LEGISLATIVE COUNCIL

Wednesday 6 February 2013

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 14:17 and read prayers.

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 the Status of Women, Minister for State/Local Government Relations) (14:18): I move:

That the sitting of the Legislative Council be not suspended during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

GRAFFITI CONTROL (MISCELLANEOUS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:19): I move:

That the sitting of the Legislative Council be not suspended during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:19): I bring up the 20th report of the committee.

Report received.

OPERATION SCARLET

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:19): I table a copy of a ministerial statement relating to Operation Scarlet made earlier today in another place by my colleague the Hon. Michael O'Brien, Minister for Police.

QUESTION TIME

CHINA TRADE LINKS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:20): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about our premium food and wine.

Leave granted.

The Hon. D.W. RIDGWAY: As members would know, this was one of the seven planks mentioned in the Governor's speech, that the government would be focusing on South Australia's premium food and wine. Yesterday, in response to a question I asked in relation to a forlorn hope that we will establish some shops in China, the minister responded by stating, 'A very important plank of this government, of course, is the premium food and wine from a clean environment.' Later on in her answer she reiterated that 'South Australia is renowned for premium food and premium wine.' My question to the minister is, if she is serious and genuine about supporting our clean green image and our premium food and wine, why has this government cut almost 400 jobs from PIRSA and $80 million in the last four years?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:22): I thank the honourable member for his question. Indeed, this Jay Weatherill government has made premium food and wine from a clean environment one of this government's strategic priorities. That priority directs the efforts and actions of government, right across government. A very good example of those efforts is the MOU and the developments around the Fujian Province and the development of very important activities there.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway, do you want to hear the answer or do you want to abuse question time?

The Hon. G.E. GAGO: We can see that a great deal of activity has occurred there, not just in terms of processes in place and expressions of interest that are called for industry but also identifying technology exchange, policy discussions, research and development partnerships, and a management framework that has been established to capitalise on the agrifood and wine opportunities resulting from that relationship.

I am also pleased to say that the new food and wine centre being established to promote SA food and wine and tourism has commenced construction in Zhangzhou, a city in the Fujian Province. Construction is well underway. I have visited the site and seen it for myself. As I said, this provides enormous—

The Hon. D.W. Ridgway: What did you see there?

The Hon. G.E. GAGO: I saw the beginning of construction on that site and it was considerable.

The Hon. D.W. Ridgway: How many square metres is it?

The Hon. G.E. GAGO: What I find astounding is that the Hon. David Ridgway has put out a media release about the Fujian project and it just defies logic; it is really one of the most irresponsible things that I have seen this opposition do. I am well and truly on the record saying that this is in a process of negotiation with the Chinese, with enormous financial and economic potential for this state. We have trumped this; we have beaten other states to this point. The Victorians are green with envy over this—they have tried to muscle in on this and muscle us out.

This project is just a phenomenal opportunity for economic activity in our primary industries here in South Australia and our food processing industries. What does the opposition do? The leader puts out a media release that bags this project—in writing, in public—bags a project in which we are still in negotiation, a project that is still under negotiation. He is so irresponsible that he puts out a media release that bags this really important project that has critical opportunities for this state.

We see the major Australia China Business Council supporting this project; we see the China-Australia Entrepreneurs Association supporting this project—two lead peak bodies all behind this project, and what does the opposition do? It puts out a media release that bags this project, a project in its very early stages, and it is not surprising that all the details have not been finalised as yet. It is reasonable that all the detail has not been finalised yet. It is a disgrace!

The opposition just wants to carp, be negative and talk down this state, and by bagging and talking down this state they undermine consumer and business confidence and create a significant lack of morale and confidence in this economy. It is a disgrace and I challenge the Hon. David Ridgway to reissue a media release in line with the support that this project is getting, both from the Australia China Business Council and also the entrepreneurs association.

MURRAY-DARLING BASIN AUTHORITY

The Hon. J.M.A. LENSINK (14:27): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question in relation to the Murray-Darling Basin Authority.

Members interjecting:

The PRESIDENT: Order! I didn't hear anything. Would you try it again?

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway will respect his deputy leader.

The Hon. D.W. Ridgway: I was bagging you and your lack of action—not the project.

The Hon. G.E. Gago: One of the sites is being built—construction is underway, idiot.

The Hon. D.W. Ridgway: You didn't say it yesterday.

The Hon. J.M.A. LENSINK: Nasty! Is 'idiot' unparliamentary?

The Hon. D.W. Ridgway: Don't you call me an idiot.

The Hon. J.M.A. LENSINK: Is 'idiot' unparliamentary, Mr President?

The PRESIDENT: The Hon. Ms Lensink, do you have a question?

The Hon. J.M.A. LENSINK: Did you wish me to read it again?

The PRESIDENT: Yes, please.

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question on the Murray-Darling Basin Authority.

Leave granted.

The Hon. J.M.A. LENSINK: As part of the Mid-Year Budget Review the government announced that it would be cutting the state's contribution to the Murray-Darling Basin Authority by $14 million a year. My question for the minister is: before cutting the state's contribution for the operation, management and maintenance of critical infrastructure, such as regulators, barrages, locks and salt interception schemes, did the state government request advice from any of the following agencies: SA Water, the Goyder Institute, the Murray-Darling Basin Authority or the EPA?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:28): I thank the honourable member for her most important question. I am sure that she, along with everybody else in South Australia, has been getting fully behind the campaign led by our Premier Jay Weatherill to take up the issue with the Eastern States and make sure that South Australia—

The Hon. J.M.A. Lensink: He's a complete hypocrite.

The Hon. I.K. HUNTER: The honourable member makes an accusation that can only be turned back against the opposition.

The Hon. J.M.A. Lensink: He cuts funding, leaves us in a weak bargaining position.

The Hon. I.K. HUNTER: The reason we cut funding—and of course we have not cut funding yet; it is a flagged measure—the reason is because your friends in New South Wales have cut their funding by over 60 per cent and have promised to cut it even further. In this state we have flagged our intention, as is right and proper, that in the future, in 2014-15, we will reduce our funding as well. We understand that those friends of ours in New South Wales do not like being dragged, kicking and screaming, to the table, where they will have to address some of their inefficiencies in the system, so we have left the door open so that we can talk to them in a more sensible fashion about how they might put that money back into the system.

We will continue our funding at the present levels to 2014-15, and we will talk to the Eastern States about their commitment. What the honourable member is suggesting in her question is that we continue our funding at the same levels and subsidise New South Wales, providing more money to projects per capita than we are entitled to and subsidise projects in New South Wales which the New South Wales government should be anteing up for. That would be irresponsible, and that would be bad news for our state because we are paying for projects in New South Wales.

Irresponsible, but that is the Liberal Party for you. They did not want to fight for the Murray. They were prepared to put up their hand and take the deal that was on the table from Victoria and New South Wales, short-changing our state. It took a Labor Premier—Jay Weatherill—to stand up to those people in the Eastern States, and we had to drag the Liberal Party along with us. They cowed and they did not want to be part of it. We won that extra water for our state, and we will fight to make sure the Eastern States put their due amount of water into that program.

MURRAY-DARLING BASIN AUTHORITY

The Hon. J.M.A. LENSINK (14:31): I have a supplementary question.

The PRESIDENT: Did you hear any of the answer?

The Hon. J.M.A. LENSINK: Not the answer, Mr President; I did not hear the answer.

The PRESIDENT: I will give you some latitude. I assume that you have a supplementary arising from the answer.

The Hon. J.M.A. LENSINK: Yes, Mr President. Minister, what advice did you get before making that decision and from what agency?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:31): As the honourable member knows full well, that decision was taken by a former minister. Of course, it was a decision taken at cabinet, of which I was a participant. I have to say to the honourable member again: look to your friends and see what they are doing for South Australia and the South Australian irrigators. Rather than coming into this chamber holier than thou and trying to hold us to account, go and talk to New South Wales about their 60 per cent reduction, and then come back and talk to me.

MURRAY-DARLING BASIN AUTHORITY

The Hon. R.L. BROKENSHIRE (14:32): I have a supplementary question. For the public record, can the minister confirm that he is categorically saying that New South Wales cut its funding to the Murray-Darling Basin Authority prior to the Labor government in South Australia? Is that what the minister is saying?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:32): My advice is absolutely yes. We had some heated discussions with New South Wales about that position, but unfortunately they took their decision and flagged further cuts in future years.

VIOLENCE AGAINST WOMEN

The Hon. S.G. WADE (14:32): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question relating to violence against women.

Leave granted.

The Hon. S.G. WADE: In target 18 of South Australia's Strategic Plan, the government commits to a 'significant and sustained reduction in violence against women through to 2022'. The South Australian Strategic Plan Audit Committee's most recent audit of the State Strategic Plan noted that the target does not articulate what would constitute a significant and sustained reduction in violence against women. My questions to the minister are:

1. What does the government consider the phrase 'significant and sustained reduction' to mean in the context of violence against women?

2. When will the new baseline be established so that the people of South Australia can hold the government to account for tackling violence against women?

3. Can the minister inform the council what reduction in violence against women has been achieved thus far?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:33): I thank the honourable member for his important questions. Indeed, I was very pleased to see that a new target was added to our SASP targets for South Australia, which includes focusing on violence against women, which is an issue I have a great deal of interest in, and it is a campaign I have been involved in for many decades.

The aim is to produce a significant and sustained reduction in violence against women through to 2022. The measure for this target will be the number of females who experience violence. Source data, I am advised, for this target will be the Australian Bureau of Statistics, the personal safety survey and the national community attitudes survey.

It is anticipated that the personal safety survey will be released in the second half of 2013. We have baseline data now, but that will be the first round of data by which we will be able to make some comparisons. The inclusion of this target obviously responds to recommendations of the Community Engagement Board and feedback from the community engagement process, including consultations undertaken by the Premier's Council for Women; that was obviously during 2010. This target, for me, certainly highlights this government's commitment to reducing violence against women and complements our Right to Safety strategy, which involves our women's safety strategy.

We have seen a wide range of projects that I have talked at length about in this place before: the Family Safety Framework, information that we have in terms of Don't Cross the Line,

community campaigns that we have funded, the intervention orders that have been put in place, and the work that we continue to do around that to make sure that that is working really well and improving protections for women. The target aligns with the National Plan to Reduce Violence against Women and Their Children, so those plans are consistent.

As I said, the specific data will not be available until mid-2013, but I have reported in this place some preliminary work. They are not formal figures as yet, but preliminary work around intervention orders shows that the rate of utilisation of intervention orders has increased significantly compared to the restraint type of orders that were previously in place and that there are some very promising trends for the rate of breaches for that. As I noted, they are very early figures. They are not indicative, but they give us a bit of an idea of the trends that might occur and that is that more women are seeking the protection of these and in fact they are hopefully, proportion wise, resulting in fewer breaches by perpetrators.

I think there are some good signs and we will look forward to plotting this data and looking at our performance as time goes on. I just want to finish by saying that what is important is that this government, unlike the former Liberal government, was prepared to actually set targets down and was prepared to use these impartial measures to measure our performance. We will be able to see quite clearly whether we do improve or not.

Those figures will be there and we have invited that lens to be placed on us, for us and our projects and activities to be scrutinised using that lens. That is something that I am very proud of, and it is something that the Jay Weatherill government has continued with. It places our strategic objectives under public scrutiny, it makes us transparent, and it makes us more accountable. I am very proud that this government was brave enough to do that, unlike the former Liberal government.

VIOLENCE AGAINST WOMEN

The Hon. S.G. WADE (14:38): I have a supplementary question. I am bemused. How can the target highlight the government's commitment and promote transparency, and for that matter scrutinise and track performance—all the words you used—if it is unquantified, given that so many other targets have at least aspirational targets? You are not even willing to commit to a number.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:38): The Hon. Stephen Wade is being churlish, Mr President, completely churlish. We have indicated what the data will be. It will be the Australian Bureau of Statistics Personal Safety Survey and the National Community Attitudes Survey, and it will either indicate an increase in violence against women or not.

So the data will be there. It is completely an objective measure and we will see that attitudes—we have seen public attitudes around violence towards women, an unacceptable level of public tolerance for violence towards women and that has shown up in that attitude survey—and we will be able to see objectively—not subjectively, objectively—whether, using those figures, there is an improvement in public attitude or not or whether there is an improvement in violence perpetrated against women.

We are not afraid to put ourselves under the microscope. The former Liberal government did not articulate any of their objectives in any form of a target whatsoever and as yet, because they are a policy void, have not indicated whether they are going to be brave enough to set themselves objective targets like this government has. So my question to them is: are they going to set themselves some clear objective targets for when they want to become a government? Let's see them—

The Hon. Carmel Zollo: We don't want any violence.

The Hon. G.E. GAGO: That's right; no violence is acceptable. But let's see them put their money where their mouth is.

MISS REPRESENTATION

The Hon. CARMEL ZOLLO (14:40): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the film *Miss Representation* being screened by the YWCA and the University of Adelaide Women's Collective.

Leave granted.

The Hon. CARMEL ZOLLO: Members may be aware of the American film *Miss Representation* which explores the impact of media representation of women. My question is: can she tell the chamber about an upcoming screening of this film?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:41): I thank the honourable member for her most important question. As members are aware, the documentary *Miss Representation* by Jennifer Siebel Newsom was first screened at the Sundance Film Festival and has since been shown on the Oprah Winfrey Network.

I am advised that children in the United States spend over 10 hours a day exposed to some form of media, including TV, magazines and obviously the internet, as well. I understand that, given this, the film argues strongly that mainstream media representations of women have an incredible and often very damaging impact on particularly young children. Obviously, adults who are exposed to this endless stream of media imagery are also affected.

One of the key messages of the film is that women and girls are so often judged largely on their appearance, in a way that is not yet as common for boys. It is easy to see how young girls consuming a steady diet—10 hours a day—of mainstream media could believe that the most important thing about them is the way they look and how boys could then also come to believe that the most important thing about women, or girls, is the way they look and that that is how they should be judged.

It is summed up very nicely by the 'you can't be what you can't see' catchphrase associated with the movie which, of course, points out that limited and sexist representation of women is a real barrier to women. The film explores how the media's representation of women in part has led to the underrepresentation of women and girls in positions of power and influence in the United States. The film also leaves audiences with information about how to improve gender equity and also representation.

Mr President, I am sure that you will agree that these are important themes. I know that you have a daughter yourself and I am sure that you worry about these things that might influence future opportunities for your daughter, as well as all young women in South Australia and Australia and, for that matter, around the world, and I know that these matters need to be further explored.

This is why I am pleased that I was able to provide funding to support a free screening of this film on 27 February organised by the University of Adelaide Women's Collective and the YWCA. It will be followed by a panel discussion in response to questions about the film and the sorts of issues that it might provoke.

I understand that further screenings of the film will also be shown during the 2013 Adelaide Fringe at the Mercury Cinema from 4 to 6 March. I am very pleased to advise that the Women's Information Service has been involved in the planning of the screening and will, obviously, continue to support the event by providing event management assistance to the organisers. They will also be promoting the event through WIS and Office for Women policy networks, including the WIS Facebook page. In addition, the screening of this film supports the implementation of the WIS digital engagement strategy and community engagement framework and promotes discussions around gender inclusiveness, gender analysis, women's leadership and women's participation.

I am sure that all members here would agree that these discussions are very important ones to have and I hope that members will consider attending one of the screenings, if they get the opportunity. I want to place on the record my appreciation of the YWCA and the good work it does, the University of Adelaide Women's Collective, a very active and fabulous group of women, and of course WIS for organising this important event.

BREASTMILK BANK

The Hon. D.G.E. HOOD (14:45): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the possibility of establishing a breastmilk bank in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: Whilst this crosses over with the health portfolio, I direct it to the minister in our chamber seeking her view. South Australia is the only mainland state that does not

have a breastmilk bank to benefit breastfeeding mothers who are not able to produce sufficient breastmilk to feed their own newborn baby. In 2007, the Best Start report into breastfeeding recommended to the federal parliament that the feasibility of a network of milk banks be investigated. The deputy chair of the committee, the federal member for Hindmarsh, Steve Georganas, later expressed disappointment that the issue had stalled. More recently, in September of last year, the then minister for health and ageing, Hon. John Hill, said that he was happy to explore the issue if there was demand.

Milk banks allow mothers with excess milk to have this collected, pasteurised and used by others. There are sufficient health benefits, particularly to preterm babies, and they are well documented. The alternative of formula milk does not have the natural antibodies to ward off disease and can lead to an increase in such things as allergies and diabetes.

Informal sharing of breastmilk arrangements can lead to contamination from prescription or non-prescription drugs or from poor hygiene in some cases in the collection and storage of the milk. It has been estimated that the cost of establishing a milk bank is in the order of $200,000 and that the annual running costs are in the order of $150,000. My question to the minister is: does the government have any plans to establish a breastmilk bank in South Australia, and if not why not?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:47): I thank the honourable member for his most important question. Indeed, breastfeeding infants is not only a very important health issue it is also a very important social issue as well. It potentially has enormous positive effects in terms of maternal bonding as well. It is certainly something that I have always promoted, both as a member of parliament and also as a former healthcare professional. I very much appreciate the very important value that breastfeeding plays.

Obviously, the issue of resourcing a milk bank facility, or network, is a matter for the health minister. I can recall some time ago there was consideration around this topic. I am not aware of how far those considerations went, but I would be very pleased to refer the question to the Minister for Health in another place and get a report back to see how far that has eventuated.

AUSTRALIA DAY AWARDS

The Hon. R.P. WORTLEY (14:48): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform members about some of those inspiring South Australians who received Australia Day awards under his portfolio responsibilities?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:49): I thank the honourable member for his most important question. I am very pleased to note some of those recipients of awards. I wish they were awards that could be given under my portfolio of responsibility, but alas they are made in another place. There were many inspiring South Australians who received awards on 26 January of this year. This year there were a number of individuals who, through their personal endeavours, have left a lasting and positive impact on the environment, our state's heritage and, of course, the first people of South Australia.

The first South Australian story I want to share with the chamber today is that of Professor John Argue. Professor Argue's career spanned nearly five decades and he is described by anyone in the know as a father of stormwater quality. People in the stormwater industry would know him as their lecturer, their conference presenter and author but for future generations he will always be known as the authority of stormwater engineering around Australia and an expert on water sensitive urban design around the world.

John retired from the University of South Australia in 1999 and has published countless papers presented at conferences in Europe, Asia and the United States. I am told John is most proud of his two main publications, commonly known as 'the red book' and 'the green book'. The red book or *Storm Drainage Design in Small Urban Catchments* was published in 1986, and John is currently working to have this available for free on the University of South Australia website. The green book, entitled *Water Sensitive Design: Basic Procedures for Source Control, an Australian Handbook,* is often the go-to resource for innovation in development and the use of water.

Professor Argue has also been involved in a number of projects himself around South Australia, including the St Elizabeth's Church car park in Warradale, which now has a lovely rose garden and lush grass beds, and Parfitt Square in the new Brompton estate in Bowden Brompton. I

am told that the church stormwater system at St Elizabeth's is managed by a number of retired volunteers who perform their work on Tuesday morning as a men's shed-style of activity which concludes with another very important hydration activity—sinking a number of stubbies, but I am sure in moderation, after a hard day's work! John received the Officer in the General Division Award for distinguished service and clearly this was much deserved for the lasting impact he will have on urban environments around our country.

Another South Australian who is worthy of mention in the environmental field is Mr David Mitchell. David has been a long-time volunteer in the environmental area and became more deeply involved with government and policy-setting as a member (and later president) of the Friends of the Cobbler Creek Recreation Park.

David is now President of the Friends of Parks Inc. Board which is the Department of Environment, Water and Natural Resources' largest overarching volunteer group containing several thousand members, I am told. David is a keen advocate for this group, its volunteers and its role that the parks group's members so dearly cherish, and that is looking after our parks. David has been involved in improved outcomes for volunteer health and safety and has been involved in draft park management plans and general park trails and amenities. For his considerable efforts in promoting South Australia's parks and the volunteering community, David was awarded the Member in the General Division Award for significant service.

Another South Australian, Ms Meredith Arnold from Waikerie, was recognised for her tireless work in preserving and celebrating the history of her Riverland town. Ms Arnold has worked as a volunteer, author and historian since the late 1960s and has been involved in the development of the Waikerie Heritage Walk brochure and the installation of information plaques in Waikerie since 1980. Ms Arnold's message to the young people of Waikerie was to get involved in celebrating their town's history for the future generations. For her efforts, she was awarded the Medal of the Order of Australia in the General Division for service.

The last South Australian I want to touch on today is Ms Elizabeth Fisher, or Betty to people who know her personally. Betty has been a long-time activist for social justice and in particular women's interests, but it is her work as an advocate for the Aboriginal women of South Australia that I want to make particular mention of. Ms Fisher spent many years supporting the women of South Australia in a number of organisations and is well known for her feminist activism but perhaps more famously known for her presentation of tapes, recordings and other evidence as a witness in the Hindmarsh Island royal commission to confirm the existence of secret women's business.

Betty's commitment to Aboriginal women of South Australia still remains to this day as strong as it ever was and she has provided extensive research material and writings for future academics and the archives of Australia. She has also provided much knowledge of Ms Gladys Elphick who needs no introduction and is currently writing a history of the Aboriginal Women's Council. For these efforts, Betty was awarded the Member in the General Division Award for significant service.

One of the pleasures of my role as a member of parliament, and I think all members would agree, is meeting and hearing the many South Australians who are making outstanding contributions to their communities and to our state. Looking through the list of Australia Day Honours recipients it is easy to see that South Australia has a wealth of outstanding individuals. On behalf of the government of South Australia and on behalf of this chamber and parliament, I take this opportunity to commend them all to this place.

DISABILITY ACCESS, PUBLIC TRANSPORT

The Hon. K.L. VINCENT (14:55): I seek leave to make a brief explanation before asking the minister representing the Minister for Transport Services questions regarding the accessibility of public transport vehicles.

Leave granted.

The Hon. K.L. VINCENT: I have, on a number of occasions in the past in this chamber and in other fora, raised my concerns about the accessibility or lack thereof of vehicles used to provide the state's public transport services. Of particular concern to me is the number of older vehicles being used on busy commuter bus routes and on substitute services during major works on the train and tram lines. At the present time, with major electrification works underway and the

Adelaide Railway Station undergoing a major upgrade, many of these substitute services are or have been in use across metropolitan Adelaide.

There have been, as members are no doubt aware, many complaints about the substitute services and about many buses used to deliver those services. Chief amongst those complaints have been concerns about a lack of air conditioning on hot days and the poor accessibility of older buses brought back into service to manage demand. The buses, many of which have only a front door and which are characterised by steps, narrow aisles, and a lack of space for wheelchairs and other mobility aids, have proved extremely challenging for people with disability, the elderly and parents of young children in prams, in particular.

One recent example that illustrates this very clearly is the case of Eliza Cook, whose negative experiences have attracted some media attention. Ms Cook was left in a precarious position, a position which left her young son at risk, because a bus driver was too concerned about liability issues to assist her to board the old, inaccessible substitute bus. When she contacted the provider to complain, Ms Cook states that she was told to email the provider waiving liability, so that staff could assist her. Ms Cook said that the experience left her feeling that she was an unwelcome inconvenience, and that her son's safety was of little, if any, importance to the service provider.

This is the message that is being sent out every day to those with additional accessibility needs by the outdated and inaccessible bus service that is being provided to them, not just on substitute services but on any route being serviced by these old, inaccessible and unsafe vehicles. My questions to the minister are:

1. Is the minister concerned that staff providing public transport services are unable, or believe they are unable, to offer assistance to people with additional accessibility needs?

2. Is the minister concerned that in many cases the need for this assistance arises only due to some of the old, unsafe and inaccessible buses being used to provide public transport services in this state?

3. Will the minister undertake to ensure that staff providing public transport services receive appropriate and consistent advice and training regarding assisting people with these needs?

4. Will the minister undertake to ensure that public transport services are only provided using vehicles that are safe and accessible by phasing out the use of poorly maintained, older vehicles to manage demand?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:58): I thank the honourable member for her most important questions. I undertake to take that to the Minister for Transport Services in another place and bring back a response, but I will say one thing. In relation to the final question asked by the Hon. Ms Vincent, of course the government is committed to removing, over time, those old vehicles that do not have easy accessibility for people with disability. We have made that commitment in the past.

I believe that our transport fleet—certainly in terms of buses and trains—is about 88 to 92 per cent accessible already, and I think the plan is to have it 100 per cent accessible by 2020. However, as I said, I will take those questions to the minister in another place and bring back a more detailed answer for the honourable member.

RIVERLAND SUSTAINABLE FUTURES FUND

The Hon. J.S. LEE (14:58): I seek leave to make a brief explanation before asking the Minister for Regional Development a question regarding the Riverland Sustainable Futures Fund.

Leave granted.

The Hon. J.S. LEE: In a press release issued by the minister on 17 December 2012 the minister said that some of the remaining funds in the Riverland Sustainable Futures Fund would be held over to leverage federal funding for the Murray-Darling Basin Regional Economic Diversification Program. In yesterday's press release the minister confirmed once again, by stating in her press release:

> As previously announced, the remainder of the RSFF will be held over in an attempt to leverage additional federal funding to deliver even greater benefits to the region.

My questions are:

1. Was the Riverland community consulted on the decision to use part of the fund to leverage money from the federal government?

2. Exactly how much of the futures fund will be utilised in this way?

3. Will the minister offer a guarantee that, as promised earlier by the government, the full $20 million of the futures fund will be allocated to projects in the Riverland?

