LEGISLATIVE COUNCIL

Thursday, 3 July 2014

The PRESIDENT (Hon. R.P. Wortley) took the chair at 14:16 and read prayers.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the Minister for Employment, Higher Education and Skills (Hon. G.E. Gago)—

South Australian Superannuation Scheme Actuarial Report, 2013
Super SA Triple S Insurance Review Report, 2013

Ministerial Statement

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:17): I seek leave to make a ministerial statement.

Leave granted.

The Hon. I.K. HUNTER: On the evening of 2 July 2014 residents of 40 properties in Clovelly Park—

Members interjecting:

The PRESIDENT: The Hon. Mr Lucas, I hope you sit there and listen to the ministerial statement with all your attention.

The Hon. I.K. HUNTER: On the evening of 2 July 2014 residents of 40 properties in Clovelly Park were doorknocked by officers of the Environment Protection Authority (EPA), Housing SA and SA Health to provide an update regarding ongoing investigations into site contamination in the area. These issues have been actively regulated by the EPA since October 2008, when site contamination was first identified.

The contaminant detected at the affected residential area is trichloroethene, a colourless liquid chemical widely used in industrial applications, particularly for metal cleaning and degreasing, and is known to have been used in the Clovelly Park area. TCE is a volatile chemical, meaning that it readily evaporates and forms vapour, and is now known to last in the environment for hundreds of years. It is suspected that these substances entered the groundwater from previous landowners through historical practices involving waste handling, storage and disposal. The World Health Organisation and the US EPA recommends further investigation at concentration levels above two micrograms per cubic metre.

The TCE at the levels seen here do not indicate an immediate health risk to residents. However, in line with international standards it is prudent to investigate concentration levels above two micrograms per cubic metre to mitigate or rule out any risk of long-term exposure. The EPA has required Monroe to effectively engage with residents in a timely manner. The EPA Site Contamination Hotline has been provided on all written correspondence by Monroe to the residents.

In September 2012, a letter was sent to approximately 43 residents summarising the results of soil vapour and groundwater sampling and advised the need for indoor air testing at selected residential properties. In December 2012, correspondence advising of an initial indoor air sampling event was sent to seven Housing SA properties requesting samples be obtained from inside the properties, in addition to a letter to the wider community (approximately 43 residents).

In January 2013, advice was provided to the seven Housing SA properties and an additional 43 residents advising of the results of first round of indoor air sampling and that a follow-up round

was required. In April 2013, Monroe, URS Australia (a site contamination consultant), Housing SA and the EPA visited residents to advise of indoor air and soil vapour sampling. During late 2013, URS Australia undertook further indoor air and soil vapour sampling as part of the ongoing assessment work being undertaken within the residential area at Clovelly Park.

In October 2013, further letters were sent to approximately six targeted residents in addition to a letter to approximately 43 residential properties advising that further work was required, involving indoor air testing. In December 2013, residents were advised by Monroe and URS Australia via a letter drop and direct discussion that the results of the indoor air sampling would be used to prepare a detailed site investigation report and committed to ongoing communication with residents this year.

On 16 May 2014, the draft Vapour Intrusion Risk Assessment (VIRA) report was provided to the EPA, SA Health and Housing SA by consultants engaged by Monroe which indicated levels of TCE were higher than previously measured. After receiving the draft VIRA report on 16 May 2014, the report was reviewed by an independent accredited auditor engaged by the EPA, in accordance with best practice. In addition, the report was reviewed by the EPA and SA Health.

On 6 June 2014, a meeting was held between executives of SA Health, EPA, Housing SA and Renewal SA to discuss the VIRA report. In response to the assessment of the draft report, an interagency task force has been established, including representatives from the EPA, SA Health and Housing SA to coordinate the government's response. On 25 June 2014, this task force proposed to government that as a precautionary measure residents of 31 properties be relocated over a period of six months while further investigation work is carried out.

The task force proposed communication and engagement be undertaken in a coordinated and orderly fashion on 3 July 2014. As a result of statements made in parliament on 2 July 2014, this communication and engagement was brought forward to ensure residents were fully informed of the situation by experts who could take them through the matter in detail and answer any immediate questions they may have.

Housing SA has implemented a relocation plan for residents of 23 properties that will take place over a six-month period, commencing in the coming weeks. Discussions have commenced with residents of two private properties in the investigation area to seek their input on a range of options for relocation or vapour intrusion mitigation.

Further investigations are to be undertaken to determine the nature and extent of site contamination in the Clovelly Park area and remediation options will also be investigated. When a further investigation area has been identified, communication with residents in the wider area will occur to advise them of the work being undertaken and to provide them with information on the nature of the investigation.

Residents will also be invited to attend community open house sessions where they will have the opportunity to ask questions of the EPA and SA Health specialists on the matter. I am advised Monroe has been cooperating fully with the EPA and undertaking work and liaising with residents as required. The EPA will provide monthly updates to residents within the investigation area and I encourage anyone seeking further information to contact the EPA on hotline number 1800 770 174.

The PRESIDENT: Are all honourable members aware that is the Hon. John Dawkins' 60th birthday today?

The Hon. J.S.L. Dawkins: Nice of you to put the number in there.

The PRESIDENT: Sorry.

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

The PRESIDENT: Order, Mr Dawkins!

Question Time

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. J.M.A. LENSINK (14:24): If the Clovelly Park contamination issue is as trivial as the minister implied by his performance yesterday in parliament, why then did he and teams of officials descend on the suburb to doorknock the area just 3½ hours after it was first raised, including commencing the evacuation process?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:25): It is unfortunate indeed that the members of the Liberal Party in this place did not think through the implications of the matters they were raising on the residents concerned. My concern throughout this process—and as I have advised we were planning to doorknock today—was to tell the residents first, tell the people directly impacted by this information first.

Unfortunately, the Liberal Party had a different view. It did not think through the implications for those people; it did not think through the implication for people who may see it on the TV news in a very truncated and abbreviated form, and so I thought it was important to bring forward by about 20 hours the doorknocking that we were going to undertake today in any case and I instructed my agencies to gather at 6 o'clock and begin doorknocking last evening.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. J.M.A. LENSINK (14:25): I have a supplementary question. Can the minister cite any single resident in any of the transcripts in the last 24 hours who has not expressed concern that they would prefer to have been notified earlier rather than that the government implement its rather superficial strategy?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:26): The honourable member again does not have any thought for the residents' concerns; none at all. Contrary to the Liberal Party in this place, my view and my concern at all times was for the residents. I think they should have been the first ones to hear this information firsthand from the government agencies involved, but unfortunately the Liberal Party had a different view.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. S.G. WADE (14:26): I seek leave to make an explanation before asking the Minister for Sustainability, Environment and Conservation a question about the Clovelly Park contamination.

Leave granted.

The Hon. S.G. WADE: The opposition has been advised that the State Emergency Management Committee met on Thursday last week (26 June 2014) at one day's notice to discuss issues of escalated air contamination at Clovelly Park. The role of the committee, according to statute, is to provide advice on the management of emergencies in South Australia. The statute gives it no role in managing events that are not emergencies. My questions are:

1. Why did the minister not mention the meeting of the State Emergency Management Committee in his ministerial statement?

2. Why is escalated air contamination at Clovelly Park so serious that the State Emergency Management Committee was convened at one day's notice but is not so serious that the residents can wait for a public relations plan to be developed before they are advised?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:27): I thank the honourable member for his most important question. Once again, I have to say that the concerns for the residents came first with me. That is always—

The Hon. S.G. Wade: What about informing this house?

The PRESIDENT: The Hon. Mr Wade, allow the minister to complete his answer.

The Hon. I.K. HUNTER: The Hon. Mr Wade believes that I should have informed the house first. I differ from him on that. My view is and always will be that I should inform the directly affected residents first. They deserve to hear from government agencies first before I advise anyone else more broadly.

Ministerial Statement

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

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): Whilst I am on my feet I table a ministerial statement on Clovelly Park made in the other place by the Minister for Manufacturing and Innovation.

Question Time

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. S.G. WADE (14:28): I have a supplementary question. I ask the minister if he has not misled this house by not referring to a State Emergency Management Committee meeting on the 26th when he saw it necessary to mention a task force meeting the day before?

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): The honourable member just does not seem to want to understand that my priority in all these matters is a concern for the residents of Clovelly Park, a concern to give them every available piece of information and to give them first a heads-up before anybody else was told. I have a very different point of view from those opposite me who believe they should have been told first. My view is always the impacted residents should have that information straightaway.

Unfortunately, the members opposite had a different view. Once that information was in the public arena, I told my agencies that I wanted them to act earlier than they were planning to. They were planning to act today and doorknock this morning and I asked them to bring that forward to 6 o'clock.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. K.L. VINCENT (14:29): Supplementary question: given that TCE poses a particular risk to pregnant women, did the minister, when doorknocking the residents of Clovelly Park, make a particular effort to warn pregnant women of the potential risk of congenital heart defects in newborns?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:29): It is important to understand in all this that the advice from the Department of Health is that the level of TCE coming up through the soil from the contaminated groundwater is such a very low level that it is unlikely that any resident was exposed to this chemical in a way that would have caused them any health dangers at all.

It is important to understand that the occupational limit for exposure to TCE in the workplace is 27,000 times higher, I am advised, than the level that was found in these houses—27,000 times higher. This is occupational exposure, eight hours a day, five days a week, and that is 27,000 times higher at 54 milligrams per cubic metre. The World Health Organisation advises that the levels discovered in the houses of two micrograms—not milligrams, but micrograms—per metre squared are sufficient to inquire further. That is the extent of the information. I repeat again: the Department of Health is of the view that the levels found in this report are of a level that would not have an adverse impact on any of the residents in their health.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. R.I. LUCAS (14:31): Given the minister's professed concerns for residents and given the fact that the minister was aware in February/March of last year—that is 2013—that three residential properties had TCE concentrations above the two micrograms per cubic metre, why didn't the minister take action with those three properties in early 2013 prior to the state election to relocate or evacuate those residents?

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): The honourable member tries to confound the chamber with some information which is not supported by the evidence, not supported by the advice of the Department of Health, but that is his prerogative. The government and I will take advice from the relevant agencies, the Department of

Health and the EPA. They have given that advice to us as a government last week and the government has acted.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. R.I. LUCAS (14:32): I have supplementary question arising out of the answer. The information that I have read comes from a press release from 12 April from the EPA, and my supplementary question to the minister is: given that he has indicated that the residents are being moved because the recent test results show that they had TCE concentrations slightly higher than two micrograms per cubic metre, why didn't he take action more than 12 months ago, prior to the state election, when he had information that three properties had TCE concentrations above two micrograms per cubic metre?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:33): Mr President—

Members interjecting:

The PRESIDENT: Minister, do you want to sit down? A supplementary question has been asked of the minister and he has got to his feet to answer that question, so at least allow him to answer it in silence. We are all interested in the answer. The honourable minister.

