their animals are protected?

3. Does the minister believe that the dingo control program should be a shared responsibility and, if so, will she consider looking into a joint funding program with industry?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:21): I thank the honourable member for her important question. Indeed, dingo numbers have increased significantly in rangeland areas south of the dog fence in recent years, so I have been advised. Dingoes can obviously cause considerable sheep losses, even at low densities and, without intervention, the pastoral sheep industry obviously is at risk of major contraction.

The South Australian Arid Lands Natural Resources Management Board has initiated a series of management actions to improve dingo control across the area, but this approach obviously needs to be integrated into a statewide approach to dingo management. Biosecurity SA is leading the development of a state dingo management strategy, which is planned to go out for public consultation later this year. A number of incidents relating to the illegal keeping of crossbred dingoes are also being investigated by Biosecurity SA and the Department of Environment, Water and Natural Resources.

The issue of keeping dingoes as pets is obviously being considered in the development of the management plan. Biosecurity SA has led the delivery of a dingo aerial baiting program in the SAAL NRM region in April this year, involving 70 pastoral landholders. The program delivered 36,000 baits over a 6,000 kilometre flight path across the rangelands south of the dog fence. Future baiting, pending negotiations with the sheep industry funding partnerships, will obviously continue to occur.

MATTERS OF INTEREST

FESTIVAL OF MUSIC

The Hon. J.M. GAZZOLA (15:23): I would like to bring to members' attention the Festival of Music education program, a joint program run by the South Australian Public Primary Schools' Music Society and the Department for Education and Child Development.

The Festival of Music program offers primary schools in Adelaide and over 10 regional areas such as Port Lincoln, Yorke Peninsula, Millicent and Renmark, just to name a few, the opportunity to be involved in reaching out for excellence. The opportunity to be involved in this program not only teaches students about Australian musical icons, but supports the growth of an individual to strive for personal excellence, whether it be in a choir, an orchestra, dance or drama troupes, or in being a compere, a soloist or assisting artists. It teaches students that everyone has a role or a part to play in bringing a production together.

Prior to 1936, the annual concerts were held in Adelaide's Exhibition Centre, changing locations to the Centennial Hall in 1939, until this building was taken over by the military. With the loss of this performance venue, the concerts were cut due to the war, until 1949 when the concerts resumed.

From 1951 to 1973, concerts were held at the Adelaide Town Hall and, in 1974, the festival moved to the then newly built and bigger location of the Festival Theatre, where it still resides today. This year marks the 117th series and the 121st year since its inception.

The Festival of Music program reaches out to over 23,000 primary schoolchildren annually, has over 5,500 students participate in the Adelaide series alone, has more than 350 schools associated with the program, and involves over 1,000 teachers and more than 150 volunteers.

From 1985, foyer performances have been held to offer extra opportunities for additional performances from public school instrument groups, bands and choirs. The festival recognises the importance of providing South Australian youth the opportunity to be a part of this program. Participation helps youth development and educates students in musical heritage, coordination, self-expression, building self-confidence and working with others. Youth development in music is also imperative in helping the South Australian music industry grow into the future.

To celebrate Australian composers and writers, the Festival of Music features commissioned and popular works each year. This year the program is based on Phil Cummings' novel *Danny Allen was Here*, first published in 1989, with featured music from John Schumann's group, Redgum, and choreography by Patrick Lim who has performed with the Australian Ballet, State Opera and State Theatre Company of South Australia.

This school-based music education program finishes on a high with performances at the Adelaide Festival Centre and in 10 regional centres. A 12-concert series is held at the Festival Music Centre every September, with regional festivals at various locations in South Australia from July through to November. The event can boast three orchestras and three performance troupes, with more than 40 outstanding students trained as comperes each year. Students have to pass auditions to be involved in one of the three orchestras and commence practising once a week.

Such is the success of the festival that it has been used as a model for similar programs in both independent and Catholic sector schools in South Australia as well as in other states such as Western Australia. Let me point out, in closing, that I acknowledge the Festival of Music's website and historic material from the thesis *Thousand Voice Choir* written by Helen Marie Pietsch in 2009. I conclude this matter of interest by saying that the Festival of Music program is an excellent program, a program that interests youth as well as progressing music development in South Australia. It is important that we recognise this aspect of South Australian history and continue to support the local music industry.

Time expired.

MINISTER'S REMARKS

The Hon. R.I. LUCAS (15:27): I want to talk about the hypocrisy and double standards of the Premier and the Labor government. At the outset, what I want to say personally is that in terms of robust political exchanges over the years I have given as good as I got, and I am quite happy in relation to that particular standing, but what I do hate is hypocrisy and double standards.

In recent months we have seen outrage from the government, the ministers in this chamber and sections of the media about a statement on the frequency that a female minister wore a particular outfit which was not intended for public release that was mistakenly sent out. On the other hand, we have in this chamber minister Gago regularly making references to male MPs in terms of both their outfits and their physical attributes. Yesterday when I alleged that the minister's favourite meal comprised chickpeas, brussels sprouts and lemons, she got angry and responded—and *Hansard* records it:

> Well, my belly doesn't hang over the edge of my pants, Mr President; I can tell you that much.

Other members will know that the minister regularly refers to the male MPs in the chamber as being overweight. She regularly makes derogatory references to outfits that male MPs wear, in particular the ties that she does not agree with.

If a male MP in the House of Assembly was to make a reference to a female minister or a female MP by saying, 'Well, my belly doesn't hang over the edge of my skirt, Mr Speaker; I can tell you that much,' I ask members what the response would be from sections of the media and from the government in relation to that. There would be outrage that a male MP had raised those issues about a female in terms of her physical attributes or indeed the outfits that that particular female MP was wearing.

This hypocrisy of double standards is a view whispered in the corridors by members of both political parties, let me assure you. I can also assure you it is generally male MPs in both parties. It is something whispered in the corridors, but people are not prepared to come out in the open about it. This hypocrisy should not be allowed to continue any further.

If you are going to adopt this standard in relation to male MPs commenting, for example, on outfits worn by female members of parliament, then a female minister such as minister Gago should not be able to continue to make references, uncriticised, about the physical attributes of male MPs or their clothing and dress sense as well.

As I said, having been in parliament for a long time, I come from the school of giving as good as you get over the years. Very rarely, other than to make a political point, do I take an objection; however, the minister comes in regularly and, in any other environment, defames and besmirches people by claiming that we tell lies and innuendo, that we are 'sleazy cowards'—all of these are minister Gago's own words in *Hansard*—make 'snide allegations', 'completely unsubstantiated', 'never tables any support for the allegations', 'snivelling cowards', 'sleazy cowards', etc.

As I said, very rarely on my own behalf do I take exception to that because I come from the old school in terms of giving as good as I get. But, in this current politically correct environment, where so much is made of a statement which should not have been made, but was never intended to be put out for public release anyway and went out mistakenly, on the other hand there is never a comment from any section of the media, from the government, from the Premier, or from others about a female minister who regularly makes derogatory comment about male MPs in terms of their physical attributes.

I will end my comments on this basis, but I ask members to respond honestly to the following question: if a male MP had said exactly the same thing about a female MP as minister Gago said yesterday on the *Hansard* record, what would have been the response from the Premier, from government ministers, and from certain sections of the media? Mr Acting President, I am sure you would know what that response would have been.

CAMP COORONG

The Hon. G.A. KANDELAARS (15:32): Recently, I had the great pleasure of visiting Camp Coorong, near Meningie. Camp Coorong is an Aboriginal rehabilitation and education centre that was established in 1985 for the purpose of teaching the true history and culture of the Ngarrindjeri people. The Ngarrindjeri influence stretched from as far as Renmark to Kingston in the South-East, and their traditional lands extended from Mannum and Murray Bridge all the way to Goolwa and Cape Jervis, including Lake Alexandrina, Lake Albert and the Coorong.

Camp Coorong is managed and operated by the Ngarrindjeri Land and Progress Association. When I visited, I spoke to Uncle Tom Trevorrow, who is a Ngarrindjeri elder and a knowledgeable educator, and his wife, Aunty Ellen, who is a world-renowned traditional basket weaver who teaches the art of traditional Ngarrindjeri weaving. Contrary to popular belief, the Aboriginal term 'elder' does not necessarily mean someone who is of an older generation; an elder was a person who was selected by their peers within the Ngarrindjeri for showing great wisdom and knowledge of their ways.

Camp Coorong is a way for the Ngarrindjeri people to share their cultural beliefs and practices and to help close the gap between Aboriginals and other Australians that has been caused by ignorance and fear of others over generations. The camp opens its door to all. School groups and individuals of all ages visit regularly, as well as Aboriginals who wish to reconnect with their cultural heritage. Uncle Tom and Aunty Ellen have been involved with the camp since its inception. Uncle Tom said he is often amazed at how often people run up to him, saying that he taught at a workshop that they went to when they were children.

The camp offers workshops for people to come and learn the customs of the Ngarrindjeri people. You can be taught the art of basket weaving from a master of the craft, Aunty Ellen. The elders can also take people on nature walks where they can teach us about the environment, the land, the water and the animals that inhabit it. The camp also offers a fantastic cultural museum that shows off historical artefacts, items that have been crafted by students and masters alike, as well as some amazing artwork.

We were lucky enough to have a guided tour with Uncle Tom and Aunty Ellen, who took great pride in telling us some of what they know about the Ngarrindjeri people. While we were there we had a taste of what was on offer at the camp. Uncle Tom sat with us and discussed at length certain aspects of the Ngarrindjeri culture, which we found most interesting.

One thing that we discussed was the Ngarrindjeri Tendi. The leaders of each tribe within the Ngarrindjeri would gather in a group called the Tendi, the equivalent of our parliament. Early

Europeans described these leaders as kings and queens. The Tendi would discuss topics such as law and marriage, and everything that affected the tribe. I could not help noticing the similarities between the Ngarrindjeri Tendi and our democratic process of government today.

To an outsider, the Ngarrindjeri would have looked primitive, but they were a complex and advanced society with laws regarding marriage, sex, hunting and sharing, just to name a few. These laws were strictly enforced. It was illegal to engage in sexual activities before marriage, and all marriages were subject to the laws laid down by the Tendi.

Each tribe had a totem and you could not marry someone from the same totem, the obvious reason being the risk of inbreeding. The Ngarrindjeri have a dreaming story set around the Blue Lake that highlights this issue. Finally, I would like to thank Aunty Ellen and Uncle Tom for taking the time to show us around their camp and for the amazing work that they do for their community and the Ngarrindjeri people.

AUSTRALIAN MALAYSIAN COMMUNITY

The Hon. J.S. LEE (15:37): Today it is my pleasure to rise to speak about the contributions made by Malaysian migrants and students in enriching the multicultural landscape of South Australia. I would like to specifically use three events to highlight some of the key achievements of the Australian Malaysian community, being the Malaysian Carnival 2012, the Australia Malaysia Business Council Merdeka Gala Dinner, and the Malaysian Club Rasa Sayan cultural night.

First, the Malaysian Carnival: last Saturday, it was a pleasure to attend the 2012 Malaysian Carnival with the Leader of the Opposition Isobel Redmond, and the shadow minister for education David Pisoni, the member for Unley. The annual event is in its fifth year. It was held at Victoria Square on 15 September 2012 and attracted around 10,000 people. The carnival featured a showcase of multicultural performances on stage including three mock weddings—Malay, Chinese and Indian mock weddings—very colourful and interesting.

Food stalls sold delicious Malaysian cuisine—I really like the hot and spicy food—and there was an exhibition booth with Malaysian Airlines and Malaysian tourism information. Elaborate traditional costumes and friendly faces by a strong pool of student volunteers greeted festival-goers with open arms, making everyone feel really welcome and to join in the festivities.

Danial Fahmi, the SA chairman and project manager of the Malaysian Carnival 2012, and his organising committee have done a spectacular job, and I congratulate the South Australian Malaysian Students Council of Australia (SA chapter) for making the 2012 Carnival such a big success. Furthermore, I would also acknowledge the growth of the Malaysian Carnival and the national body of the Malaysian Students Council of Australia, because this council wishes to be known as a 'council of opportunity', as it has provided opportunities for Malaysian students to develop their confidence and experience by expanding their mind and thinking skills to be leaders of tomorrow's society.

The second dinner I attended was the Merdeka Awards Dinner, which was about celebrating the Independence Day of Malaysia. It was a pleasure to represent the Leader of the Opposition at this event, which was held on 25 August 2012 and was hosted by the South Australian chapter of the Australia Malaysia Business Council. The dinner also serves as an awards presentation evening. These awards were established 14 years ago and were built to recognise and reward the excellence of Malaysian students who are in their final year of study in South Australia across the three universities. This year the awards were renamed the Sir Eric Neal Awards, after its patron and long-term supporter, former South Australian governor Sir Eric Neal.

The four students who received the Merdeka awards were Malaysian students chosen by an independent panel for their excellence in their academic achievements and community work as well as their ability to welcome and integrate with the local community. I wish to congratulate first prize winner, Faustina Foong. The second prize was a tie for the first time that went to Leong Su Ling and Musfirah Syahira, and the third prize went to Danial Fahmi. They are outstanding individuals and students who have aimed to promote leadership and innovation by fostering Malaysian culture in their bodies of work. Congratulations to the students.

These awards would not occur without the support and assistance of the South Australian Chapter of the Australia Malaysia Business Council. I would like to congratulate the President, Mr Sathish Dasan, and the hardworking committee for building a closer business relationship

between Australia and Malaysia, as well as fostering stronger cultural links and recognising the achievements of Malaysians students.

Thirdly, I would like to acknowledge the Malaysia Club of South Australia because I went to their Rasa Sayang cultural night on 11 August. The Malaysia Club of South Australia was launched on 30 May 2010 and it has been a privilege to see this social club grow and gain respect amongst the Malaysian and Australian mainstream community.

I would like to acknowledge the great leadership of the President of the Malaysia Club, Dr Evelyn Yap, together with a dynamic committee which has become truly a force to be reckoned with. They are hardworking and they are talented. They have developed a successful club that is welcoming and shares the diverse Malaysian cultures, food and fun with their guests. It was a great honour to be invited as a guest speaker and a judge for their traditional costume parade. Rasa Sayang is a popular Malaysian folk song and the meaning of it is 'feel the love'. There was a lot of love to be shared amongst members on the night.

Time expired.

MURRAY RIVER

The Hon. CARMEL ZOLLO (15:43): As a final decision by the federal government on the revised Murray-Darling Basin plan draws closer, I feel that it is important to place on the record the work that is being done by this government to secure a better deal for South Australia. As the Treasurer announced in this year's budget, $2 million was set aside for a campaign to help ensure that the health of our most precious resource, the Murray River, is preserved.

It is a campaign that is about showing not just South Australians but, more importantly, those living in the Eastern States, the human faces of the river—those people who would be most adversely affected by the decision to starve the Murray River of the water it requires to stay healthy. This campaign, as I am sure members of this chamber would be well aware, has taken on many forms, including television, radio and print advertising.

In addition to this, there is also the 'River Run' which is a floating campaign, visiting river towns along the length of the South Australian leg of the River Murray to help promote the fight for a healthy river. There is no doubt that this is going to be a tough fight, but it is one that this government has certainly not shied away from.

As it currently stands, the revised Murray-Darling Basin plan, released on 28 May this year, simply does not allocate anywhere near enough water to ensure that the Murray River remains healthy. The plan only sets aside some 2,750 gigalitres of environmental flows, well short of what scientific evidence indicates is required. Not allocating sufficient environmental flows will mean that there would not be enough water flowing down the river to ensure that the mouth of the river remains open.

This in turn would result in the build-up of salt levels to dangerous levels, increasing the risk of permanent damage to the Coorong and the Lower Lakes. We only have to look back to the recent drought, which almost consigned the Coorong to an environmental wasteland, to see the need for improved flows. The damage that could be caused as a result of not providing the additional environmental flows will not be limited to the environment. It will have a detrimental effect on all those communities that rely on the Lower Lakes and the Coorong for their livelihoods, from the fishermen to tourism operators as well as the local farmers.

Many of these communities were on the brink back in the last drought of 2007-08, when many parts of the Lower Lakes had all but dried up. We must keep in mind that, without a Murray-Darling Basin plan that returns the necessary water flows back into the system, those communities are only a few dry years away from a similar fate.

If the decision taken by the federal government does not provide for the necessary water flows back into the river system, it is likely that South Australia, as the Premier has indicated previously, will launch a High Court action against the commonwealth. This would be on the basis that the federal government has not upheld its statutory commitments as set out under the Water Act 2007, which requires it to protect internationally-recognised wetlands such as the Coorong and the Lower Lakes.

I remember speaking on the Murray River during my maiden speech, and one of the first associations I joined when I entered parliament in 1997 was the Murray-Darling Association. Like the majority of South Australians I recognise the important role the river plays in our lives. This

campaign shows that this government will leave no stone unturned in its fight to protect the river, the Coorong and the Lower Lakes and the many communities they support throughout South Australia. I will take the liberty of quoting from a recent news release from the Premier, the Hon. Jay Weatherill, as follows:

> This generation needs to be able to look our children in the eye and say that when the time came to act we fought for the future of the river and we did everything we could, that we explored every avenue, that we took whatever action was necessary, that we protected our environment, that we protected our food bowl and those who work and live along the river, that our livelihoods were secured, that our constitution was upheld.