4. Will the businesses that were previously denied funding be eligible to apply to the Murray-Darling Basin Regional Economic Diversification Program and, if successful, receive support from the futures fund?

5. In the event that the government is unsuccessful in leveraging federal money, will the minister reopen the Riverland Sustainable Futures Fund to applications from Riverland businesses?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:00): I am almost speechless; not quite but almost. I do not know of anyone who would not embrace the doubling of their money. I cannot imagine who would knock back or want to put further red tape obstacles in the way of gaining more money—more money—and they want us to go out and consult. 'Excuse me, do you want more money for your region?' It just absolutely beggars belief.

Here we have an opportunity from the Murray-Darling Basin Regional Economic Diversification Program, something like $100 million of commonwealth money, an opportunity to leverage money from that, so if we take a dollar out of the futures fund the commonwealth match it with a dollar and the recipient (the project proposal from the Riverland) matches it as well. At the moment, we have the state government putting in a dollar and the recipient putting in a dollar.

This is just an opportunity which says that instead of it being one government dollar, the commonwealth will put a dollar in and double the money—it doubles the government contribution. It beggars belief that the Liberal opposition wants us to go out and crawl through more red tape to access that money. This was a golden opportunity that came along which was unforeseen. We still had moneys in that fund and here was an opportunity where instead of delivering, say, five of the projects that are in the pipeline for the Riverland we might be able to fund 10 of those projects.

The Hon. J.S.L. Dawkins: Over what time period, though?

The Hon. G.E. GAGO: 'Over what time period?'—it beggars belief. I have said right from the outset, 'We just want to throw money at the Riverland; that is what we want. That is what a Labor government wants to do, just throw money at the Riverland.' It is just incredible. This government has contributed $20 million to the Riverland to assist it through a really tough time. People there were very hard done by because of the drought and we said that we would commit that $20 million over a four-year period for projects in the Riverland dealing with investments, sustainability, business growth, etc. We have stuck with that. We have honoured that. We have committed $15 million.

The Hon. J.S.L. Dawkins: No, you haven't.

The Hon. G.E. GAGO: The Hon. John Dawkins is just wrong.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: He is completely wrong. We have signed up agreements to spend $15 million worth of money in the Riverland. That has all been signed up.

The Hon. D.W. Ridgway: Where's the other five?

The Hon. G.E. GAGO: Duh! Spare me! Listen to your own member, the Hon. Jing Lee. The $5 million outstanding we want to leverage additional commonwealth money to spend back in the Riverland.

The Hon. J.S.L. Dawkins: You want to delay.

The Hon. G.E. GAGO: I have given clear commitments. We intend to commit the money in the same four-year period to the—

The Hon. J.S.L. Dawkins interjecting:

The Hon. G.E. GAGO: The Hon. John Dawkins is just wrong. He is misrepresenting me in this place. He is totally inaccurate and totally wrong. Go to the records.

The Hon. J.S.L. Dawkins interjecting:

The Hon. G.E. GAGO: You have been caught out! You are wrong and you are misleading this place. Go back and look at the records. Go on radio. I am on the public record making it very clear, interview after interview, that $20 million will be committed over the same four-year period, all moneys will be spent in the Riverland for the same purposes as originally intended—investment, invigoration, diversity, etc. Nothing has changed. God forbid, nothing has changed, and I put that on the record months ago. Nothing has changed, except we want to double our money, double the government contribution to spend in the Riverland. The Liberals do not want us to do that. That is how silly they are. That is how hell-bent they are on being negative. They do not want us to double government spending in the Riverland to help this district. They do not want us to do it. As I said, it beggars belief.

CITRUS INDUSTRY

The Hon. G.A. KANDELAARS (15:06): I seek lave to make a brief explanation before asking the Minister for Agriculture a question about citrus research.

Leave granted.

The Hon. G.A. KANDELAARS: It is well known that citrus exports from South Australia are considerable. The quality of our fruit means that it is highly regarded in many markets. Can the minister advise on recent work which may help reduce the reliance on chemical fungicides?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:07): I thank the honourable member for his most important question. South Australia is recognised as a source of great produce; for example, our premium citrus is just one example. The government has identified, as one of its seven priorities of government, premium food and wine from our clean environment to make sure that we take every opportunity to play to our strength, to maximise and build on that advantage, namely, that we have premium quality products and a very clean environment, a very strong biosecurity system.

I am pleased to be able to tell the chamber that SARDI has been involved in research on how to reduce or replace the use of chemical fungicides to better prepare citrus for export. In 2011-12, around 190,000 tonne of citrus was produced in South Australia, with a farm gate value of $50 million. Around one-third of our production was exported as whole fruit, with a small amount of juice, which is valued as it is shipped from Australia (called free-on-board valuation) at $57 million.

Dr Peter Taverner, a senior SARDI scientist, is the leader of the National Citrus Post-Harvest Science Program. This research is focusing on the challenge of replacing chemical fungicide use with softer alternatives, thereby underpinning our citrus credence values and reducing any potential health risks and promoting our reputation as a producer of clean, green food.

This work will provide citrus packers with guidelines for export market compliant fungicide usage and also promote and explain how to use softer options for disease control that are safe for both the environment and consumers. The research aims to help equip packing sheds and growers with the resources to meet the quarantine and growing demands of our key global markets. The work also involves helping packing sheds to prepare for some of the post-harvest problems, such as sour rot, which can substantially devalue a shipment of fruit and I am advised is hard to control using the current available conventional fungicides.

Consequently, the combination of new and softer controls for post-harvest citrus diseases, which were approved by our export markets, will help ensure the integrity of our citrus and underpin our premium market niches, adding value to the industry. With synthetic fungicides falling out of favour with consumers, global supermarkets are increasingly looking to source pesticide-free produce.

SARDI and other researchers involved in the program are looking for generally recognised safe (GRAS) compounds to control a range of post-harvest diseases. These GRAS compounds are chemicals that have been used in the food industry for many years. The system is used as a

benchmark by which all foods are assessed for safety by organisations such as Food Standards Australia and the US Food and Drug Administration.

In addition, sanitisers and food preservatives during packaging and also processing are being investigated as ways in which to reduce or replace fungicides in harvested fresh fruit and vegetables. These could provide an opportunity, in combination with current chemical fungicides or GRAS compounds, to improve fruit outturn quality in the market.

The benefit for exporters and citrus packers is that, once a compound has a GRAS designation, treated fruit can be exported with fewer restrictions than those treated with standard chemical fungicides. The program has wide support as consumers, growers and citrus packers are obviously all very keen to reduce chemical use and to find safer chemicals.

The four-year research project was endorsed by Citrus Australia and funded by SA Citrus Growers, through the citrus levy and voluntary contributions through Horticulture Australia, matched by the Australian government. As well as the fungicide research, SARDI's entomology and food safety and value chain experts are improving South Australia's citrus exporting future.

Australia exports around $180 million in citrus. The majority of our orange exports by volume go to Asia, led by Japan, Hong Kong, Malaysia and Singapore. The US is also a significant market. As more and more South Australian orchards register for this export status, exports are expected to take off in China, Korea and Thailand this year, with Citrus Australia Limited forecasting Australian exports to China alone will triple in 2013 as a result of this registration program.

I congratulate Dr Taverner and SARDI on the fabulous work they have done so far, and I obviously look forward to the results of this important work, which has great potential for our citrus industry.

GLENELG TO ADELAIDE PIPELINE

The Hon. J.A. DARLEY (15:12): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray questions regarding the Glenelg to Adelaide pipeline.

Leave granted.

The Hon. J.A. DARLEY: On 6 January, the *Sunday Mail* reported that the Glenelg to Adelaide pipeline, which pumps recycled water from Glenelg to the Adelaide City Council and western and eastern suburbs, is pumping only about 27 per cent of capacity. I understand that there is a capacity to pump 5.5 gigalitres of recycled water each year. However, last financial year, only 1.15 gigalitres was pumped. My questions are:

1. Can the minister advise how many councils initially took up the offer to purchase the recycled water?

2. How many councils currently still purchase the water?

3. If there are councils that discontinued to purchase the water, what reason was given, if any, and was it due to the quality of the water or the price?

4. Can the minister advise how much is charged for the recycled water, including details of whether all customers are charged the same or whether there are differing rates for different customers?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:13): I thank the honourable member for his most important question. Unfortunately, I do not have those details in my mind just yet and I will have to take that question on notice and bring back a response for him at a later stage.

FRUIT FLY

The Hon. J.S.L. DAWKINS (15:13): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding South Australia's fruit fly program.

Leave granted.

The Hon. J.S.L. DAWKINS: On 30 January this year, it was reported in the *Riverland Weekly* newspaper that 231 vehicles were found to be carrying fruit into the Riverland in breach of

restrictions at a random roadblock operated during the Australia Day long weekend at Blanchetown. My questions are:

1. Prior to the Australia Day long weekend, did Biosecurity SA publicly promote the fact that it would be operating additional roadblocks to inspect vehicles for fruit being taken into the Riverland?

2. Are officers at random roadblocks empowered to issue fines to people found in breach of restrictions in relation to carrying fruit into the Riverland?

3. Were any of the people found in breach of restrictions at the Blanchetown roadblock issued with fines?

4. If that is not the case, will anyone who was caught in breach of the restrictions eventually be fined?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:14): As honourable members would know, Biosecurity SA conducts random roadblocks during high traffic times such as holiday periods to assist in keeping fruit fly out of South Australia. I am advised that the random roadblock at Blanchetown during the recent Australia Day long weekend was seen as very successful, with 1,384 vehicles inspected over two days and 448 of the vehicles detected with potential fruit fly host material.

This is part of our ongoing efforts to ensure that South Australia remains fruit fly free. As we know—I have mentioned it in this place before—it is a horticultural pest which could put our $675 million fresh fruit and veg industry at risk, and so it is really important to educate the public so that they know the potential dangers of carrying fruit fly into South Australia or into our fruit growing areas.

Of these vehicles, 217 were compliant because drivers had an itemised receipt for the fruit which they were carrying in their vehicles at the time, and of course if they can demonstrate that the materials were bought in South Australia then they are able to take them into that area. That means that 231 were reported for breaching the Plant Health Act 2009. Of these 231 reports, 13 have been referred for further action and that would constitute either a formal warning or an expiation, so those are currently still being processed.

The expiation notice issued is for around $375. In circumstances where an inspector believes more than just an expiation is warranted, the matter can be referred for further determination, and this in fact was the case at a random roadblock at Blanchetown in December 2010, where, I am advised, a member of the public was found to be carrying 68 unlabelled boxes of fruit fly host material into the Riverland. That matter was investigated and the person was charged for breaching the Plant Health Act 2009 at a hearing in the Magistrates Court. The person was convicted and fined $5,000.

The roadblock efforts resulted in 370 kilos of fruit fly host material being seized and disposed of to make sure that it presents no threat to our agricultural industries. This kind of effort will obviously be repeated before the end of summer, so it is most important that people do not risk such a fine.

FRUIT FLY

The Hon. J.S.L. DAWKINS (15:18): I have a supplementary question. Will the minister come back to the council with the determinations in relation to the 13 people who have been referred for further action as she explained?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:18): That will be hard to do. It would involve considerable resources. If the honourable member is genuinely interested he will follow it up himself.

PICCANINNIE PONDS

The Hon. K.J. MAHER (15:18): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about Piccaninnie Ponds.

Leave granted.

The Hon. K.J. MAHER: A little over a week ago, I had the great pleasure of attending the official declaration of Piccaninnie Ponds as a Ramsar listed wetland. The announcement was very well received by many environmental and community groups, individuals and the tourism sector, both in the South-East and right across into Victoria in places like Nelson. Given how well received the listing was, can the minister inform the house of the declaration of Piccaninnie Ponds as an official Ramsar wetland?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:20): I thank the honourable member for his very important question. The Piccaninnie Ponds conservation site was designated as a Ramsar site by the federal government, by federal environment minister, Tony Burke, on 21 December 2012. This was formally announced on 25 January 2013 by Senator Don Farrell, representing the Hon. Tony Burke, and the Hon. Kyam Maher MLC, representing me.

The Hon. J.S.L. Dawkins interjecting:

The Hon. I.K. HUNTER: I pronounce it several different ways, depending on how I am feeling about him on the day. I can say to the honourable member that he represented me so well that there will be many such honours and pleasures to come his way into the future.

The Ramsar Convention was adopted in the Iranian city of Ramsar in 1971 during a convention of wetlands of international importance. The convention is an international treaty that provides the framework for national action and international cooperation for the conservation and sustainable use of wetlands and their resources. The Ramsar Convention is the only global environmental treaty that deals with a particular ecosystem.

Piccaninnie Ponds is the 66th site in Australia and the fifth in South Australia to be designated as a Ramsar site. It joins 2,065 other significant wetlands sites across the world in being recognised in this unique way.

Piccaninnie Ponds are a prime example of rising limestone springs in Australia and collectively form the largest remnant of coastal freshwater wetlands in the lower South-East of South Australia. Becoming a Ramsar site means this diverse and beautiful wetland will be protected for future generations by the international treaty. I also understand that it also has the potential to bring its way some federal funds.

Piccaninnie Ponds is a beautiful complex and unique ecosystem, Mr Maher tells me. The wetlands support 61 species of conservation significance including the critically endangered orange-bellied parrot. Additionally, the wetlands also provide habitat for around 20 migratory bird species.

Amongst the 30-odd environments are freshwater lakes and swamps, coastal dunes, silky tea-tree thickets, grasslands and woodlands. Underground, the area is renowned for its rising limestone springs and a vast underground cave system which is internationally renowned by the cave diving community. Much has occurred over the past 10 years to improve the site, doubling the size of the conservation park and the restoration of 100 hectares of wetlands and vegetation where birds, fish, frogs, insects and plants continue to increase and prosper.

Further capital works are due to begin shortly which will see a further expansion of the wetlands and improved amenities so people can come and learn and enjoy this great part of South Australia.

ANSWERS TO QUESTIONS

SNAIL PLAGUES

In reply to the **Hon. J.S.L. DAWKINS** (20 July 2012).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): I have been advised:

1. Snails are widely established pests in South Australia that affect grain quality in some seasons. Consistent with other established pests, individual management decisions by farmers determine the amount of damage by snails. In this situation, direct funding by government is not appropriate as it shifts the risks to taxpayers and removes incentives for farmers to apply best management practices to their own crops.

Instead, the state government continues to support the research and extension programs conducted by the South Australian Research and Development Institute (SARDI) over many years to provide farmers with the tools to manage this problem.

2. In recent years, Primary Industries and Regions SA (PIRSA) has worked closely with leading industry groups such as the Grains Industry Market Access Forum to manage market access issues that may arise from snail contamination of export grain.

SARDI has been involved in snail research since the 1980's. SARDI scientists are national leaders on the biology and impacts of snails in cereals and their management. They have conducted research on: biological control in collaboration with CSIRO; cultural control methods using burning and bashing of stubbles to reduce populations before sowing; and on bait treatments.

SARDI and PIRSA staff have also conducted extension programs to educate farmers on snail management and produced an integrated management guide for farmers called 'Bash'em, Burn'em, Bait'em' with support from the Grains Research and Development Corporation and the South Australian Grains Industry Trust. It is planned that this guide will be updated next year. These and other extension publications on snail management are currently available from the GRDC.

3. SARDI scientists are and will continue to be involved in trials to evaluate the snail eating nematode in South Australia.

FORESTRYSA

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (1 November 2012).

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations): I am advised:

OneFortyOne Plantations is responsible for paying local government rates going forward for land leased.

MATTERS OF INTEREST

LEADER OF THE OPPOSITION

The Hon. S.G. WADE (15:22): I rise today to note and welcome the recent elevation of the member for Norwood, Steven Marshall MP, to Leader of the Opposition. His unanimous election as leader of our party heralds a new start for our party and for the state. Steven Marshall was born and bred in Adelaide. He attended Ethelton Primary School and Immanuel College before completing a Bachelor of Business from the South Australian Institute of Technology and an MBA from Durham University in the UK.

He sailed at the Largs Bay Sailing Club and went on to represent the state and maintains a passion for sailing. Labor minister Tom Koutsantonis tweeted, 'That's the SA Liberals for you, the haves and the have yachts.' That tweet says a lot about Labor. They are offended about the thought that somebody from Largs Bay would dare use a yacht. It is a typical Labor Party attitude that everyone should be cut down to the level of the playing field by bringing everyone down to their level of mediocrity.

Surprisingly, despite his usual good taste, he does remain a supporter of the Port Adelaide Football Club. Luckily, his instinct for business and community leadership is founded on much better judgement. Business was always in his blood. The family business—Marshall Furniture—was one of Adelaide's family business success stories.

Steven worked in various board and executive positions for a range of South Australian companies. He served as chairman of the Family Business Association of South Australia. Immediately prior to entering parliament, Steven was employed as the general manager of the textile division of iconic South Australian wool exporter Michell Pty Ltd.

The member for Norwood and now Leader of the Opposition has been active serving his community throughout his life. He was the founding chairman of Compost for Soils, a program started in South Australia that has subsequently been implemented nationally. In 2009, he was nominated as the SA Great South Australian of the Year (Environment Category) for his services to the environment sector, and that business acumen has now become an asset of the state.

You will hear the leader talk a lot about business and economic issues because he knows that to do great things in the community, we need a strong economy to support it. But he does not see economic success as a goal in itself. Let me quote his maiden speech. He said:

> Naturally the people of Norwood will remain my priority. Nevertheless, I also feel strongly about representing those people and causes forgotten by this government. In particular, I plan to work hard to represent those with disabilities, those with mental illness, Indigenous Australians and those struggling with circumstances beyond their control.

He went on to say:

> I strongly believe that a clever and hardworking government can achieve a strong and growing economy without losing sight of those less fortunate. This requires a government which looks beyond the populist policies. It requires leadership and vision.

Steven Marshall has worked hard to represent the people of Norwood since his election in March 2010. He was appointed a shadow minister in 2011. He was elected deputy leader in October 2012. He is not a career politician. He was never involved in student politics, never employed by a political party and has never been a staffer for a politician. The contrast with the front bench of this government could not be starker.

The fact that within five years a person can go from joining the party to leading it says a lot about the Liberal Party. The Labor Party has much to fear. Unlike Labor's narrow recruitment pool that rewards yes-men, the Liberal Party rewards merit. It is about ability, not time served. Mr Marshall's leadership skills have been widely recognised in the party. We all saw the photograph in *The Advertiser* on Saturday with former premiers John Olsen and Dan Brown. It was not merely symbolic of where the honourable member is destined, but of the unity and leadership that Mr Marshall has already brought to the party.

The Hon. Rob Lucas has described Steven as the most impressive new candidate since former premier John Olsen was elected in 1979. It is a privilege for our party that we can offer the state Steven Marshall as an alternative premier. I look forward to the year ahead under his leadership as our party lays down its vision and makes the case for why a Marshall Liberal government will make life better for South Australians.

MINDMATTERS

The Hon. G.A. KANDELAARS (15:27): Last year I met with Principals Australia to discuss a number of initiatives it has played a key role in implementing in various schools around Australia. One of those is MindMatters. MindMatters is a mental health initiative funded by the Department for Health and Ageing. It is designed to promote good mental health and wellbeing through promotion, prevention and early intervention. MindMatters was implemented in 2000 and has been rolled out to all schools with secondary enrolments in Australia.

An evaluation conducted of MindMatters in New South Wales in 2008 showed proportions of students reported: having ever smoked a cigarette reduced from 50 per cent to 27 per cent; being a current smoker reduced from 23 per cent to 11 per cent; binge drinking in the past four weeks reduced from 34 per cent to 17 per cent; and using marijuana in the last three months reduced from 16 per cent to 7 per cent.

The MindMatters initiative has been implemented in over 2,600 schools across the country. Schools that have implemented MindMatters within all aspects of their curriculum and school life and can show evidence of improving outcomes can apply to become MindMatters schools. In South Australia, seven schools have been recognised for their efforts over the past three years. Two South Australian schools were recognised as MindMatters schools in 2012. They were Marymount College and Bowden Brompton Community School.

Marymount College is a Catholic girls school for students in years 6 to 9, located in south-west Adelaide. The Marymount wellbeing team has led mental health and wellbeing initiatives across the school that include mapping the teaching of social and emotional competencies, facilitating parent and caregiver partnerships and building collaborative relationships using the MindMatters framework and tools. Mental health and wellbeing is a key priority of the school's strategic plan, with a strong commitment from its leadership team. Staff have developed their awareness of mental health issues, taking a more active role in supporting student wellbeing, and this is reflected in counsellor data.

Bowden Brompton Community School is a category 2 school that has been working with students who have been unable to effectively access education in traditional schools. Bowden

Brompton Community School caters for students with social, emotional and mental health concerns who may exhibit extreme behaviours and may have experienced trauma. They may have also come under the attention of the juvenile justice system. Students at Bowden Brompton school attend from all over Adelaide with the majority being School Card holders and more than 30 per cent residing with non-primary caregivers.

Use of the MindMatters Youth Empowerment Process allows students to develop greater confidence, mentoring their peers, establishing greater links with students in other campuses and increasing work in the community. Implementation of MindMatters at Bowden Brompton Community School has supported improved attendance and a 34 per cent increase in the completion of SACE over the last three years. Explicit teaching of social skills has shown a 17 per cent improvement in 20 identified focus skills. This is also linked to an increase in literacy skills of 21 per cent. Staff morale has grown over the last three years, measured using the Psychological Health Survey.

The benefits of focusing on student mental health and wellbeing are not limited to secondary schools. Principals Australia Institute is also involved in another national mental health initiative called KidsMatter Primary. KidsMatter Primary is a partnership between the institute and the Australian Psychological Society and *beyondblue*, and is funded by the commonwealth government. More than 1,044 schools are engaged in KidsMatter nationally, 114 in South Australia, with a national target of 2,000 schools by June 2014.

Like Mind Matters, KidsMatter is seeing tangible and measurable improvements in student wellbeing. Both initiatives give teachers and schools the tools and support they need to enhance not only student health but educational outcomes as well. In closing, I commend and thank Principals Australia Institute and everybody involved in the implementation of these marvellous initiatives in our schools.

BREASTMILK BANK

The Hon. D.G.E. HOOD (15:32): I wish to provide some information about milk banks for breastfeeding mothers to the chamber and readers of *Hansard*. Members may not be aware that South Australia is the only mainland state in Australia that does not currently have a breastmilk bank. These are presently located in Perth, Melbourne, Sydney, northern New South Wales, Brisbane and the Northern Territory. I suggest it is time that serious investigations were undertaken with a view to establishing a service here as soon as possible.

Some breastfeeding mothers produce an excess of milk whilst others are unable to produce milk in the quantity required for their newborn baby. Breastmilk is particularly important for the health of premature babies, although all babies benefit from being fed breastmilk, I am informed.

A milk bank is normally run through a hospital. It receives milk from breastfeeding mothers willing to donate excess milk and provides this milk to mothers in need. There is a screening process, of course, and the milk is pasteurised to eliminate bacteria. The alternatives are using formula milk from powder or making an informal arrangement for the provision of milk through friends or via the internet, and this does happen. There are disadvantages to both of these.

Formula milk does not contain the natural antibodies that are in breastmilk, and this is no slight on anyone who may be forced to use formula milk, but if we had a milk bank available then all would be able to use breastmilk. These protect newborns from a variety of infections and diseases. Some research has also indicated that in resource rich countries children who are fed infant formula are up to five times more likely to be hospitalised in infancy than children who are breastfed. The use of formula is also associated with an increased risk of allergic diseases and type 1 and type 2 diabetes. It seems that the risk of sudden infant death syndrome is also increased by formula milk, according to some research. The risk of one particularly serious disease, necrotising enterocolitis (NEC), is increased by feeding formula milk to preterm babies. This is a devastating disorder of the gut with very serious consequences.

As to the option of informal sharing of milk, there may be no screening of donors under this arrangement and no pasteurisation. This gives rise to the risk of disease. Also, if a breastfeeding mother is taking any prescription or non-prescription drugs, these can be passed on through the milk supplied. Hygiene in the collection and storage of this milk cannot be guaranteed without a milk bank. Another problem is unscrupulous people operating a black market in breastmilk. Again, this does actually happen; there have been reports from interstate in recent times of people on the internet offering breast milk for up to $1,000 a litre.

In the 1990s a group attempted to organise a breast milk bank here in South Australia, but for a number of reasons—mainly funding reasons, as I understand it—this did not eventuate. To his credit, the federal Labor member for Hindmarsh, Steve Georganas, was deputy chairman of the parliamentary committee that authorised the Best Start report in 2007. This report recommended investigating the establishment of a network of breastmilk banks across Australia. Mr Georganas has been reported as saying he was disappointed that the issue had stalled.

In September 2012, as I mentioned in my question earlier today, John Hill, the then minister for health and ageing, said that he was 'happy to explore the issue' of a breastmilk bank if there was a demand. I believe there is certainly a need for this service, and there are many people who hold that view. The cost of establishment of such a bank would be in the order of $200,000 and the annual operating costs would be similar, although probably less—something in the order of $150,000.

Of course, the health of babies is a crucial issue and something that affects every new child in South Australia. Good infant health can itself actually result in cost savings to the health system. I believe that by implementing such a breastmilk bank here in South Australia it would actually pay for itself—and, indeed, there may be savings to the health system overall.