The Hon. I.K. HUNTER: Once again I advise the honourable member that the government is acting in a precautionary way. The advice to the government from the senior officials last week was that, in an abundance of caution, we should offer relocation to the residents in that area, the 25 homes that are impacted, and that is what the government is doing. We are talking about relocation and mitigation to those people right now. I understand the Housing Trust is in the process of making appointments to do follow-up appointments for next week with those residents and we will continue to keep them informed of the process.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. T.A. FRANKS (14:34): A supplementary: can the minister rule out that any of the residents in the Housing Trust homes will be required to pay any costs out of their own pocket for that relocation?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:34): I believe the Minister for Social Housing in the other place has made it very plain that the Housing Trust will bear all reasonable costs for relocation.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. R.I. LUCAS (14:34): A supplementary question arising out of the minister's answer to my earlier question: given the minister indicates that he and they are acting out of an abundance of caution on the recent test results, why didn't he apply the same principle to the three residents early last year and prior to the state election and relocate or evacuate those three residents who had TCE concentrations greater than two micrograms per cubic metre?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:34): Again, I advise the house and the honourable member that this government acts on expert advice. That expert advice came to us and recommended last week that we should offer relocations, and that is what the government is doing.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. K.L. VINCENT (14:35): Supplementary, Mr President: does the minister concede that there must be some risk to residents, otherwise he would not be advising them to relocate at all?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:35): I can only draw honourable members' attention to my ministerial statement and comments

that I have made previously. The advice from the Department of Health is that exposure to the levels that have been monitored and found is very unlikely to have any impact on the health of residents.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. R.I. LUCAS (14:35): Supplementary question arising out of the minister's answer: given the minister has indicated that he has acted out of an abundance of caution in relation to the recent test results, and that he did not act out of an abundance of caution prior to the election, were political considerations taken into account by the minister in refusing to take any action to relocate or evacuate the three residents who he knew had TCE concentrations in their households of greater than two micrograms per cubic metre?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:36): Once again, the honourable member is verballing me, making statements and allegations that I have not made.

The Hon. R.I. Lucas: Pre the election, you wouldn't do it!

The Hon. I.K. HUNTER: If he would read what I have said in this place today with a little care later on, he will find—

The Hon. R.I. Lucas: You just covered it up.

The Hon. I.K. HUNTER: —he will find that I told him the advice has come to us from senior executives of the Public Service that we should offer relocation, and we are acting on it.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. R.I. LUCAS (14:36): Supplementary: is the minister indicating that he and the government received no advice prior to the election when exactly the same test results were being recorded in homes in this particular area?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:36): I advise the house again that the report from Monroe through URS came to the government, the EPA and Department of Health on 16 May. That was analysed and assessed by experienced technical agents and the advice they formulated came to government, and we are acting on it.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:37): I seek leave to make a brief explanation before asking the Minister for Environment a question about the spread of the contamination.

Leave granted.

The Hon. D.W. RIDGWAY: In a document that is on the EPA website dated July 2014—given we are only on the 3rd, it is in the last 24 hours; in fact, I expect it was posted this morning—it says on page 2, under 'Further testing required':

> Currently, the extent of the groundwater and soil vapour contamination has not yet been determined.

I will repeat that: the extent of the groundwater and soil vapour contamination has not yet been determined. It goes on:

> Additional testing for TCE in groundwater is required in areas further south into Clovelly Park, and west into…Mitchell Park. Further testing of the soil vapour will also be undertaken to determine the extent of the soil vapour contamination.
>
> The EPA, with the support of Health SA, is in the process of selecting a suitably qualified and experienced site contamination consultant to undertake the further investigation work.

My questions to the minister are:

1. Can the minister explain why this information has only just been posted, probably this morning, which indicates contamination testing is required in areas adjacent to Clovelly Park and west into Mitchell Park?

2. Can he also inform us how many properties are potentially affected in this area?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:38): The honourable member seeks some assurity which I cannot give him. These are underwater groundwater sources. It is very difficult to determine their boundaries and very difficult to determine where the extent of chemical infiltration may be. We do that by testing bores in some cases, and in other cases we do it by testing air quality or soil samples.

The EPA is extending its inquiries a little bit to the south, as I mentioned. We are talking to another 14 or 15 homes and residents about further testing. The testing that has been done in their front yards, I understand, to this point, has shown a marked drop-off in TCE from areas closer to the point where we believe the contamination may have originated. But it is proper that the EPA should extend out its search to find and define what the boundaries will be.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:39): Supplementary: given the government has known about the contamination in this area for about six years, why is it now only appointing a contamination consultant to undertake further investigation in Clovelly Park and Mitchell Park?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:39): It is quite correct to say that we have been working on this issue since about 2008, and it is only in recent times that we have information that has come to hand to tell us that the air infiltration of vapour has just ticked over the two micrograms level in these houses in Clovelly Park. In any case, it is normal practice for the EPA, once it is advised of these infiltrations of vapour, to extend its search to try and define the boundaries. That is just normal practice. That is what they will do.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:40): Further supplementary: when did the minister or the government first advise that there was potential risk in Clovelly Park and Mitchell Park?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:40): I do not have the particular date at hand, but I am advised it was sometime in 2008.

WATERCONNECT

The Hon. T.T. NGO (14:40): My question is to the Minister for Water and the River Murray. Will you tell the council about the awards won by the Department of Environment, Water and Natural Resources for its innovative water management websites?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:41): What an excellent question from the honourable member; I thank him for it. This government is very proud of the work it is doing in securing reliable water for this state. The millennium drought and years of overallocation by upstream states of Murray River water prompted us to undertake a series of important policies and reforms. These include:

- standing up with all South Australians to fight the federal government for the River Murray, resulting in a final basin plan to ensure the health of the river;
- our Water for Good plan, released in 2009, which has seen South Australia become a leader in stormwater harvesting;
- the 100-gigalitre Adelaide desalination plant;
- our water-sensitive urban design policy that promotes the integration of the water cycle into our urban design; and finally
- our urban water blueprint, designed to provide a more integrated approach to urban water management and identify opportunities and a vision for Adelaide's urban water environment.

These initiatives have secured a water supply for our growing economy and population without placing an additional burden on our existing resources. Importantly, it has also allowed the return of water for environmental purposes.

The Department of Environment, Water and Natural Resources has played a central role in this work. One of the many important tasks the department undertakes is designing and making available necessary, useful and easy to navigate information to both industry and the general public. I am very pleased to report that the department has been recognised by the iAwards for its WaterConnect website.

The iAwards have been acknowledging excellence and innovation in the ICT sector for 20 years. The awards honour organisations and initiatives in both the public and private sectors that are judged to be particularly innovative and at the cutting edge of technology. Most importantly, the iAwards recognise the achievements of Australian innovators that have a positive impact on our community. The host partners of the iAwards are the Australian Computer Society, Australian Information Industry Association and the Pearcey Foundation. Each of these partners advocates the important contribution the ICT sector makes to Australia through innovation and productivity gains.

My department has been honoured for its work on the South Australian government's open data water portal WaterConnect, which can be found at www.waterconnect.sa.gov.au. This innovative website took out the 2014 Sustainability iAward for South Australia and received a merit certificate in the government category. WaterConnect is a comprehensive website that provides important and essential information on water. The website is a great example of the state's open data agenda. It provides free access to water information. This includes ground and surface water data in respect to river flows, levels, qualities, salinity and rainfall, and does this in near real time.

WaterConnect is the result of an extensive collaboration led by the Department of Environment, Water and Natural Resources together with the EPA, the Department of Primary Industries and Regions, the former department for manufacturing, innovation, trade, resources and energy, the Goyder Institute for Water Research, the Murray-Darling Basin Authority, SA Water and the Bureau of Meteorology. This is an impressive list of partners and it illustrates just how important this information is considered by the sector.

The website serves a range of industries, researchers and community groups seeking evidence-based information and data relating to South Australia's water resources. The data and information available through the WaterConnect website can be freely integrated into other sites and systems, providing direct, accurate and timely access to relevant authoritative data. The website has been designed to be easy to use and allows visitors to search by geographical location or region. It offers a comprehensive text search, and quick links to common topics of interest.

More and more these days people expect access to a large and diverse amount of specific information related to water resources to build up their own knowledge and inform local decision-making, and it is the government's job to provide this information. The WaterConnect website is now eligible to compete in the same categories for the national awards that are due to be announced in August, and I wish the department luck in these awards. I would also like to take the opportunity to thank the staff of the Department of Environment, Water and Natural Resources, all of them involved in designing and maintaining the website, as well as all the partner organisations.

ENVIRONMENT PROTECTION BILATERAL AGREEMENT

The Hon. M.C. PARNELL (14:45): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about bilateral agreements between the commonwealth and South Australia.

Leave granted.

The Hon. M.C. PARNELL: On 19 December last year the federal Minister for the Environment, Greg Hunt, issued notice of his intention to develop a draft bilateral agreement with the state of South Australia under section 45 of the Environment Protection and Biodiversity Conservation Act. The purpose of such a bilateral agreement is for the commonwealth to begin the process of vacating the field in relation to the environmental assessment of projects and to hand over responsibilities to the state; in particular, the process of assessing projects.

The public submission period closed on 17 March, and 12 submissions were received. I refer the minister to the submission received from the Conservation Council of South Australia. That submission, in opposing the proposed agreement, stated:

> The EIA process provided for by the South Australian Development Act is outdated and outmoded. It should not be given accreditation for the purpose of meeting commonwealth requirements under the EPBC Act in its present form. In particular it does not provide for public consultation on either the level of assessment or the preparation of guidelines. It contains a 'privative' clause excluding all judicial oversight of the procedures. It is administered by a department (DPTI) that lacks the resources and appropriate scientific expertise to undertake the preparation of the required assessment report and therefore depends heavily on the inputs of other government agencies such as the EPA.

My questions are:

1. Will South Australia be signing the proposed bilateral agreement?

2. If so, how does the minister reconcile the inconsistencies in public participation rights between the commonwealth EPBC Act and the South Australian Development Act?

3. Is the government negotiating with the commonwealth in relation to a further proposed bilateral agreement relating to the approval of projects that impact on matters of national environmental significance?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:47): I thank the honourable member for his most important question. The federal government has declared that it will reduce environmental red tape through creation of a one-stop shop for state and federal environmental approvals via the state-based system. Under this commitment, the federal government is offering states the opportunity to have state environmental impact assessment processes, which meet commonwealth environmental standards, accredited to undertake assessment and approval processes of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 on behalf of the commonwealth.

On 11 October 2013 Prime Minister Abbott wrote to the Premier seeking the South Australian government's commitment to participate in these reforms, and to advise that the Hon. Greg Hunt MP, federal Minister for the Environment, will be the lead minister on behalf of the commonwealth. To deliver this one-stop shop the federal government is proposing a staged approach to accreditation, which will involve the signing of a memorandum of understanding to map out the process of what both parties expect, to update or expand the current assessment bilateral agreement, followed by agreement on an approval bilateral agreement within 12 months.

