LEGISLATIVE COUNCIL

Wednesday, 2 December 2015

The PRESIDENT (Hon. R.P. Wortley) took the chair at 10:16 and read prayers.

Parliamentary Procedure

SITTINGS AND BUSINESS

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) (10:17): I move:

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

Motion carried.

Bills

PLANNING, DEVELOPMENT AND INFRASTRUCTURE BILL

Second Reading

Adjourned debate on second reading.

(Continued from 1 December 2015.)

The Hon. D.G.E. HOOD (10:17): Obviously, members will be well aware that I am rising to speak to the Planning, Development and Infrastructure Bill currently before our chamber. I indicate for members' planning purposes (pardon the pun) that I will be talking for in the order of 45 minutes or thereabouts.

Family First welcomes a simplification of the planning system and any reduction in red tape if the result is to stimulate the economy and ensure that the average South Australian can afford to purchase a home as well as improve our already very high-quality lifestyle in this state. Equally, any measure that impinges on the ability of a family or an individual to secure a home is a measure that Family First always has and always will strongly oppose.

For the benefit of the chamber, I indicate that Family First opposes or has concerns and will ultimately oppose (unless there is substantial change to these areas) two specific areas of the bill, and they are the urban growth boundary and we have very substantial concerns about the infrastructure levies or the proposal as it currently stands. My contribution today will canvass the benefits of the bill as we see it, our concerns with the urban growth boundary and the infrastructure levy reform areas, and briefly touch on a number of other what you might call lesser although also still important issues.

That being said, we may well speak to further matters as the debate continues. This is obviously a complex bill with more than 200 clauses and it will result in very substantial change to the way the planning system works in our state for literally decades to come. It will be no surprise to any member of this place that the planning system has been criticised for being overly complex and allowing great variance between different locations. Decisions are often seen to be somewhat arbitrary and subjective rather than objective.

We know that the planning system has produced numerous absurd results in some cases as it currently stands in both residential and commercial settings, which is why a reframing of this system is most welcome. I take this opportunity to congratulate the government, the Attorney-General in particular—and I have said it to him personally—for attempting substantial reform. This is, in our view, well overdue. It is easy to let these things continue without touching them because it is a hotbed or a beehive, if you like. Whatever it is, it is obviously a complex area that would be easy to leave

alone, and I give credit to the Attorney-General for taking it on. That said, as I have indicated, we do not agree with all of it, but we do with agree with a lot of it.

On the domestic front, and looking at residential housing rather than commercial properties at this stage, I recently became aware of a situation whereby a new homeowner fell foul of local council regulation when it came to works in their own front and backyard. This couple opted to landscape their front yard and promptly notified the council as such; they did the right thing. Unfortunately, they did not realise that they were required to get permission for each individual item they were changing in the yard, rather than simply getting permission to landscape the front yard as their time and finances permitted.

This meant that their initial permission covered the path they built between their driveway and their front door but did not extend to the landscaping that they erected two weeks later. I find that pretty incredible. One really wonders why you need to get council approval, or anybody's approval, to put a path in your own front yard; secondly, why would you need approval for individual aspects of what is a very minor project in the scheme of things? Even more absurd is that the same couple fell foul of their council or got in trouble (whichever way you want to put it) for building a small rabbit hutch—and I mean small—in their backyard because they did not have council approval to do so. Again, that is absurd.

When building a structure such as a gazebo, verandah, garage or something large I can see some merit in having general approval from a regulatory body, but I cannot understand why a council would be so technical about a small, movable rabbit hutch that it required council approval. I think this bill before us will go some way to addressing these absurdities. This is a perfect example of the planning and development bureaucracy that has triggered this reform. Reform is, in fact, long overdue and again I give the Attorney-General in particular credit for attempting to do so.

A more notable but equally silly case recently was that of a Burnside councillor which received widespread media attention, and I am sure that members would be well aware of it. This man was actually taken to court by his own council (he is a councillor on this council) for erecting an umbrella outside his house to provide shade for his car. The Burnside council ordered the umbrella to be pulled down because the councillor did not have appropriate planning approval nor did the umbrella fit within the so-called historic character of the suburb in which he lived, which I understand is Toorak Gardens.

At great expense to himself, the individual councillor decided not to accept the decision and went through the court process. I do not know how many tens of thousands of dollars that cost him, but no doubt it was several. Subsequently, after a long drawn-out process and great angst (over an umbrella remember) a judge determined that the umbrella did not require planning approval and that the councillor was free to erect his umbrella once more. Again, what is so offensive about an umbrella? Common sense surely dictates that this was not a structure worthy of council approval, and the cost involved to establish that was nothing short of ridiculous.

This system has to change. We cannot have a system in place where councils run around telling people they cannot have an umbrella in their front yards to shade their cars. It is ridiculous—not to mention the money the Burnside council would have spent on pursuing that case, which was all ratepayers' money which should be used for legitimate purposes.

Of course, there are many other examples. One of the largest and most commonly known in relation to planning in this city is what has happened to the so-called old Le Cornu site in North Adelaide, the large site on O'Connell Street, which is absolutely prime land in the City of Adelaide. It has a long and unpleasant history, and I understand that the Hon. Mark Parnell made some comments about it yesterday that I do not take any issue with because I think what he said was largely correct. The problem is that if developers cannot make a return, at least even a fair return, on a certain patch of dirt, they simply will not proceed with the project. When you are talking about prime pieces of real estate like that, it is not unreasonable for a developer to expect to make at least a reasonable, fair market return.

There have been several instances where the state government has been forced to intervene on that particular site and, of course, most recently essentially breaking the stalemate between the local council and the developers. I can speak as a resident of North Adelaide. I know the area well,

obviously, I live there, and I place on the record that I am very strongly in support of the so-called Le Cornu site development, the Makris development. I think it would be a terrific boon not only for the area but for South Australia. I understand that the Sheraton Hotel has been attracted to lodge its operations there, which I would strongly support.

What we had in that situation was a few of the councillors saying that it was too high. It is North Adelaide, it is not a suburban area: it is North Adelaide. It is where people expect to see substantial development; it is that sort of area. I accept that they may not want that in a more residential area such as Burnside, Prospect, or some of those other more residential suburbs, but in an area like North Adelaide I think people are not offended to see building development that is higher than they might see elsewhere.

It is this sort of regulatory impediment to development that is not what South Australia needs. We certainly welcome changes that will ensure accurate and expedient planning approvals which will stimulate and benefit our economy and most importantly our lifestyle in South Australia. As a final comment on that development, I think it needs to go ahead, and it looks like it will go ahead. It will create employment, it will improve property values and it will create rates revenue for the council and taxation for the state and federal governments. It is a must, as far as I am concerned, and I fully support it.

There are many more examples of ridiculous planning bureaucracy that have occurred over the years. That is why Family First welcomes some of the intelligent changes that have been proposed under this bill. Logic dictates that a clear set of planning and design rules applicable statewide would be beneficial as a general set of guidelines, as it would clearly identify applicable rules for engaging with planning and development without the potential for confusion and inconsistency between different areas and sometimes literally between one side of the road and the other.

Simplifying the assessment process for small-scale development in particular certainly has the potential to increase development, and making design a consideration of the reassessment can certainly aid in the provision of a vibrant and regenerated South Australia. We see this as a most beneficial change to our system as long as, again, it is not overregulated and over bureaucratised.

One of the most frequent complaints that is made about the current planning and development process is that communities feel they have not been adequately consulted on proposed changes. Under this bill, community engagement strategies guided by the engagement charter certainly lend themselves to better stakeholder consultation and involvement, especially in determining planning policies. Joint planning arrangements which allow for cooperation between councils, state government and also, obviously, the community are also a welcome condition under this bill and go some way to fostering a beneficial relationship between the three often competing groups.

Finally, we support better access to planning and development information. Documents and approvals via an online portal will make access and engagement with the community easier, more efficient and, I think, take a lot of the angst out of some of the decision-making. One can see how these improvements would address complaints of complex and confusing planning rules and lengthy approval times. Family First certainly welcomes any restructuring of the process which reduces red tape and fosters investment in South Australia and, I repeat, improves our already high-quality lifestyle, which ultimately of course is what planning is all about.

Given the significance of what we are trying to achieve here as a parliament, as well as the potential impact this bill will have, Family First is inclined to take the requisite time to consider this bill thoroughly to ensure that the best outcome occurs. With the right reforms, we can achieve the economic gains South Australia so desperately needs as well as the flow on benefits, such as improved employment and affordable housing for the people of South Australia, and even improved lifestyle benefits.

We know from a submission received from the Property Council that the property sector provides employment for about 170,000 South Australians; in other words, $4.4 billion in wages is derived from the property industry in this state. The property industry alone accounts for 10.8 per cent—let's call that 11 per cent, near enough—of South Australia's economic activity,

bringing a total of $10½ billion in gross state product. It is therefore imperative that any changes we make are demonstrably for the better.

I have received significant industry submissions, as no doubt other members have, opposing the implementation of the urban growth boundary and the infrastructure levy reforms, and I remain unconvinced that what the government is proposing is actually beneficial to South Australia. It is very difficult to argue against the industry in this matter, as they are the ones best positioned to advise us. Frankly, it is their livelihood that is at stake, so you would expect them to be well informed on the issue. I have heard it put along these lines by some: they are the ones with the skin in the game and therefore they are the ones focused on the game.

Family First has a longstanding established policy in the area of affordable housing. Our concerns about the introduction of an urban growth boundary and the proposed infrastructure levies pertain to the potential they create in driving higher prices to a place where it will be impossible for the average family or first home owner to enter the market. We do not believe that either of these initiatives will improve the lives of South Australians, and they are simply not acceptable to us in the current form.