FLINDERS UNIVERSITY OF SOUTH AUSTRALIA ACT

The Hon. T.A. FRANKS (15:47): I rise to make some comments on proposed changes to the Flinders University of South Australia Act. Yesterday staff members of the Flinders University of South Australia, at 10.58am, received an email. That email was from the Vice Chancellor and was sent to all staff. It read:

> Changing the Flinders University of South Australia Act
>
> The 2011 review of the University Council's structure and operation and subsequent Council discussions has established strong support within Council for the greater flexibility to determine its own size and composition. The University has therefore approached the state government about amending the legislation that governs the composition of the Council.
>
> Council has formed the view that its membership must be predominantly external and that a smaller council will facilitate more effective engagement of members and more effective decision-making.
>
> In a dynamic higher education environment, Flinders must attract people to University Council with a diversity of skills and experience who can support the University to meet its strategic objectives. This may be more difficult to achieve with election of stakeholder representatives to a council of reduced size.
>
> It has been proposed to the State Government that the membership of Council should be no fewer than 12 and no greater than 20. The current Council's view is that a membership of 14 to 15 will achieve the necessary balance of skills and experience with the perceived benefits of smaller size.
>
> The state government has been very receptive to this proposed legislated change, which is in line with modern governance trends and similar to changes made to the legislation of universities in NSW. It is possible that amending legislation can be passed later this year or early next year. Elections to replace staff and student positions on Council which come to an end 31 December 2012 have been postponed in the interim.
>
> If the legislative changes are achieved, Council intends to retain the current ex officio members which include the Chancellor, Vice-Chancellor and Chair of Academic Senate. A minimum of one staff member, appointed or elected, and one student member will be retained in the new composition of Council.
>
> The intended appointment of the President of the Students' Association to Council will ensure that the council's discussions and decisions have input from the person having the most direct contact with the student body and understanding of the issues affecting students.
>
> The University has been discussing potential transitional arrangements involving appointment rather than election of student representatives to Council for 2013, if amending legislation is not passed this year. In this event, elections for staff member positions on Council will proceed in February 2013.

It is signed off by Michael Barber, the current Flinders University Vice Chancellor. This raises concerns. At the bottom at of this email, it states:

> This message is from the Vice-Chancellor to all staff. If you are not a member of staff at Flinders University please ignore this message.

The Greens will not ignore this message. This is a message that says that universities are corporations, not cultural institutions that are, in fact, democratic institutions and proudly so. Reducing the number of stakeholder representatives is out of step with what the community expects from university governance. This is not the board of BHP. The council of a university should ensure that its staff and its students have a right to be appropriately engaged in the decision-making processes of that institution. I would question the potential for one lone student to be able to influence any decision-making process undertaken by the university council in this new intended configuration. Certainly, the email itself does not give clarity whether or not the staff members would be appointed or elected in the same way the students have been assumed to have taken on that president of the Student Association role.

The Greens are incredibly concerned about this. It follows from the recent reforms to TAFE under state legislation, which has stripped staff and students in TAFE of a say in internal democracy. It flies in the face of the history of universities being more than simply a place where you go to learn. Clearly, the focus of becoming more corporatised and having a streamlined decision-making system is in chase of the dollar and profitability—but at what expense? I would

say that it is at the expense of democracy and of true university culture. Certainly, the Greens will not ignore this email, and this will not be the last you will hear of this issue.

TRAFFIC LIGHTS

The Hon. R.L. BROKENSHIRE (15:52): I rise this afternoon to discuss some concerns about the Department of Transport and traffic lights and the synchronisation of traffic lights. First, in a specific sense, I rise to talk about the South Road and Daws Road intersection, having been contacted by a constituent who is concerned about a friend of hers who was fined for travelling through this intersection; history has shown that she was unfairly fined. I was also contacted by my constituent directly, who said that she experienced serious emotional stress after travelling through the intersection.

The problem with the intersection earlier this year reinforces the fact that there is an issue with the intersection. There was no recourse for my constituent. However, she was shocked when she turned on a green light, with no red light turning arrow showing, as she was leaving South Road, turning right into Daws Road. As she turned, the lights on the northern-eastern corner then showed a red light when she was passing that light pole. To my constituent, this incident showed that there was clearly something wrong with this intersection and the lights and their operation. It highlighted to her the unfairness of her friend being fined for something that was a fault with the lights. I will be sending this MOI to the minister's office, and I ask that the minister seriously look at this situation because it has caused a lot of concern to these two constituents.

However, this incident brings up an even more important interest of mine. I have not visited it, but I have been told that the traffic control centre at Norwood is a very sophisticated computerised operation centre for traffic lights. However, I still think we need to do more on this, and I will give members a couple of examples. One is Anzac Highway/Greenhill Road. I would have thought that these days the more you can get the traffic flowing through, the better for all motorists and also from a safety point of view.

For example, if you leave parliament tomorrow night and happen to travel along that route at peak period, around six o'clock, you can have about 15 cars heading south on Anzac Highway crossing the lights and then the lights stop. Another example is the Beach Road, Doctors Road and Main South Road intersection. You can sit there—even sometimes on a weekend—and five to seven cars, 10 at the most, get through. The amber light goes on and it stops.

I am not directly having a go at the government here, but I am asking it to send this MOI to the operations manager of the traffic light synchronisation depot at Norwood to see whether something can be done to better synchronise the lights. It was raised through Adelaide as well, where the Adelaide City Council has had control of those lights and there have been some improvements. Surely in this day and age, in a state where unfortunately for decades now we have been traffic light-mentality focused at all costs—rather than looking at other options for allowing better flow of traffic, such as are seen the Eastern States—if we are stuck with so many traffic lights then surely we should be ensuring better flows.

With those words I look forward to sending this to the minister, the Hon. Patrick Conlon, asking that he send this MOI through for comment and that we see a response back to me—so that I can share it with colleagues and constituents—where there are some absolute commitments as well as some explanation as to how they synchronise these traffic lights. In theory, if the traffic light synchronisation is working properly and you are travelling at the correct speed, if you start off with a green light at the southern end of South Road you should almost be able to end up at the northern end of South Road having hardly encountered a red light.

That is the theory of it, but if they have such a disjointed structure within their light changing times and formats along the carriageway clearly that is not going to occur. I suggest that is one of the problems they have now. South Australia, particularly the metropolitan area, does have real problems with traffic flow. We are supposed to be seeing this massive increase in population over the next 30 years, so it is time we ensure that we have a better traffic light structure for motorists in South Australia. After all, they pay plenty of money in taxes and charges.

Time expired.

HOSPITAL FUNDING

The Hon. R.L. BROKENSHIRE (15:57): I move:

That this council calls upon the state government to:

1. desist from reducing funding to the McLaren Vale and Districts War Memorial Hospital; and

2. abandon any plan to cut the Acute Referral Unit or any other emergency treatment or referral services at the Repatriation General Hospital.

The Hon. R.L. BROKENSHIRE: I thank my colleagues for seconding this important motion. First, I want to focus on the McLaren Vale and Districts War Memorial Hospital. Right at the moment, as I see it, and as the community in the southern suburbs sees it, that hospital has a real cloud hanging over it, and that is very unfortunate. I do not know why the government is determined to put so much stress on the board, on the staff, on volunteers and on those who use that hospital as it is at the moment, and I call on it to eliminate that stress immediately by coming up with a commitment to continue funding the McLaren Vale hospital.

The history of the hospital is that it was built by returned men and women around the end of World War II, and it has served the district fantastically ever since. In fact, I declare my personal interest here: my wife was born there, my three children were born there, and my mother, in her later years when she needed extra health care and respite, also spent a considerable amount of time there. So I know that hospital well, as indeed do a lot of other people who have had the use of it.

That hospital is an efficient hospital. It is a hospital that is there because of the dedication of the community, the original vision and foresight of people like the Johnston and Dennis families and those long-standing traditional McLaren Vale and Fleurieu Peninsula families, and, from there on, successively, primarily due to the commitment of volunteers (who raised tens of thousands of dollars a year to help that hospital) and also the wonderful staff and the boards working there over the years.

It is not as though the hospital board, staff, volunteers and the community have not been prepared to look at diversification and other additional opportunities for income. In fact, the grounds are considerably large, and they have gone into building doctors' surgeries within the hospital precinct, which has been a good cash-flow initiative and a good general practitioner health service related initiative. They have also gone into building retirement units, which also gives them a cash flow. They assist and work with Meals on Wheels to provide and distribute food to people in need throughout the community. They have also looked at a lot of other diverse opportunities for the hospital, such as the ambulance station that sits on that particular precinct of land, for which I unfairly copped a fair bit of flak from this government when it first came in. However, it is there now and it is in the best interests of the community.

The Hon. T.J. Stephens interjecting:

The Hon. R.L. BROKENSHIRE: That was another one, Terry. As a candidate back in 1992-93, I can remember going to the McLarens on the Lake main venue, which was chock-a-block and overflowing with people. The then Independent who joined the Labor Party, the Hon. Martyn Evans, was the Minister for Health. He put up a proposition that the hospital could either be taken over by the public health department or any funding support could or would be pulled. There was enormous uproar in the community and people rebelled against the government at that time.

I would have thought that whilst the Hon. John Hill was not a member of parliament or even a candidate at that time—he was close to becoming a candidate for Kaurna when Lorraine Rosenberg won the seat—he would have been aware of the fact that there was enormous angst throughout the electorates of Kaurna, Mawson, Heysen and also Finniss when it came to what the government was going to do there.

Soon after, there was a change of government. I was involved in working with the community and the government then to ensure that there was a committed funding model for the hospital. That model started off at about $1.1 million a year; it is now up to about $1.5 million a year. This government in its wisdom—until now—has seen the benefit of supporting that hospital. The hospital generates much more income than that, obviously, and it does a lot of private work as well. However, during that period of time, we saw this government renege on the hospital's birthing unit, so we could no longer have a birthing unit there. Notwithstanding that, to be fair to this government, it did actually continue to fund the hospital.

When the government got into enormous trouble with the overall health budget, it called in the razor gang, and the razor gang reported that this money would be better spent elsewhere. It would not be better spent elsewhere. In fact, I believe evidence is available to show that, compared

to the Flinders or Noarlunga hospitals, certain operational procedures are much cheaper at the McLaren Vale Hospital. So there will not be a saving; I put that on the public record.

I also place on the public record that we have already gone through the ranks with the Keith Hospital. I trust that in your retirement, Sir, you will not have to ever access that hospital. As you will be living down there, I trust that you will be a champion for the Keith Hospital and for having sufficient money put into it.

The PRESIDENT: Private hospital.

The Hon. R.L. BROKENSHIRE: I trust that will happen, sir, and I will keep in touch with you on that. To come back to the McLaren Vale hospital, surely we have seen the damage already done to the Keith Hospital. Why repeat that damage with the McLaren Vale hospital? There is perhaps an opportunity to change some of the modelling and the board are open to that, and the hospital staff and the community are open to that. What they are not open to is two things, as I understand it: (1) the reduction of one cent from the $1.5 million that is committed from the government to that hospital every year and (2) the fact that we need the government funding and operational procedures to ensure the viability of the theatres so that the private operations of the theatre can proceed as well. They go hand in hand.

I put this on the public record in this house now and I ask colleagues to support me in making the government see sense that this is the wrong decision and the wrong recommendation. The minister saw the sense in the wrong recommendation when it came to the Noarlunga Hospital and he ruled that out immediately. Why not also rule out the proposed cuts to the McLaren Vale hospital? If these cuts occur, then I intend to make this an election issue and I will spend plenty of my energy and time with the community down there to ensure that whoever wins that seat and whoever wins the next election is committed to the hospital.

People might think in government that this is not a vote loser for the government. Believe you me, this is a significant vote loser for the government and the government should stop and reverse the recommendation by the razor gang and say to the razor gang that they got it wrong on this occasion. If you want to save money in public health, just go to the beautiful shiny building on Hindmarsh Square that a lot of us would love to work in, that has a lot better views and a lot more quality offices than we have here in the parliament—and higher salaries. Go there because that is where the fat is. Thin that out. Don't destroy a magnificent hospital like the McLaren Vale hospital. I look forward to input from colleagues on that.

Before I turn to the second part of the motion, I want to place on record my appreciation to the board, the chair of the board, the hospital staff and to the volunteers for the great work they do at the McLaren Vale hospital and to reinforce to them that there are lots of political friends they have to back up the community. We will be there to take up the challenge shoulder to shoulder with them if the government do not open their eyes and see the importance of reinstating and committing the funding.

I turn now to the Repatriation General Hospital. I went to a rally down there recently and I am running a petition calling on this government to forget what the razor gang are talking about doing and to realise the importance of the Repatriation General Hospital on Daws Road. I declare my interest in that hospital, not only as a member of the Legislative Council, but unfortunately I spent far too many hours there in my young years watching my own father have 13 serious and major operations after World War II in that hospital. I visited Ward 17, which is still there as a first class psychiatric section of the hospital.

Back in those days when I was young, sadly, I watched the curtains being put around World War I digger after digger, time after time, when I went out there, watching them trying to survive from the gassing in the trenches and having to use the spittoons to survive during the day, then watching World War II men and women in ever increasing numbers coming in. Sadly, then, I saw it repeated with those World War II men and women dying out there and then seeing the demand from Vietnam vets, those from the Korean and Malaysian conflicts and others. We still have conflict after conflict that Australia is involved in and we still have a need for that hospital to care for people who have put their lives on the line to give us the democracy that we enjoy.

As well as being a repatriation hospital, for a long time now it has been a general hospital, and it serves a great purpose as a general hospital. In fact, over the course of the year, I think over 6,000 patients access the emergency treatment area of the Repatriation General Hospital, and that is the area they want to close. Now, where are they going to put the people who go to that emergency department? They are already ramping at the Flinders Medical Centre, as we all know,

and we have seen what the ambulance service has said about that. In fact, I was pleased to meet Phil Palmer when I was at the rally. Phil Palmer heads up the Ambulance Employees Association, and I worked with Phil on a professional level when I was minister.

I respect the man for the job that he does for ambulance officers. Mr Palmer was there with representatives from the ambulance service supporting that rally because he knows (1) that the Repatriation General Hospital provides good services to the South Australian community, and (2) that if his ambulances cannot take people to the Repatriation General Hospital emergency department that he has nowhere else to take them.

The panacea that the government talks about with the RAH; that is where all the focus is and that is where all the talk is. The new RAH is going to fix everything. I see a shrinking of so many hospitals, and the government's answer is, 'Well, in about 2016 we'll have the new RAH.' The new RAH, as I am told, will not have any more overall beds than the existing RAH. Yes, it will have more day surgery beds, but as far as actual hospital beds for very ill people who cannot get in and out in a day, it will not have any more beds. In fact, if there is to be any growth in population, I do not know where those people are going to go. But, the Repat is one place where we could look at expansion.

I believe that the government has either let the Department for Health run riot, or it is supporting the Department for Health with the direction it is taking. But, if you actually go and have a close look at the Repat, apart from one ward facility in the north-eastern corner, the rest of the hospital has not even had any basic maintenance for several years. It is run-down, it is deteriorating, and I think the agenda is, 'Let's get rid of the emergency department, let's cut funding to the acute referral unit and, by stealth, let's not do anything when it comes to repairs and maintenance; then we will just have to turn around and say that this hospital campus is so run down now and so out of date when it comes to its infrastructure that we'll have to knock it down.'

It is interesting that it is diagonally just across the road from a fantastic TAFE facility which is also about to be decommissioned. They are sending that TAFE campus to the old Mitsubishi site at Tonsley. It is a prime area for urban infill and land development and, of course, the Repat hospital would also be a prime area.

I believe that the razor gang is actually saying to the government, 'Just keep shrinking the opportunities for the Repatriation General Hospital and we will be able to flog off all that land; you'll get a nice dividend for that.' Sir, rest assured that the RSL organisations, all the returned men and women from all the conflicts—some of whom were at the rally the other day—and South Australians generally will fight the government on this all the way.

The gold card was always a double-edged sword. I supported the gold card for returned men and women in principle because, particularly in the country, they should have had the right to be able to go to their local hospital for certain procedures and medical support without having to come down to Daws Road. But, the gold card was not an entree for the government to be able to actually wind back and eventually get rid of the Repatriation General Hospital.

With those few words, I again put on notice that there are a lot of people watching closely what is happening at the Repatriation General Hospital. I appeal to minister Hill to get into Hindmarsh Square, to get into the bureaucracy of the Health department, and sort them out; sort the budgets out there. Do not destroy opportunities for local regions like the McLaren Vale and Fleurieu Peninsula communities with the cuts proposed to the McLaren Vale hospital, and do not destroy the important opportunities that are provided to returned men and women and the South Australian community in general at the repatriation hospital.