The South Australian government's consistent position, since the Council of Australian Governments agreed to streamline the commonwealth accreditation of state and territory environmental assessment and approval processes, under the commonwealth Environment Protection and Biodiversity Conservation Act, in 2012, has been that it supports accreditation of South Australia's environmental assessment and approval processes, as the objectives are to reduce red tape and deliver a streamlined regulatory environment, and to ensure high standard environmental outcomes are maintained.

Negotiations led by the Department of the Premier and Cabinet and the Department of Environment, Water and Natural Resources have concluded with a memorandum of understanding between the South Australian government and the commonwealth government being signed by the Premier at COAG on 13 December 2013.

The memorandum of understanding is available on the commonwealth Department of the Environment website. I am advised that work on the assessment bilateral agreement is underway to update the current assessment bilateral agreement signed in 2008, which currently accredits the major development assessment provisions of the Development Act, to also accredit eligible environmental assessment provisions of the Mining Act.

The assessment bilateral agreement will allow actions requiring assessment under the commonwealth Environment Protection and Biodiversity Conservation Act to be assessed through the relevant accredited state assessment process. The commonwealth environment minister will then use assessment information from the state assessment process to make a decision on the project under the commonwealth Environment Protection and Biodiversity Conservation Act.

The updated draft assessment bilateral agreement has undergone public consultation by the commonwealth, which concluded on 17 March 2014. The commonwealth will respond to any comments received and make amendments to the agreement as deemed appropriate. When final terms are agreed by both parties, the parties will then finalise the agreement, which is expected to be signed on behalf of the state by the Premier, the Minister for Planning and the Minister for Mineral Resources and Energy on behalf of South Australia.

Negotiations are also underway, I am advised, between the state and the commonwealth on an approval bilateral agreement to accredit eligible state law to approve actions on behalf of the commonwealth, negating the requirement for approval under the commonwealth Environment Protection and Biodiversity Conservation Act.

These negotiations are expected to build on work previously undertaken during the 2012 bilateral negotiations to evaluate the state's mining, petroleum and geothermal energy and development legislation for suitability for approvals bilateral accreditation.

Depending on which South Australian legislation is eligible for accreditation, once an approval bilateral agreement is enacted, it is understood a significant proportion of projects currently referred under the commonwealth Environment Protection and Biodiversity Conservation Act will be progressed at a state government level to gain environmental approvals. It is important to highlight that this change in process will not reduce the environmental thresholds required for approval to occur.

Whilst supportive of reducing red tape and streamlining the approvals process, this government recognises that, in taking over environmental assessment and approval responsibilities from the federal government, there is the potential for the federal government to cost shift to the state. As such, this issue will be an important matter for discussion as part of the bilateral negotiations.

It is of course important that we continue to evolve our approval processes in order for Australia to continue to maintain and improve upon its competitive position. Having regard to the above, I am advised that the Premier has recently written to key industry stakeholders committing this government to continuous improvement in this important area of reform.

ENVIRONMENT PROTECTION BILATERAL AGREEMENT

The Hon. M.C. PARNELL (14:52): Supplementary question: does one of those improvements involve improving the public participation rights that I referred to in my question and has the Premier written to environmental groups or only to industry stakeholders?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:52): I am not aware of which stakeholders were written to but I can ask that question of the Premier and bring back a response for the honourable member.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. J.M.A. LENSINK (14:52): My question is to the Minister for Sustainability, Environment and Conservation. Can he advise on what date he was first made aware of the additional contamination at Clovelly Park?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:53): I think I am going to need more details from the honourable member in regard to her question. What additional contamination is she referring to?

The Hon. J.M.A. LENSINK: In relation to the report that was provided to the EPA on 16 May; when was that brought to the minister's attention?

The Hon. I.K. HUNTER: As I advised the house earlier, that report was handed, via the consultant and Monroe, to the government. The government had an independent auditor look at that report. The government, also through health and the EPA, did their own review of the report and the auditor's report. They consulted amongst themselves at a senior level. They met, as I am advised, last week (on the 25th) and formulated a recommendation that came to government and we have acted on it.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. J.M.A. LENSINK (14:54): Supplementary: at what point where you, as the minister, brought in to that process?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:54): As I said, that information was taken on from that report by the EPA, the department of health and other senior members of agencies and they formulated a response for government last week and reported it to us and we acted on it.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. J.M.A. LENSINK (14:54): By way of further supplementary, is the minister refusing or is he unable to advise at what point he was made aware of this report?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:54): I have just given the member that advice twice now.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. J.M.A. LENSINK (14:54): By way of further supplementary, in the other place in question time minister Bettison advised that she was made aware of this on 11 June. Is the minister saying that he was not aware on that date?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:54): I have already given the honourable member the answer to her question.

RIVERLAND CABINET

The Hon. J.M. GAZZOLA (14:55): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about community cabinet.

Leave granted.

The Hon. J.M. GAZZOLA: As members would be aware, the minister has always taken a keen interest in regional locations. Will the minister update the chamber about her recent trip to the Riverland as part of community cabinet?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:55): I thank the honourable member for his most important question and his ongoing interest in regional South Australia. I know that he spends a great deal of time out there in the regions as well. From 22 June to 24 June 2014 I was fortunate enough to spend time in the Riverland as part of this government's country cabinet. It was great to spend time in such a beautiful area of the state and spend time meeting and talking to South Australians from that region who welcomed this government spending time in their region.

Initiatives such as the country cabinet demonstrate that this government is committed to its regions and to addressing the issues that regional South Australians face. The Premier and I met with the Riverland Industry Leaders Group. This group contains representatives from the wine, citrus, almond, education and manufacturing sectors. The Riverland Industry Leaders Group was established by the Department of Further Education, Employment, Science and Technology to be the conduit between the region and government. This provides the government with a valuable mechanism to identifying an informed government on specific regional skills and employment opportunities.

This was a highly productive discussion about how to best address training and employment issues which face the Riverland area. It was pleasing to hear that this group is considering initiatives to encourage future university graduates to work in the Riverland's major industries as a long-term strategy to ensure young tertiary graduates are exposed to opportunities in the region and therefore may pursue employment in the area. In line with the region's industry base, the industry leaders group is also identifying a range of employment opportunities and workforce planning and development issues associated with labour requirements in the horticulture/agriculture sector.

I then visited the McCormick Centre for the Environment, located in Renmark. This centre aims to offer the state-of-the-art accredited education packages and hands-on educational experience tailored to the needs of individual learner groups. Objectives of the centre include improving the status of science, horticulture and agriculture education; inspiring people to connect with food; build healthy communities; protect our resource base; and build links with the land. It was great to be able to meet with staff and students of the centre and sample some delicious bush tucker, inspired by one of the students there who is a food producer and who has established a catering business from qualifications she was able to gain through the centre.

Following this visit, I travelled to the Murraylands Domestic Violence Service. This service provides support to women living in the Riverland, Adelaide Hills, Murray Bridge and Coorong areas of South Australia who are affected by domestic violence. The Family Safety Framework was established in the Murray Mallee region in 2011, and family safety meetings are held fortnightly in Berri and Murray Bridge. It was very beneficial being able to talk to staff and volunteers as well at the service about the challenges they face addressing domestic violence issues.

During the trip I was fortunate enough to tour the Berri commercial cooking training centre at the Riverland Trade Training Centre. The Berri commercial cookery training centre is a very strong, industry-focused training model which sees a partnership between the commercial cookery program and Riverland high schools and it has been highly successful. The Riverland Trade Training Centre is another partnership between a consortium of Riverland schools working in partnership with TAFE SA and is part of the centre. The manufacturing, engineering and transport workshop provides training for approximately 70 Riverland school students each year. This then of course leads to better training applicants.

While it was very pleasing to visit training facilities and meet with local industry leaders, I was constantly reminded of how bad the proposed cuts to the VET sector by the federal Liberal government are. They are also set on ripping money out of young apprentices through cuts to their Tools for Your Trade program and for some this would have been around $5,500 over the time of their apprenticeship, for others a bit less and for some a bit more.

I have had letters of inquiry from very concerned parents and young tradies themselves concerned that the payment that they have been expecting from the federal government now will not come. They have bought their tools so they can learn their trade and now of course they will not get their last payment. One young man was around $1,500 out of pocket—so unbelievably unfair and unjustifiable—and, although a loan system has been put in place, as one young apprentice said, 'I already have a loan, I already have a mortgage. I've had to take out a loan to provide for my car so that I can get to work locations.' He said that this would mean more debt—a lifetime of debt looking at his future.

I am very pleased that our state Labor government's budget is not abandoning skills training. The budget recently released allocates an additional $66.7 million for more training in other areas leading to jobs.

The Hon. R.L. Brokenshire interjecting:

The Hon. G.E. GAGO: It is nice to see the Hon. Robert Brokenshire in the chamber this afternoon. In terms of my visit to the Riverland, all the people whom I met and spoke with during my time in the Riverland were very appreciative of the time and effort that went into having ministers attend country cabinet. I was able to have many productive discussions on issues that concern regional South Australians, and I look forward to the next country cabinet taking me out to other regions.

NATIONAL PLAN TO REDUCE VIOLENCE AGAINST WOMEN AND THEIR CHILDREN

The Hon. T.A. FRANKS (15:02): A supplementary: given the focus on domestic violence at the Riverland country cabinet and the Premier saying on ABC radio at the cabinet that domestic violence would be front and centre of his government's agenda, why have you not committed to full partnership of the national Foundation to Prevent Violence against Women and their Children, as you as minister committed that you would do in this financial year on 14 November in this place?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:03): I thank the honourable member for her question and

have already put on the record that this government does take domestic violence extremely seriously. We have led reforms here in South Australia. We are considered leading the nation at many levels. We have undergone considerable legislative reform in terms of reforms to sexual assault and rape legislation, the introduction of intervention orders, and increasing police power to intervene in domestic violence situations on the spot.

We have run significant Don't Cross The Line campaigns which are about public education and awareness, as well as providing a good reference point for victims who are looking for services and support. We have put in place a designated position in the Coroner's Court to review domestic violence cases, which has been highly successful and is doing very important work in that space and, in fact, is the envy of many other jurisdictions who have far more complex and larger review panels but are not as effective and efficient as the model that we have introduced here in this state.

We are very proud of the number of really important initiatives that we have led, such as the Family Safety Framework. South Australia has led that model of case management and intervention for those women who are assessed as high risk, and we now see other jurisdictions copying that model and adopting that model. They might be calling it other names but it is based on what we do here.

We should be very proud of what we do. We have also made a major contribution at a national level. We have provided real leadership around the table there, particularly in leading the progress on the first stage of the national action plan to protect women against violence and now the second phase, which I was able to speak about in this place both yesterday and the day before. Of course, I indicated that in response to that this government has contributed $5,000 of financial assistance to the foundation and further requests are under consideration.