Currently, the median housing price has inflated to more than nine times the median income. Housing prices have come a long way from the previous 100 years, when the median house price was consistently averaging about three times the median income. Urban growth boundaries notoriously increase housing prices due to a contrived lack of available land. Couple that with the additional payments due to unforeseen infrastructure levies and our already inflated utility prices, and it is not difficult to see the median house price rising beyond the current trend of a very high nine times median income, indeed a historically high nine times median income level. How tragic that would be.

This horrendous increase in the cost of housing means that in most cases the average family needs two incomes to support the purchase of a house and a greater proportion of the family income is being funnelled into mortgage repayments, assuming, of course, that people are able to purchase a house to begin with. It is not hard to see why the dream of home ownership has been pushed beyond many of those who are on a low to medium income. As a slight aside, that is why at a federal level we advocate income splitting, which would at least go some way to addressing this issue.

The recent federal inquiry into housing affordability has noted that we need to move away from thinking of rental properties as short-term accommodation and recognise that many people simply will not ever be able to afford to purchase a home in their lifetime. This is indeed a social tragedy. It is a concerning admission, as we know that most retirees, even with substantial superannuation, will not have enough money to live comfortably post retirement. In fact, many people will be living below the poverty line. It is essential that we create a system whereby people can own their homes entirely by the time they retire, so that those who have limited superannuation—which will be many, unfortunately—can afford to live and enjoy their retirement rather than use most of their money to simply accommodate themselves.

Research into the benefits of home ownership suggests that, on average, home owners have better health, self-confidence, involvement in community, employment opportunities, physical and mental health and greater wealth, and that their children are even more successful at school, on average, than those who are forced into rental accommodation.

The Australian Council of Social Services (ACOSS) made a further submission to the recent federal inquiry:

> Housing, affordability and location are integral to enabling population growth, and labour mobility, supporting improvements in participation rates and improving productivity. The housing and construction industries are also key drivers of economic activity, and associated jobs growth. Adequate housing is also a basic necessity and human right which impacts on education, health and employment outcomes, as well as the overall wellbeing of the population. Having a private place to be which is decent and over which we have some real control is fundamental to the wellbeing of every one of us as individuals and communities. In this sense, affordable housing is both vital economic and social infrastructure.

Home ownership is fast becoming the privilege of a few in this country rather than the expectation of many. The benefits to creating an environment where affordable housing is a reality are greater and much wider reaching than the initial benefit from profiting from land sales alone. It is essential that

our system returns a realistic goal of home ownership for the average South Australian once more. As I said, it used to cost approximately three times the average income to buy a median house in South Australia; it is now between seven and nine.

The major factor affecting housing affordability, of course, is the cost of land. Some land developers, state governments and land management corporations have made exorbitant amounts of money at the cost of the average South Australian, who is no longer able to afford the cost of new home ownership. The deliberate policy of limiting urban growth will only further contribute to this economic situation, and a very difficult situation it is. The sentiment I have just outlined appears to be shared by the HIA which has pointed out:

> Urban Growth Boundaries present substantial problems for the efficient management of land. UGBs can also pose significant challenges for housing affordability if there is a sustained increase in the demand for housing. As the supply of land diminishes, the typical result is higher prices and the appearance of smaller allotments as developers try and stretch the land they have available to meet housing demand and maintain an affordable product in a supply-constrained environment.
>
> UGBs also reduce or eliminate the potential for market competition between owners of land inside the UGB and those with property outside the UGB, thereby artificially limiting the pool of land available for conversion to higher use.

Of course, the obvious implication from that is that that results in further increasing prices. Going back to a point I made just a moment ago that some developers, the state government and others have profited very much out of this, the fact is that in the case of developers most of them are merely covering the cost foisted upon them, and whilst there have been one or two examples of some of them making very substantial amounts of money, the reality is that for most of them it is in their interests to present an affordable product to the market or otherwise it simply will not sell. They sell their product at a cost which includes the very substantial costs foisted upon them by regulation and other requirements.

The HIA further notes that limiting the release of land on the urban fringe is generally not accompanied by an increase in available land, and that there is no certainty that existing residents will make their sites available for redevelopment. This could lead to a situation whereby the government compulsorily acquires infill sites. Although this would not be common, of course, it may be, and I do not believe this is something South Australians want to see occur.

There is no compulsion on anyone to make their land available inside the urban growth boundary. They may decide that they simply are happy to sit on that land for a long time. They may have other plans for it within their own families or businesses or whatever it may be. There is an assumption in the whole method of introducing an urban growth boundary that all of a sudden people within that boundary will make their land available, but there is no certainty of that.

When you couple the cost of an urban growth boundary with the infrastructure levies the government is proposing, one cannot help but become increasingly concerned with the burgeoning cost to the ultimate customer—the homeowner. As I have already said, the major factor of housing affordability is, indeed, the cost of land.

By way of an example, if members open their *Sunday Mail*, as I am sure they do from time to time, and go to the housing section, which maybe some do and some do not—I certainly do—they will notice that you can have built a brand-new three-bedroom, two-bathroom, single-garage house for around $100,000 to $110,000 or something in that order. If somebody wants a four or five-bedroom home with a large family area, a couple of bathrooms and a double garage—quite a nice home—then that can be built for about $200,000. Given that the actual house component of a dwelling, if you like, in a house and land package is in the order of $100,000 to $200,000 for most of the houses being built today, it is bewildering that the median house price in Adelaide, as I have just discovered in recent days, is something like $410,000. Obviously, the land component makes up the rest of that.

Of course, not that long ago, the land component was a very low cost. The government has a large part to play in the cost of land. When the South Australian Land Commission was established in 1973, the primary aim was to ensure the provision of land to those members of the community who did not have substantial financial resources. The commission was required by the act to ensure that they did not conduct their business with a view to making a profit.

Fast forward to the mid-90s and the instruction was changed to maximise the return to government. This is quite a significant change from the noble intention of the 70s where the primary purpose was the provision of land at affordable prices. Now, of course, it is to maximise the return to government. Another word for that is an increased level of taxation.

It is therefore Family First's belief that, to restore housing affordability, the government wants, to whatever extent possible, to pull back and step aside from the land management role and allow the natural forces of supply and demand to return to the market. It is only as adequate supply returns to the market that land prices will moderate, which is exactly the economic and social stimulus we need here in South Australia.

Actually limiting supply will only force up prices, of course. We need strategies that create long-term certainty of supply, appropriate allotments and good locations at an affordable cost, whilst ensuring that those people who bought further from the CBD can still receive a fair and adequate market rate for their property when they do choose to sell.

Urban growth boundaries do not achieve this, rather they force the price of land up and reduce the quality of living for many who do not want to live in close proximity to others, because what happens is blocks get smaller and smaller, and that is what we are seeing. The Adelaide metropolitan area has the smallest average size of land being released of any capital city in Australia. I find that quite interesting, given that we have the lowest population of any of the five major capital cities. Why would we have the lowest average square metre size of land being released to the market? Something is not right. Not everyone wants to live on 300 square metres. Plenty of people, particularly those with children, would appreciate the opportunity for more land.

We have often heard Mount Barker given as an example of terrible development. I do not think Mount Barker is terrible at all. I think Mount Barker is a lovely spot. I do not live there, I do not go there that often but, when I do, I am impressed with what a nice place it is, frankly. They tend to be larger blocks. There are many new homes and good facilities. It is a nice sort of semi-rural, if you like, setting in which to live. I make no criticism of Mount Barker; in fact, I have praise for it.

I think we can sometimes create all these arguments about the necessity for infrastructure and all these wonderful facilities, but all that does is add cost and price people out of the market. One of the things that I always reflect on and has shaped my views on this issue and this particular way of thinking very strongly is my own story.

Back in 1977, I was just a young lad, seven years old, and my mum and dad had been living in public housing for quite some time but always had the dream of buying their own home. They saved and saved, and saved up the princely sum of $500, which was the required deposit to buy a house and land package in Salisbury, which is where I grew up. In fact, my dad ended up borrowing a fair portion of that $500 from my grandfather, as I understand it. That $500 was used as the deposit, and it bought a house and land package which was $33,500 in total for house and land that was over 1,000 square metres. Because of the relative affordability of that home, my parents were able to get a foot on the property ladder which they would not have otherwise been able to afford.

When we moved there, there was no infrastructure whatsoever. There were no buses, there were certainly no shops, there was nothing, really. In fact, across the road, there were almond orchards. There was literally nothing, and yet they did not care because they had the opportunity to buy their own home and create their own journey, their own story, and that is what they did.

Since that time, they have moved on and they are about to move again. In fact, they just sold their home in the last few weeks. So, that very modest three-bedroom, one-bathroom, brick veneer house out at Salisbury gave them a foot on the property ladder which has really set them up for life financially. What we do not want to do is pile all these costs onto properties that people cannot afford and stop them getting on the property ladder at all, and that is what we have been doing for too long. It is a real problem and it is not beneficial.

I am not sympathetic to all these arguments that go, 'This area has not got that infrastructure, and this area has not got that infrastructure.' People are not stupid. If somebody wants a bus service and they need to get that to work or wherever they might want to go, then they are not going to move to an area that does not offer a bus service. They are not stupid. They will only move there if they have got a car, which was exactly the case with my parents way back in 1977. They did not need a

bus service because they drove. I just think we do not give people enough credit sometimes to make decisions that best suit them. That experience, if you like, although I was obviously only very young at the time, has embedded a very firm conviction in me on that issue.

I turn from those issues to link to another issue I mentioned in my opening, that is, infrastructure levies, which is a very significant issue within this bill. Another contributing factor, of course, to burgeoning land prices can be the way infrastructure is funded. In August 2006, the then governor of the Reserve Bank (Ian MacFarlane) offered the following evidence to the House of Representatives Standing Committee on Economics, Finance and Public Administration about the increase in prices in entry-level housing, and he said:

> I think it is pretty apparent now that reluctance to release new land plus the new approach whereby the purchaser has to pay for all the services up front—the sewerage, the roads, the footpaths and all that sort of stuff, has enormously increased the price of the new, entry-level home.