There are better ways to save money and get budgets in order than the simple solution—that causes more pain and heartache to good South Australian men and women, and those doing the medical procedures and providing support for them—that the government is proposing. Let's put an end to this and let's rule out any cuts to the Repat Hospital or the McLaren Vale hospital.

Debate adjourned on motion of Hon. J.M. Gazzola.

SOCIAL DEVELOPMENT COMMITTEE: INQUIRY INTO FOOD SAFETY PROGRAMS

The Hon. J.M. GAZZOLA (16:15): I move:

That the report of the committee on an Inquiry into Food Safety Programs be noted.

In conducting the inquiry, the committee focused on the aims and objectives of food safety rating schemes intended to provide the public with information about the results of food safety inspections and noncompliance with the Food Act.

The committee was interested in understanding whether these schemes improved compliance with food safety regulation and what the costs and benefits were. The committee was also concerned with understanding the impact on consumers and the food industry, as well as local and state government. During the course of the inquiry, the committee heard evidence from health professionals in local and state government, the food industry sector, food industry peak bodies, local food businesses and consumers.

The inquiry was concerned with medium and high risk food businesses such as cafes, restaurants, hotels, catering businesses and takeaway food outlets. It did not include food businesses that the Australian government is responsible for presiding over, or food businesses which supply food to vulnerable populations such as hospitals, aged care facilities and childcare centres. The inquiry was focused on food standards as they are practised by food businesses in accordance with the relevant national and state food regulations.

Before going further, I would like to take this opportunity to thank the former presiding member of the committee, the Hon. Ian Hunter, for his valuable contribution. Also, from the other place, I would like to thank Ms Frances Bedford MP, Mr Alan Sibbons MP, Mr David Pisoni MP, and the Hon. Dr Bob Such. From this chamber I would like to thank the Hon. Kelly Vincent, the Hon. Jing Lee and the Hon. Dennis Hood for their contributions.

Inquiries such as this would not be possible without the cooperation and contribution of the many individuals and organisations who gave up their valuable time to come forward and give information to the committee. We thank all those who presented evidence to this inquiry whether through the provision of written submissions or by appearing before the committee. Last but not least, and importantly, I would like to thank the staff of the Social Development Committee for their contribution.

The committee commenced hearing public evidence in May 2011 and finished hearing evidence in September 2011. In the course of its inquiry, the committee received 11 written submissions and heard testimony from seven separate groups of witnesses. Additional information was sourced from South Australian, national and overseas research to assist the committee in its deliberations and provide a context to the issue of food safety in South Australia.

Every day people purchase takeaway food from bakeries, caterers and takeaway food outlets. It is estimated that one in every three Australians over 18 years of age are eating out in cafes, restaurants and hotels at least once a week. Each year, 5.4 million people are affected by food poisoning in Australia. The annual cost to the community is estimated to be about $1.2 billion. There are significant healthcare costs in terms of expenditure on medications and lost productivity.

Food poisoning accounts for more than a million visits to general practitioners, more than 300,000 prescriptions for antibiotics, and two million days off work per year. The committee considers that food consumers have a right to know that the food they purchase at restaurants, cafes and other food businesses is safe. Furthermore, they need to be assured that they are not placed at risk of contracting food poisoning as a result of the quality of the food or poor food handling practices.

Evidence presented to the committee suggests that the best way to control the risk of food poisoning is to ensure that high standards of food preparation are established and maintained. State and local governments play an important role in ensuring there are high standards of food safety in place by administering and enforcing food regulation. A crucial aspect of South Australia's overall health care system is ensuring that food safety standards prescribed in regulation are adhered to.

The committee heard that the public health benefits that result from the food regulations currently in place are clearly evident. The introduction of a uniform food safety management scheme, supported by both industry training and community education, would significantly reduce the risk of food poisoning.

Typically, a food safety management scheme would involve a regular inspection by council environmental health officers. Depending on the level of compliance with food regulations, a score is given and a rating results. The food business displays the rating on their premises. This rating

could be a star, a numbered score or a letter rating, for example. It would also be posted on the internet.

Such a scheme would provide consumers with valuable information to assist them to make informed choices about where they purchase food, knowing that the food outlet has scored well in terms of food safety practices. This type of scheme would provide transparency and accountability in the food industry sector.

The inquiry was told that work is already underway at a national level by the Food Regulation Standards Committee on the development of a national approach for a food safety rating scheme. The Minister for Health, the Hon. John Hill, and the Minister for Agriculture, Food and Fisheries, the Hon. Gail Gago, represent the interests of South Australia on this committee.

The committee repeatedly heard overwhelming evidence that the operation of food safety rating schemes in Australia and overseas has improved the level of compliance with food regulation. These schemes have provided encouragement for food businesses to improve their food hygiene standards. Program evaluations have consistently shown a direct link between food safety disclosure schemes, improved food safety standards and, hence, compliance.

Some witnesses to the inquiry were cautious of creating unnecessary red tape. They agreed that the community deserves to know if a business is putting public health at risk and as such would support the introduction of a food safety rating scheme as long as it was voluntary and consistently applied.

The committee recognises that the introduction of a uniform food safety rating scheme, consistently applied, would increase public awareness of food safety and offer an effective approach to providing the public with information about the commitment of individual food businesses to safe and hygienic food handling practices. The committee is of the view that there still needs to be frequent inspections by local government environmental health officers to ensure that food safety standards are being met.

A number of public disclosure food safety programs have been introduced, in Australia and overseas, to improve the standards of food preparation and the sale of safe food, to improve compliance with food safety regulation and to provide consumers with information about the cleanliness and safety of food businesses. The committee heard that two councils have introduced schemes in South Australia in the past few years, namely, the City of Salisbury and the City of Charles Sturt. The operation of all of these schemes varies widely.

A uniform, consistently applied scheme is necessary to prevent the proliferation of multiple programs operating across the state, which would confuse consumers when dining out and purchasing takeaway food, depending on which council region they were in in different local government areas.

Finally, the committee considers that all South Australian consumers of food would benefit from the introduction of a food safety rating scheme. The introduction of a consistent statewide scheme has obvious public health benefits. It would give consumers valuable information to assist them to make informed choices. No matter where they are, consumers could make an informed decision about where to eat or purchase safe and hygienically prepared food. An additional spin-off is that food businesses that receive a good rating are likely to receive an economic advantage as a consequence of increased patronage.

The committee has put forward a total of 20 recommendations for the introduction of a voluntary scheme that would be easily understood by consumers, food businesses and food inspection agencies, provide encouragement and incentives for food businesses to comply with regulation and take into account differences between metropolitan and rural councils and remote regions of South Australia. Once again, I thank the members of the committee and the assistance and work of committee secretary Robyn Schutte and committee researchers Sue Markotic and Carmel O'Connell.

Debate adjourned on motion of Hon. T.J. Stephens.

PARALYMPIC TEAM

The Hon. J.M. GAZZOLA (16:24): I move:

That this council—

1. notes the magnificent achievements of the 2012 Australian Paralympic team;

2. commends the team for its 85 medals and for placing 5th on the overall medal tally; and

3. notes that, with a global television audience of up to 3.8 billion people watching the London Paralympic Games, the Australian team has inspired us all and we are very proud of their performances.

It gives me great pleasure to move this motion because, yet again, Australian Paralympians have conducted themselves with integrity and professionalism on the global stage and are worthy of parliamentary recognition. This is particularly the case for our South Australia Paralympians.

The 2012 Paralympics were the largest Paralympics ever, and it is the second largest sporting event to date in 2012. Over 4,000 athletes competed from 165 countries. This was 19 more countries than the previous Beijing Paralympics, and we are beginning to see that the Paralympics is now at critical mass, which is a great thing not only for the event and the sports involved but also for placing athletic role models on the public stage to inspire our young South Australians.

This year, there were 503 medal events in 20 sports, and a record number of rights-holding broadcasters televised the event right around the world to an estimated audience of 3.8 billion people. This year the Australian Paralympic team competed in 13 of the 20 sports. The Australian team consisted of 305 people, with 161 athletes, including three pilots for vision-impaired athletes, and 144 support staff. As you can see, this is a serious business out to get results.

This Australian team was the largest team ever sent overseas. An interesting point is that over 40 of these athletes attended an Australian Paralympic Committee talent search day. These days were established by the Australian Paralympic Committee in 2005 to identify and then in turn develop potential Australian Paralympians. They have been a great source of success. In Beijing, 27 athletes were found through this method and claimed 14 medals, or 17 per cent.

The program has tested over 1,800 Paralympic hopefuls since its inception from right across Australia. Indeed, there is a talent search day being held at Westminster College on 13 October, and if anyone here knows anyone who might be interested, they should log on to the paralympic.org.au website to find out more. There just might be another Matt Cowdrey out there.

This year the South Australian contingent comprised 12 athletes equating to 7.5 per cent of the team. They were in athletics, Gabriel Cole and Michael Roeger; in cycling, Kieran Modra, Scott McPhee, Stephanie Morton and Felicity Johnson who all rode with pilots; in equestrian, Grace Bowman; Rachel Henderson in goalball; 11-time Paralympian Libby Kosmala in shooting—

The Hon. G.A. Kandelaars: My mother's neighbour.

The Hon. J.M. GAZZOLA: Very good—and our swimmers, Jay Dohnt, Esther Overton and superstar Matt Cowdrey. Matt Cowdrey, as you know, is a home-grown legend, a graduate of Endeavour High School and student of Adelaide University who now lives in Canberra where he is a full-time Paralympian. He began his rise to superstardom with a swim career at the Norwood Swimming Club, and I have no doubt some of his achievements will be hanging on the walls of that club.

Matt Cowdrey started swimming when he was five years old, broke his first Australian open record when he was 11 years old and set his first world record at age 13. Since then, Matt has competed at the 2004 Athens games, the 2008 Beijing games and the just-gone London games. In 2009 he was named Young South Australian of the Year and in 2011 he was inducted into the AIS special category of 'Best of the Best'. Matt's haul of five medals this year pushed him to the elite of Paralympians, by now claiming 13 medals, which makes him the most successful Australian Paralympian of all time. There is no doubt that Matt is someone all young swimmers, with or without a disability, can look up to. He is a champion athlete and deserves to be recognised by this place.

I should also mention Libby Kosmala, who is well known in both chambers—and indeed to the Hon. Gerry Kandelaars' mother, who is her neighbour. Libby is an 11-times Paralympian who is pretty deadly with an air rifle, but is also an advocate for people with disability in South Australia. Some may remember her integral role in the bringing in of disabled parking permits after her long battle with the City of Adelaide. Libby, Matt and all the South Australian swim team are sporting legends in their own right, but also excellent ambassadors for our state and nation. That is why I am happy to commend this motion to the chamber.

Debate adjourned on motion of Hon. K.L. Vincent.

NATURAL RESOURCES COMMITTEE: EYRE PENINSULA WATER SUPPLY

The Hon. G.A. KANDELAARS (16:31): I move:

That the report of the committee, entitled Eyre Peninsula Water Supply—Under the Lens, be noted.

In October 2011, the Natural Resources Committee was approached by the member for Flinders, Mr Peter Treloar, to consider an inquiry into the Eyre Peninsula water supply. Water resources and supply have been a major issue for the peninsula since European settlement in the 1900s. In the member's own words: 'There is no other issue that creates the interest and passion on Eyre Peninsula.' After hearing the member's concern and speaking with other interested parties, the committee determined to inquire into the matter and put the issues 'under the lens'.

Problems with water management on Eyre Peninsula are compounded by the region's remoteness. The closer you get to the Western Australia border the more residents seem to feel they have been forgotten by a state capital more focused on events in suburban Adelaide. Our call for submissions elicited a deluge of submissions—59 so far—and more than 25 requests to present in person to the committee. To put this into perspective, this was a greater response than to the recent call for submissions into the Murray-Darling Basin draft plan.

The water resources of Eyre Peninsula, which members heard were in fact better described as a cape in strict morphological terms, are unique in South Australia. Nearly all the naturally-occurring water is found in fragile limestone lenses resting atop ancient bedrock. The lenses fill following major rainfall events like large contiguous underground storage tanks. Groundwater flows in a southerly direction, contributing to a network of wetlands, soaks and springs that support local ecosystems. Much of this water—up to 10,700 megalitres annually—is extracted for distribution to major population centres, including Port Lincoln, via SA Water's pipe network. A percentage of the available water is extracted by landholders for stock and domestic use. Some of the water eventually discharges directly from aquifers into the sea.

The committee heard that extraction in previous decades has resulted in a number of aquifers becoming degraded, thus compromising their ability to provide secure water supplies into the future. As one would expect, with past extraction levels widely considered unsustainable, significant efforts and expenditure on water resource planning has been undertaken. However, despite these efforts, many in the community remain convinced that future management of resources looks set to be ineffective and are openly questioning the commitment of government agencies to sustainable water resource management.

In addition to the concerns regarding levels of extraction, the committee heard that mineral exploration and mining proposals may threaten the integrity of the remaining intact aquifer system, including the Uley South lens, the main water supply aquifer for Port Lincoln. The committee was also alarmed at the depth of division in the community regarding water resource management. Historically, a number of water sources for Eyre Peninsula have been investigated. SA Water considered building a desalination plant at Sleaford Bay and the Tod Reservoir, but then opted to extend the Morgan-Whyalla pipeline.

Local councils, including Ceduna and Streaky Bay, have investigated and developed wastewater and stormwater recycling and have creative suggestions for improving water resource management, including developing small-scale desalination plants and dams and tanks to catch the surface water run-off. In fact, the community visited the Scotdesco Aboriginal site, where they actually store rainwater collected locally. It is quite an innovative scheme.

There have also been discussions on harvesting fresh water as it is discharged from the marine environment. This technology is untested in Australia, but it appears to warrant further investigation as the volumes of water lost in this way (and potentially available for capture and use) are significant. While there is disagreement, there are also points of agreement. Most of the feedback the committee has received from stakeholders suggests a consensus that less water needs to be extracted from the limestone lenses to ensure their sustainability.

The committee has also made just one recommendation in this interim report, and that is that the parliament fund the committee to engage an expert to provide valuable, independent, technical advice on the Eyre Peninsula water supply. The committee looks forward to bringing to bear additional resources to facilitate a detailed analysis of the complex issues at play, including the considerable evidence already collected to ensure a thorough investigation. All up, we anticipate this inquiry will run for 12 months. The committee's final fact-finding visit to Eyre Peninsula is scheduled for early November 2012, and we look forward to receiving further evidence

from interested parties and viewing a number of key sites to further enhance our understanding of these issues.

I commend the members of the committee: Presiding Member the Hon. Steph Key MP, Mr Geoff Brock MP, the Hon. Robert Brokenshire MLC, the Hon. John Dawkins MLC, Mrs Robyn Geraghty MP, Mr Lee Odenwalder MP, Mr Don Pegler MP, and Mr Dan van Holst Pellekaan MP for their contributions. Finally, I thank members of the parliamentary staff for their assistance. I commend this report to this chamber.

Debate adjourned on motion of Hon. J.S. Lee.

NATURAL RESOURCES COMMITTEE: ANNUAL REPORT 2011-12

The Hon. G.A. KANDELAARS (16:39): I move:

That the annual report of the Natural Resources Committee 2011-12 be noted.

The Hon. G.A. KANDELAARS: The year 2011-12 has seen a continuation of the membership appointed after the March 2010 state election, with the expanded membership of nine members. There was only one change; that is, I replaced the Hon. Paul Holloway MLC, following his retirement from parliament in September 2011. There were no changes to the staff during the year.

The Hon. D.W. Ridgway interjecting:

The Hon. G.A. KANDELAARS: Yes, I have been here a year. Aren't I lucky? In the reporting period, the Natural Resources Committee undertook 28 formal meetings totalling 85¼ hours and took evidence from 136 witnesses.

There were 14 reports drafted and tabled in the reporting period. These were the annual report for 2010-11, seven reports into the natural resources management levy proposals for 2012-13, the final report from the Bushfire Inquiry, the report on the committee's inquiry into the draft Murray-Darling Basin plan, the annual report on the Upper South East Dryland Salinity and Flood Management Act for 2010-11, two reports on fact-finding visits to Adelaide and the Mount Lofty Ranges and the Adelaide desalination plant and a report on Little Penguins, which I know the Hon. Rob Brokenshire is very keen on.

Seven fact-finding tours were undertaken in 2011-12. Three related to the committee's Murray-Darling Basin draft plan inquiry, including a tour of the Lower Lakes, Coorong and the Upper South-East drainage and floodplain management scheme, there was one in the Mitcham Hills to observe bushfire preparation, one in the Adelaide and Mount Lofty Ranges NRM region, one to the Adelaide Desalination Plant and one to Port Lincoln to take evidence for the committee's inquiry into the Eyre Peninsula water supply.

The committee's inquiry into the draft Murray-Darling Basin plan was finalised in March 2012 with the tabling of its report and the forwarding of it to the Murray-Darling Basin Authority as the committee's submission to the draft plan. The inquiry concluded that insufficient water is proposed to be returned to the basin under the draft plan. It also concluded that the draft plan failed to acknowledge South Australia's past efforts in capping water use compared to other states.