The Hon. T.A. Franks interjecting:

The PRESIDENT: The Hon. Ms Franks, would you please allow the minister to finish her answer.

The Hon. G.E. GAGO: Thank you, Mr President.

The Hon. T.A. Franks: Well, she's not answering it.

The PRESIDENT: She is answering in the way she sees fit, so allow that to happen.

The Hon. G.E. GAGO: Of course, the—

The Hon. J.S.L. DAWKINS: Point of order: I wish to advise that the minister has been on her feet for over 10 minutes answering this question and a supplementary and I think it is about time you asked her to actually answer the question.

The PRESIDENT: Minister, try to be as brief as possible, but continue.

The Hon. G.E. GAGO: Thank you for your advice, Mr President. This is an area that I am obviously passionate about and clearly this government has achieved a great deal in this space and I do find it hard not to talk about it at every opportunity that I can.

STUDENTS, DISABILITY

The Hon. K.L. VINCENT (15:06): I seek leave to make a brief explanation before asking questions of the minister representing the Minister for Education and Child Development about emergency and disaster planning and awareness in schools for students with disabilities.

Leave granted.

The Hon. K.L. VINCENT: It has come to my attention recently that a James Cook University academic has been conducting research into levels of emergency and disaster planning readiness for school students with disabilities. The schools surveyed were in South Australia and Western Australia. It is concerning to note that this research demonstrates that students with disabilities in South Australia have a lower level of education and planning despite children with disabilities, including chronic medical conditions and special healthcare needs, being potentially among the most vulnerable to natural disasters.

Some may find it difficult to cope with their environment when support systems are drastically altered, especially those with a limited understanding of the level of danger they are in during and

after a disaster event or who become anxious and confused in response to emergency signals. Children require more preparation and assistance to fully participate in emergency evacuation plans and to move quickly from an area likely to be affected by a disaster.

A study in the United States found that the evacuation rates were 9.25 per cent lower in households where one family member had a disability compared to other households in the aftermath of hurricanes Bonnie, Dennis and Floyd. Transportation issues and the lack of accessible shelters were reported as factors contributing to the decision not to evacuate. My questions to the minister are:

1. Does the minister agree that it is an outrage that in 2014 students with disabilities are not being taught emergency service procedures at the same rate as their non-disabled peers?

2. Does the minister agree that this is a clear case of discrimination against students with disabilities?

3. Does the minister agree that if there is a natural disaster or other emergency and students with disabilities and their teachers have not been adequately prepared by the department, the government could be liable for a negative outcome?

4. Does the minister agree that students with disabilities have the same rights to access full education and that their equal access to training and planning for disasters, particularly when some students have extra needs and additional vulnerabilities, is essential?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:09): I thank the honourable member for her most important questions to the Minister for Education and Child Development in the other place. I undertake to take those questions about emergency and disaster planning readiness for students with disabilities to her and seek a response on her behalf.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. J.M.A. LENSINK (15:09): My question is to the Minister for Sustainability, Environment and Conservation. Can he advise when he was first made aware of the need to relocate residents at Clovelly Park?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:09): I have answered that question previously. I refer the honourable member to my ministerial statement.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. J.M.A. LENSINK (15:10): A further supplementary: the question that I asked previously was when he was first made aware of the 16 May report. The question that I just asked was when was he first made aware of the need to relocate residents?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:10): I can only repeat what I have said earlier in this place. I refer the honourable member to my ministerial statement and subsequent answers.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. J.M.A. LENSINK (15:10): A further supplementary: is the minister unaware or is he refusing to answer the question?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:10): Again I remind the honourable member I have answered the question. I refer her to the ministerial statement and the subsequent answers to questions.

SITE CONTAMINATION, CLOVELLY PARK AND MITCHELL PARK

The Hon. J.M.A. LENSINK (15:10): Supplementary: perhaps if I'm a little bit slow or a little bit blind or a little bit short sighted, can the minister point out precisely where in his ministerial statement these dates are?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:10): I refer the honourable member to my ministerial statement and my answers to questions in this place.

OLIVE OIL INDUSTRY

The Hon. K.J. MAHER (15:11): My question is to the Minister for Business Services and Consumers. Can the minister update—

Members interjecting:

The PRESIDENT: Are we all finished? The clock is ticking down and there are some crossbenchers who actually want to ask some questions, so I would ask the opposition not to. The Hon. Mr Maher.

The Hon. K.J. MAHER: My question is to the Minister for Business Services and Consumers. Can the minister update the chamber on the work being undertaken by the Consumer Affairs Forum regarding concerns raised by the olive industry about olive oil labelling?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:11): I thank the honourable member for his most important question. We all love olive oil and I am very pleased to advise members about South Australia's involvement on the Consumer Affairs Forum in relation to addressing concerns with the labelling of olive oil supplied in Australia.

Australian consumers now have access to many different types of olive oils, with labels that can vary significantly between and within brands. The two common types of olive oil are virgin olive oil and refined olive oil. Virgin olive oil is extracted from the olive fruit by mechanical or physical means. There are no chemicals or heat involved in the process. This ensures that the oil is not altered and it retains its nutritional value. Extra virgin olive oil is considered to be the highest grade olive oil, followed by virgin olive oil which may have some flavour defects. Pressed olive oil that does not fall within the quality grade of extra virgin or virgin may be refined by using chemicals to remove impurities.

Common terms often associated with refined olive oils include simply 'olive oil' which typically consists of refined olive oils blended with virgin olive oils. There are also 'light' and 'extra light' olive oils which are milder in flavour and colour than extra virgin. These oils do not have reduced kilojoules like some people might be led to believe. They do not have reduced kilojoules, calories or fat content. Another common term used is 'pure' olive oil, which is typically a blend of refined and virgin olive oil. It consists of only olive oil rather than oil extracted from any other fruits or vegetables.

The Australian olive industry has expressed concerns about consumer detriment associated with international labelling practices of olive oil, and I understand that the industry proposed that the Australian Standard for Olive Oils and Olive Pomace Oils be declared a mandatory information standard under the Australian Consumer Law as a way of addressing these concerns. However, I am advised that the industry's concerns relate to the marketing of olive oil products and the competitiveness of the Australian olive oil industry more generally.

In determining whether to make such a standard, a rigorous impact analysis is required to determine whether further regulation is necessary and what its likely impact is. This includes consideration of the additional costs that would be imposed on the industry (particularly small-scale producers and we have many of them here in this state) in complying with the new regulation, to consumers in the form of higher prices, and to governments in enforcing the information standard. Of course, as we know, those costs are usually passed on to businesses as well on a cost-recovery basis, and that cost is then reflected in the price of the product.

Since 2012, consumer affairs agencies have been actively responding to issues raised by the industry regarding the labelling of olive oil, including the release of consumer guidance material on the commonly used labels on olive oil products, as well as a national compliance and enforcement operation to test the labelling and quality of olive oil supplied here in Australia.

Extensive work undertaken by consumer agencies includes: the release of guidance material for consumers, 'The Good Oil', to provide information about the characteristics and qualities of olive oil products to assist them with their purchasing decisions; a national compliance and enforcement program to assess representations made on over 350 olive oil products comprising all major and lesser-known brands, both Australian and internationally produced; enforcement action taken against a number of businesses for mislabelling olive oil as extra virgin when it was not of that quality; and, discussion with Food Standards Australia New Zealand on the question of food safety issues related to olive oil products as supplied here in Australia.

In July 2013, the Consumer Affairs Forum collectively formed a view that there is minimal evidence of consumer detriment in the market in terms of systemic misrepresentation of labelling of olive oil products. The Consumer Affairs Forum also agreed that the existing regulatory framework is sufficiently robust to deal with concerns that businesses are engaging in misleading or deceptive conduct or making false or misleading representations in relation to olive oil. Penalties of up to $1.1 million apply.

For those who have not had the opportunity to view the publication 'The Good Oil', developed by consumer affairs agencies, I recommend they visit the Consumer and Business Services or ACCC websites. Consumers seeking general advice on their rights, business obligations or more information on how to report potential misleading or deceptive conduct by a retailer, I encourage them to contact the Consumer and Business Services advisory telephone line or visit the website.

OLIVE OIL INDUSTRY

The Hon. K.L. VINCENT (15:17): Supplementary: given that the crossbenchers are, as you rightly pointed out, struggling to get time for their questions to be asked, and the many important issues we have to discuss here, does the minister really think we need to sit here and listen to what sounds like a year 7 research project on olive oil?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:17): I certainly do, Mr President! We have many olive oil producers here in this state—many of them. In fact, South Australia is one of the leading producers of quality olive oil. We make some of the best olive oil in the world and we should be really proud of it. This is a very important industry to this state. It might not be of personal interest to you, Hon. Kelly Vincent, but to many South Australians, they do care, and this labelling issue is a very important issue for them.

The Hon. K.L. VINCENT: Point of order, Mr President. At no point did I say this is not an important industry; I am merely saying that as adults, we probably don't need to be told about the two different types of olive oil when we could be discussing, I don't know, Clovelly Park or child protection.

The PRESIDENT: Or the issue that Mr Brokenshire wants to bring up. Mr Brokenshire.

WASTE LEVIES

The Hon. R.L. BROKENSHIRE (15:18): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question regarding Zero Waste levies.

Leave granted.

The Hon. R.L. BROKENSHIRE: In this house on Tuesday, in answer to a question I put to the minister regarding the necessity for a 3 per cent increase in the Zero Waste levy for 2014-15, the minister advised the house that some of the money from the Zero Waste levy goes into general revenue to assist hospitals, schools, police and a myriad of services. My question to the minister is: please advise the house of the exact amount of money from that levy that has gone into general revenue.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:19): There has been a lot of misinformation bandied about recently about how these levies are used. I will not name names, of course, but for the benefit of members I will do some of their homework for them. Nothing about this is new—nothing at all. The EPA collects two levies, both relating to the disposal of waste: the solid waste levy and the liquid waste levy. A levy is payable by the licence holder of a waste depot for all solid and liquid waste received that is disposed of at the depot. These levies are collected by the EPA, with 50 per cent of the levy transferred to the Waste and Resources Fund and 5 per cent provided to the Environment Protection Fund.

The Environment Protection Fund is a statutory fund, established under the Environment Protection Act 1993. The fund is set up as an interest-bearing special deposit account with the Department of Treasury and Finance, where it receives a prescribed percentage of fees, levies and fines. I am advised the fund receives 100 per cent of fines and penalties, plus 5 per cent of licence fees and waste levies collected by the EPA, as I mentioned a little earlier. That leaves us 45 per cent remaining, which is used to fund a range of EPA priority projects and programs, including the development and implementation of waste policy, such as the Environment Protection (Waste to Resources) Policy 2010, the management of site contamination legislation and the illegal dumping unit, which is very active in investigating illegal waste operations.