That is exactly the point I just made. It is indisputable. We have seen infrastructure levies contribute to the price of land over the last 20 years or so and, in some instances, it has been estimated that infrastructure prices have added an up-front cost of around $100,000, or even more in some cases, to finished allotments. So, $100,000 can be a lot of money to people buying their first home. It was a lot of money to me when I bought my first home. That extra $100,000 could force a young family, young couple or individual, whoever it may be, out of the housing market completely.

It is for this reason that Family First remains adamantly opposed to levies that are imposed before infrastructure is provided. We are wary of a system that would allow a charge, and in some instances multiple charges, to be passed on via infrastructure levies without the certainty of knowing what percentage the user will pay for the infrastructure, and what term and when the levy will fall due. What do they get for their money, in simple terms?

Family First is also conscious of the ever-increasing reliance upon the rental market by, in particular, low to middle socioeconomic groups who will ultimately end up bearing the cost of the infrastructure levy as these charges are passed through in increased rent charges. Landlords will pass those costs on: that is a simple fact. We are creating a further inequality for those who are least able to pay.

This bill offers various infrastructure funding models which could be applied to recover the cost of what is loosely termed essential infrastructure for the state. The impositions of the levies, the extent of the definition of 'essential infrastructure' and the proportion of the cost of infrastructure to each household is subject to ministerial discretion. This is something that needs to be further worked through.

These funding models present a move from the current system whereby certain infrastructure and services have traditionally been provided by the state and funded through general revenue and borrowing. Additionally, under this bill, the levies could be applied anywhere, whether that be a new or even existing development. The HIA has commented that the bill may even allow the minister to use levies to fund civil infrastructure associated with new or even existing suburbs.

One quick example of that might be this. We hear all this talk about a tram out through North Adelaide or The Parade, or I have heard of one on Magill Road as well. Who pays for that? Currently, the state government pays, essentially. They might get a grant from the federal government but, essentially, it is state government funded through people's tax revenue. But what happens under the proposed infrastructure levy model that is in this bill? The answer is: we do not know.

It could be that the residents in that local area, let's say those who live around The Parade, all have an increase in their council rates. What about the people who might get on the tram here in the city and catch it out to The Parade who enjoy the tram but do not live anywhere near it: they might live somewhere else? How does all this work? Where is the equity in this? That is not explained in any detail in this bill and we have really significant concerns about it.

The negative impact of these reforms on the future residential development process in South Australia and, more directly, on land prices and housing affordability, could be significant, as it would be to ratepayers in areas affected—as it seems from what is proposed in this bill.

As an essential platform to improving housing affordability, it is vital for governments to maintain a plentiful supply of land for new homes in both capital cities and regional centres. We do not believe that the government has clearly explained why yet another additional tax on home owners is being introduced to fund state infrastructure, especially since it is infrastructure that is currently funded through general taxation as in the example I have just given. We simply do not support the infrastructure levies as they are currently proposed.

The submissions I have received have all criticised the current infrastructure levy proposal, particularly the lack of safeguards placed within this part. To be fair, however, there has been an acknowledgement that, applied correctly, infrastructure levies can be valuable. I am not going to go through all the submissions, in the interests of time—other members have done that in some detail—but there is no dispute that the LGA and the main industry bodies are very concerned about this particular issue.

Indeed, the UDIA, the HIA and the LGA, as well as the MBA and the Property Council, to name a few organisations, have all indicated willingness to consider infrastructure levies and to further consider them. They are open to debate and discussion after further consultation. Family First is open to further discussions as well, regarding a constructive way in which infrastructure levies can bring about necessary and beneficial development for industry and community.

All industry groups that I have spoken with have asked why the government is pushing ahead so quickly with these reforms. The speed at which this bill has been pushed through the Legislative Council, despite the government having advised that it could be two to three years before all the regulations and policies are drafted to complement the operation of this bill, is just simply inappropriate. Family First echoes the questions of industry and indeed the LGA: why is this bill being fast-tracked?

Surely, a better way forward would be to postpone this debate, find a mutually agreeable position for all parties—and I do not mean political parties: I mean all of the affected parties; that is, the LGA and all the industry groups, and any other group that might want to have a reasonable contribution to the debate around infrastructure—and then return and do this bill properly next year, from what I would think would be an agreed position.

In my discussion with the industry groups and the LGA, they are not that far apart. There is a model they are working on together, but they cannot do it in a week or two weeks. Why not let them have a look at things over Christmas, with the government, obviously—and presumably the opposition and any other party that may want to have its 10 cents worth, but predominantly with the government, obviously—and then come back. I think an agreement could be reached whereby everyone would be happy.

From discussions I have had with industry, that is the case. This approach would be supported by industry, which I think is very important, it would be supported by the LGA, and it would allow the parliament the appropriate time to ensure due diligence on this most important matter. It looks like I have gone over time; my apologies for that, but I have got a little more I need to say.

Another area of great concern for Family First is the sheer amount of complaints we receive about the declaration of so-called 'heritage areas' within various councils. Currently, councils are able to declare heritage conservation zones. Most significantly, despite these declarations causing significant impost on homeowners within that zone, these declarations can be and are frequently made without the support of those directly affected by them.

This means that, to modify a property if one of these so-called heritage conservation zones is put in place—whether that be simply maintenance such as painting the frontage, or demolishing a house that is in ruins—the level of compliance, time and costs increase significantly, and in some cases, exponentially.

Family First recognise there are legitimate areas which form a unique part of our state and national heritage and should therefore be preserved. However—and we feel very strongly about this—we do not agree with creating red tape and impost for homeowners in instances where the vast majority of owners in the area actually affected do not want their home or their area to be listed as a so-called heritage conservation zone in the first place.

It seems in so many instances that the differing levels of government have forgotten that it is the people and their interests that they have been elected to represent. At this stage, I indicate that I am currently taking advice regarding amendments which will create better rights for homeowners when it comes to the issue of heritage. Specifically, the amendments I am considering will address this issue of heritage that I have raised, as well as heritage zones created under our current system.

At the moment, a council has the power to introduce what is called a heritage conservation zone, as I have just said, and, as I have alluded to, often without the consent of the affected owner. I do not believe that this is right. My amendments propose that, where an area is to be declared heritage, such as a section of a suburb and the like, the overseeing authority must first consult and garner a majority support of all the owners of property in that proposed heritage area.

If these amendments were successful, an area could not be designated as a heritage conservation zone where the majority of property owners—the people who actually pay their own money to live there—directly affected in the area do not agree with it. Why should somebody's house be listed in a heritage conservation zone if the majority of people in that area do not want that zone?

Given the vast representation and experience with this particular issue, a further amendment that we are investigating is whether we can extend this to existing heritage conservation zones. That requires consultation to be undertaken with the owners of the property within the existing zones—the ones that councils have already somewhat arbitrarily put in place. In instances where there is not a majority agreement to list that area as a heritage conservation zone, then the zone would be abolished.

I will just give you an example of this. I believe this is very significant and important. Some people would have heard this story—and to those, forgive me if I am repeating myself—but many would not, and I think it is important to put it on the public record. The example is about me, but there are many others that are affected. I use my own example because I am most familiar with it, and I declare that at the outset.

Some may be aware that I purchased a rental property in the Prospect city council area about a year ago roughly; October was when it was last year I think. Prior to doing that, I rang up Prospect city council—I could have been any citizen: I did not identify myself as anyone in particular, I was just Dennis on the phone. I asked the gentleman on the end of the phone who worked in planning at that council, 'I am planning on buying a property,' and I gave him the address, 'I just want to know, are there any restrictions on that property with respect to demolition? Because the intention would be that we would look to build a home there for my wife and daughter to live in one day and we very much want to demolish that home. If we can't demolish that home, if there are any restrictions on demolishing that home, I will not proceed with the purchase.' I was quite explicit and quite clear.

The gentleman on the other end of the phone replied that there were no restrictions whatsoever, that it was perfectly legitimate for me to buy that property with the intention of demolishing it at some future stage. I had indicated to him that it was probably 15 years hence or thereabouts, and he saw no issues with that whatsoever. He was quite emphatic. So, I went and paid the nearly $700,000 or whatever it was the next day to purchase this property. It is done and we own it.

Of course, not two months after that conversation—less than two months, maybe six, seven or eight weeks, something like that—the Prospect city council lists what they call a heritage conservation zone for a whole lot of the areas within Prospect, of course including the particular property that I had specifically inquired about during that phone call. It is dishonest, they misled as it turns out me but no doubt many other people who were planning to make these decisions, and it is just entirely wrong.

You should not be able to create a situation where somebody buys something—a very substantial purchase these days, in the order of $700,000—for a great deal of money in good faith and then the council changes their mind two months later. Even worse than that, they did not change their mind: they knew when they told me that it was not going to happen. They knew, when they told me that it could be demolished, that they were not telling the truth, because they already had agreed to a draft plan which was being shuffled between them and the minister's office, as I understand.

There is no question at all that what I was told that day was false, and not only was it false, they knew it was false. That is entirely wrong.

That is my own example. How many other dozens, hundreds, potentially thousands, I would imagine, or maybe possibly tens of thousands of individuals have faced that exact same situation over the years? It is entirely wrong, particularly when you are dealing with very substantial amounts of money. Governments of any level, state, federal or local, should not be lying to their constituents, should not be telling them falsehoods because it suits their purposes.

Just to finish that particular account of what happened, since that time, one of the individual residents of that area has since—her property is affected by this heritage conservation zone, which she strongly objects to—decided to knock on every door within that zone, with every single house within the proposed zone, and determine what the residents' attitudes were that were directly affected. There are 271 dwellings within this proposed area. She knocked on all of their doors, and she had a petition, which will be lodged in this parliament shortly, signed by 158 owners of those dwellings (of the 271) directly opposing it.