The committee commenced a new inquiry into the Eyre Peninsula water supply in 2012 after considering evidence from the member for Flinders, Mr Peter Treloar. The local community has for a number of years raised concerns that the underground water is not being properly managed and that a series of mining ventures may further stress water supply. This inquiry is likely to continue for approximately 12 months.

I commend the members of the committee—Presiding Member the Hon. Steph Key MP, Mr Geoff Brock MP, the Hon. Robert Brokenshire MLC, the Hon. John Dawkins MLC, Mrs Robyn Geraghty MP, Mr Lee Odenwalder MP, Mr Don Pegler MP, and Mr Dan van Holst Pellekaan MP—for their contributions. Finally, I thank the parliamentary staff for their assistance. I commend this report to the Legislative Council.

Debate adjourned on motion of Hon. T.J. Stephens.

SUICIDE PREVENTION

The Hon. J.S. LEE (16:44): I move:

That this council calls on the Minister for Mental Health and Substance Abuse and the state government to address the failure in handling mental health patient, Mr Damian Kay, by adopting the recommendations of the State Coroner, Mr Mark Johns—

1. that the Department of Health should ensure that training in the assessment of suicidal risk should be provided both to medical undergraduates and doctors working in emergency departments;

2. that a junior doctor or a mental health nurse should not discharge a suicidal patient, particularly one brought in by police under section 57(1)(c) of the Mental Health Act 2009, from an emergency department, without having sought advice from a senior medical colleague, either an emergency department senior registrar or consultant, or a psychiatric registrar or consultant on call;

3. that a minimum set of information should be obtained before discharging a suicidal patient from the emergency department. It would also be appropriate wherever possible to obtain information both from family members and from current treatment doctors or other therapists. This sometimes might not be possible until the next day when an individual presents to the emergency department overnight; and

4. there should be assertive follow-up of suicidal patients. They should be offered by community mental health services, with expectations about timely face-to-face follow-up. Follow-up should be routinely offered to such patients and community mental health teams should be assertive and persistent in their attempts to see them face to face.

Today, I move this motion with a very heavy heart. I would like to first offer my deepest sympathy to the family of Mr Damian Kay for their sad loss and for the prolonged suffering and pain they had to go through during the investigation, particularly in recent times when the inquest attracted significant media attention. I would like to thank Mr Jarrad Kay, the brother of Mr Damian Kay, for his courage in bringing a very emotional and important matter to my attention and for giving me permission to speak about the chain of tragic events that impacted his brother.

Let me emphasise the premise of this motion today. The aim of Mr Jarrad Kay's campaign to bring up the matter concerning his brother's death is not about blaming or accusing anyone in particular or bearing any ill-feelings towards the young medical officer who discharged Damian from the hospital. The Kay family simply wishes to use the Coroner's report to bring up this important matter in parliament, with the hope of raising further awareness of suicide prevention in the community and, by this motion, to call on the minister and the government to implement the Coroner's recommendations and to improve the health system in South Australia.

We all recognise that mental health problems are very complicated. It is important, therefore, for us to look closely at the tragic account of what had taken place with Damian Kay. Damian Kay was married to his wife for 14 years, and he lived in Port Lincoln during that time. They had two children. Mr and Mrs Kay worked together managing a local hotel and a limousine business.

In January 2005, a raging bushfire swept across Lower Eyre Peninsula. Mr Damian Kay's wife and two children tried to escape the fire in a car in the belief that the house and the family were under extreme and immediate threat from the approaching fire. Mrs Kay encountered difficult conditions on the Lincoln Highway, and there was almost zero visibility as a result of smoke. Her vehicle collided with some trees at high speed, and Damian's wife and two teenage children were killed in the car accident. Damian was away in Adelaide at that time.

Naturally, Mr Kay was deeply affected by the death of his wife and children. For some 18 months after their death, Damian was seen by consultant psychiatrists with the Rural and Remote Mental Health Service. The doctor's report noted that, at the time, Damian was significantly affected by grief. He was going through a very difficult time, and he had increased his consumption of alcohol. He had subsequently lost his job and his friends. The psychiatrist assessed Damian as presenting with a major depressive episode in the context of unresolved grief over the loss of his family and longstanding alcohol dependence.

Around July 2006, Damian formed a relationship with a new girlfriend to a point where they described themselves as engaged. However, things did not work out. A series of events culminated around 19 September, which, coincidentally, is today's date two years ago. The girlfriend wanted to end the relationship. Damian left the house, and a long suicide note was found by the girlfriend as she entered her bedroom. She rang 000 and reported the matter to the police. As a result, SAPOL instigated efforts to locate Damian. They found him and drove him to the Lyell McEwin Hospital. During that drive Damian told police about his wife and children and how they had died in the Port Lincoln fires. The constable who attended to Damian completed a proforma mental health assistance form. The statement recorded was:

Broke up with fiancée on the night and left a 3 page suicide note stating he was going to end his life. Broke down his possessions in a note stating who got what. Believed he was going to end his life however no plan of action has been stated.

Damian was kept in the emergency department from the time of his arrival, shortly after midnight, until he was discharged at 2:50am, according to the Lyell McEwin Hospital's medical record. However, the police officers went back to the Salisbury Police Station at 3:20am when material was added. There was a disturbing entry stating that Mr Kay 'was eventually signed off at 2:40am by a doctor who had not spoken with the missing person at that point'.

The young doctor's evidence was that he understood the mental health form to be an acknowledgement of a transfer of custody of the person and nothing more. He signed a form and circled the option 'not detained', which required him to state whether the patient was detained or not detained. In summary, the young doctor had made nine omissions.

1. He failed to request that he be provided with and then read the suicide note that had been written by Mr Kay.

2. He failed to attribute any significance to the fact that, according to the notes which he had available to him that night, Mr Kay had recently ceased antidepressants.

3. He failed to take advantage of the offer of the mental health nurse to accompany him when seeing Mr Kay.

4. He failed to take advantage of the offer of the mental health nurse to see Mr Kay after the doctor had seen him.

5. He failed to take advantage of the offer of the mental health nurse to arrange a follow-up with the Northern ACIS for Mr Kay and gave no thought to that matter himself.

6. He failed to appreciate the significance of the reference to a previous suicide attempt in material that became available afterwards through a psychiatric report received through a fax transmission.

7. He failed to take the opportunity suggested by the mental health nurse that Mr Kay be recalled in consequence of new information that there had been a previous suicide attempt.

8. He failed to attempt to persuade or encourage Mr Kay to remain on a voluntary basis.

9. He failed to seek advice from a more senior staff doctor despite his acknowledgement that these resources were available to him on the night.

In his findings, state Coroner Mark Johns listed those nine omissions made by the young doctor, and he said that the young doctor had failed to attribute any significance to the fact that Mr Kay reported recently having ceased taking antidepressants or the later revelation that he had made a previous suicide attempt. Coroner Johns heard evidence from the mental health expert Dr Andrew Champion, who said that the suicide note demonstrated a high level of implicit intent. Regardless of Mr Kay's subsequent statement, it was Dr Champion's view that Mr Kay's case was evidence of significant suicidal risk and that Dr Champion considered that was grounds to make a detention and treatment order.

Therefore, I call on the Minister for Mental Health and Substance Abuse to adopt the four recommendations in the Coroner's report, and recommend the motion to this council. It is by coincidence that it is a few days prior to the anniversary of when Mr Damian Kay took his own life—on 22 September. I think it is a remembrance time for the Kay family, and I would like to again pay my respects and express my deepest sympathy. It is really hard for me to read out the chain of events because I am sure the family is feeling a lot of pain. I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

CHILDREN'S PROTECTION (HARBOURING) AMENDMENT BILL

The Hon. A. BRESSINGTON (16:56): Obtained leave and introduced a bill for an act to amend the Children's Protection Act 1993. Read a first time.

The Hon. A. BRESSINGTON (16:57): I move:

That this bill be now read a second time.

Today I introduce the Children's Protection (Harbouring) Amendment Bill 2012. This is a relatively simple bill that, despite its short title, does not actually seek to remedy the ongoing issues surrounding the harbouring of runaway teens. However, honourable members would be aware of the numerous times that I have raised issues in this place about the conduct and apparent abuse of power by Families SA.

This bill seeks to address my concerns about the apparent abuse by Families SA of an existing harbouring offence found in section 52AAB of the Children's Protection Act 1993, which empowers the chief executive of Families SA (although this power has been delegated to office supervisors) to issue a direction to an adult not to harbour, conceal or communicate with a child under the guardianship of the minister. To communicate with a child in breach of a direction is punishable by a maximum $4,000 fine or imprisonment for one year, and to harbour or conceal a child in breach of a direction is punishable by a maximum $15,000 fine or four years' imprisonment.

This offence, along with the offence of harbouring or concealing a child in state care, under section 52AAC and child protection restraining orders, was introduced by the government in its response to recommendations of Ted Mullighan QC's commission of inquiry into the abuse of children in state care.

Despite the term 'harbouring' having a relatively mundane meaning, namely the provision of shelter in the sense of providing a refuge, it is clear when reading Commissioner Mullighan's report that he refers to harbouring for the purposes of exploitation, reciting numerous examples of children being lured away from state care and being harboured by men and then sexually abused. It was this form of offending that Commissioner Mullighan sought to prevent when he recommended an offence comparable to section 52AAB to be created.

The government seemingly shared this intention when it introduced the Statutes Amendment (Children's Protection) Bill in 2009. Referring to the proposed section 52AAB at the time, the minister in this place stated during the second reading stage, and I quote:

> These directions are aimed to protect vulnerable children who are in state care on the kinds of exploitation referred to by Commissioner Mullighan in his report.

This intention has been subsequently reiterated in Families SA's Statutes Amendment (Child Protection) Practice Guide and Procedures, which I accessed under the Freedom of Information Act 1991. When discussing section 52AAB, this guide summarises the evidence heard by Commissioner Mullighan, including, and I quote:

> ...the exploitation of some runaway children while they were on the streets performing sexual favours in return for food, money, alcohol or drugs and gifts—

and then details the directions under section 52AAB and how they are to be applied. Whilst the parliament's attention, when debating the Statutes Amendment (Children's Protection) Bill 2009, focused on the proposed child protection restraining orders, I did raise my concern in my second reading contribution that the harbouring offences could—and knowing Families SA, probably would—be applied to family members of children in state care as a case management tool. At the time I implored the minister to 'keep a close eye on this and monitor this particular concern of mine very closely'.

Unfortunately my fears were proven to be well founded. While hesitant to provide too much detail as the case obviously involves a child under the guardianship of the minister, I believe it justified and necessary to demonstrate the abuse to which I refer, and to again outline the case of a young woman aged 23, who was being prosecuted for breaching the direction not to communicate, harbour or conceal her 16-year-old brother who was under the guardianship of the minister.

For some time this young woman had been expressing to Families SA her concerns about her brother. She knew that he was using cannabis and other illicit drugs, that he was being bullied at school, that he was absconding at night from the residential facility in which he had been placed and engaging in risky and illegal behaviour and, further, that he was severely depressed, having made several threats of suicide to her and on Facebook.

On occasion the boy had absconded to his sister's house and, knowing the difficulties of being in care, having formerly been a ward of the state herself, she did not want to turn away her younger brother. Families SA, as is too common, overreacted, and had the police come and return him to his group home. After one such occasion, this young woman was served with a direction under section 52AAB of the Children's Protection Act preventing her from communicating, let alone providing shelter and comfort to her younger brother. I will point out that it had never been implied

that this young woman, at the age of 23, was a threat to her brother's safety in any way, shape or form.

Having failed to provide the support the boy needed, one night, clearly distressed and again threatening self harm, the boy again reached out to his sister and turned up on her doorstep. She, of course, let him in; however, she also notified Families SA and the police the following day. In fact, it is my memory from the meeting with the young woman earlier this year that the police visited the home and were satisfied that the boy was in no danger at all. However, after the boy returned to Families SA some days later, the young woman learnt that she was to be prosecuted for harbouring her brother contrary to the direction under section 52AAB.

So, despite the assurances of the minister when introducing the offence that such directions would only be issued to those whose actions represented a real risk that the child would be abused, neglected or exposed to drug activity—none of which is alleged in this case—this young woman faced criminal conviction and potentially a maximum penalty of four years imprisonment for doing nothing more than trying to prevent her brother from harming himself.

Thankfully, I learnt earlier this week that, after some 12 months and questions being asked in this place, the charges against her have been dropped. However, as I understand it, she is still subject to the notice not to communicate with her brother, who has spiralled further out of control without his sister's love and support.

As I detailed in a series of questions prior to the winter break, this young woman is not alone in being prosecuted for communicating with, harbouring or concealing a family member in state care. In fact, all of the few convictions for offences against section 52AAB or 52AAC are actually against family members who, to the best of my knowledge, have never been identified as being a risk factor for the children.

As I have previously relayed, the sentencing remarks do not convey all the necessary details to assess whether these directions were issued contrary to the minister's stated intention for these offences. In fact, it would seem that the magistrates themselves were unsure of Families SA's original concerns about the defendants and hence why the notice had been issued in the first place. However, it is clear that in at least one of these prosecutions the defendant posed no danger to his niece, who had seemingly rocked up on his doorstep looking for a place to stay. Noting this, the magistrate only sentenced him to a small amount of community service.

Given these cases (which I will happily provide to members) and the prosecution against the young woman whose case I have outlined, it is clear to me that Families SA is using these offences as a case-management tool and not to protect children from the exploitation referred to by Commissioner Mullighan, as was intended.

One of the questions I asked the minister was whether, given the stated intention of section 52AAB, the police should be given the role of issuing these directions and prosecuting breaches rather than Families SA social workers. Having pondered this over the winter break, I have come to believe that this should be done and, knowing the minister would be unwilling to challenge this particular government agency over this, I have had this bill drafted, because I cannot in all good conscience know that this is going on and allow it to continue.

Essentially, I propose to remove the final decision from Families SA to whom such a direction should be issued and instead place this responsibility with the police—and let us go back to that case I mentioned where the police went to the house of the sister, made an assessment that the young brother was not at risk and that there was no need to remove him at the time and to allow him time and space to calm down. The bill does this by replacing the words 'chief executive officer' (which should in effect read 'Families SA office supervisor') with the words 'a senior police officer', defined to mean an officer at or above the rank of inspector.

Hence, as per the existing process for the prosecution of an offence of knowingly harbouring or concealing a child in state care under section 52AAC, it will be necessary for Families SA to enlist the support of the South Australia Police to issue a direction under section 52AAB, that is, to issue a direction to not have anything to do with this particular person who has run away from state care. In doing so, I place my faith in senior police officers who I hope will see an application against a family member such as the older sisters of a child under the guardianship of the minister for what it is: a case management tool and not based on genuine concern for the child's safety.

I would just like to explain what I mean by using it as a case management tool. I and other members in this place have probably heard on numerous occasions that Families SA, when they take children into state care for whatever reason, will distance children from their family, from their parents and from any relatives whatsoever. I believe this is done to try to get the kids to comply while they are in a care facility. Oftentimes this has the opposite effect: these kids rebel. They want to be with family. They actually want to have contact with their parents, who have not posed any real risk.

Most of these parents have reached out to Families SA for assistance. They are going through a tough patch, they have reached out and bang, their children have been removed from them. I have one such case in my office right now of a mother with seven children, who three years ago was living with an alcoholic husband and an alcoholic father. She reached out to Families SA and admitted she needed help because she was not coping.

Now she has seven children on a GoM18 order and no right of appeal against that decision. She has gone through; she has studied; she is now managing a family restaurant, a booming business, but is fighting this now as a parent. Six of her children are going to be sent to Victoria, to live with a family of whom I have photos: bongs on the table, drugs on the table. When challenged about the choice of carers, a Families SA social worker, heard by three independent witnesses, said, 'What's wrong with having a good time?'

These are the people who are making decisions to cut kids off from their families and their parents, and nobody, no minister, will step up and fix this. I heard the Hon. Mark Parnell yesterday give a great speech acknowledging that whole catastrophe of forced adoptions. We have had the Mullighan report about abuse of children in state care. We have had numerous inquiries into this department, but we do not fix the basic problems of the dysfunction of some—some—of these social workers, who have one of the weirdest agendas. It is not about the protection of children: it is about power over families, and it has to stop. It has to stop.

This bill, as I said, will not fix all of these problems, but it will at least put in place some measures to make sure that the legislation that this place and the minister genuinely passed to protect children from predators on the streets is used appropriately and not abused like every other piece of legislation we put through this place in the name of child protection.

I also hope that having SAPOL and not Families SA workers issue and serve the direction will reinforce to the recipient the severity of breaching such a direction. If that family member is indeed a risk and is issued with the direction under 52AAB and it is served on them by the police, they will know they are being watched. In one of the judgements referred to, the magistrate seemingly accepts that the defendant did not realise how serious a breach of the order would be.