Each year, the EPA receives an expenditure authority, which sets a limit on how much they will be allowed to spend. Last financial year this was $48,048,333. This financial year it rises, I am told, to $50,731,000. Any moneys that are collected by the EPA which are above this limit—and I remind members that the EPA collects a range of licence fees, grants and subsidies—of expenditure authority are placed in general revenue, which contributes to funding for hospitals, schools, police and the other services the honourable member raised in his question for the benefit of the South Australian community.

Part of the misinformation that is bandied about includes an often-mentioned Zero Waste levy. For the benefit of members opposite, I will explain how the levies received by the EPA are collected. The Zero Waste SA Act 2004 establishes a dedicated fund, the Waste to Resources Fund, which Zero Waste SA applies moneys to through an approved business plan to achieve its objectives, set out in South Australia's Waste Strategy 2011-15. This is a hypothecated fund and not a cent of it goes to anything other than waste-related measures, I am advised.

Members interjecting:

The Hon. I.K. HUNTER: Not a cent. The fund is made up, primarily, of 50 per cent of the levy paid by waste depot licence holders under section 113 of the Environment Protection Act. From 2003 to now, Zero Waste SA has spent approximately $81.2 million of waste levy funds on programs and projects that have stimulated councils, businesses and the community to produce, recover, re-use and recycle, thereby cutting the amount of waste going directly to landfill.

Waste levy revenue has provided grants and incentives for a diverse range of world-class recycling and leading-edge waste reduction projects. The Hon. Mr Brokenshire does not seem to have any interest in that. The waste levy revenue has provided grants and incentives to councils to improve kerbside recycling systems, but the Hon. Mr Brokenshire does not seem to have any interest in that. The waste levy revenue has supported businesses and industry to improve waste management practices, but the Hon. Mr Brokenshire seems to have no interest in that.

The waste levy revenue has provided regional communities with new or upgraded transfer stations using state-of-the-art technologies, sorting equipment and improved waste management, supported school education projects, supported litter reduction initiatives and supported free household collection services for hazardous waste, including e-waste, but the Hon. Mr Brokenshire seems to have no interest in any of that. These projects have proved—

Members interjecting:

The PRESIDENT: Order! Minister, continue.

The Hon. I.K. HUNTER: These projects have proved successful and have cut the amount of waste going directly to landfill. Overall, the long-term trend for resource recovery in South Australia remains upwards. In the period since 2003-04, the total reported resource recovery has nearly

doubled from two million to four million tonnes each year. The diversion rate has steadily increased from just over 60 per cent to between 75 and 80 per cent.

As of May, I can say Zero Waste SA's Treasury approved expenditure for 2014-15 is $7.45 million, and while any future expenditure from the fund must be framed in the context of economic conditions facing the state, the government will continue to explore other ideas and projects to access and use moneys from this fund for the purposes pursuant to the Zero Waste SA Act 2004. The waste levy revenue funds a range of EPA priority projects and programs, including the development and implementation of waste policy, such as the Environment Protection (Waste to Resources) Policy. Other projects include—

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

The Hon. I.K. HUNTER: Honourable members do not seem to have any interest in this very important area. Let me just finish with this comment. In an article published on the reputable Business Environment Network website on 7 December 2012, the Waste Contractors and Recyclers Association of New South Wales stated that waste is being moved from New South Wales landfills and being sent to Queensland. In a further article from 25 June 2013, Tony Khoury, the executive director of the Waste Contractors and Recyclers Association of New South Wales, an industry expert, was quoted as stating:

An unfortunate consequence of a high NSW waste levy—particularly since the Queensland government's decision to abandon its own waste levy—is the financial incentive to transport waste to south-east Queensland landfills.

Mr President, that is the answer to why our waste levy goes up hand in hand with Victoria's and New South Wales', because we want to prevent across-the-border dumping of waste from other states into South Australia, and turn what is waste into a resource.

Bills

APPROPRIATION BILL 2014

Estimates Committees

The House of Assembly requested that the Minister for Employment, Higher Education and Skills (Hon. G.E. Gago) and the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter), members of the Legislative Council, attend and give evidence before the estimates committees of the House of Assembly on the Appropriation Bill.

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:26): I move:

That the Minister for Employment, Higher Education and Skills (Hon. G.E. Gago) and the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter) have leave to attend and give evidence before the estimates committees of the House of Assembly on the Appropriation Bill, if they think fit.

The Hon. T.A. FRANKS (15:27): I am certainly attracted to supporting this motion, but I seek clarification that the ministers will actually answer the questions they are asked in this process.

The Hon. G.E. Gago: As we always do.

The PRESIDENT: Does that mean you are voting against it, Hon. Ms Franks?

The Hon. T.A. FRANKS: It sounds like I will be voting against it, if it is 'as they always do', as the minister interjects.

Motion carried.

Motions

GRESTE, MR PETER

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:28): I move:

That this council:

1. Condemns the conviction and sentence given to Australian journalist Peter Greste and his colleagues from the Al Jazeera network; and

2. Supports the commonwealth government in its diplomatic efforts to bring about a positive outcome for Mr Greste and his family.

I am sure that all Legislative Council members will now be familiar with the information that last week the Australian journalist Peter Greste and his fellow Al Jazeera colleagues Mohamed Fahmy and Baher Mohamed were found guilty and convicted of reporting false news by an Egyptian court. In a deeply troubling precedent for journalistic freedom, Mr Greste received a seven-year sentence whilst his colleagues received a seven-year sentence and a 10-year sentence respectively. The Al Jazeera journalists were also convicted of supporting previous Egyptian President Mohammad Morsi's Muslim Brotherhood, which was declared a terrorist organisation following the 2013 coup that deposed Morsi.

The Greste case is an alarming development, given claims by the Egyptian government that its country is on a transition to democracy. Political leaders around the world have joined in condemnation of the injustice that has been meted out to Mr Greste and his colleagues. The legal process that resulted in the conviction bears no resemblance to any we would consider appropriate, with the prosecution failing to present a single piece of concrete evidence to support the allegations against the three men.

The seven-year sentence also came as a great shock to Mr Greste and his family and friends, who were obviously not anticipating a sentence anything like that duration. Mr Greste's brothers Andrew and Mike have been present in Egypt during the trial, while his parents, Juris and Lois, have remained in Queensland. For Mr Greste's aged parents the events of last week will have been, no doubt, terribly upsetting. Up until last week there was a general acceptance that Peter Greste was in one way or another likely to soon be free of the dubious legal circumstances in which he found himself. For Juris and Lois Greste, the seven long years before they see their son free from prison must seem like an unimaginably long time. I am sure that, like me, members feel deeply for their tragic situation.

I have been advised that the Greste family has been receiving good consular support from the Australian government in their efforts to free their son and brother and I commend our diplomatic service for their hard work. It is also gratifying to see the massive public outpouring of support for the journalists.

Only last Monday, a number of senior Australian journalists from a broad spectrum of the Australian media met with the Egyptian Vice-Consul to Australia, Mr Ahmed Farid. They handed him a letter signed by 100 media organisations and non-government organisations from around the world which called for the immediate release of Mr Greste and his colleagues.

The delegation meeting with the senior Egyptian diplomat also handed over a petition, organised by Amnesty International, which contained over 150,000 signatures. The Australian federal government has also been lobbying for Mr Greste's freedom. However, the possibility of a pardon in the near future has effectively been ruled out by Egyptian President Abdel Fattah al-Sisi, who has said that he will not interfere in judicial matters. Any presidential pardon could only happen after the appeal process has been exhausted, and the indications are that the appeal process could be very lengthy indeed.

In order for the Australian government to secure the freedom of Mr Greste and his colleagues from the confines of their Egyptian prison cells, it will be necessary for our diplomatic services to work at the very top of their game, skilfully exercising deft and well-considered judgement in a very timely fashion.

A further consideration is that this all must take place within the current context of a rapidly changing and highly volatile Middle East situation. All the indications are that the campaign to free Mr Greste will be of a long-term nature rather than short-term and, as such, as the weeks, months or even years tick by, we must not forget the dire situation Mr Greste finds himself in merely for reporting the news, nor the grief and worry that his family must be feeling for him.

This is, of course, a very significant case for Mr Greste but it is also a significant one for journalistic freedom and the values that accompany that ideal. We expect that a fair and balanced reportage of world events is available to us every night when we turn on the evening news; however,

Mr Greste's lengthy and deeply unjust incarceration is a timely reminder of the personal risks in which journalists place themselves in order to bring us that information and to keep us informed and abreast of international matters.

Defending the right of journalists to work in a free and objective manner is obviously an important principle to defend, as are other far-reaching consequences of this case: the rule of law, the independence of the judiciary in Egypt, and the fair and equitable application of the law. For all these reasons I believe it is appropriate that this house resolves to provide support for the commonwealth government's diplomatic efforts, and I commend the motion to the council.

Debate adjourned on motion of Hon. A.L. McLachlan.

Bills

SURVEILLANCE DEVICES BILL

Committee Stage

In committee.

The Hon. J.A. DARLEY: I rise to speak on the Surveillance Devices Bill 2014.

The Hon. S.G. WADE: On a point of order, Mr President, if we are in committee, I wonder why you are in your chair.

The PRESIDENT: Are we in committee on this?

The Hon. J.S.L. Dawkins: Yes, we are!

The PRESIDENT: Well, you better save your speech for clause 1, mate.

The Hon. J.A. DARLEY: Mr Chairman, I rise to speak on this debate—

The CHAIR: Wait a minute, the Hon. Mr Darley, we are just getting the—

The Hon. S.G. Wade: He's got the call—he's allowed to speak.

The CHAIR: Let me worry about that, the Hon. Mr Wade. He will speak—we've got some administrative things here, which have nothing to do with you, so just cool it. There are 39 clauses and four schedules. I will go to clause 1. The Hon. Mr Darley.

Clause 1.

The Hon. J.A. DARLEY: I rise to speak on the Surveillance Devices Bill 2014. The bill is essentially the same as that first introduced by the government in 2012, and it incorporates amendments moved by the government when the bill was debated at the end of the last sitting session. At the outset I wish to place on the record that my position with respect to the bill remains unchanged, that is, whilst I am willing to consider those changes that relate to police powers, I will not support other measures dealing with the use of surveillance devices, particularly as they relate to the publication by media outlets on matters in the public interest. I stand to be corrected, but I understand that is also the position of the opposition and most, if not all, crossbenchers in this place.

Most honourable members would have by now met with or received correspondence from Free TV Australia, who have been lobbying extensively against the proposed measures on behalf of commercial free-to-air television licensees. The organisation has been doing so because of the far-reaching consequences the bill will have on the ability of media outlets to report on matters in the public interest.

Free TV's main objections to the bill revolve around three key issues: first, the broad scope of the definition of 'surveillance devices' and the fact that the definition covers all cameras and recording devices, not just those that are hidden or covert; the requirement for judicial approval before publishing material that has been acquired using a surveillance device in the public interest; and, the limitations on communication and publication of material acquired for the purposes of lawful interests.