So, who do these people think they are that they can just change the zoning of a property that people go out and work every day of their life to pay off because it suits them when the majority of people directly affected in that area do not even want it? It is arrogance in the extreme, it is fundamentally wrong, in my case they were blatantly dishonest, and this sort of thing deserves rectifying. That is why I started this contribution by saying that the government is on the right track here and we support the general thrust of what they are trying to do. That is my own story. I do not often give stories directly affecting me, but it is obviously not about me—it is much bigger than that—but it serves the purpose well of highlighting the point that would affect so many other people.

I might just mention that I understand the Hon. Mr Parnell has an amendment. It will not surprise the Hon. Mr Parnell, I think, to know that we will not be supporting all of his amendments. He has one that we are particularly interested in, which I need to have a closer look at. He only introduced it yesterday but I understand that, should it pass, it will not allow governments at any level to rezone properties without the individuals affected agreeing to it. I think that is fundamental. If that is correct, if that is what the amendment does, and I need to have a closer look at it to determine that, but if that is the effect of that amendment then I will be supporting it strongly.

In conclusion, Family First supports the government in addressing the issues around planning and development. Indeed, I think it is a very worthwhile pursuit and I commend them for it. We are not against the bill in its entirety, in fact we support the majority of it, but there are glaring issues which need to be addressed quickly if this bill is to pass within the next couple of weeks, as I am told it will; namely, appropriate changes to the proposed infrastructure levy system, which I have outlined; the urban growth boundary, we will not support it; and also, adequately addressing so-called issues of heritage or false heritage.

There is one further example I should give on the example I gave about the Prospect property. It was suggested to be a 1920s villa. It is not a 1920s villa, it was built in the forties. I was told that the veranda was of significant heritage value. The current owners have since informed me that the veranda was an addition in the seventies. One thing you might want to get right, if you are going to put in place a conservation zone somewhere, is to actually know what you are preserving, know what you want to conserve. Get it right, for goodness sake. It really is inexplicable.

As I have said, changes to the current system are needed, but cannot and must not be at the expense of a thorough and considered review by the industry and, indeed, by this parliament. I would urge the government to listen to the pleas of industry, to consult further on these proposed changes, to ensure the best possible outcome for planning, development and infrastructure in this state.

I would just reiterate: I think—well, not I think, I know, they have told me and I have no doubt they have told other members, including the government—the industry groups are not far away from agreement, even agreement with the LGA, which does not happen every day. We could get genuine unanimous support for the infrastructure levies in this bill if we were just prepared to take the time. I think if the government was willing to come back in February and put this bill through then, that in that time the industry groups and the LGA would reach an agreement which I think would be

beneficial to all. So, that is my appeal to the government: please consider that. That said, I look forward to considering the amendments that are to be put forward on this bill. It is a very significant piece of legislation. Family First has made its position clear and we look forward to the ensuing debate.

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

Parliamentary Procedure

VISITORS

The PRESIDENT: I would like to welcome the students and teachers from St Bernadette's, and your host, the Hon. Mr Martin Hamilton-Smith. It is good to see you all here.

Bills

SURVEILLANCE DEVICES BILL

Committee Stage

In committee.

Clause 1.

The Hon. G.E. GAGO: The Hon. Tammy Franks raised a couple of questions during her second reading contribution for which I have answers, and I indicated that I would take time at clause 1 to provide those answers. In relation to the Hon. Tammy Franks's question about the provision of evidence where the public interest test, as it currently stands, has failed and whether there has been evidence of policy failure, there is a significant need to reform this very out of date area of legislation. The government receives correspondence from members of the public about security cameras that are pointed towards adjacent properties, sometimes intentionally or unintentionally, depending on whether neighbourhood disputes are involved or not.

In relation to the Hon. Tammy Franks' question about the scope of the definition of 'media organisation', the government has proposed amendments to the definition of 'media organisation' and will enable those that would not fall within the scope to be included in regulation if the government is of the opinion that they are legitimate media organisations. Furthermore, the definition was never intended to cover all areas of the industry. Organisations that do not fall within the scope of the definition will still be able to apply for a judicial order.

In relation to the Hon. Tammy Franks' question about consultation with various industry groups, the government did not consult with these groups prior to the introduction of the 2015 bill but has considered their concerns in this and previous iterations of the bill. These matters have been considered for many years. Like animal welfare groups and other interest groups, industrial organisations will be able to use the various methods provided in the bill to communicate and publish information that is in the public interest.

In relation to the Hon. Tammy Franks' question about what model the government has based this bill on, I have been advised the government has based this bill on several interstate acts as well as included its own provisions that it considers appropriate. The bill is considered by the government to be an appropriate middle ground between interstate acts that are both more or less restrictive in nature. Examples include those in New South Wales, Victoria and Western Australia, and in those states the act appears to work, I am advised, without any significant issues.

The Hon. K.L. VINCENT: I indicate very briefly that Dignity for Disability also has significant concerns about the current drafting of this bill, particularly the requirement to get a court order to pass a public interest test. We have a question about how this would affect not only animal welfare organisations but, say, individual workers in a residential care setting—in an aged care home, for example—or even at a disability service provider where abuse is often not uncovered until a particular individual films it. If you need any examples of this, look at the Yooralla case in Victoria or even the Winterbourne View case in the UK where a journalist got a job undercover as a disability support worker and, with a secret camera, uncovered horrific abuse which led to the shutting down of that particular home. So, we have significant concerns about what this could lead to and, for that reason, we will support the Greens' amendment.

The Hon. A.L. McLACHLAN: I thought I might quickly outline the plan of attack from the Liberal Party's perspective. The Liberal Party will be pursuing its amendments. We understand and are thankful that the government is agreeing to support our amendments Nos 2, 3, 4 and 5. We will be supporting the government's amendments in relation to the removal of the RSPCA. The government and the Liberal opposition have not come to a meeting of minds in relation to clause 3 and the definition of 'media', and we will have that debate in this committee stage.

I flag to the committee that I may be seeking to move a motion to recommit back to clause 3, depending on the outcome of the committee, potentially to enable more time for parties and members of the Legislative Council and the relevant ministers in the other place to potentially come to some sort of agreement. Otherwise, obviously the bill will ultimately have to pass.

Clause passed.

Clause 2 passed.

Clause 3.

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

Amendment No 1 [EmpHESkills–1]—

Page 5, lines 26 and 27 [clause 3(1), definition of media organisation, (b)]—Delete paragraph (b) and substitute:

(b) any other organisation prescribed by the regulations;

This amendment addresses concerns raised by the opposition and media groups that there will be some media organisations which do not fall within the definition of the clause as it is currently written. By allowing organisations to be prescribed by a regulation the government will be able to include genuine media organisations.

The Hon. A.L. McLACHLAN: The legislative mechanism to be moved by the government and proposed by the Attorney, of course, is that by regulation a list of relevant media organisations will be incorporated, effectively, by reference through the regulations. It is our understanding from those bodies that have made representations to us that this is unacceptable to them at this stage.

We have proposed a different amendment which we will come to which has, obviously, a broader definition within the act. So, at this point in time the Liberal Party's view is that it would prefer to have a definition of 'media organisation' rather than a list incorporated by regulations. Accordingly, I now move:

Amendment No 1 [McLachlan–1]—

Page 5, lines 21 to 27 [clause 3(1), definition of *media organisation*]—Delete the definition of *media organisation* and substitute *'media organisation* means an organisation whose activities consist of or include the collection, preparation for dissemination or dissemination of the following material for the purpose of making it available to the public:

(a) material having the character of news, current affairs, information or a documentary;

(b) material consisting of commentary or opinion on, or analysis of, news, current affairs, information or a documentary;

Our definition is broader than the definition that is currently in the bill. So, the question for members of the chamber is what is the scope of what they want to define as 'media'.

Certain media organisations complain and have submitted to us that they do not come within, necessarily, the definition that is set out in the original drafting of the bill as tabled by the government. This is broader and is taken from the commonwealth Privacy Act, and is expansive, and would include the capture of anyone that is in modern media and modern contribution to the internet, as we would understand its drafting.

There have been some counterarguments expressed that the 'new media', if I could call it that, should not be included. So, the debate we are having is: should it be restricted to particular media, and the government say, 'Yes, those which are recognised'—and I should say probably traditional media—and whether it should extend to new media where people are making contributions

to discussion groups, for example, on the internet. Also, this broader definition captures material which would be delivered to traditional media.

We are really debating on this clause the dividing line between what is media; and the government says 'traditional media'. Because of the representations made to them, they have sought to allay concerns of particular industry groups by saying that they will consider a list incorporated by regulation, which is why they have moved their amendment. At this point in time, our position is that we consider a broader definition of media.

It really depends on your personal heuristics, where you view who should be an actor under this bill when it is enacted, and if you take the narrow view because you wish restricted, then you would probably seek a narrower definition. If you are minded, as we are at the moment, that more individuals or organisations should be included then you would perhaps side towards the position of the opposition. I will not speak on behalf of the Greens, but there is a further view, of course, of an even more broader approach.

The Hon. T.A. FRANKS: I would like to put on record that, yes, the Greens do have an amendment in this clause but first I would like to note that the opposition has indicated that they will probably seek to recommit this clause. The Greens welcome that approach, and we call on the government to explain to the chamber how we can trust them to get this right in the regulations when they could not get it right in the bill itself. Why did they leave the *West Australian* newspaper out? Why they leave *The Guardian* online out of their original definition? Why did they leave *Yahoo7*? Those three organisations are well recognised, reputable media organisations. Can the government clarify whether or not InDaily complied with the previous definition?

The Hon. G.E. GAGO: The government rises to oppose this amendment. We believe that the amendments we have filed in terms of the way we propose to deal with this through regulation more than adequately deal with this issue, and the amendment proposed by the Hon. Andrew McLachlan is just far too broad and we do not support that. For instance, I have been advised that anyone who is a blogger could describe themselves as media and would be able to have access through the Hon. Andrew McLachlan's amendment. Clearly the government does not believe that all bloggers, just by virtue of the fact that they blog, should have right to be considered to be media.