The benefits of breastfeeding are being constantly confirmed by research. Mothers, particularly those with preterm babies, who may have difficulties in producing milk either at all or in the required quantities, would greatly benefit from such a breastmilk bank. As I said, we have one in every other mainland state of Australia—I understand that Tasmania does not; I am not sure why that is—and we certainly should have one here.

LEADER OF THE OPPOSITION

The PRESIDENT: The Hon. Mr Lucas. You'll be singing the praises of Mr Marshall for the next five minutes?

The Hon. R.I. LUCAS (15:36): Mr President, it has been interesting to see the response from the Labor government to the election of the member for Norwood as the new Liberal leader. We noticed soon afterwards in the press that Labor sources indicated they were about to unleash their so-called 'attack dogs' on the member for Norwood. Surprisingly, the attack dog described was, I suspect, minister Koutsantonis, because minister Koutsantonis has been the one used in television and on social media in terms of leading the attack on the member for Norwood.

I suspect if minister Koutsantonis is the attack dog it is more likely to be an attack poodle as opposed to an attack Rottweiler or an attack Doberman, because the attack poodle succeeded only in biting himself on his own little paw. Minister Koutsantonis led the charge on social media in describing the claim that the member for Norwood had been the first Liberal leader elected unopposed in more than 30 years as 'rubbish'. He led the charge that evening by saying that the Libs forgot about Rob Kerin. He then went on to say that he was fairly sure that Iain Evans was elected unopposed when Rob Kerin resigned, and so much for the first time in 30 years rubbish. So said the attack poodle.

Well the attack poodle got it absolutely wrong as—sadly for the Labor Party—he tends to do quite often. Not only does he get it wrong, but of course he does not pay up his gambling debts, Mr President—and you would be well familiar with that particular story. I do not think the member for Norwood, and certainly not the Liberal Party, is going to be concerned if the attack poodle for the Labor Party is what is going to be unleashed on the new Liberal leader and the Liberal Party. 'Bring it on,' is, I think, what the leader, and certainly the Liberal Party, would say.

I think the problem with the Labor Party is that its own reshuffle shows what a serious lack of talent exists within its own forces at the moment. The fact that the Premier, through ego or through having to, has had to become the part-time Treasurer as well is an indication that there was no talent in the Labor Party to take on the Treasury position. The fact that minister Rankine is evidently the third most senior minister in the House of Assembly, the fact that we still have ministers Gago and Hunter representing the party in this chamber, and the fact that the two new ministers, minister Bignell and minister Piccolo, had to fill the 13-minister cabinet is again an indication of a serious lack of talent.

Whatever one thought of Messrs Rann, Foley, Atkinson, Hill and Conlon, they were the engine room and did include a couple of attack dogs of a genuine size and fierceness on occasions amongst their number. Sadly for the Labor Party the talent has disappeared and the Labor Party is left with what it has.

There are serious divisions now emerging within the Labor Party as a result of the reshuffle. On 16 January, Daniel Wills in *The Advertiser* stated (obviously information from Labor sources) that:

> Mr Bignell was overlooked in a 2011 reshuffle after concerns were raised in the vetting process.

Evidently about him. Mr Wills, the senior *The Advertiser* journalist, expanded on that in an interview on ABC radio on 15 January when asked about Leon Bignell and said:

> Yeah he's certainly a chance but the issue with Leon is that he was the man most likely to come in when there was a reshuffle in October 2011 which is when Jay Weatherill became Premier and he was the man most likely until sort of the last minute...there was a bit of an issue...that arose during the vetting process and his candidacy was seen to be not viable, so one would wonder why...he would have been ruled out at that point but is now all of a sudden back in, but certainly it's possible...

Clearly, Labor sources, unhappy at the Bignell promotion, are leaking against Mr Bignell and providing information to journalists in relation to the reason as to why he was unsuitable to be a ministerial candidate in October 2011.

Time expired.

DISABILITY EQUIPMENT

The Hon. K.L. VINCENT (15:41): Today I will speak on state government provision of equipment for people with disabilities. Yesterday, the new Minister for Disabilities (Tony Piccolo) stood up in the lower house at question time to champion the cause of his government's record on disability services. The minister said that South Australia had the lowest percentage of spending on administration and seemed to be proud to announce that we meet the national average on disability spending per capita. Very few people in this country receive adequate disability funding and so reaching the average is hardly a glorious achievement to crow about.

Instead, I would suggest that the minister needs to look at the needless waste in his department. I have a case which really typifies this and which has come to my attention in recent weeks. In January, I was contacted by a constituent who had been provided, through the Department for Communities and Social Inclusion, the Optimum electric wheelchair. He found that this wheelchair failed to meet basic safety and functionality requirements.

The constituent had been trialling this new wheelchair and had serious concerns about its height clearance. The footplates on the chair only provide a five centimetre clearance from the ground and they have been breaking so often that he now chooses to use the chair without them. Rather than responding to this problem by changing the wheelchair (that was, after all, being trialled), the Department for Communities and Social Inclusion in its wisdom chose to replace the footplates more than a dozen times. To me, it simply beggars belief that this inadequate solution has been repeated so many times.

Dignity for Disability believes that this is yet another example of this state government throwing good money after bad when someone is authorising the clearance of footplates that will only last a matter of days. It is clearly a false economy to keep replacing the footplates when what is required is a custom-built wheelchair for anyone over a certain height, a wheelchair that will last not days but perhaps years or even a lifetime.

The minister and his department need to appreciate that just getting a wheelchair serviced or attended to can be an extraordinary hassle, and when it has necessitated over a dozen repairs in as many weeks you can imagine the frustration. I find it an unconscionable waste of taxpayers' money and it means that it is not just of course wheelchair users or only people with disabilities who cop this inconvenience and frustration: all taxpayers foot the bill for this. The situation would make a good script for a TV sitcom but the difference is that it is just not funny.

I have called on the new minister to examine the economics of this situation and to provide my constituent with a wheelchair that is fit for its purpose. I think he needs to ensure not only that that particular wheelchair is provided but that the situation does not occur again. It appears that the optimum wheelchair provided through the Adult Specialist Services Intervention Support Team (ASSIST) has been design for shorter people and, when a taller person uses it, any slight bump or irregularity on the ground will result in the metal footplates breaking. It is this sort of ridiculous bureaucratic system that does not provide for individual difference and wastes valuable disability dollars and sees many who urgently need respite and accommodation go without.

CAVALERA, MR B.

The Hon. CARMEL ZOLLO (15:45): Today I pay tribute to Mr Bruno Cavalera. Bruno died on 29 December 2012. I had the opportunity to meet and know Bruno in his capacity as the President of ANCRI (SA Division). ANCRI is the acronym for Associazione Nationale Combattenti e Reduci di Italia—the long-standing association whose members consist of those who have served in Italian military forces.

Amongst other responsibilities Bruno was instrumental in organising the annual ANCRI ceremony of remembrance of 4 November. The association is one of camaraderie and support. Regardless of which side on which people fought in the theatre of war, the scars are always similar and, more importantly, the need to respect and remember those who pay the ultimate sacrifice is something that is rightly installed in our psyche.

In this great nation the Italo-Australian community is rightly, like others of a different heritage, able to pay their respects equally to those who fought under the red, white and green flag as those who fought under the Union Jack and the Southern Cross. Whilst in other countries Armistice Day is celebrated on Remembrance Day (11 November, signed at Compiegne, France), Italy is the exception, where it is celebrated on 4 November.

The 4 November date is the day of the armistice of Villa Giusti, at the end of World War I, when Italy remembers over two million casualties and has since become the date when Italy remembers all those who fought and served in all theatres of war. The day of commemoration is similar to our ANZAC Day commemorations. Of interest, of course, is that during World War I Italy fought on the side of the allies. The Villa Giusti armistice ended hostilities between Italy and Austria-Hungary on the Italian Front.

I am indebted to Mr Carlo Rosenberg, secretary of ANCRI, and Mr Cavalera's wife, Antonietta, who have provided me with some background information on Bruno. As told to me, Bruno was born in Italy on 4 November 1927 and served in the Italian Army between 1943 and 1947 as a Bersagliero. He arrived in Australia from Monfalcone, Provincia Gorizia, Italy, on 2 August 1952 as a skilled migrant specialising in electromechanics. On arrival he worked for the first two years for the Australian government at various military camps and later joined so many fellow migrants working in the car industry.

He married his fiancée, Antonietta (whom he had left behind) by proxy in January 1955, and she then joined him in Australia when he was financially able to bring her out. The couple were married for some 57 years and brought up a loving family. They had three children and now have four grandchildren. I know Bruno Cavalera was an adored husband, father and grandfather. His grandchildren at his funeral provided a moving and loving eulogy to their nonno. Many members of ANCRI were present at the funeral to pay their respects, including Mr Davide Innamorati from the Alpini, who assisted in organising last year's commemorations.

As mentioned, Bruno Cavalera was president and the driving force of ANCRI for some 26 years, acting not only as president but also as secretary, having joined the Adelaide branch of the association in 1958. Apart from being a means of paying our respects and recording history, I think it important to see the continuance of associations such as ANCRI for the camaraderie and support it offers to its members. Whilst Bruno's story is not too dissimilar to so many thousands who left Italy after World War II, migrating to a new country for their new future, I know the Italo-Australian community is particularly indebted to Bruno Cavalera for his service and dedication. Unfortunately the last few years saw Bruno suffer ill health, but he valiantly continued in his commitment to ANCRI. Lest we forget, Bruno Cavalera.

INTERNATIONAL DAY TO END VIOLENCE AGAINST SEX WORKERS

The Hon. T.A. FRANKS (15:50): I rise today to make remarks on the International Day to End Violence Against Sex Workers. Each year, 17 December is the International Day to End Violence Against Sex Workers. The event was created to call attention to crimes committed against sex workers all across the globe, but it was originally conceptualised by Annie Sprinkle and initiated by the sex workers outreach project in the USA.

It was originally a memorial and vigil for the victims of the Green River killer in the Seattle area of Washington. The international day has become an annual event and has spread across the globe. It empowers sex workers, and they come together and organise against discrimination and remember victims of violence. The man dubbed the 'Green River killer', Gary Ridgeway, was finally

caught and eventually confessed to having murdered over 70 women, but it is possibly a greater number than that. When he was caught, he said:

> I picked prostitutes as victims because they were easy to pick up without being noticed. I knew they would not be reported missing right away and might never be reported missing. I thought I could kill as many of them as I wanted without getting caught.

Sadly, he was correct. Sadly, some Seattle sex workers, their boyfriends, partners and pimps all knew for many years that the Green River killer was indeed Gary Ridgway but they were afraid to come forward for fear of being arrested or that the police would not believe them if they did come forward. They believed that the police did not care. Gary Ridgeway's killing spree went on for over 20 years.

During the week of 17 December, sex worker rights organisations and their allies stage actions and vigils across the world. While the Green River killer is a particularly stark example of a culture that condones violence against sex workers, it is by no means the only example. There is a widespread culture across many parts of the globe that supports this violence.

That culture prevents sex workers from reporting violence; that culture perpetuates stigma and discrimination, and that culture has made violence against sex workers acceptable. I contend that this culture is itself unacceptable, and I am pleased to say that I am not alone. Hundreds of people across the world have done dozens of memorials, actions and events of all kinds, and the participation is growing.

In Adelaide, on that hot afternoon in December last year, sex workers and their supporters carried a banner with handwritten and painted messages meant for this parliament. Those messages included these words: street workers are raped; we are violently robbed; we are stalked; we are blackmailed; we feel powerless to report crimes to police because we are sex workers; we are victims of crime who don't have a voice; we deserve to be safe just like everyone else.

They shared their personal accounts, as follows. Astrid assaulted once in 2010, two other workers assaulted by the same man; Jacky assaulted in 2009; Servilia assaulted once in 2000; Lucien assaulted at work in Adelaide in 2008; Justine assaulted two times in 2012; street worker M violently assaulted on Hanson Road 2012; Kath assaulted in 2010; armed hold-ups, seven in the last two months; offender caught last week and charged; bottles and eggs thrown at street-based sex workers forever.

On that note, I cannot help but remark on the Facebook site that was set up in South Australia in 2010 on the ANZAC Day long weekend. That Facebook site urged attacks on sex workers, as some members may be aware. It was dubbed the 'ANZAC Day long weekend hooker catch and release game', and it encouraged the 241 group members to taunt and harass street workers in the inner western suburbs of Adelaide.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order! The honourable member has the floor. Other conversations should be taken out of the chamber.

The Hon. T.A. FRANKS: The game was created and promoted by the founder of another sex worker hate site, 'Hooker spotting on Hanson Road', which had almost 1,000 members. These street workers were, in reality, also abused. They had eggs, rocks and beer bottles thrown at them. One member of the game even posted that he claimed that he had squirted chilli sauce in the face of a worker. They awarded points and dollar amounts to the acts of violence they claimed to have perpetuated.

Of course, the Facebook was, quite rightly, shut down. I do not know whether a prosecution ever followed. I do know that sex workers reported being badly bruised and hit by marbles thrown from cars, by full beer bottles and also by eggs being thrown at them. I would say that this is a demonstration of why 17 December is so important. On this day people around the world remember those who do not survive and those who will not unless we make real changes. I remind members of this council that we are here in this parliament to have the power to make those changes for those women. The response from the media was to run a poll of whether sex workers should be assaulted. I think that is the lowest of the low in the media. Of course, no-one should be assaulted.

ST CLAIR DEVELOPMENT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:55): I move:

That this council condemns the Weatherill Labor government for its continual arrogance in pursuing the St Clair 'deal', including a land swap which will destroy one of the few remaining open spaces for locals, ignoring the overwhelming message from the Charles Sturt council election result and labelling the latest DPA under the deceptive title of 'Woodville Station Development Plan Amendment'.

There have been some notorious land deals in history. There was the Dutch purchase of Manhattan. In 1626 the Dutch gave the native Indians 60 guilders' worth of trade goods and $1,000 in today's currency for the whole of Manhattan Island. Later the Dutch swapped all their holdings in North America for an almost worthless lump of mangroves and some unexplored jungle in South America. The English notoriously got Manhattan from the Dutch and the Dutch helplessly got Suriname from the English.

The United States paid Russia $7 million for the whole of Alaska, not much more than a dollar a hectare. Thirty years later there was a gold rush there. In the Louisiana purchase, the United States slung France just $15 million for two million square kilometres of land stretching from the Caribbean to Canada—more than double the size of South Australia.

Here in South Australia there is the notorious St Clair land swap, under which the Labor dominated City of Charles Sturt council, in cahoots with its Labor mates in parliament, swapped a large, beautiful, popular park for a polluted scrap of industrial wasteland at Woodville in Adelaide's western suburbs. How could this have happened, you might ask. Through greed, duplicity, manipulation, dishonesty, bullying, intimidation and coercion.

Whose, you might ask? I lay the fault fully at the feet of the ALP, which should have intervened as a parliamentary party, as an organisational party and as a local government party to stop this sordid, stupid land swap which disadvantages the residents of Woodville and Cheltenham, and the people, present and future, of the western suburbs. But the ALP did not stop that land swap. It instigated it. It promoted it. It forced it on an unwilling community. Labor did not listen and sadly it still does not listen to ordinary South Australians, ordinary families living nearby, and the people who use the park every week or every day.

The park will have a road built straight through it. Another part of the park will be handed to developers, who will put up a string of flats on what were once playing fields. Like the American Indians with their 40 guilders of trade goods, or the Russians or French, the locals will get something back for having their park stolen. They have another piece of land under this swap, the site of a now demolished factory. Poisonous chemicals, leached into the ground for a century, will now be the responsibility not of the polluters, but of the ratepayers of the City of Charles Sturt.

The net usable land, taking into account the green space that has already been figured into the equation, is far smaller than the present park, despite what the council and the Labor government would have you believe. Sure, the council and the government will tell you that both parcels of land measure 4.7 hectares. That is true; they do. Except the new land includes 2,750 square metres of roads. It is also true that the roads will not be built on, but they can hardly be classified as 'open space'.

If the councillors who voted for this land swap think roads are open space, I ask them to enjoy the open space on Woodville Road. Have a picnic on the bitumen. And what is the comparative value of the two parcels of land? Roughly equal, you might be told. Again that is roughly true, but only if you value one parcel of land as open space and the other parcel as residential. One is a lamb, the other is dressed mutton.

So why swap you might ask? It was first proposed in 2003. Then, despite Kevin Foley's promise that 'They will sell Cheltenham racecourse over my dead body', Cheltenham was sold and Kevin Foley's body now lies mouldering in a political abyss—not because he opposed the sale but partly because he supported it. The no-sale position was supported publicly, at least, by Jay Weatherill and Mike Rann, and privately, they conspired for it to be sold.

So with Cheltenham racecourse sold for housing, developers renewed their push to get their hands on the St Clair park. At this time their champion was the member for Croydon, the Liberace of western Adelaide who boasted he wears handmade shirts, each worth more than some of his constituents can afford for their weekly groceries. He was the land swap's most ferocious adherent, the manipulator controlling the marionettes, the Buffalo Bob Smith to Howdy Doody, the Norman Hetherington to Mr Squiggle. Behind the scenes, Michael Atkinson, who should have been representing the interests of his electors, represented the interests of the land-grabbers.

Eventually, the issue went to the courts and the Ombudsman. The court action found that the relevant minister at the time, the Leader of the Government here today (Hon. Gail Gago) had

not complied with the act. In her capacity as minister for local government, she had not considered the merits—that is, the arguments for and against the land swap—before she gave her concurrence. So she then handed the case to another minister, in this case, John Hill, who ticked it off. Now, I do not suggest Michael Atkinson had any more to do with that.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I remind the honourable member that the member's title is the Hon. Michael Atkinson.

The Hon. D.W. RIDGWAY: I do beg your pardon. Thank you for your guidance, Mr Acting President. Now I do not suggest that the Hon. Michael Atkinson had any more to do with it than I suggest viruses cause disease. Of course they do not. They just invade the body politic and benignly mind their own business.

So the case hit the Ombudsman. He discovered that several Charles Sturt councillors had potential conflicts of interest at the time the land swap was approved. Those conflicts arose because these councillors were members of the Labor Party. Twelve out of the 17 councillors were in the ALP, but not everybody knew that until after the investigation. And not just ordinary members, these chaps. Two of them held positions as delegates at a state level. Two were employed in the Enfield electorate office of the local Labor MP. Another one, a third councillor, also worked in ALP electorate offices—and here is the real doozy—within the Attorney-General's Department. He was seconded as a ministerial liaison officer for the Minister for Veterans' Affairs.

Of course, the minister, that attorney-general, was the member for Croydon, the Hon. Michael Atkinson. He takes an extraordinary interest in the Charles Sturt council, which is just as well. Mr Atkinson told the Ombudsman during the investigation that between half and two-thirds of the complaints that came before him as a local MP had to do with the council—which was Labor dominated. Imagine a constituent going to see Mr Atkinson with a complaint against a member of the ALP. It is a bit like going to a fly to complain about the carrion.

Mr Atkinson gave advice about who should nominate as councillor and on which council committees they should serve. He organised street meetings and campaign meetings with his Labor mates on council. He advertised these in the press. He hosted a barbecue for them right here at Parliament House, where they talked about how to vote for Labor-agreed outcomes in council decisions. He gave assistance to his Labor cronies as they wrote letters to ratepayers arguing for the land swap.

As the Ombudsman's inquiry uncovered, Mr Atkinson said to the councillors, 'If you bring some paper and some envelopes around to my office and we can settle a draft, we will send out to your constituents the reason you took the decision and the benefit it will have for me and Mr Weatherill as members facing election in three months.' It did not do him much good, of course. The Labor vote collapsed in the western suburbs at the next election and many ALP councillors lost their positions at the local government elections. They were replaced by candidates who were much more in touch with their community; grassroots campaigners who knew what the ratepayers want in Charles Sturt, which is just as well. The Ombudsman came to a view about what was happening under Labor. The Ombudsman mused that:

> Where councillors allow influence to be exercised over them, they place themselves at risk of not being able to exercise their functions in accordance with their statutory obligations.

Not for Mr Atkinson the gentle art of persuasion. When he felt slighted by a posting on a Facebook page dedicated to saving St Clair, he threatened the page's volunteer administrators (a man and his wife) with defamation action. A powerful attorney-general threatening legal action against a helpless, elderly married couple for helping to save their park from bulldozers. A man who under the privilege of parliament has defamed and denigrated his innocent victims. 'I'm as badly behaved as the rest of them', he said recently in a radio interview, speaking about his behaviour in parliament. 'I'm the first among sinners and it takes a thief to catch a thief.' No, Mick. It takes someone with the powers of a royal commissioner. But there is no honour among thieves and the western suburbs are disgracefully short of open space.

At the moment, according to evidence presented by the Local Government Association to the City of Charles Sturt, the western suburbs are between 10 and 20 ovals short of the required open space for the number of people who live there. But they are not the only people who will live there. The current government's 30-year plan wants an extra 80,000 people in the western suburbs, 40,000 of them in the City of Charles Sturt. There are about 104,000 people living in the City of Charles Sturt at the moment, so we are talking about a 40 per cent increase, almost half as many again, but without any more open space.

All those extra people, no extra playing fields, parks or places to rest. No green lungs for this part of town. Not that the member for Croydon could care. He said in a recent TV interview, when talking about an issue surrounding the land swap, that he does not live in that part of the electorate. In fact, he does not live in the electorate at all. The member for Croydon does not live in the electorate of Croydon, he does not live in the western suburbs. There is not enough open space there for him. He has fled to somewhere greener, more leafy. Somewhere with parks and gardens. Anywhere except Croydon.

I hope the Legislative Council will join me in condemning the Weatherill Labor government for its continual arrogance in pursuing the St Clair deal. The last development plan amendment, which will rezone the St Clair park for housing, is actually called the Woodville station development plan amendment. Woodville: you cannot see the wood for the villains. This rezoning has nothing to do with the Woodville Railway Station. It is about St Clair. It is about Labor at two levels of government not listening to the community. It is about a land grab. It is about the corruption that power brings. It is about an MP who thinks more about his rank than his constituents.

Land swaps. I question land swaps again. For a quarter of a million hectares of land where Melbourne is now, a bloke called John Batman paid local Aborigines 40 blankets, 42 tomahawks, 130 knives, 62 scissors, 40 mirrors, 250 handkerchiefs, 18 shirts, four flannel jackets, four suits and 70 kilos of flour. It was a steal. The document became known as Batman's Treaty. The treaty was declared void in 1835 by the governor of New South Wales on the basis that the Wurundjeri people did not have a right to deal with the land, which it was claimed belonged to the Crown.

The St Clair reserve is owned by the Crown, by the people. It does not belong to the council, it does not belong to the member for Croydon, or to business interests. It is the property of the taxpayers of South Australia, all one and a half million of us. I urge all members of the Legislative Council, including—in fact, particularly—Labor members opposite, to vote and support this motion.

The Hon. M. PARNELL (16:08): I would like to begin by welcoming the Hon. David Ridgway to the barricades and those of us who have been at the barricades since—I went back through my archives—I think, 2007. I have enjoyed a great many rallies and events outside the council chambers over the years. There is always space for the Hon. David Ridgway. In fact, he is bringing with him some friends, as we have just heard: Howdy Doody, Mr Squiggle, Buffalo Bill and Batman, I think was the last one that he mentioned.

The motion before us is an important motion, a serious motion, and it does draw attention to the injustice that has been done by the government to the people of Woodville. I will start at the end rather than the beginning and I will go back to some of the history. The motion refers to the Woodville Station Development Plan Amendment, and that is a process underway at the moment whereby the minister is seeking to rezone the land that we are talking about, and that process is open for public submissions. Written submissions close on 14 February, so we have until next week to put in submissions.

What I like about the information sheets that the government puts out with these processes is that they always have a line in the process which basically says that if nobody makes any submission, then they will not have a public meeting. I think there is Buckley's that that will be the situation in this case, because the people of Woodville would want to have their say on the future of what has been up until now an important public park. The DPA states the following about the land swap, and in all its hundreds of pages there is only one reference to it:

> Integral to this rejuvenation process was the St Clair land exchange between the Council and Renewal SA (formerly the Land Management Corporation). The land exchange involved Renewal SA acquiring a 4.7 hectare portion of the former Sheridan site to be developed as a reserve. The Renewal SA then 'swapped' this new reserve for the 4.7 hectare portion of the Council owned St Clair Reserve with the intention of developing the site for a TOD.

A TOD is a transit-oriented development. As the Hon. David Ridgway has pointed out, the one-for-one swap is a sleight of hand and it is in fact no such thing. The areas, when calculated, show that the residents are being dudded on space. They are also being dudded because there is a great community attachment to the park that is there and the replacement they have been offered is, as we know, part of the contaminated former industrial site.

I will take this opportunity also to say that in my many years of dealings with the people of this area none of them are against development to the extent that they think that nothing must ever change. People realise that change is all around us and it is about how we manage change and the sort of change we get rather than it being a change or no change situation.

One of the great disappointments I have in this process is that one of the things I was doing before the government finally signed off on the land swap was trying to get a roundtable discussion between local residents, the Land Management Corporation and developers to see whether there was any way through this impasse because I could see that the residents were being dudded on open space. They knew they were being dudded. Deep down in the bottom of my heart I wondered whether or not maybe a two-for-one offer, maybe a three-for-one offer, maybe if the government was offering a genuine improvement in open space to the people of Woodville there might have been some kind of consensus to be achieved, but that was not to be. It was a less than one-for-one offer and they got dudded.