As highlighted by Free TV, there is no question that the use of listening or camera devices, and the subsequent publication by broadcasters, often advances that interest. The media have been able to expose countless stories that have resulted in positive outcomes. In its submission Free

TV points to a number of examples where broadcasters have advanced the public interest through the use of material obtained by covert listening devices or cameras.

As outlined by the Hon. Tammy Franks yesterday, these examples include: animal cruelty at abattoirs; puppy farms; illegal immigration scams; unhealthy and unhygienic practices in nail salons and restaurants; instances of reckless driving; the use of mobile phones while driving; offensive and threatening behaviour by neighbours; assaults; dodgy dealings by used car salespersons; people stealing from charity bins; uncovering stolen credit card operations—the list goes on.

In some cases these stories have resulted in significant outcomes including the exposure of illegal and unethical behaviour, criminal prosecutions and convictions, remedies for victims, the closure of unethical businesses, changes to legislation, public warnings, education and disciplinary action. Without the media it is questionable whether some of these matters would have otherwise resulted in these outcomes. It is also extremely questionable whether some of these stories would have ever seen the light of day.

As highlighted by Free TV Australia, the breadth of the definitions in the bill is extremely problematic. Clause 9(2) provides that a person must not knowingly use communicate or publish information or material that is derived from the use of a listening device or an optical surveillance device in circumstances where the device was used in the public interest except in accordance with an order of the judge under this division. These provisions are intended to apply to all individuals including media organisations and to all material derived from the use of listening or optical surveillance devices.

It is not limited for instance to information obtained through the use of hidden or covert means. Just imagine the situation under the proposed bill where we have broadcasters queuing up each day outside the courts seeking judicial approval before running with a story that includes material obtained through the use of a camera or listening device. It will not be limited to programs such as *Today Tonight* which, coincidently, is responsible for exposing so many stories that are of public concern but will extend to our news programs, our radio programs, our newspaper journalists, other investigative journalists—it will apply across the board.

Aside from the obvious impracticalities of the situation, little regard appears to have been given to the fact that our courts' resources are already extremely overstretched. Then there is the whole issue of freedom of the press and impeding on the community's right to information over matters in the public interest. As if the current freedom of information application process was not bad enough, the government is moving more and more towards a situation of freedom from information and freedom from the right to know.

That is just the media's concerns. Andrea Madeley, on behalf of Voice of Industrial Death, has raised concerns about the potential impacts the bill will have on the welfare of employees. From VOID's perspective, the far-reaching implications of the bill could create unintended consequences that are both devastating and unnecessary for employees and their families. As such, the organisation, which does such a tremendous amount of work assisting the families of employees who have been injured or killed, and advocating for change, stands against the bill in its current form.

The RSPCA has also indicated its opposition to a number of measures in the bill highlighting that it is essential that animal welfare organisations maintain the right to publish content in the public interest, such as material representing acts of animal cruelty, abuse, suffering and neglect. The organisation makes the point that relying solely on criminal prosecutions to stop animal suffering is limited in its effectiveness due to the limited scope of individual cases and the time it takes for matters to be processed through the judicial system. It concludes that prohibiting the acquisition and publication of material obtained in the public interest would have an adverse impact on the welfare of animals.

My office has also received numerous phone calls and emails from constituents opposing the bill on the basis of the catastrophic effects it will have on animal welfare. Lastly, I am sure I am not the only one who has also been made aware, anecdotally, of our police advising individuals to use recording devices to substantiate reports that they have made against offending businesses or persons. In fact, I think our local *Today Tonight* producers would also agree that people are often told by the police that the provision of such recordings is often the only leg they have to stand on in terms of any legal remedy.

I would like to clarify one other point that has been raised over and over again by the Attorney-General in the other place, that is, that the bill should be supported because it is in line with the recommendations of the Legislative Review Committee of which I am a member. I think the Attorney is fully aware that that is not the case.

The bill goes well beyond the scope of what was envisaged and it does not reflect the intent of the recommendations of the committee. I just want to flag that because I do not think that this argument is a valid justification for supporting the bill. I think it is no secret that the government caved last time it tried to push ahead with this bill because there was an election looming. The government should have caved because it was bad law, not because it did not want to upset media outlets.

Our community relies heavily on the media for exposing matters that are in the public interest. It plays a pivotal role in raising public awareness on important issues. For those reasons I urge the government to support measures that will be put forward aimed at splitting this bill so that those uncontentious matters dealing with the police surveillance operations are able to be passed separately, and to consider other appropriate amendments. If this is not agreed to I will be opposing the bill in its entirety.

Progress reported; committee to sit again.

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 1 July 2014.)

The Hon. S.G. WADE (15:46): I rise to speak on the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2014. The Liberal Party has consistently promoted and supported legislation to confiscate assets where they are the proceeds of crime or the instruments of crime, even if they were lawfully acquired or where they represent unexplained wealth. In fact, the Liberal Party led the moves in this parliament to move against unexplained wealth.

However, this bill seeks to take the laws a step further, and that is to seize assets unrelated to a particular crime, disconnect them from any other penalty that an offender may receive, even where a person can prove that the assets have been legally acquired. In April, in the Emmerson case, a similar Northern Territory bill which had been struck down by the Supreme Court of the Northern Territory on constitutional grounds, was upheld by the High Court. In that decision, the High Court removed the constitutional doubts that had been visiting laws of this type. What we now know is that this type of law is constitutional and we are now looking afresh to see whether, in fact, it is good law and whether it could be made better.

The Liberal Party supported the passage of the bill through the House of Assembly. The shadow attorney-general indicated that we would be giving the bill further consideration but we are yet to be convinced that the bill even meets the government's stated goals. In the Labor Party's 2010 serious crime election policy, which was quoted by the minister in her second reading contribution, it states:

> This proposal will amend the Criminal Assets Confiscation (Controlled Substances) Act to target persistent or high-level drug offenders to provide for the total confiscation of the property of a declared drug trafficker. This deterrent is an effective way of disrupting and hindering the activities of serious organised crime gangs by removing or reducing profits.

At the 2010 election the Labor Party did not win a majority of the two-party preferred vote but formed government in spite of that fact. In the last parliament the Weatherill Labor government introduced bills to implement the 2010 policy. The bills, however, went further than the policy in that first, they allowed for the confiscation following a first offence and, secondly, they proposed to divert confiscated funds away from the victims of crime fund. None of those bills received the support of this parliament, particularly the Legislative Council.

The 2014 Labor Party policy went further again in that the policy said that the Labor Party would continue to pursue criminal asset confiscation changes and 'in addition we will give the court the power to prevent the offender from owning property for up to five years'. There are two distinctive elements of this extension of the policy. First, it is proposed to prevent offenders from owning property. Not only will an offender have assets confiscated, some of which may have been lawfully

acquired and may have nothing to do with lawful activity, but the bill proposes that an offender would not be able to legally acquire any assets for up to five years.

The second noteworthy element is the commitment of the Labor Party to involve the courts. At the moment the confiscation scheme is managed by the Director of Public Prosecutions, it is subject to limited judicial oversight and, unlike the prosecution's function, the director's work in criminal assets confiscation is not subject to prosecutorial guidelines. If the DPP's role is to be expanded it would make sense, to me at least, that we have some element of judicial review and some element of guidance from DPP guidelines. Since the Emmerson case we can be more comfortable in involving the courts in this sort of process.

At the 2014 election the Labor Party did not win a majority of the two-party preferred vote, but formed government in spite of that fact, so for two elections in a row this policy has not been part of the policy set endorsed by the electorate of South Australia. The Attorney-General was asked in the other place why this bill only reflects the 2010 policy and not the 2014 policy. The Attorney-General told the House of Assembly that the reason this bill does not include the 2014 policy is because the parliament has already seen an earlier form of this bill and that putting new matters in could delay. What utter rubbish! If the government claims a mandate, at least it should seek to enact the most recent mandate—the policy from the most recent election.

The Liberal Party continues to have concerns about the fairness of the bill. The bill seeks to allow the confiscation of assets of certain drug offences to the brink of bankruptcy, even if a person could prove that the assets were lawfully acquired and that they were unrelated to crime. The bill is fundamentally different from current confiscation laws because it entitles the state to confiscate assets even if the citizen can demonstrate that they were lawfully acquired. Accordingly, the confiscation is more in the nature of a fine and could significantly exceed the penalty for the particular offence.

If the government contemplates penalties for an offence which are the subject of this type of approach, then the Liberal Party poses the question: why does the government not increase the penalties? I note that in this context a number of offences already have very significant penalties, as I understand it, of up to $500,000 fines and life imprisonment. Our law generally does not provide income related fines, that is they are fixed amounts. Obviously the financial circumstances of the defendant can be taken into account and within a statutory maximum, but they are not initially set on the basis of a certain disclosed or taxable income of the offender.

This bill represents a fundamental change in the fixing of fines. It is fundamental, but it is not novel. A letter from the Bar Association dated 27 June quotes the Emmerson case, that I previously referred to, and the historical precedents for confiscation laws. I quote the Bar Association note:

> In Attorney-General (NT) v Emmerson, the High Court identified the historical origins of contemporary forfeiture legislation similar to the Criminal Assets Confiscation Act 2005 in the following terms: Forfeiture or confiscation of property, in connection with the commission of serious crime, has a long history in English law. Until its abolition by statute in 1870, a felon incurred general forfeiture of property, a sanction stretching back to medieval times.
>
> Felony forfeiture provided Crown revenue and constituted the subject matter, at certain times, of Crown patronage. In distinguishing between a felon's forfeiture of land (strictly, escheat of land), a consequence of attainder following a judgment of death or outlawry, and the forfeiture of goods and chattels, a consequence of conviction and sentence, Blackstone noted the severe deterrent effect of forfeiture as a punishment for serious crime because it affected posterity as well as the individual offender.

The Bar Association goes on to say:

> The primary objective of the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2014…appears to be to retreat to the 19th century, by implementing a scheme of forfeiture of property that will operate automatically and indiscriminately against one identified sub class of criminal offender—'prescribed drug offenders'.

The Law Society's concerns in relation to this bill have been well documented by the society and oft referred to in this parliament. I will just briefly remind the council of some of those concerns. The Law Society has said that:

> The bill is inimical to a free society which applies the rule of law and encourages the citizen to be self-sufficient. To say that it is draconian only tells a fraction of the story, as citizens should not be deprived of his or her lawfully acquired assets because he commits an offence.

The society feels that the bill is discriminatory against citizens who are legally industrious and acquire wealth. They express concern at a lack of nexus between the offence and the assets seized. The

society also says that the scheme represents an additional punishment over and above that for the actual offending. The Law Society mentions its concern about the impact on innocent parties. They raise the question that the citizen may have assets seized in spite of the fact that they may have dependants who rely on them. As Justice Gageler in the Emmerson case said:

> Difficult issues might arise as to the effect of forfeiture on interests of other persons. Those issues can be put to one side.