With the issue Hon. Tammy Franks raises, the government in its first consideration of these matters made a decision to have a narrow group of media eligible to apply, and that is why some of these other organisations were left off. It has now gone away, listened to what people have said, reconsidered its position and has now come forward with a compromise position, that is, to use regulation to allow any genuine media outlet to have access to this. We believe we have done the right thing, we have listened to the concerns of people and we have made provisions and compromises accordingly.

The Hon. T.A. FRANKS: Can the government explain why they left out the *West Australian*, *Yahoo7*, *The Guardian* online and possibly InDaily, and confirm whether or not InDaily did or did not fall within their previous definition, noting that their previous definition actually covered many hundreds of media organisations, many of which would equate to quite localised, very small operations.

The Hon. G.E. GAGO: I have already answered the question and that is that when we first looked at it we looked at a much narrower range and made a selection accordingly.

The Hon. D.G.E. HOOD: I thank the Hon. Mr McLachlan for explaining his amendment. As he explained it was my understanding of it, but I thank him for that. I am inclined to support the Hon. Mr McLachlan's amendment, the reason being that, in an age of expanding media, it will be increasingly difficult under regulation to nominate each individual organisation that is considered. The onus, as I understand it, under the government's amendment, is for them to apply, but they may not know that they need to apply, which is the problem with it. As it stands I am open to negotiation on this. To be honest, I am probably not completely convinced by the Hon. Mr McLachlan's amendment either, but I think it provides the best way forward at this point. We may end up recommitting, as the Hon. Mr McLachlan has indicated, in which case there may be agreement between the government and the opposition, but as it stands I will support his amendment.

The Hon. G.E. GAGO: The government is prepared to make the assurance that it will make it publicly known that this exemption is available for genuine media outlets.

The Hon. T.A. FRANKS: I move:

Amendment No 1 [Franks–1]—

Page 5, lines 21 to 27 [clause 3(1), definition of *media organisation*]—Delete the definition of *media organisation*

This amendment seeks to delete the definition of 'media organisation'. It does so because if consequential amendments, the removal of clauses 9, 10 and 11 in amendments 20, 21 and 22, were to be successful we could simply be reverting to the status quo. We have a system at the moment where the public interest is served, where we have a robust and healthy fourth and fifth estate, and the system is not broken. We are still not convinced of why Attorney-General Rau is seeking to fix and possibly bugger up something that works perfectly well at present.

In doing so, I indicate obviously the Greens have grave concerns about the government's foray into this area. We have already seen, in the first raft of debate in this, the government miss quite legitimate, quite well-known media organisations such as Yahoo7, one of the biggest media organisations in the country. We have grave concerns about whether the government will get it right in regulations, and we know it is difficult for regulations to then have parliamentary scrutiny.

The government has not been able to get this bill right without the upper house having a look at it and without feedback from its constituents. We note that the feedback from some constituents from Free TV, from the RSPCA, may have been listened to by the Attorney-General, but it certainly was not heard, it certainly was not acted upon and, indeed, he acted contrary to their requests.

We of the Greens believe, as I say, that the system is working perfectly well. When I first looked at this issue a week ago, I had similar amendments to those that the Hon. Andrew McLachlan puts this week but they were actually the second best option. The first best option is simply to leave the system as it is. It is not broken, let's not try and fix something and possibly bugger it up.

So the Greens will support the Liberal amendments today. We welcome a reopening of this clause and a recommittal of this clause. We look forward to the government providing further information about how they will approach this issue. We do not understand why the government simply did not use the Commonwealth Privacy Act in the first place—it is a commonwealth act, it has been well consulted on—rather than trying to create their own definition which has already been shown to have massive holes in it.

With those few words, we look forward to further information being forthcoming from government about how they will define media organisations, and how they will ensure that they get it right in regulations since they could not get it right in this legislation.

The Hon. D.G.E. HOOD: I will not prolong matters but I think another issue with the government's proposal is—and correct me if I am wrong, but I understand that the mechanism for this chamber or for the other chamber would be to disallow the regulation should either house disagree with the government's listing of an individual or group of proposed media organisations.

The problem with that, according to my understanding, is that it would potentially knock out others as well that the chamber did not agree with. It is a blunt instrument is my point. So I think it creates a difficult situation. I think the government is on the right track of expanding those included, but I do not think the instrument being chosen is reliable or efficient enough, frankly.

The Hon. J.A. DARLEY: I will be supporting the Liberal amendment.

The Hon. G.E. GAGO: The government rises to oppose the Hon. Tammy Franks' amendment, and we consider this to really be a test clause for her further amendments because they are all sort of related. The amendment and many other of the consequential amendments proposed by the Hon. Tammy Franks are opposed on the basis that they radically alter the effect of the bill. These amendments would seek to remove several clauses of the bill and provide a limitation to the public interest and lawful interest tests for the communication or publication of information and material derived from surveillance devices.

The government believes that these clauses are necessary to ensure that information and material derived from surveillance devices and, in particular, footage of private activities, is communicated and published in a responsible manner. An individual has a right to privacy that must be balanced against a broader public interest matter. The best way to do this is by requiring some form of oversight and in this case it is judicial oversight to the process of publishing material that is often obtained covertly. Given the enormous damage that can result to an individual's life and reputation when such material is published, it is only just that they are afforded some measure of protection.

The CHAIR: If there are no further speakers, there are three amendments here all doing various things so if you are supporting the government's amendment I will put the question that all words down to and including paragraph (a) of the definition of media organisation stand as printed. If you support that, you support the government's amendment.

The Hon. Ms Gago's amendment negatived.

The CHAIR: I will put the question—these are both amendments from the Hon. Mr McLachlan and the Hon. Ms Franks—that the remaining words in the definition of media organisation stand as printed.

The Hon. T.A. FRANKS: To clarify, I only moved my first amendment because the other two reflect the same as the Hon. Andrew McLachlan's, so I did not bother to move them.

The CHAIR: Yes, there will be a further step. If you support the Hon. Mr McLachlan and the Hon. Ms Franks you need to vote against this.

Question—that the remaining words in the definition of media organisation stand as printed—negatived.

The CHAIR: The question now is that the new definition of media organisation as proposed to be inserted by the Hon. Mr McLachlan be so inserted.

The Hon. Mr McLachlan's amendment carried.

The Hon. A.L. McLACHLAN: I move:

Amendment No 2 [McLachlan–1]—

Page 6, lines 27 to 29 [clause 3(1), definition of *private activity*, (a)]—

Delete '(but does not include an activity carried on in circumstances in which the person ought reasonably to expect that it may be observed by some other person); or' and substitute:

, but does not include—

(i) an activity carried on in a public place; or

(ii) an activity carried on or in premises or a vehicle if the activity can be readily observed from a public place; or

(iii) an activity carried on in any other circumstances in which the person ought reasonably to expect that it may be observed by some other person; or

Amendments Nos 2, 3, 4 and 5, standing in my name—even though I appreciate we are only on amendment No. 2—relate to refining some of the definitions and also relate to some of the applications of the act but they are supported by the government, as indicated by the Leader of the Government in this chamber.

The Hon. G.E. GAGO: The government supports all three amendments.

The Hon. T.A. FRANKS: I have a question for the government as to why its definition defined a private activity as an activity carried on by only one person. Does the government not believe that a private activity can be carried on by more than one person?

The Hon. G.E. GAGO: You need to go to paragraph (b), one paragraph below that. Paragraph (a) deals with issues to do with one person and (b) more than one.

The Hon. T.A. FRANKS: Why did the government feel it needed to define a private activity in (a) as carried on by only one person? What is the nature of something being carried on simply by

one person that denotes it as somehow private: why did the government choose that definition? Why did it insert that clause into its legislation? I would just like the government to give us an explanation as to what the history was, given there was a lack of consultation on this bill.

An honourable member interjecting:

The CHAIR: Order!

The Hon. G.E. GAGO: I am advised that we included paragraph (a) to clarify that private matters may only involve one person. The 2014 bill lacked that clarity. It only talked about more than one person, so it could have been argued that if only one person was involved it may not have been captured. To ensure that it was, it was dealt with in paragraph (a).

Amendment carried.

The Hon. A.L. McLACHLAN: I move:

Amendment No 3 [McLachlan–1]—

Page 6, lines 32 to 35 [clause 3(1), definition of *private activity*, (b)]—

Delete '(but does not include an activity carried on in circumstances in which all parties to the activity ought reasonably to expect that it may be observed by a person who is not a party to the activity);' and substitute 'but does not include—'

(i) an activity carried on in a public place; or

(ii) an activity carried on or in premises or a vehicle if the activity can be readily observed from a public place; or

(iii) an activity carried on in any other circumstances in which a party to the activity ought reasonably to expect that it may be observed by a person who is not a party to the activity;

Amendment carried; clause as amended passed.

Clause 4.

The Hon. T.A. FRANKS: I move:

Amendment No 4 [Franks–1]—

Page 9, line 28 to line 35 [clause 4(1)]—Delete subclause (1) and substitute:

(1) Subject to this Act, a person must not intentionally use any listening device to overhear, record, monitor or listen to any private conversation, whether or not the person is a party to the conversation, without the consent, express or implied, of the parties to that conversation.

Maximum penalty:

(a) in the case of a body corporate—$75,000;

(b) in the case of a natural person—$15,000 or imprisonment for 3 years.

(d) a corresponding surveillance device (emergency) authority.

This amendment seeks to replace the proposed prohibition with a more simplified offence and excludes situations in which the consent of the parties to the conversation has in fact been provided. Use of the word 'intentionally' requires an element of deliberateness which is more appropriate for offences and avoids application to inadvertent acts.

I note that amendments Nos 4, 5 and 6 of mine follow on from this. What I would say is that this was advice from Free TV Australia and its legal team. They advised the Greens, and I believe other members, including the Attorney-General, that the language we have included in this amendment is more appropriate to cover the field.

The Hon. G.E. GAGO: The government opposes this amendment, for the reason that it has already been put on the record.