The other big disappointment that I have with this process is that there was a better way of doing it. We knew originally that there was this idea that the Cheltenham racecourse was going to be rezoned, then the Sheridan site was going to be rezoned, and they were the only two we knew about early on. Of course, when the Environment, Resources and Development Committee wrote to the minister saying, 'We need to do them together. They are going to be developed together surely, so why don't you rezone them together?' The minister refused. The minister refused because the government did not want to have to apply the same open space standard on the Sheridan site (the old Actil site) as they had committed to on the Cheltenham racecourse site.

So, on Cheltenham racecourse they were promising, I think, 40 per cent originally, then it went down to 35 per cent, but there was just going to be the 12.5 on the Actil site. Then it got even worse because when they added St Clair into the mix—and I think it was always their intention to do it, as the honourable David Ridgway said. He believes the plans went back to 2003. Really, if we were serious, they should have rezoned the entire area as a job lot in which case they could have guaranteed more open space for the people of Woodville. So the whole thing, I think, was a dud deal for the local community from the very beginning.

I will not go through all the history, but for people who want to look at it, have a look at the motion that the Legislative Council debated back in November 2009 because a fair bit of the history of this was set out there. So really this is an example of missed opportunities. To a certain extent the new local council—as members would know, now being led by mayor Kirsten Alexander, who was in many ways the public face of opposition to the land swap—now has a difficult position, because many of the decisions are possibly irreversible, and it needs to make the best of a bad lot when it comes to servicing its local community and making sure it gets the best deal possible. So I have no doubt that the residents of that part of Adelaide will be out in force with their submissions.

They will also be out in force—and I should read this onto the record as well—at the public meeting, which will be held on Tuesday 5 March at 7pm at the Murree Smith Memorial Hall in Kemp Street, Woodville. As I said before, if no-one makes a submission there will not be a meeting, but I think there will be a meeting, and it will be a long meeting. I urge all people with an interest in this part of Adelaide, and in urban planning in general, to make a submission and have their say about what should happen to this important site in Adelaide.

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

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: WASTE TO RESOURCES

The Hon. CARMEL ZOLLO (16:16): I move:

That the report of the committee on Waste to Resources be noted.

The Environment, Resources and Development Committee commenced its inquiry into waste to resources in November 2010. The committee confined its report to the inquiry's terms of reference; that is, a consideration of the Environment Protection Authority's waste to resources policy and standard for the production and use of waste-derived fill.

As part of the inquiry seven submissions were received and two witnesses were invited to appear before the committee. The committee also undertook a site visit to Tarac Technologies and Beckwith Park industry and business centre in the Barossa Valley. Consulting with businesses operating within the field provided the committee with greater insight into broader aspects of the waste industry.

During the course of the inquiry, ongoing dialogue occurred between key industry stakeholders and government. The committee noted that changes to waste disposal and waste management were implemented in accordance with the schedules in the Environment Protection Policy, which came into effect in December 2012. The committee further noted that the government's planned review process occurred, and the committee was satisfied that the

Environment Protection Policy was implemented successfully. At the conclusion of the inquiry the committee made the following key recommendations:

- the committee recommended that the government, via the Council of Australian Governments, continue to advocate for additional problematic materials to be addressed through the national products stewardship process;
- the committee also recommended that consultation occur regionally to allow for the variety of challenges faced by distinct regions;
- the committee further recommended that the government advocate for a national standard for medical waste; and
- lastly, the committee suggested that providing the public with more information about the disposal of household waste, including items that can and cannot be disposed of via weekly council waste collection, kerbside hard rubbish collection, and organic waste disposal, would further advance the goals of waste to resources management.

I commend the report to the house, and thank the committee staff for their assistance during this report.

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

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: ANNUAL REPORT 2011-12

The Hon. CARMEL ZOLLO (16:19): I move:

That the annual report of the committee, 2011-12, be noted.

The committee met on 14 occasions and heard from 10 witnesses during the reporting period. The committee tabled three reports during the reporting period: its annual report for 2010-11, an interim report on the introduction of biosecurity fees, and a report concluding the inquiry on population strategy. The committee also continued work on two other inquiries, the waste to resources inquiry that I have just spoken to and the urban density inquiry.

As part of the waste to resources inquiry, the committee conducted a site visit to Tarac Technologies and Beckwith Park Industry and Business Centre to observe firsthand the operations of a company working in the industry. As mentioned, the committee continued its work on the Urban Density inquiry focusing on issues such as principles and desirable models for meeting high-density development and future dwelling requirements as a result of changes to family formation and social determinants of health and lifestyle impacts.

Pursuant to the Development Act 1993, the committee considered 37 development plan amendment reports. In September 2011 the committee considered the Barossa Better Development Plan and the general development plan amendment in greater detail, and on 14 September 2011 witnesses were called so that additional information could be obtained before the committee made a determination on the amendment.

On behalf of the committee, I thank all those who prepared submissions and presented evidence to the committee over this reporting period. I also thank fellow committee members, Ms Gay Thompson MP (the presiding member), the Hon. Michael Atkinson MP, Mr Tim Whetstone MP and, in this chamber, the Hon. Mark Parnell and the Hon. Michelle Lensink. I thank the committee staff, Mr Phillip Frensham and Ms Debbie Bletsas, and the administrative officer, Janine Roberts, for their assistance. I commend the report to the chamber.

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

STATUTORY AUTHORITIES REVIEW COMMITTEE: ENVIRONMENT PROTECTION AUTHORITY

The Hon. CARMEL ZOLLO (16:22): I move:

That the report of the committee, on an inquiry into the Environment Protection Authority, be noted.

The Environment Protection Authority (or the EPA as it is generally referred to) is South Australia's primary environmental regulator. The EPA's main functions are administering and enforcing the Environment Protection Act 1993 (or the act as it is known) which includes regulating activities through an authorisation system for controlling and minimising pollution and waste, conducting

investigations for compliance assessment, environmental monitoring and evaluation, and enforcement.

The EPA advises the minister in relation to administration and enforcement of the act and in relation to other legislation that may affect the environment. It prepares draft environment protection policies, contributes to national environment protection measures, regularly reviews the effectiveness of policies, regulations, measures and practices, and facilitates the pursuit of the objects of the act by government, the private sector and the public.

The Statutory Authorities Review Committee was tasked with inquiring into and reporting on the operations of the EPA, particularly regarding public notification protocols of contamination and, thus, the inquiry centred on the EPA's responsibility for notifying the public of site contamination once it has become aware of its existence. As the EPA indicated during the inquiry, it takes full responsibility for managing overseeing the public notification of actual or potential contamination.

The act requires the EPA to keep a public register, which records a broad range of information, but most importantly in relation to this inquiry, details of site contamination notified to the EPA under section 83A of the act (the section of the act which requires owners or occupiers of a site or site contamination auditors or consultants to notify the EPA once it becomes aware of the existence of site contamination on site or in the vicinity that affects or threatens groundwater). Access to this public register by the public was considered by the committee, together with a process taken by the EPA for publicly communicating these notifications.

The committee supports the EPA's initiatives since the commencement of the inquiry. The committee has noted in its report that, during the course of its inquiry, the EPA has markedly improved its transparency and accessibility of information in relation to site contamination. Information available on the EPA website has increased and includes a web-based index of all section 83A notifications of groundwater contamination received by the EPA.

The EPA informed the committee that its intention was to make all public register information accessible electronically to the public, whether via the EPA website or via a publicly accessible portal. The EPA's public communication statement on site contamination, which is published on its website, is a marked improvement on its old communication strategy. As the EPA stated in evidence before the committee, it believes that its system of communicating information about contamination or potential contamination is now more pro-active.

If any evidence exists that points to possible impacts on public health or the environment, the EPA will first advise those who are potentially directly affected and then ensure that residents living in neighbouring areas are directly advised. Others are notified through the media. Residents directly affected can expect urgent information to be communicated by the EPA face to face, and with follow-up letters.

On 28 November 2011 the Hon. Paul Caica, the then minister for sustainability, environment and conservation, announced changes to the EPA's public register. The major change is that the EPA will no longer charge people to access public register documents, as long as requests seek documents that are accessible via the EPA's website; available as electronic documents; requested by someone with a direct personal interest in the matter described in the documents, and where that person would face financial hardship in paying the full fee; and, provided to a landowner or tenant of a residential property where that document directly relates to the residential land they own or occupy. As the EPA explained, fees have been waived for the vast majority of public register documents.

On behalf of the committee I take this opportunity to acknowledge and thank the EPA and the organisations and individuals that submitted evidence during this inquiry. The committee heard evidence from a variety of sources and received both written submissions and oral evidence. The committee received a number of submissions in this inquiry that contained concerns regarding the EPA's approach in the provision of information to the public, particularly in relation to contamination notification.

The EPA presented the committee with thorough information relating to the site contamination at Edwardstown and South Plympton at and surrounding the former Hills Industries' site. The report contains a detailed timeline of events relating to this. Due to the circumstances surrounding the site contamination at Edwardstown and South Plympton, and the expectation of the community that they be informed of a potential source of site contamination, there has been a shift on the part of the EPA to make a better effort to provide that information to the community,

leading to a big change in its communications. The committee was very forensic in the information it required from the EPA and we welcome these changes.

Another important issue highlighted by this inquiry is that of the relationship between the EPA and local councils, in particular, and their roles and responsibilities relating to the management of minor environmental nuisance complaints—at least on the surface. To some they may be minor but, clearly, not always to those who are complaining.

Although there have been a number of initiatives, including the establishment of working groups, undertaken to clarify each body's roles, the absence of a clear definition of their roles and responsibilities has raised the concern of the committee, which believes that this is negatively impacting on those members of the public who seek resolution to their minor environmental nuisance complaints and instead face confusion and frustration when dealing with the various authorities.

In relation to recommendations, the committee's formal recommendations in this inquiry arise out of the evidence received by the committee. As stated previously, the committee supports the EPA's initiatives since the commencement of the inquiry, which include a marked increase in information available on the EPA website, including a web-based index of all section 83A notifications of groundwater contamination received by the EPA.

The committee recommends that the EPA website be expanded to include all information currently contained in the public register and that new information recorded in the public register be uploaded onto the EPA website as soon as reasonably practicable. The committee heard evidence that indicated that there might be a considerable number of unregistered bores in metropolitan Adelaide. The committee is of the view that in instances where there is actual or potential site contamination, it would be most useful for the EPA and other bodies to know where all groundwater bores exist in the potential affected area.

This would enable bore testing to be undertaken in order to determine the extent of the contamination in the area and would enable earlier notification by the EPA to all those residents with bores in the potential affected area. The committee thus recommends that the Minister for Water and the River Murray should establish and keep a groundwater bore register and consider options for identifying, encouraging and ensuring the registration of current unregistered bores for health and safety reasons.

The committee heard evidence relating to community engagement by the EPA. Currently, the EPA holds an annual roundtable conference where stakeholders are invited to debate topics of interest. Although the committee is aware that this annual roundtable meeting is one part of a wider community engagement program developed by the EPA, the committee recommends that the EPA explore the possibility of meeting on a quarterly basis with community stakeholders, where concerns can be raised and where the EPA can have an opportunity to provide advice.

As stated previously, concerns were expressed to the committee regarding the lack of clear definition between the roles and responsibilities of local councils, in particular, and the EPA in relation to the management of those minor local environmental nuisance complaints. The committee thus recommended that the minister should consider the possibility of legislative reform in order to statutorily define the roles and responsibilities of the EPA and, in particular, local councils, relating to this issue.

The act currently includes an object for the promotion of the disclosure of and public access to information about significant environmental incidents and hazards. Given that, since the 2009 amendments to the act, the EPA is now in receipt of notifications relating to pollution and site contamination and that it takes full responsibility for managing/overseeing the public notification of actual or potential contamination, the committee believes that this object section would sit more appropriately within the functions of the EPA section of the EPA Act and thus recommends that this object be included as a formal function of the EPA. The committee further recommends that the EPA attend before the committee and report on the matters raised in this report in one year's time.

The committee is pleased that, through this inquiry, it has provided extra focus on the manner in which the EPA advises the public regarding potential site contamination and again notes that, during the course of the inquiry, the EPA did markedly improve its transparency and accessibility of information in relation to site contamination.

I would like to take the opportunity to thank the committee staff. The committee secretary, Mr Gareth Hickery, has decided to take long service leave, and I wish him a happy and restful

leave. I take the opportunity to welcome Ms Linda Eckert as the acting secretary. She has already slotted into the role with a minimum of fuss and is obviously a very competent lady. Last, but not least, Eva Nikitas, our research officer, is leaving us towards the end of this month to go on maternity leave. Special best wishes to Eva for the happy occasion and heartfelt thanks for her high-level work and all the assistance provided to the committee. I commend the report to the chamber.

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

STATE GOVERNMENT CONCESSIONS

The Hon. M. PARNELL (16:36): I move:

That this council—

1. Notes that state government concessions for low income households in South Australia have not been comprehensively reviewed for over ten years and have not kept up with price rises; and

2. Calls on the government, as a matter of urgency, to comprehensively review all concession arrangements to ensure that all South Australians have access to affordable energy, water, public transport and other public utilities and services.

The cost of living is never far away from the thoughts of most South Australians and for people on low incomes the range of concessions offered by the state government on utilities, transport, council rates and other services is crucial to help them afford the basic necessities of life. This is particularly the case with water and electricity, which have seen huge price rises over recent years.

Who gets these concessions? The eligibility varies according to the service, but for present purposes using the example of energy concessions, we find that South Australia has one single standard energy concession—it is called the energy rebate. It is capped at $165 per year or 45¢ per day and that can be applied to electricity or gas. Energy customers who have a commonwealth seniors health card, a healthcare card or a Department of Veterans Affairs gold card are eligible for the South Australian energy concession. There are almost 193,000 state electricity concession recipients in South Australia, which accounts for just over one quarter of the residential customer base.

The amount that householders are spending on these utilities is increasing. As SACOSS pointed out in its budget submission to the state government last year, their calculations were that the lowest household income quintile spends nearly twice the proportion of their income on energy as those households in the highest income quintile, despite using only about half the power consumed by those in the top quintile. Utility costs therefore impact disproportionately on low income households, who often have few options to reduce their energy and their water costs.

Members would be aware that yesterday the St Vincent de Paul Society released a report entitled 'The relative value of energy concessions'. This report undertakes a comparison of energy concessions in four different states. The manager of policy and research for St Vincent de Paul was on a number of media outlets yesterday, including 891. David Bevan asked him, 'So, if you're poor, what's the best state to be in and what's the worst state to be in?' The answer from Mr Gavin Duffy:

> If you're poor, the best state to be in would be Victoria that has a 17.5% year-round electricity discount off your electricity bill and that would be for all healthcare card and pension card holders. Probably the worst, if you're looking at dollar value, or through our lens anyway, would be South Australia, because you have the highest energy prices but also a fixed $165 for concession.

The interstate comparison undertaken by the St Vincent de Paul Society uses as its starting point a fairly typical average, so if we take a South Australian household that is using 6,400 kWh of electricity per annum, their bill is around $2,350 after concessions, but in Queensland the annual bill would be $850 less and it would only be $1,500 per annum. The Victorians get the greatest discount at 16 per cent, whilst at the opposite end of the scale, as I have said, the South Australian concession averages out to be only about 7 per cent of the annual bill for households.

The call in this motion for a comprehensive review of concessions mirrors the call that was made by SACOSS (South Australian Council of Social Service) in its budget submission to the state government last year. In fact, it is listed in that submission as priority number one. Two years ago, members might recall, SACOSS held a cost of living summit, and the outcome of that summit is that there was consensus amongst the industry representatives, consumers, the NGOs and the academics who participated in the workshop on utilities that the concession system was not working and it was in need of a fundamental review.

According to SACOSS, apart from the quantum of concessions, a review should also consider ways to alleviate difficulties in accessing concessions, whether they are targeted to the right people and whether they address the right needs, given that technological change has made some services less important and other services with no concessions are increasingly vital, and they give the example of computer and internet access. I think we can all think of people who would rather not eat than lose their internet connection.

In relation to energy, SACOSS has even suggested that, given the establishment of the national energy market, the review into concessions should also consider the costs and benefits of transferring responsibility for concessions to the federal government. I also note that a similar call has been made by the Local Government Association. A media release they put out on 25 January entitled 'Rate concessions—about time!!' states:

> The Local Government Association said it was about time that the State Government considered increasing Council rate concessions, for eligible ratepayers.
>
> LGA CEO Wendy Campana said the LGA had been petitioning the Government since 2005 to increase the rates concession for pensioners and concession card holders.
>
> She said she welcomed reports today that the Government was considering this increase, among a raft of initiatives to ease the cost of living burden on South Australians.

And the quote from Ms Campana:

> The rates concession subsidy was last increased in 2002 when it was set at $194 per year. Since then, with the increased cost of living, including recent steep rises in utility costs, the LGA has argued that this subsidy is not sufficient. Detailed studies that we have conducted have indicated that the subsidy should be at least $250 to maintain parity with CPI.

So it is council rates, as well as electricity and water costs.

The Greens acknowledge that some concession payments have increased in the last few years, but we see these increases as ad hoc and we agree with SACOSS, that they are not necessarily targeted to those that best need them. I will conclude with a reference, again, to the St Vincent de Paul report and their summary which, I think, sets out the situation pretty well. The report concludes:

> The analysis presented in this report has clearly highlighted vast differences in the assistance provided to low income households in South Australia, Victoria, New South Wales and Queensland to pay for energy costs. After years of price increases, reforms and moving towards a national energy market, including the development of a National Energy Customer Framework, energy affordability and assistance packages for low income Australians remain fragmented and largely untouched by intergovernmental processes.
>
> Furthermore, the ongoing retail price deregulation agenda means that both the South Australian and New South Wales governments should immediately review their concession arrangements. We strongly believe that a percentage-based concession system is the most appropriate approach governments can take to promote energy affordability in markets where governments and regulators have handed over the price setting to retailers. Price deregulation will in all likelihood, produce a greater range of retail products and tariff structures (as seen in Victoria), and as percentage-based concession frameworks are more flexible, they can deliver adequate assistance in an equitable manner in a more rapidly changing energy market.

The calls are coming from all sides that the concession system needs to be reviewed. The Greens are adding our voice to that call and I commend the motion to the house.

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

ROAD OR FERRY CLOSURE (CONSULTATION AND REVIEW) BILL

The Hon. R.L. BROKENSHIRE (16:45): Obtained leave and introduced a bill for an act to provide processes of consultation and review in relation to the closure of roads or ferry services; and for other purposes. Read a first time.

The Hon. R.L. BROKENSHIRE (16:46): I move:

> That this bill be now read a second time.

I think everyone in this chamber will remember well the embarrassing situation that confronted the state Labor government and the widely celebrated triumph of people power that occurred when the former transport minister decided that he was going to close the Cadell ferry in the Riverland. My colleague, the Hon. Dennis Hood MLC, moved a motion calling for the release of the cost benefit, family impact and social and economic impact statements received by the government before it made the decision to close the ferry. Soon after the motion was moved, Premier Weatherill realised

this was a bad look for his new 'consult and decide' mantra, so his government withdrew the closure decision.

It was a result celebrated in Cadell and congratulations to all of them for their grassroots campaign to retain the ferry. In fact, I want to put on the public record my utmost respect and support for the community there which championed the cause and did a brilliant job. Given the circumstances had changed, I moved to amend the Hon. Mr Hood's motion, congratulating the government for its backflip, condemning them for failing to consult properly and calling for full disclosure of past, present and future expenditure, and their plans, for the future of all River Murray ferry services at Lyrup, Waikerie, Cadell, Morgan, Swan Reach, Walker Flat, Purnong, Mannum, Tailem Bend, Wellington and Narrung.

This brings me to the text of this bill, because the debate revealed to us that we cannot trust this government to consult and decide in regional communities. It took a sustained campaign to convince them in 2008 not to proceed with their country health plan to close country hospitals, and even though they got a nice big front page headline on their backflip on that issue, they refused to accept Family First's country health guarantee bill. All it was doing was codifying what the government had promised on the front page of *The Advertiser*. But they would not do it. To the Liberal opposition's credit, they supported that bill but due to the government's numbers it has not gone anywhere in the House of Assembly.

Here is another opportunity, using the same model as the country health guarantee bill, by mandating an extensive consultation structure if a ferry or road is to be closed. When we researched how the transport minister could simply close a road, it became clear to us that a loophole existed in the powers possessed by the transport minister to close country ferry services and roads. Compare that, for instance, with the debate over Barton Terrace in North Adelaide. The legislative situation on that road is complex and honourable members have previously received lobbying on that issue. Perhaps because it is only five kilometres from Adelaide, not 185 kilometres from Adelaide, there are more safeguards and there is more consultation on that issue.

I quote retired professor of politics, Dean Jaensch, in his opinion piece on 19 June 2012, because he summed the situation up very well:

> The decision will cause a high level of pain for the local community. Tourism will be seriously affected and the local store will face a bleak future. Getting children to and from the Cadell school will be much more difficult.
>
> A second issue: Who should decide when a public service becomes unviable? In the final analysis, it is a political decision. In such cases, especially when it comes to bad news, a minister should front up and face the music. The closure will affect other public services. The CFS, for example, has raised the most compelling argument against closure. The end of the ferry will mean up to half an hour extra for emergency vehicles.
>
> Cadell people have no opportunity 'to do a Keith', where the hospital was saved from closure by a long and strong campaign, lateral thinking and real pressure. Like Keith, Cadell is a small town—about 460 residents in the area. Small populations do not have much clout in the political and electoral world. So they need to have time to build up wider public support for their case in the rest of the state, which will pressure government. Keith managed to do this very effectively, but Cadell had a major problem: the ferry will close on June 30. Not much time for a campaign.
>
> Compare Cadell with the proposed footbridge across the Torrens from Adelaide Oval to the delights of the south bank. That is costed at approximately $40 million, to save people from having to walk just a little bit farther across the existing bridge. Forty million dollars to slightly increase the level of comfort for Adelaide people needs to be carefully compared with much more important implications for the people using the Cadell ferry. That $40 million would keep the Cadell ferry running for the next 100 years. The comparative public service is interesting indeed.

The bill does not affect closures under part 3 of the Roads (Opening and Closing) Act 1991 as that grants the power to councils to close roads temporarily or permanently. One of the glaring omissions in the Cadell ferry debate was the government's failure to consult with the Mid Murray Council. When it comes to opening and closing roads and ferries, which is why this has to be a standalone bill to capture ferries also, then I will trust the council before the state government every time.

To be clear, this is about permanent road closures, not temporary ones. Councils, under the act I have explained, or the Police Commissioner under section 32 of the Road Traffic Act or even section 29 of the SA Film Corporation Act 1972 allows temporary road closures. These will all be able to continue as is the case now. Some other forms of permanent road closure that will be affected by this bill and require consultation as prescribed in the bill include:

- section 27AA of the Highways Act 1926 which allows the Governor to close the road as part of a major development;

- where various agencies can close roads under part 3A of the Highways Act for authorised projects;
- the minister's ability to close roads under section 71 of the Crown Land Management Act 2009; and
- for various local roads under relevant legislation such as section 7 of the North Haven Development Act 1972, section 8 of the West Lakes Development Act 1969, or a closure by the Commissioner of Highways under regulation 10 of the Highways (Port River Expressway Project) Regulations 2004.

The Weatherill government admitted it did wrong by the Cadell community by announcing the closure and reversed its decision. Former minister Conlon told the ABC on 21 June:

> I have discussed with my people that I do not think we did enough consultation with the locals. I don't think we did as much as I would have liked.

The key reason for that was the public condemnation by many in the community and in Adelaide and the very bad look it created for a government with a new leader who said he was not going to announce and defend like his predecessor Mr Rann but instead consult and decide.

I made a speech in amending my colleague the Hon. Mr Hood's motion. When you get a runner during a Barossa football match giving the Premier a spray about closing Cadell's ferry, and if you were to have heard the communication that came to our office from across the state outraged at the decision, you realise that country and city people knew this was an important issue, like the Keith Hospital. They know that if we allow this, what next?

We are, therefore, doing no more than the Premier has committed to do in decision-making. The power to close roads does not mandate consultation under the existing legislation whereas, for instance, category three developments under the Development Act require proper consultation. We think that a ferry closure in particular, and road closures, can be of such impact upon a community that there should be consulting before there is any deciding. With ferries on the River Murray, it is important to remember that they have operated longer than any member in this parliament has been alive. There is only one reason you should be permitted to close a ferry, and it is the reason the state government closed ferry services at Hindmarsh Island, Berri, Kingston-on-Murray and Blanchetown: because the state government built a bridge to replace the ferry.

The South Australian reaches of the River Murray are unique with their ferry services, whereas in Victoria and New South Wales the river is crossed by bridges, 33 bridges, in fact, for over 1,500 kilometres of River Murray, an average of a bridge every 45 kilometres. The 700-plus kilometres of South Australia's River Murray is crossed by six bridges, an average of a bridge every 116 kilometres.

The Berri bridge was opened in 1997 and at that time cost $17 million to build. The Cadell ferry closure was meant to save $400,000 per annum. Victoria and New South Wales would have maintenance costs with their bridges, but once they got on with building the bridges over the last century the recurrent cost of a ferry became a non-issue.