He meant in the context of the case:

> For present purposes, it is sufficient to focus on the most straightforward operation of the provisions: to forfeit property wholly owned by the person who is declared to be a drug [offender].

The Liberal Party is keen for this parliament to consider the impact of seizing of criminal assets on people other than the offender, and we are also concerned to make sure that our laws do not operate in a dragnet fashion to capture people who are not the targets of the laws.

The Attorney-General's approach on this aspect of the bill is quite ironic. While arguing the laws will make the world of difference, he also asserts that it will apply to a very small number of offenders. The Attorney-General can hardly be confident in either case. The government has not provided any information, modelling or precedent to suggest that such provisions will make an impact on drug trade in South Australia, yet the government has not developed any information—and we know, because we repeatedly request it—to explain what impact this will have on offending levels. Policy seems to be written more for a press release rather than to reduce crime and to make our community safer.

The other irony is that, while making unsubstantiated claims about the impact of the laws, they are also playing down how many incidences it will apply to. The Attorney-General likes to assert it will only apply to repeat offenders, but the bill reads otherwise. A first offender could be subject to the bankruptcy provisions in this confiscation down to the bankruptcy level provided in this bill if they undertake a single commercial drug offence. In that context, I think the advice of the Bar Association is extremely useful. As practitioners in the field, their submission, I think, gives us a better understanding of the real impact of the definitions that this bill contains.

In that regard, I would appreciate if the minister at the second reading summing up stage could give us the government's response to the Bar Association's assertions in terms of the impact of the definitions. Both the Bar Association and the Law Society assert that the definitions and thresholds included in this legislation, even for the first offence provisions, would attract relatively low-level offending. The relevant excerpt from the Bar Association submission reads as follows:

> There are two circumstances in which a person may become a prescribed drug offender: one, upon conviction for a 'commercial drug offence'; two, upon conviction for a third 'prescribed drug offence' within a 10 year period.
>
> The first category of 'prescribed drug offenders' are those convicted of a 'commercial drug offence'—offences against the Controlled Substances Act 1984...involving trafficking, manufacturing, cultivating or selling commercial, or large commercial, quantities of drugs or precursors.
>
> The bill sets a very low bar for a person to commit a single 'commercial drug offence' and become a 'prescribed drug offender', resulting in the automatic forfeiture of their property.
>
> To take cannabis offending as an example, a person convicted of trafficking 1 kg or more of pure cannabis will commit a 'commercial drug offence' and become a 'prescribed drug offender'. Yet 1 kg of dried cannabis can be obtained from harvesting only a few cannabis plants (and since cannabis loses about 75% of its weight after drying, if a grower was caught with cannabis after they had just harvested it they are likely to possess more than 1 kg of cannabis from a single plant).
>
> The table set out in the second reading speech, which purports to identify the level of offending to which the amendments will apply, does not provide a comprehensive analysis. The table refers only to 'mixed' weights of controlled drugs and drugs of dependence, and at least so far as cannabis offences are concerned, it is usual for the DPP and police to prosecute offences based on the lesser 'pure weight' of cannabis, as it is a substance infrequently mixed with others.
>
> Additionally, the quantities of 'cannabis plants' identified in the table in the second reading speech as triggering the 'commercial' and 'large commercial quantity' offences are incorrect. The Controlled Substances (Controlled Drugs, Precursors and Plants) Regulations 2000...prescribe 20 cannabis plants as a 'commercial quantity' and 100 cannabis plants as a 'large commercial quantity'.
>
> Accordingly, the amendments have the capacity to operate in the context of offences involving much smaller quantities of cannabis than the second reading speech might suggest. This is incongruent with the Bill's stated

objective of targeting major, high level drug dealers or 'Mr Bigs'. Many of the offenders who will come within the first category of 'prescribed drug offenders' will instead be low level offenders.

We as a party have continually criticised this government for low penalties for drug and other offences. In that regard, we had a specific policy which we took to the last election which tried to ameliorate the tendency for some people to use the cannabis diversion program to avoid dealing with their drug offending behaviour.

We would be very happy to talk in this place about increasing the enforcement of drug offences, but what the Bar Association is saying to the Liberal Party and to all members of this place is do not accept what the government says. The government says that this is targeting Mr Bigs, that it will not deal with low-level offenders. The information that the Bar Association provides is that the government is wrong. The government's definition of prescribed drug offenders will pick up people who would not be seen as Mr Bigs. That section was specifically focusing on proposed section 6A.

In another section, the Bar Association addresses the issue of the focus of the legislation in more general terms, and I quote:

> The major premise of the Bill is that 'prescribed drug offenders' will be members of outlaw motorcycle gangs who are 'notoriously involved in drug [offending]'. There could be little doubt that some 'prescribed drug offenders' will have connections with such organisations. As a universal proposition, however, the assumption on which the Bill is premised is [false]. Moreover, it is highly unlikely that the Bill will achieve one of its stated objectives of targeting 'high level and major drug traffickers' because the pre-requisites to characterisation as a 'prescribed drug offender' are so undemanding—

let me stress 'undemanding'—

> that, having regard to the current formulation and operation of the Controlled Substances Act...in practice, the great majority of drug offenders will be subjected to the proposed amendments.

In that regard I was interested to hear the Attorney-General's estimates, although it would probably be too kind to call them estimates because he cannot tell us the number of offenders who would be affected; I think it would be best to call them guesstimates. I think the guesstimates were that the legislation would bring in between $8 million and $10 million a year.

I do not know how you can work that out without knowing how many people will be affected; nonetheless, that was four times the amount a barrister working in this field suggested to me he thought would be brought in by this legislation, so it might reflect this government's optimistic estimates on budget forecasts. Nevertheless, we are talking about significant amounts of money, and I would suggest that perhaps the Attorney-General's higher estimate reflects a growing realisation amongst government that contrary to what we have been repeatedly told, that this legislation attacks the high level and major drug traffickers, it will actually mean that relatively minor offenders will be subject to automatic confiscation. Elsewhere in the submission the Bar Association says:

> The draconian nature of the scheme proposed by the bill could be appropriately moderated by providing the court with a broader discretion to ameliorate the effects of the automatic forfeiture provisions where the circumstances of a particular case justify doing so. However, the scheme, as presently contemplated, will see the adjudicative process by the courts become little more than a 'rubber stamp' of applications made by the Director of Public Prosecutions. Courts will have no power to confine the harsh and extensive impact of the bill's amendments, no matter how meritorious the case under consideration.

I think the Bar Association's submission also raises the question: why pick on drugs? The Bar Association's submission highlights that the historical compensation laws in the Victorian era—and this legislation, if you like, returns to that tradition—were not focused on just drugs. It was based on a broad definition of felony.

Given that our current confiscation laws are not limited to a narrow range of offences and considering that the Victorian era confiscation practices (which this bill seeks to go back to) were not focused on a narrow range of offenders, that neither of them were focused on a narrow range of offenders, the government needs to explain why this legislation is focused merely on drugs. Why is this legislation not being applied to serious personal assaults or murders or child sex offenders? Once you remove the nexus between the offence and the confiscation it can apply to any offence, and one would ask: why should it not apply to other offences? There is any number of serious offences which attract up to life imprisonment for which the government is not proposing that this legislation should apply.

One clear outcome of Labor's proposed confiscation laws is that victims will lose. Labor's bill before us would stop the proceeds of the assets confiscated by this bill going to the victims of crime fund and redirects them to a justice resources fund to fund general government services. Now the government wants to persist with the bill to take away money directed to victims rather than giving priority to lifting the maximum threshold on the payments to victims of crime, as promised during the election.

The Attorney-General claims, 'We are taking nothing out of victims of crime and, by the way, at last count, I think there were some hundreds of millions of dollars sitting there, waiting for the victims of crime to receive the benefit of it.' The Attorney-General's statements are fundamentally misleading. These laws will take money from the Victims of Crime Fund. Today if a person who would be a prescribed a drug offender under the terms of the bill were convicted of an offence and liable for asset confiscation, the current act would only mean that they are liable to have instruments and proceeds of crime confiscated and the money would be transferred to the Victims of Crime Fund.

However, if this bill is passed not only will the offenders assets down to the bankruptcy level be liable to be transferred to the Justice Resources Fund but also the proceeds and instruments of crime that would otherwise have gone to the Victims of Crime Fund will now be diverted to the Justice Resources Fund.

It is fundamentally misleading for the Attorney-General to say that we are taking nothing out of victims of crime, let alone the fact that the Victims of Crime Fund does not have hundreds of millions of dollars sitting there for victims. I think it is closer to $100 million. In any event, the victims of crime are still waiting for this government to honour an election commitment to increase the victims of crime payments. With those comments, I look forward to further consideration of this bill by this council in both the committee stage and further second reading contributions.

The Hon. T.T. NGO (16:11): I rise to speak in support of the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill. This is a bill to help us attack repeat drug trafficking offenders. More broadly speaking, this is a bill that attacks bikie gangs and organised criminals. This bill is not a new concept. Similar laws and powers have been passed in Western Australia, New South Wales, the Northern Territory and Queensland.

I might point out that schemes in Western Australia and the Northern Territory require that all declared drug traffickers' assets are subject to forfeiture. This means that any assets obtained through legitimate means are also confiscated.

My understanding is that a similar proposal brought to this parliament, before my time here, was met with concern by various members, particularly those opposite. My understanding is that within this current bill protections have been placed so that a prescribed offender's possession will be forfeited to a point similar to a level that a bankrupt would be able to hold.

I must say that I personally do not lie awake at night thinking of criminals, particularly drug traffickers, and how I can protect their property, legitimate or otherwise. I am confident that the average South Australian would not care either. What an average South Australian would be expecting of us members is that we give the police the best possible powers to find these scum who are selling toxic material to young people so they can be locked up.

Given that the private property of drug traffickers was of such concern to the opposition, they would be pleased to know that the so-called bankruptcy provision, as I have termed it, sees this bill as distinct to the previous bill as well as legislation in Western Australia and the Northern Territory. To close off on this point, average South Australians need not worry that their right to own property or their right to justice is being perverted as long as they do not deal in serious and commercial drug dealing, nor repeatedly deal in drugs.

I dare say that this is an important point that has been sometimes lost in this debate, and I dare say often lost on the very intellectuals who claim to hold all knowledge in these matters. I note that in 2003, before my time here, when the bill was last before the council, there was a pending case before the High Court of Australia, which pitted the Northern Territory government against opponents of its legislation. Those opposite argued that they wanted to wait for ambiguity over that legislation's constitutionality to be resolved before they voted, given the similarities to what is being proposed here.

In April 2014, by a majority of 6:1, the High Court held that the act was valid. It was found that the Northern Territory government did not overexert their powers, as has been claimed by opponents to this government's bill, particularly with regard to the seizure of non-crime related property. Within the court's commentary it is explained very clearly the acceptance by legislatures across Australia of the utility of the restraint and forfeiture of property, not only as a strong and drastic sanction vindicating a law and encouraging its observance but also as a means of depriving criminals of profits and preventing the accumulation of significant assets.