The Hon. A.L. McLACHLAN: The Liberal Party will not be supporting this amendment.

Amendment negatived.

The Hon. T.A. FRANKS: I move:

Amendment No 7 [Franks–1]—

Page 11, line 14 [clause 4(3)]—Delete 'from subsection (1) that applies under subsection (2) or section 6' and substitute 'under this section that applies'

This amendment removes the reference to clause 6, as that is no longer needed if the public interest is inserted into specific clauses as proposed. The clause still seeks to ensure that an exemption applies to a person in relation to the installation, use or maintenance of a listening device for the purposes of the investigation of a matter by an investigating agency. It extends to another person who for the purposes of the investigation installs or maintains that advice. Again, this has been put to us by Free TV Australia.

The Hon. G.E. GAGO: The government opposes this amendment for the reasons already outlined.

The Hon. A.L. McLACHLAN: The Liberal Party will be opposing this amendment.

Amendment negatived; clause passed.

Clause 5.

The Hon. T.A. FRANKS: I move:

Amendment No 9 [Franks–1]—

Page 11, line 22 [clause 5(1)]—Delete 'section and section 6, a person must not knowingly' and substitute 'Act, a person must not intentionally'

This deletes the term 'a person must not knowingly' and substitutes 'a person must not intentionally'. Again on advice from the legal team at Free TV Australia, this amendment deletes that word 'knowingly' and substitutes it with 'intentionally', as it is more appropriate for an offence under the act to require intention as an element. Amendments Nos 9, 10 and 11 match this amendment and are consequential.

The Hon. G.E. GAGO: The government opposes this amendment. We believe that it narrows the clause and will only serve to provide a technical loophole for people to exploit.

The Hon. A.L. McLACHLAN: The Liberal Party opposes the amendment.

Amendment negatived.

The CHAIR: Amendments Nos 10 and 11 would be consequential?

The Hon. T.A. FRANKS: Yes.

The CHAIR: We now have amendment No. 1 [Franks-1] clause 5. Is it consequential, by any chance?

The Hon. T.A. FRANKS: My understanding is that it is consequential.

Clause passed.

Clause 6.

The Hon. A.L. McLACHLAN: I move:

Amendment No 4 [McLachlan–1]—

Page 9, line 28 [clause 4(1)]—Delete 'knowingly'

Amendment No 5 [McLachlan–1]—

Page 9, after line 35—After subclause (1) insert:

(1a) It is a defence to a charge of an offence against subsection (1) to prove the defendant did not knowingly use a listening device to record the private conversation to which the defendant was or was not a party.

Example—

> The recording of the private conversation took place accidentally or in circumstances where the defendant did not know that conversations were being recorded.

The amendments are supported by the government, as indicated in the government's summing up of the second reading debate. The existing exemption contained in clause 6(1) allows for the use of a listening device wherein the public interest only applies to a party to the private conversation. The proposed amendment removes this requirement and permits the exemption to be applied to anyone who uses a listening device to overhear, record, monitor or listen to a private conversation if the use is in the public interest.

The Hon. G.E. GAGO: The government supports the amendments.

Amendments carried; clause as amended passed.

Clause 7.

The CHAIR: Amendment No. 17, the Hon. Ms Franks?

The Hon. T.A. FRANKS: This one certainly is consequential.

Clause passed.

Clause 8.

The CHAIR: Amendment No. 18 [Franks-1]. Is this consequential?

The Hon. T.A. FRANKS: This one is obviously consequential.

Clause passed.

Clause 9.

The Hon. T.A. FRANKS: The Greens can see the writing on the wall that the Labor government and the Liberal opposition have indeed come to an arrangement on this bill. I indicate that I will be seeking to divide on the issue of whether or not we keep the definition of animal welfare within this bill and will not be moving the other amendments. I note that I do not actually have a current amendment specifically, but I will be seeking to delete all words after animal welfare where the Liberal opposition and the government have sought to remove the reference to the RSPCA.

Clause passed.

Clause 10.

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

Amendment No 1 [EmpHESkills–2]—

Page 16, line 10 [clause 10(2)(b)]—Delete '; or'

Amendment No 2 [EmpHESkills–2]—

Page 16, lines 11 to 15 (inclusive) [clause 10(2)(c) and (d)]—Delete paragraphs (c) and (d)

Amendment No 3 [EmpHESkills–2]—

Page 16, lines 16 to 18 [clause 10(3)]—Delete subclause (3)

These amendments are part of a series of amendments that will remove the RSPCA as the exempted organisation to the requirement for a judicial order to publish in the public interest. This has been done at the RSPCA's request for material and information that relates to issues of animal welfare. One will still be able to provide such material to a media organisation or apply for a judicial order.

The Hon. A.L. McLACHLAN: I would like to indicate the Liberal opposition's support for these amendments of the government.

The Hon. T.A. FRANKS: As I indicated, given the agreement that has been made between the Liberal opposition and the government on this matter more broadly, and the Greens do in fact support the removal of the reference to the RSPCA, which of course the RSPCA never requested, never desired and never supported. However, I move to retain the words in paragraph (c) in this

clause 'the information or material relates to issues of animal welfare' and then insert a full stop before the reference to the RSPCA, and I indicate I will divide on that.

The CHAIR: Did you move some words then, Ms Franks?

The Hon. T.A. FRANKS: Yes, I did move some words, Mr Chair. I apologise for not circulating an amendment in written form. However, this is retaining the government's original language of: '(c) the information or material relates to issues of animal welfare' and then stopping it before the reference to the RSPCA. I would think that the government had no problem with the reference ensuring that this was not an ag-gag bill, ensuring the protection of animal welfare issues, but indeed respecting the will of the RSPCA not to be the arbiter of what could or could not be published or broadcast.

The CHAIR: We just need to get some formal words here at the moment.

The Hon. T.A. FRANKS: My learned colleague advises me it is possibly a semi-colon, not a full stop.

The CHAIR: This is a test case for the government's amendments and for the Hon. Ms Franks' amendments. We are going to put amendment No. 1 from the minister: clause 10, page 16, line 10, to delete '; or'. The government will agree to that and the Hon. Ms Franks will oppose it.

The committee divided on the Hon. Ms Gago's amendment No. 1:

Ayes.....13
Noes 4
Majority 9

AYES

Dawkins, J.S.L.	Gago, G.E. (teller)	Gazzola, J.M.
Hood, D.G.E.	Hunter, I.K.	Kandelaars, G.A.
Lee, J.S.	Lucas, R.I.	McLachlan, A.L.
Ngo, T.T.	Ridgway, D.W.	Stephens, T.J.
Wade, S.G.		

NOES

Darley, J.A.	Franks, T.A. (teller)	Parnell, M.C.
Vincent, K.L.		

Amendment thus carried.

The Hon. Ms Gago's amendments Nos 2 and 3 carried.

Clause 10 as amended passed.

Clause 11.

The CHAIR: One last amendment: Amendment No 22 [Franks-1].

The Hon. T.A. FRANKS: This is consequential; the test has been made. The Greens will not be moving this amendment.

Clause passed.

Remaining clauses (12 to 41), schedule and title passed.

Bill reported with amendment.

Recommittal

The Hon. A.L. McLACHLAN (11:57): Mr President, as I flagged in clause 1 of committee, I move:

That the bill be recommitted in respect of clause 3.

My reasoning, as I set out in committee, was that there are still some discussions going on, and perhaps there can be a meeting of minds between the government and the opposition.

Motion carried.

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) (11:58): I move:

That the bill be recommitted on the next day of sitting.

Motion carried.

LOCAL GOVERNMENT (BUILDING UPGRADE AGREEMENTS) AMENDMENT BILL

Committee Stage

In committee.

Clauses 1 to 6 passed.

Clause 7.

The Hon. I.K. HUNTER: My understanding is that the Hon. Mr Darley has asked the Hon. Mr Hood to move his first amendment on his behalf, but that he will not be proceeding with the remaining amendments.

The Hon. R.I. LUCAS: Given that this clause and proposed amendments that have been filed by the Hon. Mr Darley and his second reading contribution did raise the issue of the position of banks and financial institutions in terms of those who might hold mortgages over existing properties, can I ask the minister to indicate what, if any, response the government has received from either the Bankers Association or individual banks in relation to this particular proposal?

I notice in the minister's reply that he has referred to the National Australia Bank. I think he has replied at the second reading, but given that this bill has taken some time (if one goes back to the minister's second reading), have any other of the major banks, financial institutions or any bodies that purport to represent them put any views to the government since the minister indicated the broad position of the NAB at the close of the second reading?

The Hon. I.K. HUNTER: The advice I have is as follows: the National Australia Bank and the Clean Energy Finance Corporation have been engaged throughout this process. Both are involved in offering environmental upgrade for finance interstate, I am advised. Other financial institutions were also invited to provide feedback on the draft bill released for consultation in 2014. These include the ANZ, Commonwealth and Westpac banks, and Bank Australia formerly known as bankmecu, however these organisations have not provided feedback.

Whilst ANZ bank and Bank Australia have not engaged directly in the development of the legislation in South Australia, my understanding is they have loaned to environmental upgrade agreement projects interstate and are familiar with the mechanism. Officer-level discussions have been held with representatives from other financiers in our local market including BankSA and Beyond Bank.

I thank the honourable member for that question, and I think the other information that I could provide really relates to the NAB bank and I think their position is already well and truly on the public record, so I will not delay the chamber any further with that.

The Hon. R.I. LUCAS: My understanding is that that is essentially the same position that the minister put down in June or July when he replied to the second reading debate, so I am assuming from that that the answer is that there has been no further contact from any of the other major financial institutions since June or July in relation to the issues that the Hon. Mr Darley has canvassed.

The Hon. I.K. HUNTER: That is my understanding, yes.