To provide consistency with the other harbouring offences introduced by the Statutes Amendment (Children's Protection) Act 2009, I have also included a provision that will require a breach of a direction to be prosecuted by South Australia Police rather than the Crown on behalf of Families SA, as it is currently. The reason I have done this is because it is no surprise to members in this house to hear yet again that Families SA (some social workers within Families SA) think nothing of distorting facts or creating facts or fabricating a case in order to win. We heard that in the inquiry, we heard that they had a pervasive and toxic culture within that organisation and we heard it not only from constituents with a grievance but from professionals like Professor Freda Briggs and others who said there needed to be a good clean out of this organisation and retraining.

This particular provision will allow South Australia Police to determine whether they have the evidence for a prosecution for a breach of this order, rather than giving Families SA the opportunity to fabricate a case. As is detailed in the practice guide and procedures, the police prosecute the offence of harbouring and/or concealing a child in state care under section 52AAC and a breach of the child protection restraining order. Making the police responsible for the prosecution of a breach of a direction will also act as a further safeguard against the inappropriate use of these powers, as I have already stated.

Being detached from the case-benefits to Families SA in prosecuting an uncle or older sister (or, in a more recent case, a mother whose recently removed teenagers decided of their own volition to return home), the police will hopefully use their discretion and prosecute only those who pose a real danger and threat to a child.

As I said, I do not pretend that this bill will dramatically affect Families SA's operations nor meaningfully address the systematic dysfunction in the children's protection system here in South Australia. However, I hope it will restrict notices under section 52AAB being issued to those preying

upon vulnerable children and not their family members who despite Families SA's assessments only want the best for them. I know I certainly did not and I do not believe this parliament intended for the young woman that I have mentioned in this address to be prosecuted for doing nothing more than trying to prevent her younger brother from committing suicide or harming himself over and over. I might add that as a result of Families SA's actions this young boy who was in state care has now disappeared over the border to Victoria, so neither Families SA nor his sister now know where he is, and that is as a direct result of their actions.

I leave this bill with the chamber, the members and the government. If the government does not want to support my bill, then draft one of your own but for God's sake this time don't come back and say, 'Unintended consequences: we can't do.' Just amend the bill that I have presented and cooperate with this because this is a most serious problem that is going on in this state day after day.

Debate adjourned on motion of Hon. C. Zollo.

DEVELOPMENT (INTERIM DEVELOPMENT CONTROL) AMENDMENT BILL

The Hon. M. PARNELL (17:19): Obtained leave and introduced a bill for an act to amend the Development Act 1993. Read a first time.

The Hon. M. PARNELL (17:20): I move:

That this bill be now read a second time.

This bill is to prevent the government from undermining community rights of participation in relation to planning. In particular, it prevents the government from abusing a provision of the Development Act that allows the government to bring planning changes into effect immediately, and thereby circumvent the statutory public consultation regime. The provision I refer to is section 28 of the Development Act—Interim development control (or 'interim operation'). This provision allows the minister to bring a development plan amendment (DPA) into operation on an interim basis at the same time that it goes out for public consultation.

I want to give three recent examples of how ministerial DPAs brought in under interim operation have affected community rights and undermined confidence in the planning system. The first of these is the Regulated Trees DPA. Members would be well aware that the issue of large trees and how they should be protected has been debated in this place. We have had a bill, it has been the subject of regulation, but it is also the subject of a DPA. This was brought in under interim operation on 21 November last year.

If the purpose of that DPA was to make it harder to chop down trees, to try and preserve some trees until the final planning arrangements had been put in place, that would have been an appropriate use of interim operation. Instead, the purpose of the amendment was to make it easier to remove trees; therefore, despite the fact that public consultation was ongoing, we were seeing the impacts of that change already in the community.

The second example is that of the Statewide Wind Farm DPA. This DPA was brought in under interim operation, and it made it easier to build wind farms by removing public notification and appeal rights in the majority of cases. That particular DPA was one that the Greens were very critical of; not critical of the renewable energy, not critical of wind farms—we believe there is great capacity for more wind farms—but we objected to the interim operation and the removal of public notification and appeal rights.

However, the most recent case study, and the one that has shown with absolute clarity the contempt with which the government holds the community is the case of the Capital City DPA. This development plan amendment was brought into operation at the same time as the public consultation commenced. It went on public consultation on Wednesday 28 March and submissions closed on Friday 1 June. To quote the description on the department's website:

It is in operation on a temporary (interim) basis while feedback is sought from the community. During this time, all the proposed policies are in effect. However, changes can be made to the amendment in response to the public feedback.

That sounds quite reasonable when you look at it. It says, 'Well, yes, it has come into operation temporarily, but changes can be made; therefore, there is no problem,' but there is a major problem, and I will proceed to explain what that is. When DPAs are brought in under interim operation, development applications can be lodged and will be assessed against the DPA even if it is subsequently abandoned, withdrawn or changed.

If the DPA does not go ahead, that decision later has no effect on any development applications that were already lodged because, under the Development Act, applications are judged against the development plan that exists at the date of the application. In other words, any subsequent withdrawal or amendment of a DPA is not retrospective. So what usually happens is that, whilst public comment is underway, applicants are able to lodge their development applications, knowing that they are likely to be approved even if the changes introduced to the zoning, for example, on an interim basis are subsequently not proceeded with. Once your application is lodged, the planning rules are locked in.

In the case of the Capital City DPA, most of the controversy is centred around the approval of a multistorey residential development in Sturt Street known as the Mayfield development. The development consists of three towers, the highest being 14 storeys, or 95 metres high. The ground floor will be offices and shops and the higher floors residential. There will also be basement car parking.

This development application was lodged in April this year, very shortly after the interim operation of the DPA came into effect on 28 March. The development application was considered by the Adelaide City Council's Development Assessment Panel on 4 June, and it was approved 10 days later by the Development Assessment Commission on 14 June. There was no public notification of the development and no ability for neighbours or the broader community to have their say.

In relation to the DPA that facilitated and allowed for the rapid approval of this development, the public consultation phase comprised two stages: the first was the lodgement of written submissions and the second was the public hearing conducted by DPAC (Development Policy Advisory Committee). The hearing was held on 27 June, some two weeks after the Mayfield development had already been approved.

What this means is that the 52 members of the public (primarily local businesses and local residents) and all those people who had something to say about the planning changes who relied on their statutory right to make comment found that key decisions had already been made before they even had the chance to front up to the Development Policy Advisory Committee and to have their say. That means that irreversible decisions had been made before they had had a chance to have their say and, therefore, the consultation has, quite reasonably, been described by local businesses and residents as an absolute sham.

In fact, I would say it is worse than a sham: I would say it is an insult. It is an absolute insult to people to pretend that you are inviting them to have their say and asking them for their opinions when irreversible decisions have already been made so that their submissions amount to absolutely nought. I think it is an outrageous situation, and I think it is part of the reason why the rally that was held a number of weeks ago to complain about this DPA was so well attended and why people were so angry at the process that had been followed.

However, one common tactic of government when people criticise the process is to shoot the messenger and assert that the real issue is the merits of the change and that, if you are against the process, you are really just hiding your opposition to the substance of the change. I reject that accusation. It is just not true. As I have said, the Greens are strong supporters of wind energy, but we have publicly opposed the axing of public notification and appeal rights and bringing those about by interim operation.

To just give an example of people who are in favour of the overall thrust of a DPA but still concerned about the process or about detail, I note one of the submissions lodged to the Capital City DPA was from Adelaide City councillors Wilkinson and Hamilton. In the first sentence of their submission to the Development Policy Advisory Committee, they say:

> The broad intent of the DPA is supported, that being to increase the population and development potential of the city in order to help make the city the thriving heart of Adelaide, the state's capital.

I agree entirely. I absolutely agree that we need to revitalise the city, and that is going to mean more people living in the city and more development. So whilst I, too, can support the thrust of the DPA, there will be a great deal of detail that I would have concerns with, and I am absolutely opposed to the process of bringing in such important changes under interim operation. I note the submission from the two councillors went for 22 pages, with a large number of well-considered recommendations for change, many of which would be made completely redundant by the fact that the biggest development so far proposed has already been approved.

So, for these representers, for any of the 52 who had fantastic ideas and had improvements to propose, it is too late, and it does not mean a jot in relation to those applications for development that have already been lodged.

I want to refer to one submission in particular that was lodged to the Capital City DPA, and that is the submission from the Community Alliance, which is a coalition of community groups that have in common their desire for a better planning system which puts people at the heart of the system and which seeks outcomes that are in the best interests of the community. In its submission, the Community Alliance said:

> Putting a permissive policy like the Capital City DPA into interim effect, and then purporting to hold the consultation process afterwards is an abuse of process. We do not consider this to be a reasonable measure or 'necessary in the interests of the orderly and proper development of the area affected'.

And I just say in relation to that quotation that those are the words that are currently used in the Development Act. Their submission goes on:

> What happens to development applications approved under this policy if there are revisions as a result of consultation? Will development approvals then be disallowed or scaled back?

Well, the answer, clearly, is no. As I have said, once a development approval has been lodged, it is judged against the plan that was in existence as at the date of lodgement. The submission goes on:

> Irrespective of the rights and wrongs of the policy content—this process is wrong!
>
> Our aim is to put the people back into planning. Interim operation of DAPs usually protects an area or object, but in this case, (and in the significant tree DAP) [the one I have already referred to] the opposite has occurred. This is most concerning for the 26 member groups of this organisation and is something we wish to see changed in the future.

That is why I have introduced this bill. The Community Alliance is spot on. If the minister cannot be trusted to use powers properly, then the parliament needs to step in with guidance. The government attitude in these matters is that the ends justify the means, and in some ways it reminds us of the book—I think it was written by Graham Richardson, the former Labor powerbroker—*Whatever it Takes*. So, the government is focused on the outcomes and it is ignoring the process.

I will finish shortly, but I do want to conclude with a bit of a history lesson. It is a history lesson that I have tried to deliver to members of the Development Policy Advisory Committee, to members of the minister's own department and to anyone else who will listen. It has so far fallen on deaf ears, so I think that it is time for the Legislative Council to pay attention.

This history lesson is a document that came into my possession some little while ago. It is entitled Planning Practice Circular No. 2. It is dated June 1988, and it bears the signature of Don Hopgood, Deputy Premier and Minister for Environment and Planning. The purpose of this circular—and I will read it out; it is only less than a page—is to put on the record the minister's view about the appropriate use of interim operation. The heading is, 'Advisory Circular from the Minister for Environment and Planning. Section 43 Recognition of Supplementary Development Plans'. I will just make a note here that the references to sections and the act are to the old Planning Act, but the provisions are pretty much identical to what is in the current Development Act. The circular reads:

> There has been a growing tendency for councils to request the Governor's use of section 43 of the Planning Act to bring supplementary development plans [that is what we now call DPAs] into operation on an interim basis at the same time as they are approved for public exhibition.
>
> This is an important section of the act, of particular effect where there is a risk that, when the supplementary development plan becomes known during its public exhibition phase, applications may be lodged under existing rules which may prejudice the achievement of the objects of the supplementary development plan.
>
> I advise that as a general rule, I will not favour requests for the use of section 43 unless it can be demonstrated that there is a risk that development may occur which is hostile to the intent of an SDP.
>
> Such requests should be made when the supplementary development plan is submitted for approval of public exhibition. I will ask the Advisory Committee on Planning to report its opinions to me on this matter at the same time that it reports on the plan under section 41(5).

He concludes:

> I generally will not recommend such requests to the Governor, however, where the interim operation of the supplementary development plan is intended only to speed up the approval of a particular development. To approve

the interim operation in these instances would, of course, effectively negate the extensive opportunities for public comment provided in section 41 of the act.

It is signed 'Don Hopgood.' What the minister is saying in that circular is that there are valid uses of the interim operation provision. For example, it would make no sense for a council or for the minister to flag its or his or her intention to heritage list properties, then go out to public consultation and find that several months down the track all those properties have since been demolished. That would make no sense.

Of course you bring those changes into operation on an interim basis to preserve the status quo, but what minister Hopgood is saying here is that, where the intent is to fast-track your favourite developments, that is an inappropriate use of interim operation. I do not want members to think that I am harking back to some golden age and that the approach taken by former minister Hopgood is no longer relevant, because I would like to refer to a description on the government's own website, the planning website, which was put up less than 12 months ago. It relates to the Statewide Wind Farms DPA. I will just read you the section which states:

> The amendment is in operation on an interim (temporary) basis for 12 months from 19 October 2011. This means the policy changes in the amendment are in effect while the Minister for Planning consults with the community and considers the amendment.

It goes on—and this is the important section:

> Interim operation ensures that inappropriate development does not occur during the period of consultation and consideration.

That is exactly what Don Hopgood said the use of interim operation was, and it is the exact opposite to what the government did in the wind farm DPA. It effectively used that method to fast-track development rather than its more appropriate use—in fact, I would say its only appropriate use—which is to stop inappropriate development.

This is what my bill seeks to achieve: it seeks to put in practice the principle that interim operation is not a fast-tracking tool to be used by the minister without regard to proper planning principles. Interim operation should be limited to stopping inappropriate or undesirable development applications that would undermine the proposed changes. It is not to undermine public consultation and fast-track development that is consistent with the proposed changes.

In a nutshell, the bill is very simple: it is only one page and it adds a qualification to what is currently almost an unfettered ministerial discretion. At present, all the minister has to do is be of the opinion that it is necessary in the interests of orderly and proper development. That is the only test. I am proposing in this bill to add an additional test, which is that the interim operation is:

> ...in order to counter applications for undesirable development ahead of the outcome of the consideration of the amendment under this subdivision.

An undesirable development is defined as development that would detract from or negate an object of the amendment. So, really, it is back to the future. What this simple amendment seeks to do is to go back to what Don Hopgood realised was the proper use of interim operation. It goes back to what the public servant who wrote that particular part of the web page on the wind farm provisions believed was the proper use of it, even though it was an inappropriate use on that occasion, and it makes sure that public consultation is only curtailed in the most necessary circumstances.

I think that this bill will receive a lot of support in the community. I think local councils are very likely to support it, because they have been the victims of a lot of these ministerial development plan amendments brought in under interim operation. With those words, I commend the bill to the house.

Debate adjourned on motion of Hon. G.A. Kandelaars.

SUICIDE PREVENTION

Adjourned debate on motion of Hon. J.S. Lee (resumed on motion):

The Hon. J.S. LEE (17:39): I apologise to the council for being a bit emotional earlier on what is a very emotional subject matter. I thank you for your understanding in granting me leave to conclude my remarks. Some of you may not know that my family actually suffered a loss this week as well because our beloved aunty passed away. She passed away because of old age and deteriorating health. She was in her eighties. Her life was well celebrated, unlike Damian Kay's.

At this point, I would remind honourable members that 10 September is World Suicide Prevention Day. I would like to acknowledge people and families who have suffered loss through suicide and help raise the broader public's attention to one of the largest causes of premature and unnecessary death.

At the outset of my earlier remarks, I said that in Damian Kay's case the Kay family wanted the minister and the government to not only adopt the recommendation of the Coroner's report but to raise awareness about suicide. Suicide is one of the largest killers in Australia, yet it remains hidden and rarely talked about. Over the last 20 years, suicide has claimed the lives of approximately 2,500 Australians per year. At this level, suicide claims more lives than the national road toll, assaults and murders and more than Australia's national cancer: skin cancer.

In South Australia alone we lose approximately 192 lives each year, while nationally we lose an average of seven lives each day. Therefore, I believe that this motion is of the utmost importance in terms of raising awareness. The South Australian Liberals are committed to providing an approach focused on education, early intervention, communication and reporting. With one in four people now suffering from a mental health issue during their lifetime, it has never been more important to provide adequate support to turn the tide. With those remarks I pay my respects to and acknowledge the Kay family and commend the motion to the council.

Debate adjourned on motion of Hon. Carmel Zollo.

FISHING SUPER TRAWLER

Adjourned debate on motion of Hon. G.A. Kandelaars:

That this Council:

1. notes the significant concerns of the South Australian community, commercial and recreational fishing groups and conservation groups about the presence of the FV *Margiris* in our region and the proposal for it to operate in the South Australian Small Pelagic Fishery;

2. notes the importance of the Small Pelagic Fishery to the South Australian fishing industry and the marine ecosystem;

3. notes the potential risks that this immense trawler would have on threatened, protected and endangered marine species and potential impacts on fish species that are commercially important to our state;

4. notes the potentially devastating effects that this super trawler may have on the South Australian sardine industry which makes a significant contribution to our South Australian economy;

5. opposes the proposed operation of the super trawler in the Small Pelagic Fishery; and

6. strongly urges the federal minister to reject the application for the FV *Margiris* to operate in the Small Pelagic Fishery.

(Continued from 5 September 2012.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:42): I rise to speak to the motion of the Hon. Gerry Kandelaars and make some comments on behalf of the opposition. The FV *Margiris* has been rebadged in commonwealth waters as the FV *Abel Tasman* and is operated by Seafish Tasmania, a joint venture between Seafish Tasmania and Seafish Tasmania Pelagic, and is committed to long-term sustainable fishing in Australian waters.