The people of Cadell and other River Murray communities should not be punished for a failure to invest in infrastructure and, at the very least, deserve to be consulted on the closure of their major community connection to their neighbours and regional community. I commend the bill to the house.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

ZERO WASTE SA

The Hon. M. PARNELL (16:56): I move:

That this council—

1. Condemns the short-sighted government decision in the Mid-Year Budget Review to cut funding to Zero Waste SA; and

2. Calls on the government to:

   (a) ensure that all moneys raised from the solid waste levy under the Environment Protection Act are allocated to the protection of the environment;

   (b) ensure that at least 50 per cent of funds are aimed at avoiding, reducing, re-using and recycling waste in the community;

(c) develop a strategy for the allocation of existing moneys in the Waste to Resources Fund under the Zero Waste SA Act 2004 in consultation with key stakeholders including the Local Government Association; and

(d) ensure that no part of the solid waste levy is diverted to general revenue.

I want to begin my remarks on this motion by outlining ten things that Zero Waste SA does on top of its general mandate to provide assistance to residents and councils with information on recycling.

1. Zero Waste SA has supported food rescue organisations OzHarvest and Foodbank to get surplus food to South Australians in need, and it has fully funded OzHarvest's first van, which played a key role in enabling it to get up and running in South Australia. OzHarvest SA turned two years old on 17 January this year, and since it commenced operations it has attracted 250 food donors, 48 recipient agencies, 75 volunteers and many in-kind and financial sponsors that have rescued 700,000 meals' worth of good food that would have been thrown out but that has instead gone to those in need. This saves businesses money by not having to pay to collect food for landfill or compost. It also frees up budgets of charities and welfare agencies, who do not have to buy and prepare food. It also saved 210,000 kilos of food from landfill and 340 tonnes of greenhouse gas emissions.

2. Zero Waste SA provides assistance to industry with recycling systems and infrastructure, and I will just list some of the organisations that have been its clients: the Adelaide Convention Centre, the Adelaide Produce Markets, Anglicare, the Jam Factory, Jurlique, ETSA (now SA Power Networks), New Castalloy, Orlando Wines, the South Australian Cricket Association, the SA Film Corporation, St Andrews Hospital, the University of Adelaide and many other companies and organisations that have received Zero Waste SA support to help them cut waste, minimise energy consumption and reduce costs.

3. Zero Waste SA has significantly increased the amount of kerbside recycling collected and therefore saved that waste from landfill. In regional South Australia $6.4 million was awarded to more than 100 projects to improve the recovery of materials from country areas under Zero Waste's regional implementation program since 2005. Funding has been provided for upgraded and new transfer stations using state-of-the-art technologies and sorting equipment.

4. Zero Waste SA has initiated or coordinated a series of ongoing free e-waste drop-off points for householders. That means that householders can ensure that their old computers and TVs are responsibly recycled, and that means recovery of valuable materials—metals, in particular—from the equipment, ensuring that they do not end up poisoning people and rivers in the developing world, which is the other model to disposing of this e-waste. I point out that I wish this scheme had been around when I last had my spring clean-up of electronic equipment from under the house where a boot load cost me $75, and I am suspicious of the skip that I put it in, as to whether it was destined for recycling. However, Zero Waste SA has led the charge and helped to coordinate much better programs today.

5. Zero Waste SA has brokered a scheme where householders can ensure that their light globes and their fluoro tubes are responsibly recycled—no other state has this program.

6. Zero Waste SA coordinates the safe collection of hazardous materials from the public. Since the Zero Waste SA Household Hazardous Waste and Farm Chemical Collection Program started in March 2004, up to October 2012 more than 1,700 tonnes of unwanted hazardous material has been collected from more than 35,000 people under this program. Some of these materials are highly toxic to humans and wildlife—for example, organochlorine pesticides such as DDT, as well as mercury-based poisons.

7. Zero Waste SA works with the EPA and councils in implementing a range of actions to support the Environment Protection Waste to Resources policy. This assistance includes guidance on the requirements for resource recovery facilities and implementing strategies to develop markets and infrastructure for recovered materials. As members would know, the Environment Protection Waste to Resources policy commenced operation on 1 September 2010 and landfill bans are being put into effect in stages over a three-year period. We already have a ban, since 2010, on some materials that pose risks to landfill; from 2011, vehicles and whitegoods were added to the list; and in 2012 electronic waste, fluorescent lighting and certain types of tyres are going to be added to the banned list. That has been a Zero Waste SA-led program.

8. Zero Waste SA has implemented the plastic bag ban. It is worth noting that since South Australia introduced this measure, the Northern Territory, ACT and Tasmania have all implemented or committed to following the South Australian path. It is estimated that there are now 400 million less plastic bags in South Australia each year.

9. Zero Waste SA provides funding to KESAB, the Local Government Association and the Waste Management Association of Australia, and has sponsored a range of events and initiatives around waste and recycling.

10. Finally—and I do point out that this is not an exhaustive list—Zero Waste SA supports resource-related research and, in particular, research at the University of South Australia. The Zero Waste SA Centre for Sustainable Design and Behaviour at the University of South Australia was established in 2008 and it is a $2 million partnership between the university and Zero Waste SA.

Zero Waste SA is internationally recognised for its leadership in this area. In relation to that link I mentioned with the University of South Australia, I would urge members to have a look at the writings of Professor Steffen Lehmann who is a professor of sustainable design and behaviour at the university. He wrote an article which was recently published online on The Conversation website with which members might be familiar. It is a website which features various academics writing about key issues of importance to the community. Professor Lehmann's article was headed 'For a truly sustainable world we need zero waste cities'. He starts his article by stating:

> The current state of worldwide urban development is depressing. We are not moving towards environmentally sustainable design and reduced consumption quickly enough.

He then goes on to state:

> We need to refocus on avoiding waste creation in the first place and re-think the way we design and construct products, buildings and cities to facilitate re-use and disassembly at their end of life.
>
> This change of focus makes the concept of zero waste both powerful and controversial. From a purely economic point of view, producing waste is unproductive. But reversing the existing, wasteful business system and manufacturing practices is not a fast, easy or cheap process.

That is why I say we need agencies like Zero Waste SA. We need them to lead the charge and we need them to lead the change that we want to see and that the planet demands of us.

That brings me to the funding arrangements. Under the Zero Waste SA Act 2004, a special fund is created called the Waste to Resources Fund. Under the act it consists primarily of money derived from the solid waste levy under section 113 of the Environment Protection Act. At present the contribution is 50 per cent of that levy. That is the levy that is currently $42 per tonne in the metropolitan area and half that amount in the country. I do note, however, that there is nothing to stop the government from reducing that amount, the 50 per cent, by prescribing a different amount in the regulations. Under section 17 of the Zero Waste SA Act, the Waste to Resources fund can be applied by Zero Waste SA without further appropriation in accordance with the business plan for Zero Waste SA or in any other manner authorised by the minister for the purpose of the act.

So, it has the ability to spend the money that is allocated. But the problem we have is that it has not been spent and it has not been allocated. It has accumulated, we understand, to an amount of around $40 million, and that accumulation is during a time when the need is still pressing and the good work of previous years needs to be consolidated. Of course there can be good reasons why a levy might be accumulated over a few years rather than spent annually, and such reasons would include funding a bigger project that requires multiple years' payments, but as we understand it that is not the case here: the money has not been spent and there are no plans to spend it—at least no plans that we know of.

The money will no doubt be burning a hole in the Treasurer's pocket, and it is at serious risk of being used to offset spending elsewhere in government rather than being spent on the purposes for which it was collected. Members would appreciate that this can happen in a number of ways, not the least of which is to replace recurrent funding for agencies and programs with levy funding. I will have more to say on another occasion about the parlous state of funding for the EPA, which fits into that model as well.

Whilst it might seem that Zero Waste SA has a free hand with spending the money that is collected and accumulates in the fund, there is another provision of the act, section 4, which provides that in the exercise of its powers, functions and duties, Zero Waste SA is subject to the direction of the minister. So, if the minister decides to stockpile the money and not spend it on

environmental projects, that is within the minister's power. Not spending the money simply requires Zero Waste SA to not call for projects. That means that the ideas, the plans of local government, industry, the community, to reduce waste never get off the ground. They remain as ideas, unfunded and undelivered.

Discussions I have had with members of the community indicate to me that the level of cynicism in relation to hypothecated levies such as this is growing. It is not that people do not accept these levies—I think they do, because they value the purposes for which the money is collected and on which it should be spent—but what people hate is being taken for a ride. They hate being told that money is being collected for one purpose when in fact it is not being spent on that purpose at all, or that all of it is not being spent on the proper purpose.

The Greens' response is not to call for the levy to be scrapped but to urge the government to re-establish the credibility of the scheme and either spend the money on worthwhile environmental projects—and there are hundreds of these crying out for funding—or come clean with the South Australian public about their plans.

In conclusion, members should appreciate that Zero Waste SA punches way above its weight for the small amount of funding invested in it. It delivers far more value and return on investment than it costs to run. I think it is nonsense to abolish an agency that is nationally and internationally acknowledged as being a leader in its field, especially when its expertise is being sought by emerging nations such as India. That should be a signal to us that this sector of our economy has enormous potential to grow, but it will not thrive if the government abandons the field, as it is intending to do.

There is another way: rather than abolishing Zero Waste SA the government could leverage the thinking and expertise of this agency to apply the Zero Waste ethos to its own operations. Whether it is the waste stream generated by hospitals or energy, water or resources that are wasted in all government agencies, there is plenty of scope to make savings, and Zero Waste SA is well positioned to help the government make this happen. I commend the motion to the house.

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

COMMUNITY HEALTH SERVICES

The Hon. M. PARNELL (17:09): I move:

That this council—

1. Notes:

   (a) the review of non-hospital based services currently underway in the SA Department of Health, including the report prepared by internal consultant, Warren McCann, released on 3 December 2012;

   (b) the recommendations of the report to significantly reduce community health and health promotion programs within SA Health and the wider community;

   (c) the implications, if the recommendations are accepted, to services such as the Shopfront Youth Health Service in Salisbury that has been providing services since 1983;

   (d) that these cuts will inevitably lead to reductions in services and programs targeting the most disadvantaged in our society, as it is these South Australians who make the most use of community-based primary healthcare services;

   (e) that slashing community health and health promotion programs as a means to reduce government health spending is counterproductive because the whole point of these programs is to prevent ill-health and reduce demand in hospital services where the real growth on costs is occurring;

   (f) the risk that these vital services and programs are being caught up in a cost-shifting battle between the state and federal governments; and

2. Calls on the government to reject the recommendations contained in the McCann report into non-hospital based services and ensure continued SA Health funding for vital preventative health and health promotion services and programs.

In August last year, the state government commissioned a review of health services and programs not provided within a hospital setting or that had not been previously reviewed. The purpose was, first, to gain an understanding of the range of metropolitan non-hospital programs currently in place; secondly, assess how effective and productive these programs have been and whether they

have helped keep people out of hospital; and, thirdly, identify which programs and services should no longer continue past 30 June 2013. Internal consultant, Warren McCann, was appointed to conduct a review, and he prepared a report that sent a chill through the highly-respected community health sector in South Australia. Warren McCann is recommending that a wrecking ball be sent through community health and health promotion.

Included in the recommendations are defunding of the practice nurse initiative; slashing $2 million over three years and 30 staff from youth primary health services; scrapping completely health promotion services, with a loss of 40 full-time staff; reducing by about a third funding for women's primary health services; defunding residential care health service support; defunding the general practice spirometry lung function service; reducing the funding by nearly half for the program focused on integrated complex care for older people; and reducing funding for the Aboriginal workforce initiative. Not surprisingly, there has been deep concern raised by these recommendations. A public comment period has recently ended, and we now wait for the response to these recommendations from the new Minister for Health.

Members would be aware that a week or so ago a forum was held at the University of South Australia under the title 'McCann of Worms'. Of the people there, what was, I think, universal was that people were unhappy with the recommendations that were made and they were considerably worried about what the impact would be not just on current citizens but also on the long-term future of the health budget. It was pleasing to see that the new health minister, on day two of his job, was at least there to listen to what people said, and I am hoping that he took away a great deal of information.

The review of non-hospital based services report prepared by Mr McCann is a devastating and depressing read. The lack of understanding of the importance of health promotion and prevention in the mix of health services provided by the state government is appalling. South Australia has a very proud history of innovation in community health. Much of this innovation emerged from strong and respectful links with the community and site-specific intervention.

The Greens always welcome service improvements and a focus on value for money in service delivery, yet this review has attempted to narrowly define efficiency and effectiveness in a way that severely limits the ability for health promotion to prove its worth. Health promotion and illness prevention is low-cost, high-impact work. However, much of this positive impact does not flow neatly into quarterly hospital waiting list reduction figures. Chronic illness develops over many years. Preventing these diseases emerging in the first place is always better for the individual and cheaper for society than treating them in a tertiary setting when they are intractable. Yet the benefits of prevention work do not always become apparent in the short term.

This review betrays a highly unsophisticated lack of understanding of population health interventions. The unfortunate title 'Non-hospital based services' is an insight into the low priority given to a population health approach by the instigators of this review. Matching this is an assumption that much of this vital health promotion work will be automatically picked up by the commonwealth through the Medicare Locals service provision model. Without any guarantees, this is a naive assumption in the current political climate.

The recommendations contained within the report, in particular the loss of funding, programs and full-time equivalent staff, are short-sighted and ultimately counterproductive, and they should be rejected. At the very least, we are calling for a 12-month delay in the proposed funding cuts—that is, if the recommendations are accepted by the state government—because that would enable time for the government to negotiate and understand more fully what the commonwealth role will be in this area of health promotion.

I want to talk about some specific concerns, and the first of these is the issue of cost shifting. The implication that a range of health promotion and community health activity will be just 'picked up' by Medicare Locals is questionable to say the least, given that it is very early days for the Medical Locals model and their future past the next federal election is uncertain. The review is clearly a pre-emptive strike in setting a South Australian bargaining position prior to the development of a bilateral agreement on responsibilities for community and public health programs during 2013.

It is poor public policy intervention to firstly be assuming or implying that commonwealth funding via Medicare Locals is really going to take up the cost of community and public health programs and secondly to be pre-emptively cutting programs before any such arrangements have been worked out. The report recommendations are a blatant attempt to cost shift from the state to

the federal government. Ordinary South Australians are sick and tired of blame and cost shifting games. They just want a good health service.

The second problem is that there has been very poor use of evidence to attempt to justify these cuts. The evaluation framework created for the review to assess the merit of the programs is dubious on several counts. It uses a very selective reading of current South Australian policy to define three very narrow criteria which almost inevitably health promotion programs will struggle to meet. It applies a standard of evidence for success to many of the target programs that is probably unsuitable, because health promotion programs cannot easily demonstrate evidence on health outcomes in the way a controlled trial of a medical treatment might. It is unrealistic and unfair, given that they have probably never been funded to conduct proper evaluation of their activities anyway.

The programs are being penalised now for foolishly expending their funds on actually delivering the services! In the process of doing this, the report also effectively ignores a wealth of wider evidence on the likely benefits of some of the programs that it is now dismissing as ineffective. The criteria to evaluate the various areas was crafted as a one-size-fits-all model (I refer members to page 13 of the McCann report), yet no rationale is given for choosing an approach that ignores the fact that community based and led intervention are by their very nature community and site specific and therefore difficult to compare.

It is impossible to develop a gold standard randomised control trial to assess the benefits of a community intervention. Absence of evidence, as narrowly defined in this review however, does not mean that these programs are not effective. A cynic would suggest that this evaluation framework has been deliberately designed to create a predetermined outcome.

Next, I believe the review exhibits a lack of understanding of population health. In order for SA Health to deliver quality health outcomes for South Australia, there needs to be a greater focus on health rather than 'illth', yet this is the area recommended for a major reduction in services. Prevention is always better than cure and prevention is heavily dependent on improving the social determinants of health, including access to housing, employment, social equity, transport and a sense of worth. These aspects of society are critical to improving the overall level of health in our state and ultimately producing a long-term reduction in the costs of providing health services to the community.

There is a wealth of evidence here and overseas that the most successful and positive impact on population health comes not from top-down provision by health services but an integrated relationship between expert health workers and the community they are embedded within. People are not neat boxes to be ticked, and pursuing population-wide health improvements, especially with vulnerable and marginal members of society, requires a willingness to go beyond a one-size-fits-all approach. Yet these cuts will inevitably lead to reductions in services and programs targeting the most disadvantaged in our society.

It is the people at the margins, the poor and the vulnerable, who make the most use of community based primary healthcare services. They will be the ones who will be the hardest hit, with the negative impact cascading through other parts of government focused on housing and community services. For example, there are reports that the Shopfront Youth Health clinic in Salisbury, a service that was established with the local council 30 years ago, may be axed as a result of these recommendations. It is simply impossible to evaluate, using the criteria in this review, how important this service has been for the Salisbury community.

The Shopfront clinic on John Street, which provides a walk-in service to people aged 12 to 25 is the basis of this service. Since 1983 it has helped vulnerable young people in Salisbury battling mental health and drug and alcohol issues, providing a crucial first point of contact for vulnerable youth with other services, such as needle exchange programs, lawyers and counselling. Under the McCann recommendations, a new youth health clinic would be opened in the northern suburbs to replace Shopfront.

However, this new clinic would only treat youths aged between 12 and 19 and focus on targeted groups, such as wards of the state, Aboriginal youth and those in youth training centres. This is an enormous risk that many young people, currently served, will simply fall through the cracks. I also believe that many of these recommendations are genuinely counterproductive and one of the most frustrating aspects of this report is that the results will, in fact, be the exact opposite of what is intended.

The intent of this review is to find cost savings. Yet, if implemented, the most likely outcome of these recommendations will be an increase in costs. It is always much cheaper to

prevent the onset of chronic disease than treat the disease once it is severely impacting on an individual. For example, slowing the progression of just one person's diabetes and delaying their commencement on renal dialysis by one year saves the health system upwards of $70,000. That is one person saving for one year.

South Australia has the highest rate of obesity in Australia and one of the highest in the world. Yet this review recommends the slashing of community nutrition programs. If such recommendations are put into action, programs like the statewide peer nutrition Community Foodies program will disappear at a time when overweight and obesity rates are of major concern and predicted to lead to huge increases in costs for the health system. The whole point of such programs is to prevent ill-health and reduce demand in hospital services where the real growth on costs is occurring.

In addition, the cuts and restructuring recommended will mean a significant loss of worker capacity in this field. The proposed cuts will also likely equate to a loss of valuable infrastructure and knowledgeable, passionate personnel who have established good relations with their local communities. There will be marginal savings at best. Health promotion is a tiny fraction of the total health budget. The targeted saving of $14 million per annum is tiny and insignificant compared to the current growth of public hospital costs. It is bizarre for such a focus on a relatively minor saving when other costs, such as the significant increase in specialist's salaries or the ongoing issue of waste disposal, remain largely unaddressed.

The review is heading in the wrong direction. It is a symptom of a broader governance problem beyond SA health and that is of short-termism or passing on current costs to the next generation. The Greens fully acknowledge that there is an urgent need to tackle the year-on-year increase in health costs which currently are forecast to overwhelm the total South Australian budget in around 20 years if growth rates continue. But this review is completely the wrong approach. The loss of health promotion and wellbeing programs will merely provide short-term budget gains at the expense of long-term increases in demand for acute care services.

The austerity measures in this report are also not fairly shared. Professor Baum, Director of the Southgate Institute for Health, Society and Equity at Flinders University, has been very vocal in raising her concerns. She also facilitated the 'McCann of Worms' public meeting at the university. Here is an excerpt from a piece that she wrote recently entitled 'Cutting disease prevention and health promotion won't reduce health spending'. Professor Baum's article states:

> If we want to stem the costs of health care we have to increase investment in community services and reduce the amount spent on hospitals.
>
> In the past five years the salaries and payments to medical specialists have increased very significantly.
>
> Far more could be achieved if McCann had been asked to systematically document these increases and shown the community that their much valued local health services were being lost because medical specialists have received considerable pay increases.
>
> This is the community conversation that we need to have. Otherwise it is austerity for some and not for others. Ironically the cuts McCann recommends will affect the most disadvantaged of South Australia's community because of salary increases for our most advantaged!
>
> Finally, it was an irony that the McCann report was released when the Southgate Institute—

which is where Professor Fran Baum works—

> was being visited by Professor Ron Labonte from the University of Ottawa.
>
> He reminded us that the current austerity sweeping the world results from political decisions to bail out banks and from the increasing concentration of wealth. He also reminded us that we collect significantly less taxation as a percentage of GDP than we did 20 years ago.
>
> Imagine a world in which McCann put his considerable economic skills to work to determine how much extra tax we could collect from the super-rich who use tax havens, and from corporations who have an army of taxation experts to help them reduce their taxation.
>
> Then we could look forward to a McCann report that calls for increased investment in health promotion and community health on the grounds that prevention is cheaper than cure!'

In conclusion, we have to stop kicking the can along the road and start tackling the reasons South Australians are getting sick in the first place. Building healthy communities now is the best possible way to ensure healthy communities in the future. The first step is to reject any scaling back of the health programs and staff focused on doing just that. The Greens strongly urge the government not to accept these short-sighted recommendations. The deeply concerning thing is that other health

promotion programs not reviewed under this system may soon also be under attack if this approach is allowed to proceed here.

At the end of the day, pouring all of our limited health resources into emergency care and complicated repair work will mean that we will never be able to control spiralling costs as the demand for services will just keep growing. We must start focusing instead on keeping South Australians healthy. The McCann recommendations must be rejected.

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

SELECT COMMITTEE ON MARINE PARKS IN SOUTH AUSTRALIA

Adjourned debate on motion of Hon. D.G.E. Hood:

That it be an instruction to the Select Committee on Marine Parks in South Australia that its terms of reference be extended by inserting new paragraph 1A as follows:

1A. That the select committee inquire into and report upon—

(a) the government's proposed recent amendments to the draft management plans and impact statements for each of the proposed 19 marine parks in South Australia; and

(b) any other related matter.

(Continued from 28 November 2012.)

The Hon. D.G.E. HOOD (17:26): I will be brief in my remarks this evening as I pre-empted them on 28 November when I moved that the interim report of the Select Committee on Marine Parks in South Australia be noted. Members may recall that I moved to extend the select committee's terms of reference and sought leave to conclude my remarks this evening, and that is what I am doing now. I indicated that I would be making a more substantial contribution when sittings resumed this month and I obtained leave to conclude my remarks, as I have indicated. There are some further matters that I wish to put this evening.

The Select Committee on Marine Parks in South Australia is a vital committee that has considered some very controversial proposed changes. There has been a very significant public reaction to the government's proposals, particularly in areas such as Port Wakefield, which will be greatly and detrimentally affected. Members of the public who consider that they would be adversely affected by the marine park proposals have made a valuable contribution to date, as have those who have thought that the proposal would benefit them. I quote from a comment made during the debate of the Hon. Mr Kandelaars, who said:

The committee's report is somewhat dated, failing to fully consider the government-released draft sanctuary zones in April or the full suite of zoning released by the government in July, nor has the committee's report considered the marine parks management plans, which include independently prepared impact statements, which were released in late August.

I agree with the Hon. Mr Kandelaars: that is precisely right. The report that we did issue was somewhat dated, for the reasons he had outlined, and that is unfortunate. This situation arose because much of the evidence was prepared and presented to the committee before the changes were announced. There was indeed a very large amount of detailed evidence that was taken, including evidence taken in the regional areas of South Australia, and it would have been unfair to the people who put considerable time and effort into preparing their submissions for those submissions not to be presented to the parliament and, indeed, to the public.

The changes to the planned marine parks are very substantial and will, no doubt, affect the evidence and submissions that members of the public would wish to make. It is clear to me that further evidence should now be taken on the new proposals, as I have moved, so that the final report of the committee can review the details of the proposed marine parks as they currently exist or are currently proposed. If this is not done the public will consider that they have not been adequately consulted on this most important issue. The concerns are legitimate concerns and Family First agrees with them.

Commercial fishers are concerned that their livelihood will be taken away in some cases or substantially impacted. They are also concerned that they will not be properly compensated for the loss to their business and that their plant and equipment will no longer be of any use to them or others. Recreational fishers, in many cases, are concerned that certain fishing areas will be off limits. Local businesses, generally, have expressed concern at the effect this may have on tourism and, therefore, the viability of their businesses in their region.

These issues are worthy of the parliament's time and consideration. I am confident that the government would not wish these things to be seen and they would not wish them to be disregarded. I understand that the opposition has indicated support which I am grateful for. Therefore, I ask that this house support this motion. I will be seeking a vote on this motion on the next Wednesday of sitting (not this evening), seeking an extension of the terms of reference of the committee so that it can properly take account of the current proposals for marine parks in this state.

The Hon. J.M.A. LENSINK (17:31): I will be speaking on the motion in relation to the interim select committee report at a later stage, but I wanted to make some remarks in relation to this motion which is to extend the terms of reference of the committee.

The original sanctuary zones caused outrage across the state in every region which contains coastal waters. A public meeting was organised by the member for Bragg at which we had so many people that they were literally climbing in through the windows and in many layers outside trying to get in, so there was obviously a lot of anger from a lot of people at that stage.

The new Premier, on being installed by his factions, had sniffed the political breeze and this was well into the term of the committee when it had taken much evidence on the original sanctuary zones, so this is sensible now that those original sanctuary zones have been pulled and replaced by an alternative. This means that there are fewer regions which are affected but there is still an impact on those particular areas being Port Wakefield, and anybody who drives through the area will see that signs have been erected warning what is going to happen to the local fishing industry. The West Coast and Kangaroo Island will also be quite severely affected.