The Hon. R.I. LUCAS: Given that, as I understand it, Mr Hood, according to the minister, is now moving an amendment or amendments on behalf of the Hon. Mr Darley, can I just clarify,

because the Hon. Mr Hood, I guess, is the only one in a position to indicate, because some of us are unclear as to what is actually happening; that is, we have four filed amendments from the Hon. Mr Darley.

Certainly I have heard differing stories. Firstly, that he was withdrawing all of them, then he was not withdrawing any of them, and now the minister is indicating he is proceeding with one and withdrawing three others. So I am wondering whether the Hon. Mr Hood can throw any light on the position of the Hon. Mr Darley so that at least those of us who have got questions in relation to this, know where Mr Hood is actually heading on behalf of the Hon. Mr Darley.

The Hon. D.G.E. HOOD: I advise the chamber that I have literally been asked to move these on behalf of the Hon. Mr Darley five or 10 minutes ago, so I am certainly not an expert on them, but I am advised that he will be moving Amendment No 1 [Darley-1], so he will continue with that one, and I understand that that has government support so I expect that would pass, and Family First will support it. He will not be proceeding with any of the other amendments at this stage.

The Hon. R.I. LUCAS: At all?

The Hon. D.G.E. HOOD: At all. I move:

Amendment No 1 [Darley–1]—

Page 6, line 10 [clause 7, inserted Schedule 1B, clause 2(5)(a)]—After 'exceeding' insert '80% of'

I think members are probably familiar with this amendment but just in case they are not, I have agreed to read this out on his behalf. Clause 2(5) of the bill provides that a council must not enter into a building upgrade agreement unless the total amount of taxes, rates, charges and mortgages owing on the relevant land, when added to the total value of the building upgrade charge, as set out in the proposed building agreement, is an amount not exceeding the capital value of the relevant land prior to any works that would be undertaken as part of agreement, and the building owner has complied with subclause (6) and with any additional requirements prescribed by the regulations.

I will explain that in a little more detail. To put it more simply, the cumulative debt against the property when added to the total value of the building upgrade charge, must not be greater than the capital value of the land prior to the upgrade works being undertaken. The aim of this 'over-leveraged test', if you like, according to the Hon. Mr Darley, is to minimise any financial risks to the financier and to the first mortgagee and to ensure the viability of projects that obtain upgrade finance.

As he mentioned during his second reading contribution, he is extremely concerned that the government has sought to use the capital value rather than the security value of the land in question, particularly given that banks generally lend on security value, which is what you would expect a property to sell for in a forced sale. The capital value on the other hand, is what the property would be expected to sell for between a prudent, but not anxious, seller, and a prudent, but not anxious, buyer, both being fully conversant with the circumstances surrounding the sale.

Using the capital value rather than the security value could mean that an existing mortgagee, who would now be ranked second in terms of priority, would not be able to recover their costs. Because security values do not appear to be defined in our statutory books here in South Australia, Mr Darley sought advice on what is generally accepted as the difference between commercial values and security values. Based on the advice that he has received, I am informed that security values are generally valued at around 15 per cent less than capital values when dealing with residential properties and 20 per cent less than capital values when dealing with commercial properties if fully tenanted. So rather than to define what 'security value' means, I am informed that the Hon. Mr Darley, through this amendment, opted to require that the building upgrade charge not be greater than 80 per cent of the capital value of the land prior to the upgrade works being undertaken.

This is an important reason, the Hon. Mr Darley argues, for two reasons: first, in the event of default the new statutory charge will be ranked senior to the other existing mortgages and liabilities to the Crown and this is central to the government's bill as it enables financiers to offer building owners more attractive terms in the first instance; secondly, whilst an existing mortgagee may be notified of any building upgrade agreement, the bill stops short of enabling the existing mortgagee to object to the agreement being entered into.

Mr Darley has already outlined that under normal circumstances, and indeed I have just mentioned here, an existing mortgagee may not be overly worried about an additional charge against the land because their interests will be protected. In this situation, however, the interests of the existing mortgagee will now be ranked lower than those of the new financier. Even if the existing mortgagee assesses the risk is too high there is little they can do about it, so he said that he will be moving a further amendment and has since withdrawn that. I indicate that that is the position of the Hon. Mr Darley and that Family First will also be supporting the amendment.

The Hon. J.S.L. DAWKINS: I indicate that the Liberal Party will oppose the amendment.

The Hon. I.K. HUNTER: I would like to thank the Hon. Mr Hood for moving that amendment on behalf of the Hon. Mr Darley. He showed an amazing grasp of the details of that amendment at such short notice and did a very good job. I would like to also pass on the government's gratitude to the Hon. Mr Darley, particularly with his depth of experience in property and valuation which has assisted us in accepting this amendment.

This amendment seeks to strengthen the over-leverage test by requiring that the total amount of taxes, rates, charges and mortgages owing on the relevant land, when added to the total value of the building upgrade charge is an amount not exceeding 80 per cent of the capital value of the relevant land prior to upgrade works, and this goes to the issue of security value versus capital value which the Hon. Mr Hood explained very well indeed.

The government will be supporting this amendment. I would like to thank the honourable members who have indicated support for this and for their considered and thoughtful approach to the bill, particularly the Hon. Mr Darley who has sought to balance the interests of all stakeholders.

In relation to Mr Darley's other issues, which he did seek to address through other amendments but which he now will not be doing through that process, I have given an undertaking that I will attempt to address those concerns that he has via the making of regulations. These will be drafted to specify the reportioning and make good provisions under the 'no worse off' pathway.

This will clearly afford tenants legislative protection and a means of redress and so I am very pleased to be able to indicate that I will be dealing with those issues through the regulatory approach and, in the spirit of openness and transparency for members of the house, not only will I be consulting the Hon. Mr Darley in terms of drafting instructions for those regulations, but any other member who wants to express an interest in being part of that process I am happy to accommodate as well.

The Hon. R.I. LUCAS: In relation to this particular amendment, has the minister or the government received any indication from stakeholder groups (such as the Property Council) that they oppose the amendment that is being moved?

The Hon. I.K. HUNTER: While I am seeking some further advice I can put on the record that, in fact, we had, through my agency, an opportunity to consult and test whether there were any concerns about this amendment with the Sustainable Melbourne Fund, the National Australia Bank and the Property Council and my advice is that all three of those organisations have indicated no concerns with this amendment.

The Hon. R.I. LUCAS: Was there any position put by Business SA on this particular amendment?

The Hon. I.K. HUNTER: Not to my knowledge. I might point out that whilst we have been pursuing Business SA for commentary on this matter in recent times it has been very difficult to get hold of them.

The Hon. J.S.L. Dawkins: I understand you have had some conversations with them.

The Hon. I.K. HUNTER: Yes, just recently, after many failed attempts to get in touch in with them.

The Hon. J.S.L. Dawkins: Well, it works both ways.

The Hon. I.K. HUNTER: It has been a one-way street from our side for quite some time.

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

The CHAIR: Let's just have the minister.

The Hon. I.K. HUNTER: My understanding is that they have not expressed a view on this amendment.

The Hon. K.L. VINCENT: Just to assist the chamber, I indicate that Dignity for Disability will support Mr Darley's first amendment, but not his amendments 2, 3 or 4.

Amendment carried.

The CHAIR: Mr Darley is not going ahead with amendment Nos 2, 3 or 4.

The Hon. R.I. LUCAS: Just to indicate to Mr Hood that Mr Darley is not now proceeding with amendment Nos 2, 3 or 4. The minister has said that as part of his discussions with the Hon. Mr Darley, he is going to—I cannot remember the exact word—canvass these issues through regulatory change; I think that is a fair description of what the minister has just said.

Can I ask the minister what has been the nature of any commitment he has given in relation to amendment No. 2 from the Hon. Mr Darley, which was 'obtain the written consent of any such existing mortgagee to the building owner entering into the proposed building upgrade agreement'. How would he propose meeting that particular intention in the Hon. Mr Darley's amendment by a regulatory change? Or is that not part of the understanding with the Hon. Mr Darley?

The Hon. I.K. HUNTER: In relation to the Hon. Mr Darley's foreshadowed second amendment, which he is no longer moving, as he advises me, these were about, as the Hon. Mr Lucas said, the terms of the mortgagee, and my understanding is, through discussions with Mr Darley, that his first amendment—the 80 per cent limit in terms of capital value versus superior value—has significantly strengthened the position of existing mortgagees, thus ameliorating his concerns and therefore the need for the second amendment.

The bill requires a building owner to notify existing mortgagees of the intention to enter a building upgrade agreement and of the particulars of a proposed building upgrade change. This is consistent with the approach adopted in Victoria. In New South Wales, the legislation is silent on such a requirement. The second amendment would require that the existing mortgagee's consent be obtained prior to entering a building upgrade agreement. As I said, I understand that Mr Darley is persuaded that, given the strengthening that has been instituted in his first amendment for mortgagees, the second amendment is not required.

The Hon. R.I. LUCAS: Can we just further clarify that then? My understanding of the minister's original statement was that the Hon. Mr Darley was not moving ahead with amendments 2, 3 and 4 because he had been persuaded that the government was going to handle this through regulation. The minister has now clarified that his understanding of the Hon. Mr Darley's position is that in relation to amendment No. 2 that is not the case, that is, that will not be handled through any regulatory change, because the Hon. Mr Darley has agreed not to pursue that particular issue because of amendment No. 1 being successful.

Can I clarify, though, that when the minister said that Mr Darley was not proceeding with amendments Nos 2, 3 and 4, amendments 3 and 4 are the two amendments that the minister has now given commitment to the Hon. Mr Darley to pursue through the regulatory process that he is talking about?

The Hon. D.G.E. HOOD: Just to clarify, the Hon. Mr Darley has written a very helpful note here, which says that he will not proceed with No. 2 because he has decided not to; he simply put that. I guess, as the minister outlined, it is addressed largely by the first one. The third amendment of his is consequential on the second amendment, hence he is not proceeding with that. The fourth amendment is the one that the minister has indicated we would deal with in regulation.