One point has remained constant throughout the super trawler debate: the *Abel Tasman* would only fish in commonwealth waters, those being waters outside the three mile state limits, thus making this a commonwealth issue, not a state issue. To spell that out: it is not a South Australian Labor government issue either. The operator of the FV *Abel Tasman* has met every requirement, abided by existing rules and complied with regulations. As one political commentator states:

> Its only crime was to run into a government in a tight political spot that is looking to attract votes on the back of a populist environmental campaign.

This can be said of the federal and current state Labor government. The kneejerk reaction of the federal government has put Australia's reputation as a stable investment country at risk, adding to a growing list of decisions which have penalised investors. As another commentator reports:

> Investors, already spooked by abrupt decisions and reversals on mining taxes, the carbon tax and live cattle exports, now have one more reason to worry about sovereign risk—governments changing the rules after the money's been committed.

The reaction by the federal government has also drawn a lot of criticism, citing the influence of the Greens. The Liberal opposition acknowledges and supports sustainable fisheries management and sustainable fisheries practices, and in particular the South Australian commercial fishing industry. We recognise the development of the fishing industry in South Australia, and commercial fishery needs to be based on a sound marine science platform.

As a result of the federal government's inconsistent approach to policy, as we have seen, 50 employees will lose their jobs, Seafish Tasmania loses a considerable amount of money as a result of the introduction of the two-year ban on fishing whilst the science is explored, and Seafish Tasmania confirmed it will be looking at compensation which will be expected to be in the tens of millions of dollars.

The state Labor government is happy to use science as an excuse where it fits, not having done so when implementing its marine parks policy and also in the debate on the River Murray. The federal Labor government has overreacted and backflipped on policy. The Liberal opposition believes the federal Labor government has not shown respect to the Australian Fisheries Management Authority and the CSIRO.

I put on the record some facts about the small pelagic fishery. The *Abel Tasman* is targeting small pelagic fish, such as redbait, jack mackerel and blue mackerel. No boat size limits apply in the small pelagic fishery or in any fishery managed solely by the commonwealth. The small pelagic fishery is managed by the Australian Fisheries Management Authority (AFMA) under a statutory management plan.

The total allowable catch (TAC) for each species in each zone of a fishery is set annually by the Australian Fisheries Management Authority in accordance with the Small Pelagic Fishery Harvest Strategy—a strategy, incidentally, signed off by the Hon. Tony Burke, when he was minister for agriculture, food and fisheries in 2008, and revised in 2009.

The harvest strategy policy was developed as a direct response to a ministerial direction calling for the Australian Fisheries Management Authority to take a science-based approach to setting total allowable catch and effort in commonwealth fisheries. The harvest strategy is based on sound science and recognises the ecological importance of the species and is precautionary.

The harvest strategy requires that research is undertaken into the stock biomass, a fishery-independent stock assessment technique, known as the daily egg production method. The objective of the Small Pelagic Fishery Harvest Strategy was:

> The sustainable and profitable utilisation of the small pelagic fishery in perpetuity through the implementation of a harvest strategy that maintains key commercial stocks at ecologically sustainable levels and, within this context, maximises the net economic returns to the Australian community.

The Small Pelagic Fish Harvest Strategy is similar to approaches successfully applied in other large fisheries for small pelagic species (for example, in the South Australian sardine fishery) and has been developed to account for key fishery specific attributes such as:

- Recent catches are limited by economic constraints and are considered by the Small Pelagic Fish Resource Assessment Group to be below the maximum sustainable level, and there is potential for sustainable expansion of the fishery.
- Small pelagic fish species are an important food source for many threatened, endangered and protected species and other species and it is therefore important that the Small Pelagic Fishery Harvest Strategy takes into account the ecosystem role of the species.
- Small pelagic species are caught in high volumes and have a low unit value. Additionally, there are high capital costs associated with large-scale catching units and the specific processing infrastructure required. As a result, fishing operators need to have a heightened efficiency.

Most importantly, as a result of aiming to achieve this objective, minister Burke signed off on a point that welcomes mid-water trawlers such as the *Abel Tasman* to fish in commonwealth waters for small pelagic fish:

- There are considerable economies of scale in the fishery and the most efficient way to fish may include large scale factory freezer vessels.

I make a couple of points about quotas and by-catch. Commonwealth and South Australian fisheries policies have been well managed with quotas in place to address overfishing of each fishery. I think South Australia has an excellent record of managing a whole range of fisheries in a quota-based system. However, quotas have continually been cut by state and commonwealth governments, making commercial fisheries and certain fisheries unviable.

To make it viable to fish, many quotas have been consolidated into one licence and, as long as the rules do not allow overfishing in any one area, this is seen as a sensible approach to fishing. In the same way that other industries increase size to cut costs and maximise efficiency, it is sensible that the fishing industry is headed this way. It is argued that it should be encouraged that these quotas be filled at the least cost in order to free up resources for other uses.

The proposed operations of the *Abel Tasman* have met all the requirements of Australian fisheries policy and federal environmental protection laws. A strict quota has been set for the small pelagic fishery and the fisheries management arrangements for this fishery have been strategically assessed by the federal environment department on several occasions, most recently in 2012. Quotas are in place in order to manage fisheries to avoid undesirable flow-on effects of these fisheries on the food web and ecosystem.

Seafish Tasmania has had ranging quotas from 15,000 tonnes to 26,000 tonnes over the past 12 years, with 18,000 tonnes being considerably conservative in the scheme of things. The quota assigned to Seafish Tasmania was based on science performed by the South Australian Research and Development Institute (SARDI) and the Institute for Marine and Antarctic Studies at the University of Tasmania, and was reviewed by the CSIRO. As a result, a joint report by several marine scientists confirmed that the small pelagic fishery is sustainable and that the quotas set are conservative.

There is a strong scientific basis and understanding of what is required of fishery management to protect the food web and the broader ecosystem—and dependant fish, bird and marine mammal populations in particular—when conducting a fishery that targets the forage fish in that ecosystem. These requirements include that management be more conservative where there is more scientific uncertainty about the forage fish in the food web. The harvest strategy for the small pelagic fishery was borrowed heavily from the experience gained in the South Australian sardine industry.

Localised depletion is where fishing reduces the abundance of fish in a local area for a period of time. Several scientists, including representatives from SARDI, CSIRO and the Institute for Marine and Antarctic Studies at the University of Tasmania, give confidence that the food web impacts of the small pelagic fishery on predators and the small pelagic fishery species themselves, including localised depletion, are unlikely.

There has been some discussion about fish by-catch. Under the well-managed guidance of the Australian Fisheries Management Authority and PIRSA—and I say PIRSA, not the Department of Environment, Water and Natural Resources—fishing gear is regulated heavily to reduce by-catch, and this is no different for the *Abel Tasman*. The Australian Fisheries Management Authority has committed to 100 per cent observer coverage to monitor the by-catch and other aspects of the fishery operations for the factory trawler.

There has been extensive research and sampling conducted on midwater trawlers such as the *Abel Tasman* by Institute for Marine and Antarctic Studies researchers and Australian Fisheries Management Authority observers, with many reports finding that midwater trawl operations had minimal impact levels of catch of non-target species. Stringent by-catch conditions have also been set under the well-managed guidance of the Australian Fisheries Management Authority. Fishing gear is regulated heavily to reduce by-catch.

The Australian Fisheries Management Authority must be informed of all catch landed and verifies this information. If operators are found to have caught more than their quota, a strict penalty applies. In the small pelagic fishery, operators must hold quota to cover by-catch of species that are subject to quota management in other commonwealth fisheries. However, we do recognise the concern outlined by industries such as the South Australian Sardine Industry Association that there can often be 'a capacity for mistaken identity of species', which is a quote from Paul Watson, the executive officer of the SA Sardine Industry Association.

The issue of marine mammal by-catch has also been in the media. Midwater trawl operations in the small pelagic fishery include ongoing and effective observer coverage to monitor such interactions with seals and dolphins, along with strategies that reduce capture and mortality rates. Voluntary avoidance measures are in effect. The measures are simple: 'move on' rules that stop fishing and move the vessel to a different location if dolphins are sighted. In addition, the small pelagic fishery vessels are required to use a seal exclusion device. Voluntary ongoing measures and monitoring assesses excluder devices and manages the ongoing risk of marine mammal

interactions and capture. The Australian Fisheries Management Authority has a dedicated team of enforcement officers and, significantly, quite a broad range of enforcement powers.

I think those comments lay down the facts of what is happening in that particular fishery. I indicate that the opposition will not be opposing this motion, but place on the record those comments.

The Hon. G.A. KANDELAARS (17:54): I thank the Hon. David Ridgway for his comments. I am somewhat disappointed at the Liberal Party's position, as I think—

The Hon. D.W. Ridgway: We're not opposing it.

The Hon. G.A. KANDELAARS: You may not be voting against it, but you certainly opposed the actions of the federal government, which I think are in the interests of South Australia and the South Australian fishing environment. Many South Australians have raised their concern about the *Abel Tasman*, formerly the FV *Margiris*, seeking to operate in Australia's small pelagic fishery. This marine pelagic environment is the largest aquatic habitat on earth.

The 142-metre trawling and processing ship is reported to be 600 metres long, with nets operating nearly 200 by 100 metres in size, and the primary target would be jack mackerel, blue mackerel and redbait in the small pelagic fishery. Recently the Minister for Environment and Sustainability informed the House of Assembly about not only the public concern but also the need to preserve this state's reputation for its premium clean and green food industry.

This fish factory, which has sought to operate under commonwealth fishing permits in commonwealth waters adjacent to South Australia, could have had serious consequences for our marine mammals and sardine fishery. The state government has taken a stand against the arrival of this super trawler and wrote to the federal minister for fisheries to explain the concerns held by the public and the community, to urge the federal minister not to allow the *Abel Tasman* to fish in the small pelagic fishery. Thankfully, this has seen the commonwealth government respond and introduce legislation which will suspend the trawler's licence for two years in commonwealth waters. I commend the commonwealth government for its response to these concerns. Apparently, the Senate passed the legislation earlier today. This government is proud that it has a record for its commitment to marine conservation. We are well recognised nationally and internationally for our biodiversity. This government recently took further steps in marine conservation through the release of a draft marine parks zone. This is yet another important initiative for the habitat protection and bioconservation of marine environments.

The South Australian community wants certainty around the protection of its maritime environment, and although we applaud the federal government for its recent decision we hope that all sides of politics agree that there is no place for the super trawler in Australian waters. Finally, I put on record a letter from the Minister of Agriculture, Food and Fisheries, the Hon. Gail Gago, to the federal Minister for Agriculture, Fisheries and Forestry, Senator the Hon. Joe Ludwig, which corrects an assertion made by the federal minister, and states:

Dear Senator Ludwig,

The South Australian Government is pleased that the Commonwealth government has recently introduced legislation to Federal Parliament that will suspend the Abel Tasman (formerly Margiris FV) from fishing in Australian waters for two years. I note that the legislation has now passed the House of Representatives.

Given the levels of public interest and concern amongst fishers, conservation groups and the broader community expressed about the operation of the Abel Tasman in the small pelagic fishery, the decision by the Commonwealth Government and Minister Burke to review the science is commendable.

In your recent correspondence you asserted that the State Government had the ability to prevent access to ports through the use of their ports powers. I can advise that the Minister for Transport and Infrastructure has sought legal advice about this matter and there is no power through which the State can prevent a vessel from accessing this State's ports, except in cases of emergency where the action is taken to avoid or minimise danger to human life or damage to property. In addition there is no appropriate head of power in South Australian legislation that will allow the state to make regulations to prevent the vessel from accessing this state's ports.

I will conclude on that.

Motion carried.

FISHING SUPER TRAWLER

Adjourned debate on motion of Hon. M. Parnell:

That this council:

1. notes the growing community concern and disquiet over the arrival in Port Lincoln of the super trawler, FV *Margiris*, to operate in Australian waters to fish the Small Pelagic Fishery;

2. expresses concern about the potential impact on local fisheries of the current quota of 18,000 tonnes for the Small Pelagic Fishery;

3. recognises the need for a balanced approach between the needs of a sustainable commercial fishing industry, access for recreational fishers and appropriate marine conservation outcomes;

4. notes that the government has written to Senator Ludwig, federal Minister for Agriculture, Fisheries and Forestry, to advise him that the South Australian government does not support the FV *Margiris* operating in South Australian waters or in commonwealth waters around South Australia; and

5. endorses that move and urges the federal government to prevent the FV *Margiris* from operating in Australian waters.

(Continued from 5 September 2012.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (18:00): I refer members to comments I have just made on private members' business No. 3, but I will just add a couple of brief comments. I think the Hon. Gerry Kandelaars in a previous contribution mentioned that this legislation has passed the federal parliament finally today, I think, in the Senate.

So, what we are actually doing—and I am glad the Hon. Mark Parnell is not going to take very much time—is wasting the time of the South Australian parliament. It was always in commonwealth waters, it was a commonwealth issue, yet we have seen this attempt to try to politicise this particular issue in South Australia.

It is well outside Australia. We have a three-mile limit. This is hundreds of miles out to sea, so it is a little disappointing that, now that the federal government has acted to ban this particular vessel, we now still seem to have to have debate in this place. With those few words, I will refer members to the very informative and accurate comments I made in the previous motion.

The Hon. CARMEL ZOLLO (18:01): I will also be very quick. I congratulate the Hon. Mark Parnell for his motion and, in particular, also the Hon. Gerry Kandelaars and refer to the comments he has made in both his contributions. The government has, of course, put on record the significant concerns generated by the public conservation groups and the broader community and the potential impact it would have on local fisheries, marine mammals and marine ecosystems.

I was particularly pleased to hear last time in this chamber that the state government took action to write to the federal Minister for Agriculture, Fisheries and Forestry about this state's concerns, advising him that the South Australian government does not support the vessel operating in the Small Pelagic Fishery. Again, the Hon. Gerry Kandelaars has already placed that on the record.

Like everybody else, I acknowledge and welcome the commonwealth government this morning passing legislation through the Senate which will effectively suspend the super trawler from fishing in Australian waters for two years, thus enabling research on the environmental impact of the *Abel Tasman* on the Small Pelagic Fishery. I think it would be fair to say that the amount of community concern that has arisen in response to these environmental concerns reflects the widespread support that we have received regarding protection of our state's water from exploitation. It is imperative that we have a full understanding of the overall impact of the super trawler's activities and the state agrees that today's decision is a positive step forward. However, we do realise the action taken by the commonwealth is only a short-term measure and we will continue to take up this matter with the commonwealth government to ensure that the concerns of the South Australian community are represented.

As has already been mentioned by the Hon. Gerry Kandelaars, it is a timely issue with regard to the natural resources of the state and how we deal with these issues as a community. Being a member of the Select Committee on Marine Parks, I am well aware that the government policy to introduce marine parks zones demonstrates its widespread commitment to our state waters.

In addition, the outcome of this issue does, of course, fully demonstrate the government's commitment to ensuring the sustainability of the state's aquatic resources. For our commercial and recreational industries, the government supports the motion of the Hon. Mark Parnell.

The Hon. M. PARNELL (18:04): In summing up, I thank the Hon. Carmel Zollo and the Hon. David Ridgway for their contribution to my motion. I also acknowledge the contribution the

Hon. Gerry Kandelaars also made when he copied, effectively, the Greens' motion from Tasmania and introduced it as a government motion. Given the federal government's support now for it, it just goes to show what happens when the Legislative Council gets behind the Greens and our sensible ideas—we can change the world and we can change federal government policy. So, that is a good outcome.

Certainly, as members have suggested, the Senate this morning passed the final stages of the bill, so we now find ourselves in somewhat of a holding pattern. There are now two years when the government has committed to a root and branch review of Australia's fisheries management. The Greens were disappointed that our amendments to permanently ban the super trawlers did not get up. But the importance of this review of fisheries management will be that we might be able to get beyond the selective science the Hon. David Ridgway refers to. He is a big fan of science when it suits and, when it does not suit, it is ignored.

The Hon. D.W. Ridgway interjecting:

The Hon. M. PARNELL: The Hon. David Ridgway asks: when does science not suit him? Next time I move that the southern bluefin tuna, which is internationally listed as a critically endangered species, be also listed in this state, I bet you he votes no because there is too much money to be made out of it. So, science when it suits.

The Greens have put out a release today saying that we are pleased with the bill, that we voted for it, but that the Greens have vowed to continue the super trawler campaign. We are disappointed that we will, sometime in the next two years, have to re-agitate this issue, but we do look forward to the review of fisheries management and, in particular, a review of the way in which quotas are set because, whilst the Hon. David Ridgway waxes lyrical about the sustainability of the sardine fishery and quota, in my previous life as a lawyer I had whistleblower scientists out of SARDI ringing me saying that they were concerned in great earnest at how the quotas were being set. Their view was that it was not sustainable.

I think that this federal review should also trigger a South Australian review so that we make sure that quotas are set according to science and in a way that is truly sustainable. But, for now, I think this parliament should celebrate the fact that we have helped change national policy through support for the Greens' motion. I urge all members to get behind this motion, as we did get behind the Hon. Gerry Kandelaars' motion.

Motion carried.

PETROLEUM AND GEOTHERMAL ENERGY (TRANSITIONAL LICENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 September 2012.)