It makes sense that the committee should continue to exist and that it should report on the evidence that it has taken but that we should also examine these new areas because we are interested in fairness for all South Australians to ensure that the zones that have been proposed by the government will actually do what they are supposed to do which is protect the marine environment and not cause more than 5 per cent economic impact. With those remarks, I indicate that we will be supporting this motion.

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

SUBORDINATE LEGISLATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 February 2012.)

The Hon. K.J. MAHER (17:34): I indicate that the government does not support the legislation. This bill is substantially similar to the bill that was introduced previously in this place on 14 October 2009 by the Hon. Robert Lawson. The government opposed the bill back then and continues its opposition for the same reasons. The government is particularly concerned with clauses in the bill allowing the disallowance of part of a regulation and preventing the executive from making a regulation substantially similar within six months after the disallowance. The disallowance of one provision or certain words in a regulation has the potential to radically change the effect of the regulation, or even render provisions of the principal act ineffective. The government considers this undesirable.

Further, if a regulation cannot be remade for six months because it is substantially similar to one that has been disallowed, the consequences of such an action may be detrimental to the effective functioning of the principal act. Again, for that reason the government is not supporting this bill. I indicate to the council that the government will not be supporting this bill.

The Hon. M. PARNELL (17:35): The Greens will be supporting this bill, as we have supported every other iteration of this bill—at least since I have been here. The first time we supported this bill I think the Hon. Robert Lawson introduced it, and explained in some detail the various problems that exist with the delegated legislation regime. I understand that Family First, those champions of recycling, then took exactly the same bill and reintroduced it a few years later, and we voted for that as well. Now the Hon. Stephen Wade has introduced it with a slight amendment—

The Hon. S.G. Wade: Enhancement.

The Hon. M. PARNELL: Enhancement, the honourable member reminds me; but it is an enhancement that I think does improve the bill. In a nutshell, the Greens have been as disappointed as, I think, a majority of people in this chamber have been that we have not had the

ability either to disallow only part of a regulation or to amend a regulation, and we have not been able to stop the government using the shenanigans of the calendar to simply reintroduce exactly the same regulation a short time after it has been defeated in this chamber.

The additional reform that the Hon. Stephen Wade has introduced does add some checks and balances to what would effectively become a parliamentary regulation-making power in that it does require both houses and not just one. However, the Greens will be supporting this bill. We expect it to pass the chamber, as it has every other time it has been introduced.

The Hon. S.G. WADE (17:37): I understand that there are no further contributions, and that it would suit the business of the chamber if I summed up at this point. I would like to thank the Hon. Kyam Maher and the Hon. Mark Parnell for their contributions and I suppose, if nothing more, to recognise the consistency of both parties. We look forward to the committee stage to explore the issues raised in the debate.

Bill read a second time.

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (17:39): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill amends the *Residential Tenancies Act 1995*.

The *Residential Tenancies Act* regulates the relationship between landlords and tenants. As such, it has a direct effect on the lives and well-being of families and individuals across the State.

The current rental market is significantly different from the rental market of the 1990s when the *Residential Tenancies Act* was introduced.

This Bill updates the *Residential Tenancies Act* to reflect the changes that have occurred in the tenancy sector over the past 15 years.

The purpose of the Bill is to improve protections available for parties to tenancy agreements, as well as rooming house agreements and lifestyle village agreements. The Bill has been the result of a lengthy review process that has already seen the enactment of the *Residential Parks Act 2007*.

This Bill contains a comprehensive range of reforms to the *Residential Tenancies Act* that are designed to benefit tenants and landlords, by increasing protection and clarity for both. Some reforms are designed to benefit residents and proprietors of rooming houses who are currently subject to minor regulation. Some reforms are designed to improve the administration of the Residential Tenancies Tribunal, which plays the pivotal role in resolving disputes and providing remedies. Additionally, the scope of the *Residential Tenancies Act* will be expanded to protect residents in lifestyle villages, which provide rental accommodation and services to older South Australians.

The substance of the Bill has been informed by a six week public consultation process that was conducted in May and June of this year. Proposed reforms to the Act were outlined in a Discussion Paper that was released for public comment. 58 respondents made submissions, including various representative groups for landlords, tenants and residents, as well as professional property managers and private landlords and tenants.

The Bill is a result of the feedback received from respondents during the consultation process. Approximately 80 reforms will be made to the Act.

Additionally, the Government is proposing to adopt the national model provisions for the regulation of Residential Tenancy Databases, which are often referred to as 'tenant blacklists' and which can affect the ability of people to secure rental accommodation.

The reforms that are of particular benefit to landlords include improved abandoned goods provisions, which will reduce the time that landlords are required to store goods left behind by a tenant and will simplify notice and disposal requirements. The way water charges are able to be recouped from a tenant will be simplified, so that, in the absence of an agreement about water payments, and where the property is separately metered, tenants will be required to pay for all water usage. A pet bond will be introduced, so that, if a tenant seeks to keep a pet on the property, landlords will be able to charge an additional week's rent in bond. Landlords will be able to claim compensation from tenants for any loss (including loss of rent) caused by the abandonment of the property by the tenant. Additionally, it will be easier for landlords to evict tenants who repeatedly fail to pay their rent on time, as landlords will be able to apply directly to the Tribunal for vacant possession of the property for rent arrears, without serving the tenant with a breach notice, if they have served the tenant with two valid breach notices for rent arrears in the preceding 12 months.

The reforms that are of particular benefit to tenants include improved entry provisions, so that, unless otherwise agreed between the parties, landlords and agents will only be permitted to enter the property between 8am and 8pm and not at all on a Sunday or public holiday. Landlords will be required to make reasonable attempts to negotiate a suitable time for entry if the tenant wishes to be present, having regard to the tenant's work and other commitments. Additionally, landlords and agents will be required to give tenants a 2 hour window within which entry for inspection will occur, which will make it easier for tenants to make arrangements to be present. Landlords will be required to permit a tenant to pay rent by at least one method that does not involve payment by cash, which is often collected by landlords at the property and used as an unofficial inspection, or payment using a third party rent collection agency, where the tenant is required to pay a fee for the service. Landlords will be responsible for the reasonable losses of the tenant flowing from a failure to repair, or to take reasonable steps to repair, after notification by the tenant. Additionally, rent under a fixed-term tenancy will not be able to be varied unless 12 months, instead of the current 6 months, have elapsed since the rent was fixed or last increased.

Additionally, tenants will benefit from the adoption of the national model provisions for the regulation of Residential Tenancy Databases. These are privately owned electronic databases which contain information about an individual's tenancy histories. Most agents subscribe to one or more and use them to screen prospective tenants for the purpose of renting private properties. Because these databases can affect a person's ability to secure rental accommodation, it is essential that they contain accurate and complete information. In reality, however, many contain inaccurate or incomplete information. A national project was created to examine these databases and their current regulation, and to develop a nationally consistent framework. The model provisions seek to promote the accuracy and quality of a listing, ensure tenants can access and correct listings, and clearly define events that constitute a breach that justifies a listing. In 2010 Ministers on the then Ministerial Council on Consumer Affairs agreed to adopt the model provisions in their jurisdictions. I understand that most jurisdictions have introduced legislation to adopt the model provisions and have either commenced implementation or had proposed to commence implementation in 2012.

The main reforms that will benefit rooming house residents, who are often vulnerable and disadvantaged, include the requirement that proprietors lodge residents' bonds with the Commissioner for Consumer Affairs. Proprietors will be prohibited from taking or disposing of a resident's goods as security for, or in payment of, an amount payable by the resident under the agreement. Proprietors will be required to provide residents with itemised accounts for additional services, for example food or laundry, showing the resident's proportional use of the services each time the resident is charged for those services. Proprietors will be required to provide lockable drawers to residents in dual occupancy rooms to ensure the security of their possessions. Additionally, residents will be able to apply to the Tribunal for an order declaring a house rule to be unreasonable and void.

The main reforms of particular benefit to rooming house proprietors include the ability of proprietors to be able to deduct from the bond, the cost of repairs to any part of the rooming house damaged by the resident. Additionally, proprietors will be able to claim compensation for loss caused by a resident who breaks a fixed term agreement of at least 6 months.

The Bill expands the scope of the *Residential Tenancies Act* to extend its application to operators, owners and residents of lifestyle villages. Lifestyle villages (sometimes called 'rental villages') are residential villages where residents live in self-contained rental units in a retirement environment. The provision of lifestyle village accommodation is presently unregulated because it falls between the *Residential Tenancies Act* and the *Retirement Villages Act 1987*. Residents are vulnerable because they are elderly and generally on low incomes, usually just the pension. Therefore there is a strong case for regulating both the provision of accommodation and the additional services that are provided to residents. This will involve treating lifestyle village agreements like residential tenancy agreements.

The main reform which will improve the operation of the *Residential Tenancies Act* is the introduction of a standard form agreement for residential tenancies. The proposal aims to rectify the issue surrounding application-to-rent forms which currently fall outside the scope of the Act, and which may be used to unintentionally lock in a tenant at the application stage. A standard form agreement will be of benefit to all parties to a tenancy agreement as it will create consistency and uniformity across the rental market and will assist parties to better understand their rights and obligations.

The efficiency of the Tribunal will be improved by enabling it to determine disputes without conducting a hearing, based on the application and the documentation provided by the parties. Additionally, the powers of the Registrar, the Tribunal's principal administrative officer, will be increased to include the making of an order, that will operate as an order of the Tribunal, where both parties agree with the application made.

The enforcement of the *Residential Tenancies Act* will be improved by an increase in maximum penalties and expiation fees. Most significantly, the expiation fee for late lodgement of a tenant's bond with the Commissioner for Consumer Affairs is being increased from $150 to $315.

It is anticipated that the Bill will have widespread benefits across the community.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Residential Tenancies Act 1995*

4—Amendment of section 3—Interpretation

The terms *security* and *security bond* are replaced with the term *bond*. As defined by the inserted definition, *bond* has the same meaning as 'security' in the current Act.

A definition of *no premium retirement village* is added. A no premium retirement village is a complex of residential premises or a number of separate complexes of residential premises that are not a retirement village within the meaning of the *Retirement Villages Act 1987* only because no resident or prospective resident of the village pays a premium in consideration for, or in contemplation of, admission as a resident of the village. In connection with this term, *collateral agreement* is defined to make it clear that, in relation to a residential tenancy agreement for residential premises in a no premium retirement village, a collateral agreement includes a domestic services agreement that a tenant of the premises is required to enter into as a condition of the residential tenancy agreement or otherwise as a condition of admission as a resident of the village. A *domestic services agreement* is an agreement with a tenant of residential premises in a no premium retirement village for the provision of domestic services (such as meals, cleaning, gardening and laundry of linen). Also in connection with the insertion of the definition of *no premium retirement village*, a new definition of *rent* is substituted. The new definition incorporates the current definition but expands the definition so that, if the residential tenancy agreement is for residential premises in a no premium retirement village and there is a domestic services agreement collateral to the residential tenancy agreement, rent includes the amount payable under the domestic services agreement for the period of the tenancy.

Domestic facility requiring instructions is defined under a new definition as an appliance or device provided by a landlord for the use of a tenant for which it would be reasonable to expect the tenant to require instructions. *Personal documents* are official documents, photographs, correspondence or other documents that it would be reasonable to expect a person might wish to keep.

The definition of *statutory rates, taxes and charges* is replaced by a new definition of *statutory charges*. Statutory charges are—

- rates or charges imposed under the *Local Government Act 1999*;
- rates or charges imposed under the *Waterworks Act 1932* or the *Sewerage Act 1929*;
- land tax under the *Land Tax Act 1936*;
- levies under the Emergency Services Funding Act 1998;
- levies under the Natural Resources Management Act 2004;
- any charges of a kind imposed under an Act and declared by regulation to be statutory charges.

The definition of *tenancy dispute* is amended so that the term includes any matter that may be the subject of an application under the Act to the Residential Tenancies Tribunal.

5—Amendment of section 5—Application of Act

Section 5 lists types of agreements to which the Act does not apply. The list includes agreements under which persons board or lodge with other persons. The section is amended to make it clear that a residential tenancy agreement for residential premises in a no premium retirement village is to be taken not to be an agreement under which a person boards or lodges with another.

The list of types of agreements to which the Act does not apply also includes agreements for the sale of land that also confer a right to occupy premises on a party to the agreement. The relevant provision is amended so that the Act does not apply to the agreement only if the right conferred is to occupy premises for a period of 28 days or less.

6—Substitution of section 15

Currently, under section 15, the registrar and deputy registrars of the Residential Tenancies Tribunal are appointed by the Governor. This clause substitutes a new section that provides that the registrar and deputy registrars are to be Public Service employees and also makes it clear that the registrar is the Tribunal's principal administrative officer and reports to the Commissioner for Consumer Affairs. In directing the registrar in relation to the administration of the Tribunal, the Commissioner must consult with the Presiding Member of the Tribunal.

7—Amendment of section 16—Registrar may exercise jurisdiction in certain cases

Under section 16 as proposed to be amended by this clause, the registrar of the Tribunal will be able to make an order in relation to a tenancy dispute with the written consent of the parties to the dispute. The order will operate as an order of the Tribunal.

8—Amendment of section 21—Duty to act expeditiously

This consequential amendment is to be made because under section 32 as amended by clause 13 the Tribunal will be able to determine an application without proceeding to a hearing.

9—Amendment of section 24—Jurisdiction of Tribunal

The first amendment made by this clause to section 24 is consequential on the expansion of the definition of 'tenancy dispute' to include any matter that may be the subject of an application under the Act to the Tribunal.

The other amendments made by this clause increase the jurisdictional limits of the Tribunal from $10,000 to $40,000.

10—Amendment of section 25—Application to Tribunal

Under section 25, the Tribunal is required to give any party to an application notice in writing of the application and notice of the nature of the application. Under the section as amended by this clause, a notice directed to an occupier or subtenant of premises need not address the occupier or subtenant by name.

11—Repeal of Part 3 Division 4

Division 4 of Part 3, which authorises the Tribunal to refer contested proceedings to conferences and deals with certain associated procedural matters, is repealed by this clause because the provisions of the Act relating to conciliation and conferences are to be consolidated into a new Division. (See clause 70.)

12—Amendment of section 31—Tribunal's power to gather evidence

This clause substitutes a new maximum penalty. The clause also inserts a new subsection providing that evidence before the Tribunal cannot be used in criminal proceedings other than proceedings for an offence against the Act or perjury.

13—Amendment of section 32—Procedural powers of Tribunal

Section 32 sets out the procedural powers of the Tribunal. Under the section as proposed to be amended by this clause, the Tribunal will be able to determine an application without proceeding to a hearing if the Tribunal is satisfied that the issues for determination can be adequately determined in the absence of the parties by consideration of the application and other documents or materials.

The Tribunal will also be able to decline to entertain an application if it considers that the application is vexatious or frivolous or involves a trivial matter or amount.

The section as amended will also provide that—

- the Tribunal's proceedings are to be conducted with the minimum of formality;
- the Tribunal is not bound by evidentiary rules but may inform itself as it thinks appropriate;
- the Tribunal must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

14—Repeal of Part 3 Division 6

Division 6 of Part 3, which authorises a person constituting the Tribunal to appoint a mediator or personally endeavour to bring about a settlement of proceedings, is repealed by this clause because the provisions of the Act relating to conciliation and conferences are to be consolidated into a new Division. (See clause 70.)

15—Amendment of section 37—Application to vary or set aside order

Under section 37, a party to proceedings before the Tribunal may apply to the Tribunal for an order varying or setting aside an order made by the Tribunal. The section currently requires the application to be made within 3 months of the making of the order, though the Tribunal may allow an extension of time.

Under the section as amended, the application must be made within 1 month of the making of the order. However, if the reasons of the Tribunal are not given in writing at the time the order is made, and a party to the proceedings requests written reasons, the application must be made within 1 month of the day on which the written reasons are received by the person.

16—Amendment of section 41—Appeals

This amendment to section 41 makes it clear that an appeal from a decision or order of the Tribunal lies to the Administrative and Disciplinary Division of the District Court. Subsection (2) is to be deleted because it deals with matters that are the subject of Division 2 of Part 6 of the *District Court Act 1991*.

17—Repeal of section 42

Section 42 provides that the District Court or the Tribunal may suspend the operation of an order if an appeal against the order has been commenced. This section is to be repealed because section 42D of the *District Court Act 1991* provides that the Court or the original decision-maker may make on order staying or varying the operation or implementation of a decision appealed against pending determination of the appeal.

18—Amendment of section 45—Punishment of contempts

Section 45 provides that the Tribunal may punish a contempt by imposing a fine not exceeding $2,000 or by committing a person to imprisonment until the contempt is purged for a period not exceeding 6 months. This clause amends the section by increasing the maximum fine to $5,000 and the maximum period of imprisonment to 1 year. The Tribunal will also be able to punish a contempt of the Tribunal by suspending the right of a person to

represent parties to tenancy disputes. The section as amended will also provide that an order for commitment made by the Tribunal may be executed as if it were an order for commitment made by the Magistrates Court.

19—Amendment of section 46—Fees

Section 46 authorises the prescription by regulation of fees in relation to proceedings in the Tribunal. It is proposed to amend the section to make it clear that a fee paid by a party is not recoverable, including in connection with an award of costs or an order to pay compensation.

20—Amendment of section 47—Procedural rules

Section 47 provides that the Presiding Member of the Tribunal may make Rules of the Tribunal. The proposed amendment to this section makes it clear that the *Subordinate Legislation Act 1978* does not apply to Rules of the Tribunal.

21—Insertion of Part 4 Division A1

Proposed section 47A, within Division A1 of Part 4, requires a landlord to ensure that a prospective tenant is advised, before entering into a residential tenancy agreement, if the landlord has advertised, or intends to advertise, the residential premises for sale and of any existing sales agency agreement for the sale of the premises.

22—Substitution of section 48

Section 48 currently requires a landlord to notify a tenant of the full name and address of the landlord and, if the landlord is a company, the address of the registered office of the company. This section is to be repealed and replaced with a new section that requires a landlord to provide the following information in writing to a tenant before or at the time the landlord and tenant enter into a residential tenancy agreement:

- if an agent is acting for the landlord—the agent's name, telephone number and address for service of documents; and
- the landlord's full name and address for service of documents (which must not be the agent's address for service); and
- if no agent is acting for the landlord—the landlord's telephone number; and
- the full name and address of any person with superior title to the landlord; and
- if the landlord is a company—the address of the registered office of the company; and
- any other information required by the Commissioner.

Under the proposed new section, the landlord is also required to take reasonable steps to ensure that a tenant is given manufacturers' manuals, or written or oral instructions, about the operation of any domestic facilities requiring instructions, that is, any appliance or device provided by the landlord for the use of the tenant for which it would be reasonable to expect the tenant to require instructions.

If a person succeeds another as the landlord, the new landlord must, within 14 days, ensure that the tenant is given written notice of—

- if an agent is acting for the new landlord—the agent's name, telephone number and address for service of documents; and
- the new landlord's full name and address for service of documents (which must not be the agent's address for service); and
- if no agent is acting for the new landlord—the new landlord's telephone number; and
- if the new landlord is a company—the address of the registered office of the company; and
- any other information required by the Commissioner.

23—Substitution of section 49

Under proposed new section 49, a written residential tenancy agreement must be in the form approved by the Commissioner. It is an offence for a landlord or tenant to prepare or authorise the preparation of a written residential tenancy agreement that is not in the approved form. A failure to comply with the section does not make the residential tenancy agreement illegal, invalid or unenforceable.

24—Amendment of section 50—Cost of preparing agreement

This amendment to section 50 is consequential on the proposal to require a written residential tenancy agreement to be in an approved form.

25—Amendment of section 51—False information from tenant

This clause substitutes a new maximum penalty for the offence committed if a tenant gives a landlord false information about his or her identity or place of occupation.

26—Amendment of section 52—Discrimination against tenants with children

This clause increases the maximum penalties for offences related to discriminating against tenants with children.

27—Amendment of section 53—Permissible consideration for residential tenancy

The term *bond* is substituted for *security*. This clause also substitutes a higher maximum penalty for the offence of requiring or receiving from a tenant or prospective tenant a payment for a residential tenancy or the renewal or extension of a residential tenancy other than rent or a bond.

28—Amendment of section 54—Rent in advance

This clause substitutes new maximum penalties for offences related to requiring a tenant to pay rent in advance or requiring a tenant to give a post-dated cheque or other post-dated instrument in payment of rent. The clause also adds new expiation fees.

29—Amendment of section 55—Variation of rent

Section 55 permits a landlord to increase the rent payable under a residential tenancy agreement but places restrictions on that right. Currently, the section provides that the date fixed for an increase of rent must be at least 6 months after the date of the agreement or the last such increase. This clause amends the section by increasing the relevant period to 12 months.

This clause also deletes a reference to a *registered housing co-operative* and substitutes *registered community housing organisation*, which means a registered housing association or a registered housing co-operative.

30—Amendment of section 56—Excessive rent

As a consequence of the amendment made by this clause, the Tribunal will, when determining whether rent payable under a residential tenancy agreement for residential premises in a no premium retirement village is excessive, be able to have regard to the estimated costs of goods and services provided under any domestic services agreement collateral to the agreement.

31—Insertion of section 56A

Proposed new section 56A requires a landlord under a residential tenancy agreement to permit a tenant to pay rent under the agreement by at least one means that does not involve the payment of cash by the tenant or the collection of rent from the tenant by a third party who charges a fee payable by the tenant for the collection.

32—Amendment of section 57—Landlord's duty to keep proper records of rent and other payments

A landlord is required under section 57 to keep a proper record of rent received under a residential tenancy agreement. Under the section as amended, a landlord will be required to ensure that the following information is recorded in respect of payments received under a residential tenancy agreement:

- the date on which the payment was received;
- the name of the person making the payment;
- the amount paid;
- the address of the premises to which the payment relates;
- if the payment is for rent—the period of the tenancy to which the payment relates;
- if the payment is a bond—a statement of that fact;
- if the payment is not for rent or a bond—a description of the purpose of the payment, including, if applicable, the period of time to which the payment relates.

This clause also increases the maximum penalty and adds a new expiation fee.

33—Substitution of section 58

Section 58 currently requires a landlord to give a receipt to a person paying rent under a residential tenancy agreement within 48 hours of the payment. This clause repeals section 58 and substitutes 2 new sections.

58—Duty to provide statement or give receipt for rent

Proposed new section 58 provides that a landlord must, at the written request of a tenant, give the tenant a statement of the information recorded by the landlord under section 57 in respect of rent received during the period specified in the request. The statement is to be given to the tenant within 7 days of the request. Additionally, if a tenant pays rent other than into an ADI account, the person who receives the rent is required to give the tenant a receipt setting out the information required to be recorded by the landlord under section 57(1) in respect of the rent received.

58A—Payment of rent by electronic transaction

If a tenant pays rent into an ADI account, the payment will be taken to have been made when it is credited to the account.

34—Amendment of heading to Part 4 Division 4

This amendment is consequential on the change in terminology from *security* to *bond*.

35—Amendment of section 61—Bond

Most of the amendments made by this clause are consequential on the change in terminology from *security* to *bond*.

A change is also made to the definition of *relevant limit*, which restricts the amount a landlord can require a tenant to pay for a bond under a residential tenancy agreement. The revised definition will allow a landlord to require a tenant to pay an extra amount if the tenant keeps a pet at the residential premises. Under the revised definition, the relevant limit is determined as follows:

- if the rent payable under the agreement does not exceed the prescribed amount (which must be at least $250 per week), the relevant limit is—
    - in the case of an agreement under which the tenant is permitted, at the request of the tenant, to keep an animal at the residential premises—5 weeks rent under the agreement; and
    - in any other case—4 weeks rent under the agreement;
- if the rent payable under the agreement exceeds the prescribed amount, the relevant limit is—
    - in the case of an agreement under which the tenant is permitted, at the request of the tenant, to keep an animal at the residential premises—7 weeks rent under the agreement; and
    - in any other case—6 weeks rent under the agreement.

36—Amendment of section 62—Receipt of bond and transmission to Commissioner

The amendments made to section 62 by this clause are consequential on the change of terminology from 'security' to 'bond'. Changes are also made to the penalty provisions so as to increase the maximum penalties and expiation fees.

37—Amendment of section 63—Repayment of bond

This clause, in addition to making consequential amendments related to changes in terminology, amends section 63 so that if a landlord applies to the Commissioner for payment of the whole amount of a bond to him or herself more than 12 months after the termination of the residential tenancy agreement, and the application is liable to be disputed, the Commissioner must refer the application to the Tribunal for determination. The Tribunal may authorise payment of the amount of the bond as proposed by the landlord if the Tribunal is satisfied, on the basis of information provided by the landlord, that the landlord is entitled to the payment.

A further amendment is proposed to make it clear that references in section 63(7) and (9) to payment of a bond by a third party refer to payment of the bond by the third party on behalf of the tenant.

38—Amendment of section 65—Quiet enjoyment

This clause substitutes a new penalty provision.

An additional amendment is proposed to delete the words under subsection (2) stating that liability for prosecution for an offence is in addition to civil liability for breach of the residential tenancy agreement. These words will become redundant when the amendment proposed by clause 76 to insert new section 117A is made.

39—Amendment of section 66—Security of premises

Section 66 as amended by this clause will make it a term of a residential tenancy agreement that neither the landlord nor the tenant will unreasonably withhold his or her consent to the alteration, removal or addition of a lock or security device by the other party at the expense of the other party.