This standard has a long history in English law, something I thought the so-called conservatives opposite would appreciate. Another important point provided by the High Court, and I quote directly from its commentary:

> Modern civil forfeiture laws for confiscating the proceeds of, or profits from, crime go beyond the condemnation of goods used in, or derived from, crime. Many are designed expressly to render a person's pursuit of certain crimes unprofitable in an economic sense.

In short, what I think the High Court was getting at is that confiscating the legitimate property of a serial drug dealer acts as an extra deterrent to cease those activities which may not have otherwise existed. Perhaps it could be argued that the power to inhibit a criminal's freedom to own property is no different from inhibiting a criminal's freedom of movement, and I believe governments are in the business of legislating for minimum or maximum gaol sentences for various offences.

Perhaps most pertinently, the High Court makes the very logical point that the rationale for employing forfeiture as a punishment may go beyond the common aims of deterrent and retribution and involve an element of incapacitation, so as to ensure that an offence will not be repeated by the same means.

I ask whether members opposite have given any consideration to the very real possibility that legitimately acquired assets could be used by repeat offenders to continue to reoffend. To that end, I believe one of the intents of this bill is to prevent crime by diminishing the capacity of offenders to finance future drug-related activities. Even the most strident opponents of this bill have conceded that, in light of the High Court's decision, this bill presented before this council is definitely constitutional.

What concerns me is that it seems to me that those opposite have not just been opposed to this bill because of their concerns over its constitutionality and, therefore, its application, they have actually raised arguments opposing the bill on a more philosophical level, raising what I would deem to be the very obscure concern that this bill impinges on the freedom of serial drug offenders. I hope their attitudes have changed on this. I look forward to seeing bipartisan support for this bill because, if those opposite do not support the bill, they will truly expose themselves as being soft on crime.

Liberal Party members have spent the last four years whingeing that they should be in government and that they were robbed and, since I was elected, they have done the same—they still whinge about it and that they were robbed. The Liberal Party needs to be very careful not to alienate many average South Australians who, may I say, make a difference in marginal seats, because if the Liberal Party continues to be soft on crime they may find themselves in opposition again after the 2018 election.

The Hon. G.A. KANDELAARS (16:21): I rise to support the government's bill and make some short remarks. I am proud to stand here and say that I belong to a government that is tough on crime. As a government we have been committed time and again to deal strong penalties to those choosing to engage in criminal activity and, in particular, to peddle drugs in our community, and to at least go after these people and bankrupt them for what they do in our community, that is, bankrupt people in our community.

I ask every member of this place: what do you think is the motivation of serious drug dealers? Do they do it for fun? Of course not. There is one reason and one reason only. Money. This bill seeks to address the motivation and to hit serious drug dealers where it hurts. This bill attacks serious drug dealers of two particular kinds, firstly, the extremely serious offender, a major offender who is convicted of a commercial drug offence being certain extremely serious offences in the Controlled Substance Act 1984.

The extremely serious offences we are talking about here are trafficking, manufacture for sale, selling or possession with the intent to sell a large commercial quantity of a controlled substance

or controlled plants and the cultivation of large commercial quantities or commercial quantities of controlled plants. It is worth looking at the table that was presented in the second reading speech.

South Australia's commercial amounts for amphetamines, half a kilogram; cannabis 2.5 kilograms; cannabis resin, two kilograms; heroin, 200 grams; cannabis plants—and I noted what the Hon. Stephen Wade said and we can get this clarified at the committee stage—100 plants. Large commercial amounts: one kilogram of amphetamines (not an insubstantial amount); cannabis, 12.5 kilograms; cannabis resin, 10 kilograms; heroin, one kilogram; and cannabis plants, 500 plants. We are not talking about minor amounts here.

When we look at the second issue, repeat offenders who are convicted three times—that is not once, not twice, but three times or more—of a nominated offence within a 10-year period, they have to be found guilty of a serious drug offence that is indictable. Under the Controlled Substances Act 1984 that is determined by what is considered commercial offences or offences involving children or school zones.

It is worth looking at some of these and, in particular, I note division 3, offences involving children and school zones: the sale and supply or administration of controlled drugs to a child; the sale and supply or administration of controlled drugs in a school zone; the sale of equipment to a child for use in connection with the consumption of a controlled drug; the sale of instructions to a child and procuring a child to commit a drug offence. These are very serious matters. Again, I point out that in terms of the repeat offenders it is not about once, it is not about twice, it is about three times in 10 years. People have had fair warning if they are caught by the provisions of this bill on that basis.

It is clear that we are not talking about small-time players. The bill focuses on the Mr Bigs of the drug trade. I do not accept the notion that this bill is unduly onerous on the families of drug traffickers. First, I admit that it does not leave means for a life of luxury but there are exemptions in respect of forfeiture of assets. The bill provides for the forfeiture of assets other than what a bankrupt would be allowed to keep. I understand that this means that a person subject to forfeiture orders under this bill would be able to keep basic household furniture and a car to a certain value, etc. I do not see those opposite complaining about how we treat bankrupts. I must say that this is about bankrupting those people who bankrupt our young kids and other people in the community by peddling in the drug trade. Let's be serious about this.

This bill removes the trappings of luxury from serious and repeat drug offenders but leaves them with the basic necessities. I have heard the argument that the families of these offenders who are used to the trappings of luxury will be punished along with the offender. However, this is no different to how we treat a bankrupt. I have not, as I said, seen those opposite complain about that.

Why should the law look after a serious or repeat drug offender? Why should we treat them any better than we treat a bankrupt? The families of a bankrupt are left with basic household goods and are asked to make do, so why should that not apply to the families of a serious and repeat drug offender? And I say again a repeat drug offender is somebody who traffics not once, not twice but three times in an indictable offence. It is not that they have not had warning. It is not that they did not know what they were doing.

I also want to make a short point about the proceeds of the forfeiture of assets. The bill provides that the proceeds raised by the application of this initiative will be devoted to the Justice Reform Fund. This fund will be devoted to the provision of money for court infrastructure, equipment and services, the provision of money for justice programs and the facilities for dealing with drug and alcohol-related crimes and other justice reform initiatives.

This is a worthwhile application of these funds. Investment in the justice sector will provide any number of benefits, not the least enabling victims of crime to receive access to their day in court in a shorter time frame. What the bill aims to do is to cut off the drug trade at the very core and reinvest the proceeds recovered to support those seeking justice.

People who should be caught by the provisions of this bill peddle drugs that cause misery and even death in our community. They are moral bankrupts, so why should we as a society not treat them as bankrupt? This is about taking serious action against those who would bankrupt our community. It is a worthy cause and I commend the bill to the house.

The Hon. K.J. MAHER (16:30): This government has stood firm against crime since it was first elected in 2002, and we make no apologies. We are tough on crime.

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

The Hon. K.J. MAHER: We are tough on crime. Mr President, I might need your protection from the Hon. John Dawkins. He seems to be quite agitated on his birthday. Now in his seventh decade of life, he is very enthusiastic. The Criminal Assets Confiscation (Prescribed Drug Offender Assets) Amendment Bill is not new to this place. Labor's 2010 serious crime election policy contemplated an early form of the bill that is before us today. That policy stated:

> This proposal will amend the Criminal Assets Confiscation Act…to target persistent or high level drug offenders to provide for total confiscation of the property of a 'Declared Drug Trafficker'.

The bill, in a substantially similar form, was introduced into parliament on 18 May 2011, as has been noted by other speakers. It was passed by the House of Assembly on 28 July 2011, but when it reached this place the opposition effectively defeated all the operative parts of the policy by amendments to the bill. Unlike us, they were not tough on crime.

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

The Hon. K.J. MAHER: Sit down if you want to interject. You have been here long enough, the Hon. John Dawkins. Sit down if you want to keep interjecting. This bill was reintroduced on 14 February 2012. The same thing happened in the Legislative Council again. On 18 October 2013, the opposition in the Legislative Council moved that the second reading be deferred for six months. The bill was effectively killed.

Again, consistent with this government's strong stance against crime, being very tough on crime, we are seeking to pass this bill through the Legislative Council. We are consistent as a government in our view that there is no place for crime in our great state. We make no apologies for this. We are proud to be here introducing and supporting this legislation again. This bill will withstand any constitutional changes as speakers from all sides have outlined. It will cut off the drug trade by attacking its reasons for being, that is the money, it will provide a strong message to the community that drug offences and their hideous consequences in our society will not be tolerated, and it will bankrupt those very individuals who bankrupt our communities.

The Hon. Stephen Wade in his speech—although it possibly could be construed as not necessarily to do with this particular subject—continues to helpfully talk about the results of the last election, and I encourage him to do so. People really want to hear about the last election result and, if that is what the Hon. Stephen Wade thinks voters are interested in, I firmly encourage him to keep talking about the last election. It is a genius strategy from the Hon. Stephen Wade. Captain Genius, keep talking about the last election. Ignore the fact that government is formed by those who have the support of the majority members of the House of Assembly. I will talk about it at much greater length at another time but, through entirely their own fault, the Liberal Party does not enjoy the support of the majority of members of the House of Assembly. I will talk at another time about former leaders.

We have a former leader who is now a part of the cabinet supporting this government. We have a former leader who left in a by-election in the seat of Frome that was won by an Independent. We have another member of the Liberal Party who holds a seat that would otherwise be won by the Liberal Party. If the Liberal Party want to look at why they lost the last election—

The Hon. J.S.L. Dawkins: What has this got to do with the bill?

The Hon. K.J. MAHER: Well, I am just responding to the Hon. Stephen Wade's speech on this bill; he introduced it on this very bill. If the opposition want to look at why they lost the last election, do not complain about the Labor Party and their 2PP. I have not heard a thing from them about the fact that at the federal election, the federal Liberal Party got 53 per cent of the vote yet won 60 per cent of the seats. I do not hear them talking about that, but if they think it is such a great idea and they think that is what voters are really interested in, I encourage them to do so. I encourage them to do so because they will continue to be in opposition for a very long time.

This bill ought to be supported. A very exciting thing, I think, has happened since the last time the opposition stymied this bill that is tough on crime in this house: the Liberal Party has turned a new leaf. The Leader of the Opposition has sought to reshuffle his front bench, and in doing so we have a new shadow attorney-general, with some experience in the practice of law. I congratulate the

new shadow attorney-general (the member for Bragg in the other place) who has looked at this bill and has passed it in the lower house. I think that is a great step forward and I look forward to the opposition supporting their new shadow attorney-general and passing it in this chamber also.

Debate adjourned on motion of Hon. J.M.A. Lensink.

LADY KINTORE COTTAGES (TRUST PROPERTY) AMENDMENT BILL

Introduction and First Reading

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

At 16:37 the council adjourned until Thursday 24 July 2014 at 14:15.