The Hon. S.G. WADE (18:09): I rise to support the Petroleum and Geothermal Energy (Transitional Licences) Amendment Bill. At the outset, I express my acute disquiet at being advised yesterday morning that the government was demanding that this bill be jammed through both houses by tomorrow. My party had made decisions on the basis of the routine and orderly consideration of the bill in the normal course of events, and we were anticipating that the bill would be debated in this house in the sitting week commencing 16 October. The normal processes of consultation and due diligence and legislative review are not possible in this time frame. I am not confident that my party and I have identified and understood all the relevant issues. This council has been put in a very difficult position.

The foundational case for native title, in the common law of Australia, is the High Court decision of Mabo v Queensland (No. 2) in 1992. This bill is one in a long list of commonwealth, state and territory statutes enacted to manage the implementation of native title. A year after the High Court decision, the Native Title Act 1993 was enacted to legislatively recognise native title, to clarify the legal position of landholders, and to lay down the processes that must be followed for native title to be claimed, protected and recognised through the courts.

The Wik decision in relation to the impact of pastoral leases to native title led to amendments to the Native Title Act through the Native Title Amendment Act in 1998. The act streamlined the claim system and provided security of tenure to holders of pastoral leases and other land titles. In other words, by the turn of the century there had been two major legislative reviews introduced in the short eight years since the High Court's recognition of native title.

For such a young area of Australian common law, the legislative activity and the resultant complexity was unprecedented. By 2000, the Native Title Act 1993 was published in two volumes and already contained 496 pages. The law was complex and its interaction with other state and commonwealth acts was evolving. In this legislative environment the Parliament of South Australia enacted the Petroleum and Geothermal Energy Act 2000. The act has fallen foul of the complexity of the law. According to the title of the act it is to:

> ...regulate exploration for, and the recovery or commercial utilisation of, petroleum and certain other resources; and for other purposes.

Fundamentally, the bill did not create new licences: it reframed them. Before the 2000 bill, under earlier petroleum legislation, petroleum production licences were granted for 21 years, or sometimes 31 years, with the unlimited right to renew those licences for 21 years at a time. After 2000 the new act provided for petroleum production licences to be granted for an unlimited term subject to two-yearly review.

The nature of the licence has not changed. There were still ongoing petroleum production licences, but whereas in the past the licence had been for a defined term with unlimited renewal, now the licence is for an undefined term with a prospect of termination. The basic approach of the Native Title Act is that if an act is authorised by earlier legislation or legal agreement it can proceed without going through the so-called right to negotiate process. The right to negotiate does not and was not intended to apply to renewal or re-grant of earlier licences such as those under the Petroleum and Geothermal Energy Act 2000. However, by providing the petroleum licences were to be granted for an unlimited term, this parliament inadvertently invoked the right to negotiate provisions of the Native Title Act.

The consequences are twofold. First, the validity of licences is put under a cloud. There are concerns that if the proposed amendments are not made many petroleum production licences could be found to be flawed on the basis of the unintended legal legislative effect. Second, the right to negotiate would arise every time transitional licences were renewed, consolidated or divided, which would create uncertainty. The risk was not immediately apparent for 10 years. I understand 50 licences were renewed and no right to negotiate was given and no right to negotiate was asserted. All parties had assumed that licences created under the legislation could be renewed without the right to negotiate applying and that the specific part of the Native Title Act that allows for renewals applied. More recently, concern has arisen that the right to negotiate had been invoked and was not being honoured. I am advised that the government was first made aware of the possible unintended consequences two to three years ago. In relation to the Santos licences specifically, I understand the issue was raised in July 2011.

There was a general lack of response by the government, and in March 2012 the YY people instituted proceedings in the federal court. The YY people are seeking a declaration that when Santos' Cooper Basin production licences were consolidated in 2009 under section 82 of the Petroleum and Geothermal Energy Act 2000 the YY people should have been afforded the right to negotiate pursuant to section 26 of the Native Title Act.

The Petroleum and Geothermal Energy (Transitional Licences) Amendment Bill, the bill that is being discussed tonight, introduces amendments to the Petroleum and Geothermal Energy Act to address two issues. First, to ensure the validity of certain past grants consolidations of renewals of petroleum production licences and, secondly, to ensure that existing transitional licences will be renewed, consolidated or divided consistently with subdivision I of the Native Title Act and therefore did not attract the right to negotiate. The bill is not seeking to avoid the operation of the Native Title Act: it seeks to clarify which part of the Native Title Act will apply to the licenses in question.

I stress that this problem has arisen completely independently of Santos. Santos did not create the problem: the law and this parliament did. Santos did not choose the remedy: this government did. Even if Santos did not need this clarification, other licence holders would need it. There are up to 200 licenses which, I understand, will need to be renewed in the new future, and the amendment bill will stop the right to negotiate from applying to these renewals.

I will be very disappointed if the mismanagement of this issue by the government negatively impacts on Santos's ongoing relationship with Aboriginal people and their involvement in this state. The government has clearly failed to effectively engage the Aboriginal community on this bill. On 7 September Khatija Thomas, the Commissioner for Aboriginal Engagement, released a

press release headed 'Minister introduces bill to remove native title rights from Aboriginal people.' The release stated:

> This bill flies in the face of government rhetoric supporting the engagement of all South Australians including traditional owners,' she said.
>
> First, the process adopted by the Government to introduce the Bill without notice to Aboriginal people is contrary to international law requiring that only free, prior and informed consent be given by Aboriginal people to decisions such as the one to remove a native title right. Second, the Bill undermines our democratic processes.

A range of other Aboriginal leaders have expressed concern, particularly at the lack of consultation. I think the government's case is a credible one, but its failure to consult with the Aboriginal community is highly disrespectful. Ironically, a news report about Aboriginal outrage was published in *The Transcontinental* newspaper on 12 September 2012. It was placed immediately above a state government advertisement for the consultation on Indigenous recognition in the state constitution. The heading was 'Time for respect'; indeed, it is.

The arrogance of this government and the disregard for Aboriginal people was highlighted by the vicious attack in the other place by the Minister for Mineral Resources on the member for Stuart. The member is an excellent member who strongly advocates for his constituents, many of whom are Indigenous South Australians.

The member for Stuart made clear that he supports the bill. He said that the bill was 'put forward for the right reasons; that is, to try to close an unintended loophole and get things on track to where we want them to be'. However, he rightly conveyed the concerns of Aboriginal leaders, quoting comments in *The Transcontinental* newspaper that refer to this bill as 'administrative racism'. The member specifically said that:

> The quotes are very important. It does not make them right; that is their opinion. It does not make them right, but it does mean that it is very important for us to pursue a deeper understanding of their views, of their positions, and to try to find out exactly why they hold those views and why they chose to make those very public comments.

I commend the member for his ongoing commitment to engaging the Aboriginal community. On the other hand, the minister personalised the quote and launched a personal attack on the member, calling him a 'political coward'. Personally, I think the response highlighted the sensitivity of a minister who has badly mishandled a sensitive issue.

One of the key issues this bill raises is the issue of retrospectivity. This parliament is not prevented from enacting laws with retrospective effect; however, this parliament should maintain strong respect for the rule of law and should be reluctant to enact retrospective legislation. The great legal commentator William Blackstone stated 'All laws should be made to commence in [the] future, and [the people should] be notified of their commencement.' However, Australian parliaments do regularly enact retrospective legislation, particularly to close loopholes and to fix unintended consequences.

This bill does indeed have retrospective effect, but the opposition will nonetheless support it. Key to our considerations is the fact that this bill neither confers additional rights on licensees nor detracts from the existing rights of the native title claimants or holders. In our understanding it will basically reconfirm what was thought to be the status quo. We accept that from time to time parliament has to correct legislation, but we do think that the government's response to this issue has been tardy. For what we understand is more than two years this government has had this issue before it. Frustrated by being ignored, Aboriginal people filed legal proceedings.

The bill may well be an appropriate clarification of the established parliamentary intent, but the way the government has handled this issue falls well short of what is expected of the government as a model citizen. Given the complexity of native title law and the legal issues of inconsistency of laws, this bill may also face challenge. On 4 September, the South Australian Native Title Services wrote an extensive letter to members of the lower house, and I will quote one section which addresses the issue of the robustness of the law, if you like. It stated:

> We are of the opinion that the proposed bill raises some extremely technical legal issues that ought to be properly addressed to ensure the validity of any amendments to the state's petroleum legislation which will impact whether or not the rights under the Native Title Act will be afforded to traditional owners in South Australia.

The government assures the parliament that this bill does not conflict with the native title law, but what if they are wrong? Native title holders and claimants could challenge the legislation. The opposition expects that all stakeholders will be treated fairly as we continue to explore these issues.

In conclusion, I want to express my frustration at the way the government has managed the parliamentary progress of this bill. It was only on Monday night that the government informally advised the opposition that it wanted the legislation through by the end of this sitting week. The government is not on top of its brief. A range of issues that the Liberal party room had wanted explored had to be inadequately considered in one day.

I understand the crossbench MLCs were allowed even less time. At the insistence of the opposition, briefings were offered to the crossbench members of this house and parliamentary consideration has been delayed. Whether it was the Aboriginal people, the opposition or this council, the progress of this bill has yet again shown the arrogance of this government.

Debate adjourned on motion of Hon. J.M. Gazzola.

SURVEILLANCE DEVICES BILL

Received from the House of Assembly and read a first time.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (18:22): I move:

That this bill be now read a second time.

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

Leave granted.

On 5 April, 2002, the Council of Australian Governments COAG) held a special meeting on Terrorism and Multi-Jurisdictional Crime. One outcome of that meeting was that Leaders agreed: *To legislate through model laws for all jurisdictions and mutual recognition for a national set of powers for cross-border investigations covering controlled operations and assumed identities legislation; electronic surveillance devices; and witness anonymity. Legislation to be settled within 12 months*.

The task of developing these model laws was given to a task force known as the national Joint Working Group (JWG) established by the then Ministerial Councils (the Standing Committee of Attorneys-General and the Australian Police Ministers Council) and consisting of representatives of both bodies. The JWG published a Discussion Paper in February, 2003 that discussed and presented draft legislation on all 4 topics and received 19 submissions nationally. A Final Report was published in November, 2003.

The first 3 topics were dealt with in this State by what has become the *Criminal Investigation (Covert Operations) Act 2009*. So far as the subject of electronic surveillance was concerned, no national agreement was reached on a model domestic law and so the agreed model related only to cross-border recognition. For as long as that was so, there was no urgency in progressing the issue and no obvious benefit in having 1 Act for domestic law and another for cross-border recognition. However, by 2009, police had taken the view that the existing legislation was due for a general overhaul. The last amendments were made by the *Listening Devices (Miscellaneous) Amendment Act 1998*.

The point for present purposes is that more than 10 years has passed since the *Listening and Surveillance Devices Act 1972* was revisited, and much has changed, not least developments in electronic surveillance, and methods of intruding into privacy, since then.

The Bill contains the recommended provisions allowing for the cross-border recognition of surveillance device warrants. So far as South Australia is concerned, that means that the law of this State will regard as validly issued those surveillance device warrants of a corresponding Australian jurisdiction declared by regulation. It is up to those other Australian jurisdictions to pass laws recognising our warrants for the purposes of the law of their State. This is nationally regarded as important for the often stated and obviously true reason that criminals do not respect State and Territory borders. The measure is a target in, for example, the National Organised Crime Response Plan.

In addition, a review of the existing Act, in close consultation with South Australia Police (SAPol), has resulted in extensive proposals for amendments. These are:

Under current law, an urgent warrant application is done by telephone or fax application to a Supreme Court judge at any time of the day or night. In practice, the Supreme Court rosters judges for this purpose. No doubt it is a nuisance for everyone. SAPol says that the process takes about 2 hours, during which, of course, nothing can be done. The alternative is to allow emergency authorisation for urgent situations to be made by a senior police officer. Many Australian jurisdictions have this procedure and it is part of the JWG model which has been accepted by the Commonwealth. The Bill proposes a similar procedure including, notably, a requirement that police seek judicial confirmation of the emergency authority within 2 business days after the emergency authority is granted.

The Commonwealth provisions dealing with urgent or emergency warrant applications restrict the procedure to certain kinds of offences. The list is: where an imminent risk of serious violence to a person or substantial damage to property exists; and the use of a surveillance device is immediately necessary for the purpose of dealing with that risk; and the circumstances are so serious and the matter is of such urgency that the use of a surveillance device is warranted; and it is not practicable in the circumstances to apply for a surveillance device

warrant. This is followed. However, neither current South Australian law nor Commonwealth law allows for explicit emergency authorisation for serious drug offences and this defect will be remedied with similar pre-conditions.

New technology means that a tracking device can be attached to a vehicle in a public place or a place under the control of police (such as a yard for keeping seized vehicles). This will sometimes have to be done in a hurry before the vehicle gets away. In these circumstances, attaching such a surveillance device will be permitted by obtaining a surveillance device (tracking) warrant from the chief officer so long as the device is non-intrusive. Other Australian legislation deals with this situation in different ways. There is no national consistency. The police will be allowed to use subterfuge to get the device attached unnoticed. For example, the police might temporarily move the car so as to attach the device out of the public eye.

The general ability to use a listening device to record a private conversation if it is in the course of duty of the person, in the public interest or for the protection of the lawful interests of that person in the current section 7(1)(b) of the Act is too broad and ill-defined. It is unsuited to the threats to personal privacy posed by the technological realities of the 21st Century. It has been eliminated and more specific and targeted allowances made for lawful use of all kinds of devices.

The JWG model contains special provision for 'remote applications' to deal with instances where physical remoteness means that it is impractical to make a warrant application in person. The Commonwealth legislation adopts the model. This is a common-sense exception to the usual requirement that a warrant be sought by personal application.

The JWG model contains provision for 'specified person warrants'. The point of this is to allow a warrant to be brought for the surveillance of a specific person, wherever he or she may be, instead of the usual warrant allowing the surveillance of a particular place. That makes sense and the Bill contains provisions designed to allow for this expedient.

Material obtained by use of listening or surveillance devices installed pursuant to a warrant is prohibited from being communicated or published unless it falls within one of the exceptions in section 6AB of the current Act. Obviously, material must be used for the purposes of a criminal investigation and that remains and will remain by far the most common use of the material. But, these days, law enforcement has tools available to it that move beyond the simple arena of the criminal justice system. The Government can and will pursue criminals through civil legislative remedies such as those contained in the *Criminal Assets Confiscation Act 2005*, *Serious and Organised Crime (Control) Act 2008* and the *Serious and Organised Crime (Unexplained Wealth) Act 2009* and the product must be made available for these crime-fighting purposes.

The judges of the Supreme Court (who are the issuing authorities under the current Act) have interpreted the current Act so that all people authorised to exercise powers under the warrant are specified in the warrant. SAPol argues that the specification of SAPol personnel in the warrant poses potential security risks - risk of retribution from targets of the warrants because of the intrusive nature of the work they perform. There has been extensive consultation with the previous Chief Justice on this issue. He agreed that an amendment to provide for a degree of anonymity was acceptable - using a code on the warrant instead. The code names scheme is in the Bill. The 'holder of the key' is not specified in the Bill - it will be up to the court to determine how it will deal with the matter.

There are other more minor changes proposed. All are consistent with the JWG model.

The Bill authorises the use of a surveillance device on specified premises; in or on a specified object or class of object; or, in respect of the conversations, activities or location of a specified person or a person whose identity is unknown.

The definition of '*premises*' is expanded in line to include land; and a building or vehicle (includes an aircraft or vessel); and a part of a building or vehicle; and any place, whether built on or not.

The definition of *'surveillance device'* is amended to mean a data surveillance device; a listening device; an optical surveillance device; or a tracking device; or a device that is a combination of any 2 or more of the above devices; or a device of a kind prescribed by regulations.

The regulation of data surveillance devices; listening devices, optical surveillance devices, and tracking devices, is broadly similar in form. However, following representations that have been made, it should be made clear that the Bill in no way permits as lawful the filming or surveillance of people in toilets or similar places, whether by local government or otherwise. The Bill cannot be read in isolation. Laws against indecent filming already exist and will be strengthened by the imminent introduction into this Parliament of a Bill that has been the subject of wide public consultation and that deals with humiliating and degrading images.

Extensive oversight and reporting provisions are proposed in order to safeguard the public interest as best as can be managed without jeopardising criminal investigations and other sensitive information. In particular, there has been no watering down of current requirements.

The Bill also incorporates necessary provisions to take into account the needs of the Independent Commissioner Against Corruption.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause sets out definitions of words and phrases used for the purposes of this measure.

Part 2—Regulation of installation, use and maintenance of surveillance devices

Division 1—Installation, use and maintenance of surveillance devices

4—Listening devices

Subclause (1) provides that, subject to this clause, it is an offence if a person knowingly installs, uses or causes to be used, or maintains, a listening device—

- to overhear, record, monitor or listen to a private conversation to which the person is not a party; or
- to record a private conversation to which the person is a party.

The maximum penalty for such an offence is $75,000 for a body corporate, and $15,000 or imprisonment for 3 years for a natural person.