This clause also substitutes increased maximum penalties for offences under the section.

40—Amendment of section 68—Landlord's obligation to repair

Section 68(3) currently allows a tenant to recover reasonable costs incurred by the tenant in having a state of disrepair remedied if the state of disrepair is likely to result in personal injury, damage to property or undue inconvenience and the tenant has notified the landlord of the state of disrepair or made a reasonable attempt to do so.

Under the subsection as recast by this clause, the tenant will also be entitled to reasonable compensation for damage to property resulting from the state of disrepair after the tenant has notified, or made a reasonable attempt to notify, the landlord of the state of disrepair. The tenant is required to take reasonable steps to mitigate any loss and is not entitled to compensation for damage that could have been avoided by those steps.

41—Amendment of section 69—Tenant's responsibility for cleanliness, damage and loss

Under section 69 as amended by this clause, it is a term of a residential tenancy agreement that the tenant must replace, or compensate the landlord for the reasonable cost of replacing, any ancillary property lost or destroyed while in the care of the tenant.

The section as amended also provides that if a tenant unintentionally causes damage to the premises or ancillary property as a result of the use of a domestic facility requiring instruction, the landlord is not entitled to compensation for the damage unless—

- the domestic facility is listed in the residential tenancy agreement as a domestic facility requiring instruction; and
- the landlord complied with section 48(2) in relation to the domestic facility.

(Under section 48(2), the landlord is required to take reasonable steps to ensure that a tenant is given manufacturers' manuals, or written or oral instructions, about the operation of any appliance or device provided by the landlord for the use of the tenant for which it would be reasonable to expect the tenant to require instructions.)

42—Amendment of section 70—Alteration of premises

Under section 70, it is a term of a residential tenancy agreement that a tenant must not make an alteration or addition to the premises without the landlord's written consent. As amended by this clause, the landlord's consent must not be unreasonably withheld.

43—Insertion of Part 4 Division 9A

Proposed section 71A, which is within Division 9A of Part 4, introduces a requirement for the landlord under a residential tenancy agreement to give the tenant written notice of the landlord's intention to sell the residential premises. The notice must be given not later than 14 days after the landlord enters into a sales agency agreement for the sale of the premises or determines to make the premises available for inspection by prospective purchasers. The proposed section also makes it a term of a residential tenancy agreement that the residential premises will not be advertised for sale or made available for inspection by prospective purchasers before the day falling 14 days after the tenant is given notice of the landlord's intention to sell the premises.

44—Substitution of section 72

This clause recasts the provision of the Act setting out the landlord's right of entry to residential premises under a residential tenancy agreement. One important feature of the proposed new section is that the landlord will not ordinarily be permitted to enter the premises outside of normal hours, that is, between 8am and 8pm on any day other than a Sunday or public holiday. Under proposed new section 72, it is a term of a residential agreement that the landlord (or an agent of the landlord) may enter the premises in the following circumstances:

- in an emergency;
- to collect rent (if a reasonable alternative method of payment of rent not involving attendance at the premises has been offered to, but not accepted by, the tenant)—
    - not more than once each week; and
    - only at a time previously arranged with the tenant (which may only be outside normal hours if the arrangement has been made no more than 7 days before the day of entry);
- to inspect the premises, but not more than once each 4 weeks and only in accordance with a written notice given to the tenant no less than 7 and no more than 14 days before the day of entry stating the purpose of the proposed entry and the date of the proposed entry and specifying a period of up to 2 hours (which must be within normal hours) within which the proposed entry will occur (but the requirement to specify a 2 hour period does not apply if the premises are in a remote location or the landlord or agent is to be accompanied by a person);
- to carry out garden maintenance, but only—
    - at a time previously arranged with the tenant no more than 7 days before the day of entry; or
    - in accordance with a written notice given to the tenant no less than 7 and no more than 14 days before the day of entry stating the purpose of the proposed entry and the date and time (which must be within normal hours) of the proposed entry;
- to carry out necessary maintenance (other than garden maintenance) or repairs (other than in an emergency), but only at a time within normal hours of which the tenant has been given at least 48 hours notice; or
- to show the premises to prospective tenants during the period of 28 days preceding the termination of the tenancy agreement, but only on a reasonable number of occasions and only at a time within normal hours of which the tenant has been given reasonable notice; or
- to show the premises to prospective purchasers, on not more than 2 occasions in any 7 day period (unless the tenant has agreed otherwise), but only—
    - at a time previously arranged with the agreement of the tenant (who must not unreasonably refuse to agree to times when the premises are to be available for inspection by prospective purchasers); or
    - if agreement cannot be reached with the tenant—at a time within normal hours of which the tenant has been given reasonable notice;

- if the landlord has given the tenant notice of a breach of the residential tenancy agreement under section 80—to determine whether the breach has been remedied, but only in accordance with a written notice in the prescribed form given to the tenant no less than 7 and no more than 14 days before the day of entry stating the purpose of the proposed entry and the date and time (which must be within normal hours) of the proposed entry;
- for some other genuine purpose, but only—
  - in accordance with a written notice given to the tenant no less than 7 and no more than 14 days before the day of entry and stating the purpose of the proposed entry and the date and time (which must be within normal hours) of the proposed entry; or
  - with the consent of the tenant;
- if the landlord believes on reasonable grounds that the tenant has abandoned the premises.

It will also be a term of a residential tenancy agreement that if the tenant has indicated to the landlord that he or she wishes to be present during the period when the landlord or landlord's agent is at the premises, the landlord (or an agent of the landlord) may not enter the premises unless a reasonable effort has been made to arrange for the visit to occur at a time when it is convenient for the tenant to be present (having regard to the work and other commitments of both the tenant and the persons entering the premises).

45—Substitution of heading to Part 4 Division 11

This amendment is consequential on the proposed change in terminology from 'statutory rates, taxes and charges' to 'statutory charges'.

46—Amendment of section 73—Statutory charges

Currently, under section 73, rates and charges for water supply are to be borne as agreed between the landlord and the tenant. In the absence of an agreement, the landlord is to bear the rates and charges for water supply up to a limit fixed or determined under the regulations, and any amount in excess of the limit is to be borne by the tenant.

Under the section as amended, it will still be the case that rates and charges for water supply are to be borne as agreed between the landlord and tenant. However, if there is no agreement, and the supply of water to the premises is separately metered, the rates and charges are to be borne by the tenant. If the supply of water to the premises is not separately metered, the rates and charges are to be borne by the landlord.

Despite that general rule, a tenant will not be required to pay rates and charges for water supply if the landlord does not request payment of the rates and charges within 3 months of the issue of the bill for the rates and charges. Further, the tenant is not required to pay the rates and charges if he or she has requested a copy of the account for the rates and charges and the landlord has failed to provide the copy to the tenant within 14 days of the request and at no cost.

47—Amendment of section 74—Assignment of tenant's rights under residential tenancy agreement

The primary purpose of this clause is to substitute *registered community housing organisation* for *registered housing co-operative*. The opportunity has also been taken to improve the readability of subsection (2a), which is currently very long, by dividing it into separate subsections.

48—Amendment of section 77—Accelerated rent and liquidated damages

This clause inserts an increased maximum penalty and adds an expiation fee.

49—Insertion of section 78A

Proposed section 78A provides that a landlord is entitled to compensation for costs or expenses reasonably incurred in connection with a residential tenancy agreement as a direct consequence of a tenant being at fault.

50—Amendment of section 79—Termination of residential tenancy

Section 79 currently provides that a residential tenancy for a fixed term terminates when the fixed term comes to an end. This is inconsistent with proposed section 79A, to be inserted by clause 51, under which an agreement for a fixed term is to continue as a periodic tenancy unless if it has otherwise terminated. This clause therefore varies section 79 so that there is no inconsistency.

51—Insertion of section 79A

Under proposed section 79A, a residential tenancy agreement for a fixed term that has not terminated before the end of the fixed term continues as a residential tenancy agreement for a periodic tenancy. The section does not apply in relation to a residential tenancy agreement that, under section 4, is for a short fixed term, that is, a term of 90 days or less.

52—Amendment of section 81—Termination because possession is required by landlord for certain purposes

This clause substitutes increased maximum penalties for the offences under section 81.

53—Amendment of section 83—Termination by landlord without specifying a ground of termination

Section 83(2) is recast by this clause, though no substantive change is made to the provision.

54—Insertion of sections 83A and 83B

This clause inserts two new sections.

83A—Notice to be given at end of fixed term

Under proposed section 83A, a landlord may terminate a residential tenancy agreement for a fixed term at the end of the fixed term. This may be done by giving the tenant a notice of termination. The landlord is not required to specify a ground of termination.

83B—Termination where agreement frustrated

Proposed section 83B gives a landlord the ability to terminate a residential tenancy agreement on the ground that the premises have been destroyed or rendered uninhabitable or have ceased to be lawfully usable for residential purposes. A notice terminating a residential tenancy agreement on either of those grounds may terminate the agreement immediately. An agreement may also be terminated by a landlord on the ground that the premises have been acquired by compulsory process. Notice of termination on that ground must provide for a period of notice of at least 60 days.

55—Amendment of section 84—Limitation of right to terminate

Section 84 places a limitation on the right of a landlord to terminate a residential tenancy agreement if the premises are subject to a housing improvement notice or if an order is in force under section 56 (or proceedings for such an order have been commenced). The section as amended will provide that, in those circumstances, the tenancy may only be terminated by the landlord by notice of termination if the notice is given on a prescribed ground and the Tribunal authorises the notice.

56—Insertion of section 85A

Under proposed section 85A, a tenant may terminate the tenancy if, within 2 months of the start of the residential tenancy agreement, the premises are sold. The tenant may terminate the agreement on this ground only if he or she was not given notice as required under section 47A before the agreement was entered into.

57—Insertion of sections 86A and 86B

This clause inserts 2 new sections.

86A—Notice to be given at end of fixed term

Proposed section 86A provides that the tenant under a residential tenancy agreement for a fixed term may terminate the agreement at the end of the fixed term. The tenant is not required to specify a reason for the termination in the notice of termination.

86B—Termination where agreement frustrated

Under proposed section 86B, a tenant is able to terminate a residential tenancy agreement on the ground that the premises have been destroyed or rendered uninhabitable, have ceased to be lawfully usable for residential purposes or have been acquired by compulsory process. A notice terminating a residential tenancy agreement on any of those grounds may terminate the agreement immediately.

58—Amendment of section 87—Termination on application by landlord

Section 87 deals with the circumstances in which the Tribunal may terminate a residential tenancy on the application of a landlord. Under the section as amended by this clause, a residential tenancy may be terminated and an order for repossession made if the tenant has failed to pay rent and, on at least 2 occasions in the preceding 12 months, the tenant was given a notice under section 80 of a breach on the ground of a failure to pay rent and the notice was not ineffectual within the meaning of section 80(2).

Under section 80, a landlord may give a tenant a notice specifying a breach of a residential tenancy agreement by the tenant and requiring the tenant to remedy the breach within a specified period. A notice given on the ground of a failure to pay rent is ineffectual unless the rent has remained unpaid in breach of the agreement for at least 14 days before the notice was given.

59—Amendment of section 90—Tribunal may terminate tenancy if tenant's conduct unacceptable

Section 90 specifies the circumstances in which the Tribunal may terminate a residential tenancy in connection with unacceptable conduct of the tenant. An application for termination may be made to the Tribunal by an interested person. This clause expands the definition of 'interested person' by adding strata and community corporations, police officers and authorised officers under the *Fair Trading Act 1987*.

If an application relating to a tenant is, or is to be, made under the section by an authorised officer within the meaning of the *Fair Trading Act 1987*, the authorised officer may refer the application to the Commissioner of Police who must make relevant information available to the officer (unless the Commissioner of Police considers there is good reason for withholding the information).

60—Insertion of section 92A

Under proposed section 92A, a notice of termination given to a tenant is ineffectual if, within 1 month of the day on which a tenant is to give up vacant possession of premises in accordance with the notice, the tenant has not done so and the landlord has not applied to the Tribunal for an order for possession of the premises.

61—Amendment of section 93—Order for possession

This clause recasts section 93(1) as a consequence of proposed changes in relation to the termination of residential tenancies for fixed terms.

62—Amendment of section 94—Abandoned premises

Under section 94, the Tribunal may, on application, declare that a tenant abandoned premises on a stated day and make an order for immediate possession of the premises. This clause amends the section by adding a list of matters to which the Tribunal may have regard in determining whether a tenant has abandoned premises.

63—Amendment of section 95—Repossession of premises

This clause substitutes a new maximum penalty.

64—Substitution of Part 5 Division 7

This clause replaces section 97, which deals with abandoned goods, with a new set of provisions dealing with abandoned property.

Division 7—Abandoned property

97—Abandoned property

The new Division applies to property left in residential premises by a tenant following the termination of a residential tenancy agreement.

97A—Offence to deal with abandoned property in unauthorised way

If a landlord deals with abandoned property otherwise than in accordance with the Division, he or she is guilty of an offence with a maximum penalty of $2,500.

97B—Action to deal with abandoned property other than personal documents

A landlord may remove perishable goods from the premises, and destroy the perishable goods, at any time after he or she recovers possession of the premises.

When at least 2 days have passed after the landlord recovers possession of the premises, he or she may remove and destroy or dispose of abandoned property if the value of the property is less then a fair estimate of the cost of removal, storage and sale of the property.

Abandoned property that can't be dealt with because it does not fall within either of the above categories is valuable abandoned property. Section 97B sets out a number of special requirements in relation to valuable abandoned property. The landlord must endeavour to notify the tenant that the property has been found. The landlord must also take reasonable steps to keep the property safe for 28 days after recovering possession of the premises. A person who is entitled to possession of the property may reclaim the property (but he or she must pay to the landlord the reasonable costs incurred by the landlord in dealing with the property as required under the Division).

If the valuable abandoned property is not reclaimed within 28 days, the landlord may sell or otherwise lawfully dispose of the property as if the landlord owned the property.

If the property is sold in accordance with the section, the landlord may retain out of the proceeds the reasonable costs incurred by the landlord in dealing with the property and any other reasonable costs incurred by the landlord as a result of the property being left on the premises and any amounts owed to the landlord under the residential tenancy agreement. The balance (if any) must be paid to the owner of the property, or if the identity and address of the owner are not known to, or reasonably ascertainable by, the landlord, to the Commissioner for the credit of the Fund.

97C—Action to deal with abandoned personal documents

Different rules apply in relation to abandoned property consisting of personal documents. The landlord must make reasonable efforts to notify the tenant that the documents have been found on the premises and take reasonable steps to keep the documents safe for at least 28 days. If the documents are not reclaimed within that 28 day period, the landlord may destroy or dispose of the documents.

65—Amendment of section 99—Enforcement of orders for possession

Under section 99 as amended by this clause, the Tribunal will be required to enforce an order for possession of premises only if the landlord advises the Tribunal within 14 days of the making of the order (or such longer period as the Tribunal may allow) that the order has not been complied with.

66—Insertion of Part 5A

This clause inserts a new Part. Part 5A provides requirements for residential tenancy database operators, and landlords and agents who use those databases for the purpose of determining whether a residential tenancy agreement will be entered into. The Part contains a range of offences applicable to landlords, their agents and residential tenancy database operators for failure to comply with the requirements of the Part. The proposed penalties for offences under Part 5A are capped at a maximum penalty of $5,000 or an expiation fee of $315.

Part 5A—Residential tenancy databases

99A—Definitions

This section provides definitions for Part 5A. Notably the section defines *database*, *personal information* and *residential tenancy database*. The section also defines, in relation to personal information, the terms *inaccurate* and *out of date*.

99B—Application

The proposed section excludes from the application of Part 5A databases kept by entities (including government departments) for use only by those entities.

99C—Notice of usual use of database

Landlords or their agents are required to give applicants for tenancies written notice containing details of residential databases that the landlord or agent usually uses or may use for deciding whether a residential tenancy agreement will be entered into. Specifically, the landlord or agent is required to provide a written notice stating—

- the name of each residential database that he or she uses or may use;
- that the reason that he or she uses the database is for checking the applicant's tenancy history; and
- contact details for the database operator so that the applicant may obtain information from the operator.

The landlord or agent must provide the applicant with those details for each residential tenancy database that he or she uses or usually uses, regardless of whether or not the database is used for the individual's application for tenancy. The landlord or agent can dispense with the requirement to provide notice of residential tenancy database use at the time of application if he or she has provided the applicant with written notice of those details in the 7 days prior to the application for tenancy being made. A landlord or agent who fails to give notice as required by the proposed section is guilty of an offence and liable to a maximum penalty of $5,000 or an expiation fee of $315.

99D—Notice of listing if database used

Where a residential tenancy database has been used, and contains information about an applicant, the landlord or agent must give written notice to the applicant. The landlord or agent must include in the written notice—

- the name of the residential tenancy database that was used;
- that personal information is stored in the database;
- who entered the personal information stored in the database;
- how and in what circumstances the applicant can have the personal information removed or amended.

Landlords or agents who fail to give notice as required and within 7 days of database use are guilty of an offence.

99E—Listing can be made only for particular breaches by particular persons

This proposed section provides the requirements for a landlord or agent to list personal information in a residential tenancy database. A landlord, landlord's agent or database operator must not list information about a person in a residential tenancy database unless—

- the person was a tenant in a residential tenancy agreement that has ended;
- the person breached the agreement;
- because of the breach, the person either—
    - owes the landlord an amount that is more than the bond for the agreement; or
    - the Tribunal has made an order terminating the residential tenancy agreement; and
- the personal information relates only to the breach and is accurate, complete and unambiguous.

The proposed section provides that despite those requirements, the personal information listed must indicate the nature of the breach. The section contains examples of how personal information can indicate the nature of a breach using examples of where a person has rent in arrears or has damaged the premises.

99F—Further restriction on listing

The proposed section provides further requirements for landlords or agents listing personal information on residential databases. Landlords, their agents or database operators must not list personal information on a residential tenancy database unless they have—

- without charging the person a fee, given the person a copy of the personal information or taken reasonable steps to disclose the information to the person;
- given the person 14 days to review the personal information;
- allowed the person to make submissions objecting to its entry on the database or about its accuracy, completeness or clarity; and
- considered any submissions made by the person.

The proposed section provides that despite those requirements, the personal information may be listed if the landlord, agent or database operator cannot locate the person. The further requirements do not apply to information that is either at the time of listing contained in publicly available court or Tribunal records or to listings involving amendments to personal information under proposed section 99G.

99G—Ensuring quality of listing—landlord's or agent's obligation

Proposed section 99G places an onus on landlords and agents to notify a database operator when they become aware that information listed by the landlord or agent on the tenancy database is inaccurate, incomplete, ambiguous or out of date. The landlord or agent must notify the database operator that the information is inaccurate, incomplete or ambiguous and how the information can be amended so that it is no longer inaccurate, incomplete or ambiguous. Where information is out of date, the written notice provided by the landlord or agent must specify that the information is out of date and must be removed. The landlord or agent must keep a copy of the written notice provided to the database operator for 1 year after the notice given. Failure to comply with this section is an offence.

99H—Ensuring quality of listing—database operator's obligation

This offence provision places a requirement on database operators to correct information within 14 days of being notified in writing by a landlord or agent that personal information listed on the database (by the landlord or agent) is inaccurate, incomplete or ambiguous. Failure by the database operator to amend the information in the way stated by the landlord or agent is an offence under the proposed section.

99I—Providing copy of personal information listed

Proposed section 99I requires that where a landlord or agent has listed personal information in a residential tenancy database, and is requested in writing by the person to provide a copy of the personal information, the person must do so within 14 days of the request.

99J—Keeping personal information listed

Under this proposed section, it is an offence to keep personal information in the database for longer than 3 years, or a shorter period where that information is required to be removed under the national privacy principles before 3 years. The provision does not limit the operation of the rest of the Part or any law relating to removal of personal information. The proposed section also contains a definition for *national privacy principles*, which refers to the principles stated in Schedule 3 of the *Privacy Act 1988* of the Commonwealth.

99K—Powers of Tribunal

This proposed section enables the Tribunal to make orders against landlords and their agents, as well as database operators, to ensure compliance with the Part.

99L—Notifying relevant non-parties of Tribunal order about listing

Where the Tribunal makes an order that a person must amend or remove personal information about a person from a residential tenancies database, the Tribunal must notify the party of the order if the person is not a party to proceedings.

67—Amendment of section 100—Residential Tenancies Fund

References to *security* are changed to *bond* by this clause.

68—Amendment of section 101—Application of income

Amendments to section 101 make it clear that income derived from investment of the Residential Tenancies Fund may be applied towards the costs of administering and enforcing the *Residential Parks Act 2007* as well as the *Residential Tenancies Act 1995*. Further, under the section as amended, income derived from investment of the Fund may be applied towards:

- the education of landlords, tenants, rooming house proprietors, rooming house residents and park owners and residents of residential parks about their statutory and contractual rights and obligations, and for other educational purposes approved by the Commissioner for Consumer Affairs; and
- towards the costs of projects directed at providing accommodation, or assistance related to accommodation, for the homeless or other disadvantaged sections of the community; and
- on research, approved by the Commissioner, into—
    - the availability of rental accommodation within the community; and

- areas of social need related to the availability (or non-availability) of rental accommodation or particular kinds of rental accommodation; and
- other matters connected with, or arising under, the *Residential Tenancies Act 1995* or the *Residential Parks Act 2007*; and

- for the benefit of landlords, tenants, rooming house proprietors, rooming house residents and park owners and residents of residential parks in other ways approved by the Commissioner; and
- for any other purposes connected with, or arising under, the *Residential Tenancies Act 1995* or the *Residential Parks Act 2007* approved by the Commissioner.

69—Substitution of Part 7

Rooming house agreements are currently regulated under the *Residential Tenancies (Rooming Houses) Regulations 1999*. As a consequence of the insertion of proposed new Part 7 by this clause, those Regulations will be redundant. The proposed Part contains detailed provisions regulating rooming house agreements and provides consistency, where appropriate, with provisions in the Act relating to residential tenancy agreements.

70—Substitution of Part 8 Division 1

This clause inserts a new Division. Division 1 of Part 8 deals with conciliation and conciliation conferences for the purposes of attempting to resolve tenancy disputes.

Division 1—Conciliation

Subdivision 1—Definitions for this Division

106—Definitions

This section includes definitions necessary for the purposes of the new Division.

Subdivision 2—Conciliation of dispute by Commissioner

107—Conciliation by Commissioner

The Commissioner may conciliate a tenancy dispute if a party to the dispute applies to the Commissioner for conciliation or the registrar or a deputy registrar refers an application made to the Tribunal to the Commissioner for conciliation. The Commissioner may call a conference of the parties to the dispute for the purpose of attempting to resolve the dispute by agreement.

Subdivision 3—Conciliation of dispute by Tribunal

108—Referral of dispute to conciliation conference

Before making an order to determine a tenancy dispute, it is the duty of the Tribunal under this section to use its best endeavours to bring the parties to the dispute to a settlement that is acceptable to the parties. The Tribunal may refer a tenancy dispute to a conference of the parties to the dispute to explore the possibilities of resolving the matters at issue by agreement. Each party to the dispute (or a representative) may be required by the Tribunal to attend the conference. A member of the Tribunal, the registrar or another officer of the Tribunal authorised by the Presiding Member will preside at the conference. If a party to a tenancy dispute fails to attend a properly convened conciliation conference, the Tribunal may determine the proceeding adversely to the absent party and make any appropriate orders.

Subdivision 4—Duties and procedure

108A—Duties of conciliators

Conciliators have the following functions in the conciliation of a tenancy dispute:

- to seek to identify the issues in dispute and to narrow the range of the dispute;
- to encourage the settlement of the dispute by facilitating, and helping to conduct, negotiations between the parties to the dispute;
- to promote the open exchange of information relevant to the dispute by the parties;
- to provide to the parties information about the operation of the Residential Tenancies Act 1995 relevant to a settlement of the dispute;
- to help in the settlement of the dispute in any other appropriate way.

Subdivision 5—Procedure

108B—Procedure

This section specifies a number of procedural matters in relation to conciliation conferences. For example, a conference will be held in private unless the conciliator determines otherwise. The conciliator may exclude from the conference any person apart from the parties and their representatives. If the conciliator is not legally qualified, he or she may refer a question of law arising at the conference to a member of the Tribunal who is legally qualified for determination. A settlement to which a party or representative of a party agrees at a conference is binding on the party provided that it is not inconsistent

with the Residential Tenancies Act 1995. The settlement must be put into writing and signed by or for the parties. The Tribunal may make a determination or order to give effect to the settlement.

108C—Restriction on evidence

Evidence of anything said or done in the course of conciliation under this Division is inadmissible in proceedings before the Tribunal unless all parties to the proceedings consent otherwise.

71—Amendment of section 110—Powers of Tribunal

The amendment made by this clause is consequential on the change in terminology from *security* to *bond*. Additional amendments make it clear that the Tribunal may terminate a rooming house agreement or reinstate rights under a rooming house agreement that have been forfeited or have otherwise terminated.

72—Amendment of section 113—Representation in proceedings before Tribunal

Section 113 deals with the right of a party to a tenancy dispute to be represented in Tribunal proceedings. The amendment made by this clause establishes that a rooming house proprietor may be represented at proceedings by an agent appointed to manage the premises on behalf of the proprietor. This puts rooming proprietors in the same position as landlords. Other amendments to this clause are consequential on proposed changes to conciliation conference provisions.

73—Amendment of section 114—Remuneration of representative

The amendment made by this clause is necessary because of the introduction of the option of conciliation conferences in relation to tenancy disputes.

74—Amendment of section 115—Contract to avoid Act

The maximum penalty for the offence of entering into an agreement to defeat, evade or prevent the operation of the Act is increased by this clause.

75—Repeal of section 116

This clause repeals section 116, which restricts a person's right to recover an overpayment of rent.

76—Insertion of section 117A

Proposed new section 117A provides that the liability to be prosecuted for an offence is in addition to any civil liability for breach of a residential tenancy agreement or rooming house agreement or any other civil liability the person may incur. This was previously stated at various places in the Act.

77—Amendment of section 119—Tribunal may exempt agreement or premises from provision of Act

This clause substitutes a new maximum penalty for the offence of contravening a condition to an order of the Tribunal under section 119.

78—Amendment of section 120—Service

Under section 120 as amended by this clause, a notice or document to be given to a person for the purposes of the Act may be transmitted by fax or email to a fax number or email address provided by the person for the purposes of service. The notice or document will be taken to have been given or served at the time of transmission. Section 120 is also amended so as to allow service to occur in a manner permitted by the Tribunal.

79—Amendment of section 121—Regulations

Under section 121 as amended by this clause, the maximum penalty that may be imposed by a regulation for breach of the regulation will be $5,000. The maximum expiation fee will be $315.

80—Substitution of Schedule

A new Schedule of transitional provisions is inserted.

Schedule 1—Related amendments

Part 1—Amendment of *Fair Trading Act 1987*

1—Amendment of section 30—Application of Part

A related amendment is made to Part 4 of *Fair Trading Act 1987* (Fair reporting) so that the Part does not apply to a prescribed report that is provided through the use of a residential tenancy database to which Part 5A of the *Residential Tenancies Act 1995* applies.

Part 2—Amendment of *Residential Parks Act 2007*

2—Amendment of section 29—Repayment of bond

Section 29 of the *Residential Parks Act 2007* is amended so that bonds may be paid by, and refunded to, a third party.

Debate adjourned on motion of Hon. D.W. Ridgway.

CRIMINAL LAW (SENTENCING) (SUPERGRASS) AMENDMENT BILL

The House of Assembly agreed to the amendment made by the Legislative Council without any amendment.

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

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

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (17:40): I move:

That this bill be now read a second time.

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

Leave granted.

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

In 2006, the Commonwealth Government upgraded this regime. The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (the *Anti-Money Laundering Act*) was enacted to combat changes in how financial transactions are conducted as a result of an increase of cashless, non face-to-face electronic transactions, and global development in value transfer technology. The new regime is designed to combat organised and serious crime, including major drug dealing and terrorism financing.

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

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

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

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

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

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

Updating terminology

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

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

Further information regarding suspect transactions

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

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

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

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

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

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

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

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

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

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

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

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

Reporting of suspect transactions relevant to SA

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

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

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

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

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

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

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

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

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

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

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

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

4—Amendment of long title

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

5—Amendment of section 3—Interpretation

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

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

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

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

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

7—Insertion of new section

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

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

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

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

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

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

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

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

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

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

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

These proposed amendments are consequential.

10—Amendment of section 8—False or misleading statements

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

11—Amendment of section 9—Secrecy

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

Debate adjourned on motion of Hon. D.W. Ridgway.

STATUTES AMENDMENT (NATIONAL ENERGY RETAIL LAW IMPLEMENTATION) BILL

The House of Assembly, having considered the recommendations of the conference, agreed to the same.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The House of Assembly appointed the Hon. P.F. Conlon to the committee in place of the Hon. M.J. Atkinson.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

The House of Assembly appointed the Hon. L.R. Breuer and Ms Thompson to the committee in place of Ms Bettison and Dr Close.

LIQUOR LICENSING (SMALL VENUE LICENCE) AMENDMENT BILL

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

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (17:43): I move:

That this bill be now read a second time.

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

Leave granted.

The *Liquor Licensing (Small Venue Licence) Amendment Bill 2012* amends the *Liquor Licensing Act 1997* to provide for a new category of liquor licence aimed at providing flexibility to the owners of small venues, and a new streamlined process for small venue licence applications.

The aim of the small venue licence is to provide entrepreneurs with a liquor licence that is flexible enough to accommodate a variety of small business models, from food orientated business such as small tapas and sushi bars, to hybrid businesses that operate as restaurants during peak meal times or on certain nights of the week, but bars outside those times, to small specialist bars, such as wine or whisky bars, and small bars that provide patrons with an alternative to large, traditional hotels and night clubs. The proposal also aims to encourage small venues to

host live music. This will encourage business activity and diversification in the liquor market and promote the live music industry.

On 23 November 2011, the Premier announced plans to transform the little-used laneways of Adelaide's CBD into vibrant spaces that attract people to the heart of the city. In his announcement the Premier identified changes to liquor licensing laws as one of the key areas for action.

Both Melbourne and Sydney have had success in revitalising CBD and inner-city laneways. In these jurisdictions the State Government has contributed to the laneway redevelopment programs by amending liquor licensing and planning laws to encourage the establishment of small licensed venues. These small venues, which operate as bars, cafes or under a hybrid bar/restaurant business model, offer a different experience, and aim to attract a different demographic, to hotels and nightclubs.

As currently structured, the liquor licensing regime does not properly accommodate this kind of hybrid business model nor does it provide a licence that is suitable for a small bar that does not wish to operate as a restaurant or night club. The current licensing framework provides for the following classes of liquor licence:

- hotel licence;
- residential licence;
- restaurant licence;
- entertainment venue licence;
- club licence;
- retail liquor merchant's licence;
- wholesale liquor merchant's licence;
- producer's licence;
- direct sales licence;
- special circumstances licence;
- limited licence.

There is no small or general venue or bar licence category.

While the hotel and special circumstances licences can, potentially, accommodate the business model of a small bar or hybrid venue, small entrepreneurs find them difficult and costly to obtain.

Hotel licences are provided for by section 32 of the Act and is the class of licence with the most extensive trading rights.

A hotel licence is subject to a number of conditions relating to mandatory opening hours and the service of meals. Consultation with small venue owners suggests that these conditions often renders a hotel licence unsuitable to the business model of a small bar or hybrid bar/food business.

A further problem posed by the hotel licence provisions is the requirement, under section 58 of the Act, that the applicant satisfy a 'needs' test.

Broadly speaking, the needs test is satisfied by proof of a gap in the market in the relevant locality rather than a general shortage of liquor, or even of a shortage in the particular locality. For hotels, this means demonstrating that they will deliver some service that is not already available in the locality. The applicant for the licence bears the burden of proving the relevant need.

The large number of hotels in the CBD make it very difficult for an applicant who wants to start a small licensed venue under a hotel licence to establish the venue is necessary in order to provide for the needs of the public in that locality.

A special circumstances licence, provided under section 40 of the Act, is very broad. It authorises the licensee to sell liquor for consumption on or off the licensed premises in accordance with the terms and conditions of the licence. Subject to whatever conditions may be imposed, a special circumstances licence provides sufficient flexibility to accommodate the business model of a small bar, restaurant or hybrid venue as proposed.

However, while the grant of a special circumstances licence is not subject to a needs test, it is subject to a major limitation. Subsection 40(2) of the Act provides that a special circumstances licence cannot be granted unless the applicant satisfies the licensing authority that:

- a licence of no other category could adequately cover the kind of business proposed by the applicant; and
- the proposed business would be substantially prejudiced if the applicant's trading rights were limited to those possible under a licence of some other category.

An applicant for a special circumstances licence who wishes to run a small bar or hybrid business will have great difficulty establishing that his or her business would be substantially prejudiced if it were forced to operate under a hotel licence, given the powers of exemptions available to a licensing authority. This creates a circular problem, as an applicant for a hotel licence is required under section 58 of the Act to satisfy the 'needs' test.

The difficulties posed by the hotel licence and special circumstances licence provisions mean that many small venue owners are forced to operate under restaurant or entertainment venue licences.

The problems with a restaurant licence, when applied to the business model of a small bar or hybrid business, are two-fold. Firstly, it requires patrons to be attending a function at which food is provided, or to be seated in order to be served liquor without a meal. Secondly, except as otherwise allowed by a condition of the licence, the business must be conducted such that the supply of meals is, at all times, the primary and predominant service provided to the public at the premises. While the qualification except as otherwise allowed by a condition of the licence provides some flexibility, a licensing authority cannot completely exempt a licence from the statutory conditions. This means it unlikely that a licensing authority could grant a restaurant licence with a condition completely exempting the premises from the requirement to serve meals or to be open during certain hours. It should be noted that 'meal' in this context means a substantial, sit-down, meal and does not include light food that may be served with or ancillary to liquor. This renders a restaurant licence unsuitable for a small bar owner who seeks flexible opening hours and who does not intend offering its customers meals (and, given the cost of operating a commercial kitchen, many may not wish to do so).

Similarly, entertainment venue licences, provided for under section 35 of the Act, permit the sale of liquor for on-premises consumption but only:

- for consumption with or ancillary to a meal to patrons in a designated dining area;
- when live entertainment is provided; or
- if the licence conditions so allow, to patrons attending a function at which food is provided or who are seated at a table.

Importantly, subsection (2) of section 35 provides that an entertainment venue licence must be subject to a number of conditions one of which is that the business conducted at the licences premises must consist primarily and predominately of the provision of live entertainment.

These limitations render an entertainment venue licence unsuitable for a small venue owner who does not wish to serve meals or host functions or sell liquor at times other than when live entertainment is provided or who otherwise does not wish to operate predominately as a live music venue.

Even where an applicant overcomes the problems with the licensing structure, other than where the premises operate under an entertainment venue licence (with the problems inherent with that category of licence), section 105 of the Act requires a further consent to be granted before licensed premises can have entertainment. In order to obtain entertainment consent, an applicant must satisfy the licensing authority that:

(a) the giving of consent to the entertainment would be consistent with the objects of the Act; and

(b) the entertainment is unlikely to give undue offence to people who reside, work or worship in the vicinity of the premises.

Although the need to obtain a separate entertainment consent may be appropriate for large venues or venues that seek to offer entertainment into the early hours of the morning, for small venues that wish to offer entertainment only up to midnight it is unnecessary and the requirement that multiple approvals be obtained adds to the costs incurred by small venue owners who wish to offer entertainment. Consultation with small bar owners and live music venue operators indicates this is a major disincentive to smaller venues offering live entertainment which has had a detrimental impact on the live music scene in Adelaide.

The Government also believes that the application process should be streamlined.

Currently, section 77 of the Act gives any person a right to object to the grant of a liquor licence. Under section 17, contested applications must be referred to conciliation. If conciliation fails, an application must be referred to the Liquor Licensing Court (unless the parties agree to the Commissioner determining the application). Where matters are determined by the Commissioner, section 22 provides general right to seek review of a decision of the Commissioner to the Court. Section 27 provides a right of appeal (with permission of the Supreme Court) from a decision of the Court. The right to object combined with the conciliation, hearing and appeal processes can draw out the application process and lead to significant costs being incurred by applicants and to inappropriate, overly restrictive, licence conditions. The costs associated with the process have been identified by small venue owners as a major barrier and disincentive to entry into the market.

The Government has consulted with small bar owners, live music venue operators, organisations such as Renew Adelaide, the Adelaide West End Association, the Adelaide City Council, and the Australian Hotels Association of South Australia (AHASA). As a result of this consultation, the Government proposes the creation of a small venue liquor licence, one that will allow a licensee flexibility in terms of the business operated under it. To cut red tape and business costs, a new streamlined process for small venues licence applications is also proposed.

A small venue licence will have these features:

- A small venue licence will authorise the sale or supply of liquor for on-premises consumption, and on-premises consumption of liquor with or ancillary to a meal, during specified hours of service. Sale of liquor for off-premises consumption will not be authorised.
- The maximum capacity of a small venue will be limited to 120 patrons (including internal and external areas).

- Standard hours of service (of liquor) will be 11am to midnight on any day other than Christmas Day or Good Friday. The hours of service will be able to be extended to cover midnight to 2am on any day other than Boxing Day or Easter Saturday or 8am to 11am on any day other than Christmas Day or Good Friday through an extended trading authorisation.
- At the discretion of the Commissioner, an entertainment consent authorising entertainment (other than prescribed entertainment) on the premises during standard hours of service (11am to midnight) will be deemed to apply to the premises without the need for an application for separate entertainment consent. Entertainment beyond standard hours will require a separate entertainment consent. Prescribed entertainment will include adult entertainment.
- Gaming will not be permitted.
- Small venue licences will only be able to be granted in prescribed areas. This will be limited to the Adelaide Central Business District for an initial period of 12 months after which additional areas may be prescribed by regulation following consultation by the Minister with relevant industry associations and councils.

A new process will apply to applications for small venue licences:

- Applications for small venue licences will be determined, in all cases, by the Commissioner.
- Small venue applications will have to be advertised.
- There will be no requirement that the Commissioner attempt conciliation of a small venue licence application.
- The general right of objection will not apply to a small venue licence application. Instead, there will be a general right to make submissions to the Commissioner on a small venue licence application.
- The Police Commissioner will retain the right to intervene in a small venue licence application, which will include the right to put evidence to the Commissioner.
- The Police Commissioner and the applicant will retain the right to seek review of the Commissioner's decision in the Licensing Court. The Police Commissioner will only have the right to seek review on 'fit and proper person' and 'public interest' grounds.

In all other respects, the provisions of the Act will apply: an applicant for a small venue licence will have to pass the 'fit and proper person' test; the premises will have to be suitable; licensees will have to comply with mandatory conditions regarding codes of practice.

These reforms have been the subject of consultation with small venue operators, regulators and groups such as Renew Adelaide, the Adelaide West End Association and the Adelaide City Council. There is widespread support across these groups for the Government's reform proposals.

I commend this bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Liquor Licensing Act 1997*

4—Amendment of section 17—Division of responsibilities between the Commissioner and the Court

This clause amends section 17 of the principal Act to require applications to which section 52 of the Act applies and that relate to the new small venue licence to be determined by the Commissioner.

The clause further provides that the conciliation provisions in section 17(1)(b) do not apply to an application to which section 52 applies that relates to a small venue licence.

5—Amendment of section 21—Power of Commissioner to refer questions to the Court

This clause amends section 21 of the principal Act to provide that, in relation to applications in respect of a small venue licence, the Commissioner can only refer questions of law to the Court for determination, rather than all of the matters listed in that section.

6—Amendment of section 22—Application for review of Commissioner's decision

This clause amends section 22 of the principal Act to allow the Court to review certain decisions of the Commissioner relating to applications for, or relating to, a small venue licence.

7—Amendment of section 31—Authorised trading in liquor

This clause amends section 31 of the principal Act to add a new class of licence, namely the small venue licence.

8—Insertion of section 40A

This clause inserts new section 40A into the principal Act, setting out what a small venue licence authorises, along with conditions attaching to the new class of licence.

Of special note is that a small venue licence can only be granted in respect of premises located in a prescribed area (which is currently the Adelaide CBD, but to which other areas may be added by regulations).

9—Amendment of section 53—Discretionary powers of licensing authority

This clause provides that the Commissioner has an absolute discretion to grant or refuse an application for a small venue licence, which (pursuant to section 21 of the principal Act) limits review of the Commissioner's decision in respect of the discretion.

10—Amendment to section 76—Other rights of intervention

This clause amends section 76 of the principal Act to provide that the section does not apply to proceedings relating to an application for, or in relation to, a small venue licence. New section 77A provides rights of submission in relation to small venue licences.

11—Amendment of section 77—General right of objection

This clause amends section 77 of the principal Act to provide that the section does not apply to proceedings relating to an application for, or in relation to, a small venue licence. New section 77A provides rights of submission in relation to small venue licences.

12—Insertion of section 77A

This clause inserts new section 77A into the principal Act, setting out the rights of people to make submissions in relation to an application for, or in relation to, a small venue licence.

13—Amendment of section 105—Entertainment on licensed premises

This clause amends section 105 of the principal Act to provide that a licensee of licensed premises in respect of which a small venue licence is in force does not require an authorisation to provide entertainment on the licensed premises, subject to the conditions set out in new section 105(1a).

Debate adjourned on motion of Hon. D.W. Ridgway.

EVIDENCE (IDENTIFICATION) AMENDMENT BILL

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

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (17:43): I move:

That this bill be now read a second time.

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

Leave granted.

Labor's *Strengthening our Police Service Policy 2010* said:

> 'Line ups' require substantial police resources often requiring up to 10 police officers and up to 60 hours of police time to arrange. A re-elected Rann Government will amend legislation that will allow identification of a person suspected of committing an offence via photographs or video (including still or moving digital images) in lieu of physical 'line ups'. Police will be able to use technology such as PowerPoint presentations or mobile data terminals located within vehicles to present photographs to victims and witnesses. These changes will increase the efficiency of police investigations; relieve victims of the trauma of having to see the offender again and most importantly free up valuable police resources. Any changes to the legislation and procedures will ensure that the use of identification evidence in criminal proceedings will not be compromised.

A properly conducted identification parade or 'line up' has been traditionally regarded as giving rise to the most confidence in a reliable identification. As was explained by Gibbs J in the leading authority *Alexander* (1981) 145 CLR 395 at 401:

> The safest and most satisfactory way of ensuring that a witness makes an accurate identification is by arranging for the witness to pick out from a group the person whom he saw on the occasion relevant to the crime.

Identification by means of a parade or line up is traditionally preferred to other alternatives, such as from photographs, at least when a named suspect is reasonably known to the police (although the High Court accepted in *Alexander* that photographs were unobjectionable and probably unavoidable in the investigative stage when a suspect was not known).

Alexander has been followed in South Australia. In *Deering* (1986) 43 SASR 252, King CJ said:

> Where there is a clear and definite suspect or where an arrest has been made the proper procedure to be followed is for the police to arrange an identification parade if the suspect or arrested person is prepared to participate in such a parade. If that procedure is not followed it gives rise to a discretion in the trial judge to exclude the evidence of identification by other means and that discretion will be exercised having regard to all relevant factors including, of course, the public interest in ensuring that persons who have committed crimes are convicted and punished for those crimes. It may be necessary to present photographs to an alleged victim of a crime at a stage of the investigation at which no person has been arrested and at which there is no definite suspect, in order to provide an opportunity for the victim to pick out the offender.

The traditional assumption favouring line ups also gives rise to the potential for comment or warning to the jury by the trial judge that the weight of the photographic identification, whilst admissible, is inherently inferior to that of a line up. Such comments are open to criticism as confusing, unnecessary and even wrong.

However, it is clear that, notwithstanding *Alexander*, photographic identification evidence is used at trials in South Australia. The practice of the courts has moved away from *Alexander* and toward the routine use of photographic identification evidence. It is widely accepted in practice as relevant and admissible evidence. It appears that local defence lawyers routinely advise their clients (perhaps unwisely) to refuse to take part in an identification procedure therefore requiring the police to resort to photographic procedures. It appears that, notwithstanding *Alexander*, line ups are already comparatively rare in practice in South Australia.

The traditional assumption that line ups are a superior form of identification was accepted by the Australian Law Reform Commission in the 1980s and incorporated into the *Uniform Evidence Act* which has been enacted in New South Wales, Victoria, the Commonwealth and the Australian Capital Territory (although not on this particular point in Tasmania). However, the traditional assumption has come under increasing challenge over recent years on account of practical considerations, psychological and academic research, and technological advances. Other jurisdictions, notably Western Australia (by judicial ruling) and England, have explicitly departed from the preferred use of line ups and recognise the benefit of identification by means of photographs or a video.

The Western Australian Court of Appeal in 2007 in *Western Australia v Winmar* considered the available research and 'firmly rejected' any suggestion that the identification from a photoboard (which is typically used in South Australia) was 'inherently inferior' to identification from a line up. The court observed:

> The court should not, as some past authority may tend to suggest, attempt to discourage the use of the digiboard [the Western Australian term for a photoboard] for identification, either by requiring trial judges to warn juries specifically about the dangers of that process as compared to an identification parade, or by requiring trial judges to suggest that the process is inherently flawed, or by suggesting that trial judges should be readier in the exercise of their discretion, to exclude digiboard identification than they might be to exclude evidence of identification by other means.

South Australia Police (SAPol) submits that the use of identification parades has become increasingly difficult, time consuming and impracticable over recent years. Other jurisdictions, such as England, have also experienced these problems. SAPol argues that the practical problems that have arisen with line ups are:

- Victims and witnesses are reluctant to face offenders (especially an issue in dealing with organised crime);
- The major difficulties in securing the attendance of victim(s) and witnesses, suspects and sufficient volunteers of similar appearance to the accused at the same location for what can be a considerable time;
- The increasing multinational and multicultural diversity of South Australia often makes it difficult, if not impossible, to arrange line ups if the suspect comes from a minority group;
- It may be that some accused are of a unique or unusual appearance so that is impossible to organise a fair line up;
- There simply may not be enough volunteers of similar appearance to the suspect to hold a line up - it is increasingly difficult to assemble volunteers to participate in line ups. The days of police going to the local university and finding a ready pool of volunteers appear to be over;
- Suspects can (and often do) sabotage the identification process by failing to arrive at line ups arranged with considerable difficultly, by arbitrarily challenging the suitability of participants, by disrupting the process and by changing their appearance since the commission of the alleged crime;
- Where identification is an issue, it is crucial that the identification of the suspect should be done as soon as possible after the offence - line ups cannot be arranged at short notice which prevents timely identification and weakens the probative value of any subsequent positive identification;
- Line ups are time consuming and relatively expensive to arrange and hold. There are only limited facilities available. Although they may be realistic in serious crimes, they are not a realistic or cost effective solution in dealing with less serious but high volume crime, such as car theft, assaults or break ins. This results in solvable crime going undetected and the culprits going unpunished;
- The difficulties in arranging an identification process are compounded when investigations are conducted in regional or remote locations.

There has also been research, notably by Professor Neil Brewer at Flinders University, that highlights that traditional line ups are not as reliable as was commonly supposed. It has been found that witnesses have a tendency to compare the appearance of each person in the line up to each other. They adopt this strategy as part of a strategy to find the person who most closely resembles the culprit. The process of comparison means that a witness is likely to

make an identification, although not necessarily the correct one. A further problem that arises is that the 'simultaneous' format (where the witness views everyone at once) associated with traditional line ups has been found to increase the risk of false identification. Professor Brewer and others have found that a sequential form of identification (where the witness views the images one at a time) produces a substantially reduced rate of wrong identification.

Alexander was decided when black and white photographs were still routinely used. Photographic identification has become more sophisticated and effective in replicating real life. Although photographic identification is not without its difficulties, it is now arguable that photographic evidence is as reliable (if not even more so) than identification from a line up.

The use of photographs provides a fair and effective means of identification. There are a number of powerful advantages associated with modern photographic or video identification. SAPol argues that:

- It enables swift and timely identification which furthers the policy of detecting and identifying an accused at the earliest possible opportunity after a crime;
- Prompt identification processes aid the police investigation of crime and also enable the prompt elimination of innocent suspects;
- Photographs offer great advantage over line ups in the ability to feature persons of similar appearance to the suspect, especially if the accused is of unusual appearance or comes from a minority group;
- Greater fairness to a suspect can be achieved by adjustment to photographs or identifying features to ensure the volunteers most closely resemble the suspect;
- Photographs can be readily distributed to all regions of the State almost immediately;
- Modern photographs are as reliable and accurate a means of identification (if not more so) than traditional line ups;
- Photographs represent a realistic and cost effective means of identification thus enabling proper investigation of a wider range of crimes where identification is an issue.

Identification evidence has long been regarded as inherently problematic by the criminal justice system owing to the well documented risk of a mistaken identification by even honest witnesses leading to the real risk of a wrongful conviction. The difficultly in cross examining confident but wrong identification witnesses has long been recognised. The common assumption is that human memory is an uncomplicated photographic-like process but, as jurists and researchers note, the reality is that identification evidence presents its own real dangers.

The potential unreliability is due to the subconscious frailties of observation and memory. To try and alleviate the dangers associated with identification evidence, the courts have long insisted that the jury must be warned as to the dangers of relying on identification evidence, both in general terms and in specific terms appropriate to the facts of the particular case (see *R v Turnbull* [1977] QB 224 and *R v Domican* (1992) 173 CLR 555). It is not proposed to dilute or remove this warning. This warning applies to all forms of identification evidence without discrimination and should remain.

This Bill simply puts photographic means of identification on an even footing with a line up. The message of this Bill is simple and potent. A bad photographic identification is just as bad as a bad line up—and a good photographic identification is just as good as a good line up. There is simply no need to say more than this. The opposing view was that the Government should codify every aspect of the identification process. That was not and is not the view of the Government. It would set the process in concrete and hamstring the judicial process of the evaluation of highly controversial evidence in the context of the trial as a whole. It is that very problem that has led to this difficulty because of old authority.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Evidence Act 1929*

4—Insertion of section 34AB

This clause inserts new section 34AB.

34AB—Identification evidence

The proposed section provides that evidence of the identity of the defendant is not inadmissible merely because it was obtained other than by an identification parade, if the judge is of the opinion that the evidence has sufficient probative value to justify its admission.

Proposed subsections (2) and (3) govern the information to be given to a jury by a judge in a criminal trial where the identity of the defendant is in issue and evidence of the identity of the defendant is admitted.

Debate adjourned on motion of Hon. D.W. Ridgway.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

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

At 17:46 the council adjourned until Thursday 7 February 2013 at 14:15.