Subclause (2) provides that a party to a private conversation may, however, use a listening device to record the conversation—

- if all principal parties to the conversation consent (expressly or impliedly) to the device being so used; or
- if—
  - the party to the conversation using the device is the victim of an offence alleged to have been committed by another party to the conversation; and
  - the use of the device is for the protection of the lawful interests of that person or in the public interest.

Subclause (3) sets out other situations in which subclause (1) does not apply.

5—Optical surveillance devices

Subclause (1) provides that, subject to this clause, it is an offence for a person to knowingly install, use or maintain an optical surveillance device on or within premises or a vehicle or on any other thing, to record visually or observe the carrying on of an activity if the installation, use or maintenance of the device involves either or both of the following:

- entry onto or into the premises or vehicle without the express or implied consent of the owner or occupier of the premises or vehicle;
- interference with the premises, vehicle or thing without the express or implied consent of the person having lawful possession or lawful control of the premises, vehicle or thing.

Subclause (2) sets out the situations in which subclause (1) does not apply.

The maximum penalty for an offence against this provision is $75,000 for a body corporate, and $15,000 or imprisonment for 3 years for a natural person.

6—Tracking devices

Subclause (1) provides that, subject to this clause, it is an offence for a person to knowingly install, use or maintain a tracking device to determine the geographical location of—

- a person, without the express or implied consent of that person; or
- a vehicle or thing, without the express or implied consent of the owner or a person in lawful possession or control, of that vehicle or thing.

Subclause (2) sets out the situations in which subclause (1) does not apply.

The maximum penalty for an offence against this provision is $75,000 for a body corporate, and $15,000 or imprisonment for 3 years for a natural person.

7—Data surveillance devices

Subclause (1) provides that, subject to this clause, it is an offence for a person to knowingly install, use or maintain a data surveillance device to access, track, monitor or record the input of information into, or the output of information from, or information stored in, a computer without the express or implied consent of the owner, or person with lawful control or management, of the computer.

Subclause (2) sets out the situations in which subclause (1) does not apply.

The maximum penalty for an offence against this provision is $75,000 for a body corporate, and $15,000 or imprisonment for 3 years for a natural person.

Division 2—Prohibition on communication or publication

8—Prohibition on communication or publication

Subclause (1) provides that a person must not knowingly use, communicate or publish information or material derived from the use (whether by that person or another person) of a surveillance device in contravention of this Part.

The maximum penalty for an offence against this provision is $75,000 for a body corporate, and $15,000 or imprisonment for 3 years for a natural person.

Subclause (2) provides that the prohibition does not prevent the use, communication or publication of information or material derived from the use of a surveillance device in contravention of this Part—

- to a person who was a party to the conversation or activity to which the information or material relates; or
- with the consent of each party to the conversation or activity to which the information or material relates; or
- for the purposes of a relevant investigation or relevant action or proceeding relating to that contravention of this Part or a contravention of this section involving the communication or publication of that information or material; or
- in the course of proceedings for an offence against this measure; or
- otherwise in the course of duty or as required by law.

Part 3—Surveillance device warrants and surveillance device (emergency) authorities

Division 1—Surveillance device (tracking) warrants

9—Application of Division

This clause provides that this Division applies if, for the purposes of the investigation of a matter by an investigating agency, the agency requires the authority—

- to install on a vehicle or thing situated in a public place, or in the lawful custody of the agency, 1 or more tracking devices; and
- to use those devices.

10—Application procedure

This clause sets out the application procedure for the issue, variation or renewal of a surveillance device (tracking) warrant by an officer of an investigating agency to the chief officer of the agency.

11—Surveillance device (tracking) warrant

This clause sets out the grounds on which the chief officer of a law enforcement agency to whom application is made to issue a surveillance device (tracking) warrant and specifies the information that must be set out in the warrant.

Subject to any conditions or limitations specified in the warrant—

- a warrant authorising the use (in a public place or elsewhere) of a tracking device in respect of the geographical location of a specified person or a person whose specific identity is unknown who, according to the terms of the warrant, is suspected on reasonable grounds of having committed, or being likely to commit, a serious offence will be taken to authorise interference with any vehicle or thing situated in a public place, or in the lawful custody of the relevant investigating agency, as reasonably required to install, use, maintain or retrieve the device for that purpose; and
- a warrant authorising (whether under the terms of the warrant or by force of the preceding paragraph) interference with any vehicle or thing in a public place, or in the lawful custody of the relevant investigating agency, will be taken to authorise the use of reasonable force or subterfuge for that purpose; and
- the powers conferred by the warrant may be exercised by the responsible officer or under the authority of the responsible officer at any time and with such assistance as is necessary.

Division 2—Surveillance device (general) warrants

12—Application of Division

This clause provides that this Division applies if, for the purposes of the investigation of a matter by an investigating agency, the agency requires the authority to do any or all of the following:

- to use 1 or more types of surveillance device (including a tracking device);
- to enter or interfere with any premises for the purposes of installing, using, maintaining or retrieving 1 or more surveillance devices;
- to interfere with any vehicle or thing for the purposes of installing, using, maintaining or retrieving 1 or more surveillance devices.

13—Usual application procedure

This clause sets out the application procedure for the issue, variation or renewal of a surveillance device (general) warrant by an officer of an investigating agency to a judge of the Supreme Court. Subject to clause 14, an application must be made by providing the judge with a written application and by appearing personally before the judge. The clause sets out the information that must be specified in the application and provides that the application must be accompanied by an affidavit verifying the application.

14—Remote application procedure

This clause sets out the procedure for a remote application for a surveillance device (general) warrant if it is impracticable in the circumstances to make an application according to the procedure set out in clause 13. In those circumstances, an application for the issue, variation or renewal of a surveillance device (general) warrant may be made by fax, email, telephone or other electronic means. This clause sets out the procedure to be followed in relation to any such application.

15—Surveillance device (general) warrant

This clause provides that a judge may issue a surveillance device (general) warrant on application if satisfied that there are in the circumstances reasonable grounds for so doing. The clause sets out other matters that must be specified in the warrant, including that the warrant may specify a code name rather than a real name if satisfied that the disclosure of a person's name in the warrant may endanger a person's safety. Subject to any conditions or limitations specified in the warrant—

- a warrant authorising the use of a surveillance device in respect of the conversations, activities or geographical location of a specified person, or a person whose identity is unknown, who, according to the terms of the warrant, is suspected on reasonable grounds of having committed, or being likely to commit, a serious offence will be taken to authorise—
    - entry to or interference with any premises, vehicle or thing as reasonably required to install, use, maintain or retrieve the device for that purpose; and
    - the use of the device on or about the body of the person; and
- a warrant authorising (whether under the terms of the warrant or by force of paragraph (a)(i)) entry to or interference with any premises, vehicle or thing will be taken to authorise—
    - the use of reasonable force or subterfuge for that purpose; and
    - any action reasonably required to be taken in respect of a vehicle or thing for the purpose of installing, using, maintaining or retrieving a surveillance device to which the warrant relates; and
    - the extraction and use of electricity for that purpose or for the use of the surveillance device to which the warrant relates; and
- a warrant authorising entry to specified premises will be taken to authorise non-forcible passage through adjoining or nearby premises (but not through the interior of any building or structure) as reasonably required for the purpose of gaining entry to those specified premises; and
    - the powers conferred by the warrant may be exercised by the responsible officer or under the authority of the responsible officer at any time and with such assistance as is necessary.

Division 3—Surveillance device (emergency) authorities

16—Application procedure

This clause sets out the procedure for an officer of an investigating agency to make an application (in person, in writing or by fax, email, telephone or other means of communication) to the chief officer of the agency for a surveillance device (emergency) authority in relation to the use of a surveillance device. The clause sets out the grounds and circumstances on which such an application may be made.

17—Surveillance device (emergency) authority

This clause provides that the chief officer of a law enforcement agency to whom an application is made may, if satisfied that there are, in the circumstances of the case, reasonable grounds to do so, grant a surveillance device (emergency) authority in relation to the use of a surveillance device authorising the officer to do 1 or more of the following (according to its terms):

- the use of 1 or more types of surveillance device;
- entry to or interference with any premises as reasonably required for the purposes of installing, using, maintaining or retrieving 1 or more surveillance devices;
- interference with any vehicle or thing as reasonably required for the purposes of installing, using, maintaining or retrieving 1 or more surveillance devices.

The clause sets out the matters that must be specified in the surveillance device (emergency) authority, including any conditions and limitations on the authority. The powers that may be authorised under a surveillance device (emergency) authority are similar to the powers that may be authorised by a surveillance device warrant.

18—Application for confirmation of surveillance device (emergency) authority etc

This clause provides that the chief officer of a law enforcement agency must, within 2 business days after granting an emergency authorisation, make an application (by personal appearance following the lodging of a written application) to a judge for approval of the granting of, and the exercise of powers under, the emergency authorisation. Any such application must not be heard in open court.

19—Confirmation of surveillance device (emergency) authority etc

On hearing an application under clause 18, the judge—

- must—
  - if satisfied that the granting of the surveillance device (emergency) authority, and the exercise of powers under the authority, was justified in the circumstances, confirm the authority and the exercise of those powers; and
  - cancel the surveillance device (emergency) authority; and
  - if a surveillance device (general) warrant is sought and the judge is satisfied that there are reasonable grounds to issue a warrant in the circumstances—issue a surveillance device (general) warrant;
- may, if not satisfied that the circumstances justified the granting of the surveillance device (emergency) authority, make 1 or more of the following orders:
  - an order that the use of the surveillance device cease;
  - an order that, subject to any conditions the judge thinks fit, the device be retrieved;
  - an order that any information obtained from or relating to the exercise of powers under the authority, or any record of that information, be dealt with in the way specified in the order;
  - any other order as the judge thinks fit.

If a judge confirms a surveillance device (emergency) authority, and the exercise of powers under the authority, evidence obtained through the exercise of those powers is not inadmissible in any proceedings merely because the evidence was obtained before the authority was confirmed.

Division 4—Recognition of corresponding warrants and authorities

20—Corresponding warrants

This clause provides that a corresponding warrant may be executed in this State in accordance with its terms as if it were a surveillance device (tracking) warrant or surveillance device (general) device warrant (as the case may be) issued under this measure.

21—Corresponding emergency authorities

This clause provides that a corresponding emergency authorisation authorises the use of a surveillance device in accordance with its terms in this State, as if it were a surveillance device (emergency) authority granted under this measure unless the judge has ordered, under a provision of a corresponding law, that the use of a surveillance device under the corresponding emergency authority cease.

Division 5—Miscellaneous

22—Management of records relating to surveillance device warrants etc

The chief officer of an investigating agency by whom a surveillance device (tracking) warrant is issued, or a surveillance device (emergency) authority is granted, must cause the application and the warrant or authority (and any copy of the warrant or authority) to be managed in accordance with the regulations.

A judge by whom a surveillance device (general) warrant is issued, varied or renewed must cause each of the following to be managed in accordance with the rules of the Supreme Court:

- the application;
- the warrant (and any duplicate or copy of the warrant) as issued, varied or renewed;
- any code name specified in the warrant;
- the affidavit verifying the application.

23—Limitations on use of information or material derived under this Part

A person must not knowingly communicate or publish information or material derived from the use (whether by that person or another person) of a surveillance device under an authority under this Part except—

- to a person who was a party to the conversation or activity to which the information or material relates; or
- with the consent of each party to the conversation or activity to which the information or material relates; or
- for the purposes of a relevant investigation; or
- for the purposes of a relevant action or proceeding; or
- otherwise in the course of duty or as required by law; or

- if the information or material has been taken or received in public as evidence in a relevant action or proceeding.

The maximum penalty for an offence against this provision is $75,000 for a body corporate, and $15,000 or imprisonment for 3 years for a natural person.

Part 4—Register, reports and records

24—Interpretation

This clause defines the class of persons to whom this Part applies.

25—Register

This clause provides that the chief officer of an investigating agency (other than the ACC) must keep a register of warrants and authorities issued to the agency under this measure and specifies the information that must be contained in the register.

26—Reports and records

This clause makes provision for the reports that must be given to the Minister by the chief officer of an investigating agency (other than the ACC) in relation to surveillance device warrants issued to officers of the agency under this measure and the uses and outcomes relating to such warrants.

27—Control by investigating agencies of certain records, information and material

This clause provides that the chief officer of an investigating agency must keep certain records and information relating to warrants and authorities under this measure, and control, manage access to, and destroy any such records, information and material, in accordance with the regulations.

28—Inspection of records

This clause provides that the review agency for an investigating agency may, at any time, and must, at least once in each period of 6 months, inspect the records of the agency for the purpose of ascertaining the extent of compliance with this measure. The review agency must, not later than 2 months after the completion of any such inspection, provide the Minister with a written report on the inspection.

29—Powers of review agency

This clause sets out the powers of a review agency for an investigating agency for the purposes of carrying out an inspection under this Division. Under this clause, it is an offence (the penalty for which is $15,000 or imprisonment for 3 years) to refuse or fail to comply with a requirement of the review agency under this clause, or to hinder or give false or misleading information to the review agency.

Part 5—Miscellaneous

30—Offence to wrongfully disclose information

This clause provides that it is an offence for a person to knowingly communicate or publish information or material about a surveillance device warrant or surveillance device (emergency) authority except—

- as required to do so under this measure; or
- for the purposes of a relevant investigation; or
- for the purposes of a relevant action or proceeding; or
- in the course of proceedings for an offence against this measure; or
- otherwise in the course of duty or as required by law.

The maximum penalty for an offence against this provision is a fine of $50,000 for a body corporate or, in the case of a natural person, a fine of $10,000 or imprisonment for 2 years.

31—Delegation

This clause provides that the chief officer of an investigating agency may only delegate his or her functions under this measure to a senior officer (as defined in the clause).

32—Possession etc of declared surveillance device

This clause provides for a mechanism by which the Minister may, by notice in the Gazette, declare that this clause applies to a surveillance device or a surveillance device of a class or kind specified in the notice. A person is prohibited from having in his or her possession, custody or control any such declared surveillance device (the penalty for which is, for a body corporate, a fine of $50,000 and, for a natural person, $10,000 or imprisonment for 2 years) without the consent of the Minister.

33—Power to seize surveillance devices etc

This clause provides that, if an officer of an investigating agency suspects on reasonable grounds that—

- a person has possession, custody or control of a declared surveillance device without the consent of the Minister; or

- any other offence against this measure has been, is being or is about to be committed with respect to a surveillance device or information derived from the use of a surveillance device,

the officer may seize the device or a record of the information.

34—Imputing conduct to bodies corporate

Subclause (1) provides that, for the purposes of this measure, any conduct engaged in on behalf of a body corporate by an employee, agent or officer of the body corporate acting within the actual or apparent scope of his or her employment, or within his or her actual or apparent authority, is conduct also engaged in by the body corporate.

If an offence under this Act requires proof of knowledge, intention or recklessness, it is sufficient in proceedings against a body corporate for that offence to prove that the person referred to in subclause (1) had the relevant knowledge, intention or recklessness.

If, for an offence against this measure, mistake of fact is relevant to determining liability, it is sufficient in proceedings against a body corporate for that offence if the person referred to in subclause (1) made that mistake of fact.

35—Evidence

This clause makes provision for evidence in proceedings for offences in the usual terms.

36—Forfeiture of surveillance devices

This clause makes provision for the forfeiture of surveillance devices in the case of a conviction of an offence against this measure.

37—Regulations

This clause provides that the Governor may make regulations for the purposes of this measure.

Schedule 1—Related amendments, repeal and transitional provisions

This Schedule makes related and consequential amendments to the *Criminal Investigation (Covert Operations) Act 2009* and the *Director of Public Prosecutions Act 1991*; repeals the *Listening and Surveillance Devices Act 1972*; and makes provision for transitional arrangements consequent on the repeal of that Act and the enactment of this measure.

Debate adjourned on motion of Hon. J.M.A. Lensink.

GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly requested that a conference be granted to it respecting certain amendments to the bill. In the event of a conference being agreed to, the House of Assembly would be represented by five managers.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (18:23): I move:

That a message be sent to the House of Assembly granting a conference as requested by that house; that the time and place for holding the same be the Plaza Room on the first floor of the Legislative Council at the hour of 3.45pm on Wednesday 17 October 2012, and that the Hon. T Franks, the Hon. G. Kandelaars, the Hon. J. Lee, the Hon. S. Wade and the Minister for Agriculture, Food and Fisheries be the managers on the part of the council.

Motion carried.

STATUTES AMENDMENT AND REPEAL (BUDGET 2012) BILL

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (18:25): I move:

That a message be sent to the House of Assembly granting a conference as requested by the house; that the time and place for holding the same be the Plaza Room, on the first floor of the Legislative Council, at the hour of 1pm, Thursday 20 September 2012, and that the Hon. R.I. Lucas, the Hon. M.C. Parnell, the Hon. S.G. Wade, the Hon. C. Zollo and the mover be the managers on the part of this council.

Motion carried.

At 18:26 the council adjourned until Thursday 20 September 2012 at 11:00.