The Hon. I.K. HUNTER: I could not put it better myself. I apologise if it was not clear. What I said, and I think I put on the record in relation to the honourable member's fourth amendment, was that it will be addressed by regulation. These will be drafted to specify the reporting and make good provisions on the worst-off pathway. This will clearly afford tenants legislative protection and a means of redress. My comments were directed to the fourth amendment.

The Hon. J.S.L. DAWKINS: As I am handling this legislation on behalf of the Hon. Michelle Lensink, I move:

Amendment No 1 [Lensink–1]—

Page 11, line 32 to page 12, line 21 [clause 7, inserted Schedule 1B, clause 12(2)(b)]—Delete paragraph (b) and substitute:

(b) the lessor has given the lessee written notice of—

(i) the amount of the contribution that the lessee will be required to pay; and

(ii) the period within which the contribution will be required to be paid; and

(iii) a reasonable estimate (calculated in accordance with an approved methodology) of cost savings that may be made by the lessee, as a consequence of the upgrade works provided for by the building upgrade agreement, during the period to which the contribution relates (a *reasonable estimate*); and

(iv) evidence of the calculations made in accordance with the particular approved methodology used to calculate the reasonable estimate; and

(c) the lessee consents to the payment of the contribution.

The Liberal Party believes that, as the bill stands, there remains a fundamental imbalance between the power of tenants (which in most cases are small businesses) and landlords. Our party remains supportive of the concept of this bill in principle; however, it is greatly concerned with the potential negative effects on small business, and the government's unwillingness to address reasonable concerns by this important sector.

The amendment standing in the name of the Hon. Ms Lensink seeks to address this issue by creating a more equitable system which requires landlords to gain tenant consent to the payment of financial contributions towards the environmental building upgrades. This is stark contrast to the government's approach, which forces tenants to make financial contributions to building upgrades, even if they genuinely believe the upgrade will not deliver any cost savings.

Even in better economic times, small businesses often have tight cash flows, and the effect of essentially retrospectively increasing their rental outgoings with some vague promise of a future correction for overcharging would cause substantial and unnecessary financial stress.

Despite this bill being on the *Notice Paper* since February of this year, the government has failed to reasonably negotiate with essential stakeholders, particularly those in small business who employ substantial portions of the population of our state. This added financial stress that will be placed on small businesses under the government's proposal will be their burden to wear.

Our party has always been willing to work with the government to find an acceptable outcome since this bill was introduced to the council in February this year, as I mentioned earlier. I must say that the Hon. Michelle Lensink, who has had carriage of this right up until her taking maternity leave, was always prepared to deal with the minister on this. In the many, many times that we were prepared to deal with this legislation, the government kept adjourning it.

Working with Business SA, we have been consistently willing to discuss the possibilities of other mechanisms that could strike a balance between the interests of landlords and tenants. This includes Business SA's recent suggestion, where 75 per cent of existing tenants provide approval, enabling the landlord to recover costs from tenants. The government has been quite unwilling to open discussion regarding this reasonable compromise, and I understand that has been communicated to Business SA very recently. If that is what the minister calls consultation, well then I suppose that is something that is not inconsistent with the government's attitude in many areas.

I also just mention, in relation to the other amendment that the Hon. Michelle Lensink has on file, which I will deal with when I get there, I would like to put on the record that the Liberal Party remain committed to our position that any building upgrade agreement should not override tenants' existing lease agreements and should not override the Retail and Commercial Leases Act 1995. I commend the amendment to the committee.

The Hon. I.K. HUNTER: The government does not support the amendment. The amendment effectively seeks to remove the no worse off approach and rather strengthen the consent pathway. Firstly, the government is opposed to the removal of the no worse off approach, because we think that provides the tenant with the greatest level of protection. The removal of no worse off provisions will compromise the bill's full potential to tackle the split incentive barrier in leased buildings and facilitate environmental upgrades, and will therefore reduce the opportunity of economic activity and job creation in this clean-tech sector.

In concluding the debate in June, I stressed that, through consultations, we had received support for both of these options. The South Australian division of the Property Council of Australia, the Shopping Centre Council of Australia, the Clean Energy Finance Corporation and the National Australia Bank expressed views indicating that the no worse off approach is essential to this legislation. The bill is designed to balance the views of various stakeholders and provide for pathways to suit individual circumstances, landlord-tenant relationships, tenancy profiles and ensure that the split incentive barrier, which has been effectively the barrier that has not been overcome with legislation interstate, can be addressed without causing a financial detriment to tenants and without adding extra red tape or reducing the mechanisms and potential for uptake.

I reiterate that the tenant protection concerns have been thoroughly considered. As a result, the no worse off approach is highly prescriptive. As I previously mentioned, the subsequent regulations will be drafted to specify the reporting and make good provisions under the no worse off pathway. This will clearly afford tenants legislative protection and a means of redress.

The honourable member's proposal to require building under the consent approach to provide the tenant with all of that information that is in the amendment really works against the consent pathway. The consent approach is designed for an administratively easy approach with a lack of red tape and a lack of bureaucracy, where the building owner and the tenant agree on a cost-sharing arrangement through normal commercial negotiations without prescribing how this should occur by the bureaucracy. That is probably going to be the easiest for smaller buildings that have very few tenants, and that is why we think this is a much preferable approach.

The honourable member's amendments would see the South Australian mechanism becoming more administratively complex than that in Victoria where the consent approach is operating without the requirement to make savings to the tenant or to use an approved methodology, as outlined in the amendment. In prescribing that this significant additional information must be provided as part of the commercial negotiation between landlord and tenant, the proposed amendments will increase the red tape and cost to building owners and, perversely, act as a barrier to the projects going ahead. For all of those reasons, we will be opposing the amendment.

The Hon. D.G.E. HOOD: Just for the record, we will be supporting the amendment.

The committee divided on the amendment:

Ayes 8
Noes 9
Majority 1

AYES

Dawkins, J.S.L. (teller)	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	McLachlan, A.L.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	

NOES

Franks, T.A.	Gago, G.E.	Gazzola, J.M.
Hunter, I.K. (teller)	Kandelaars, G.A.	Malinauskas, P.
Ngo, T.T.	Parnell, M.C.	Vincent, K.L.

PAIRS

Brokenshire, R.L.	Darley, J.A.	Lensink, J.M.A.
Maher, K.J.		

Amendment thus negatived.

The Hon. J.S.L. DAWKINS: I move the amendment standing in the name of the Hon. Ms Lensink:

Amendment No 2 [Lensink–1]—

Page 12, lines 33 to 44 [clause 7, inserted Schedule 1B, clause 12(5)]—Delete subclause (5)

The Hon. I.K. HUNTER: The government opposes this amendment. Ironically, the second amendment really removes tenant protections, I think, and I will explain why. The honourable member's amendment seeks to remove clause 12(5) of schedule 1B that clarifies that the provisions relating to the recovery of a tenant contribution towards a building upgrade charge applies, despite the provisions of the Retail and Commercial Leases Act.

Clause 12(5) of schedule 1B also clarifies that the contribution is considered an outgoing. If the lease was entered into prior to the execution of a building upgrade agreement, the contribution applies whether or not it was disclosed in a disclosure statement given to the tenant.

With consideration of the feedback received from consultations, specifically from the Property Council of Australia, the state government's preferred approach is to retain clause 12(5). The honourable member's amendment, which specifies that a contribution to a building upgrade charge is taken to be an outgoing, will, I am advised, have quite an adverse effect.

As a result of this amendment, should it be supported, there will not be a requirement for a building owner to include any such contribution into a disclosure statement, meaning that prospective tenants will not be aware of a contribution when negotiating a new lease relating to premises with an existing building upgrade charge. We think that is unconscionable. If they are going to enter into a new lease, that information should be disclosed to them. The effect of this amendment is to take that away, so we think the amendment should be opposed.

The Hon. D.G.E. HOOD: I indicate support for the amendment.

The committee divided on the amendment:

Ayes 8
Noes..... 9
Majority..... 1

AYES

Dawkins, J.S.L. (teller)	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	McLachlan, A.L.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	

NOES

Franks, T.A.	Gago, G.E.	Gazzola, J.M.
Hunter, I.K. (teller)	Kandelaars, G.A.	Malinauskas, P.
Ngo, T.T.	Parnell, M.C.	Vincent, K.L.

PAIRS

Brokenshire, R.L.	Darley, J.A.	Lensink, J.M.A.
Maher, K.J.		

Amendment thus negatived; clause as amended passed.

Remaining clause (8), schedule and title passed.

Bill reported with amendments.

Third Reading

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (12:38): I move:

That this bill be now read a third time.

The Hon. J.S.L. DAWKINS (12:38): I wish to briefly indicate that the opposition will be opposing the third reading, and I have largely covered the reasons for that in my earlier presentation in relation to the first amendment. However, I would like to point out that I think the handling of this bill, particularly in the last 24 hours, has been appalling.

The way that I was treated last evening where it was attempted to railroad the bill through after dinner where one of the main proponents was actually told during the dinner break that it would be done immediately after the dinner break—in fact, that we were having an earlier resumption than normal after the dinner break—and that was the only way I found out that it was proposed to do it last night. I think we are better than that in this house, generally. This is the way that things happen in the lower house quite a lot where things are just pushed through like that, and I felt quite offended at the way that happened last night.

The minister seemed to say he had no knowledge of that not being communicated, but this has been appallingly handled since it first came here in February. The fact that we are here on 2 December doing this at one minute to midnight before the minister's trip to Paris, I think is an example of the way legislation should not be dealt with. With those few words, I indicate that the opposition will be opposing the third reading.

The council divided on the third reading:

Ayes.....9
Noes 8
Majority 1

AYES

Franks, T.A.	Gago, G.E.	Gazzola, J.M.
Hunter, I.K. (teller)	Kandelaars, G.A.	Malinauskas, P.
Ngo, T.T.	Parnell, M.C.	Vincent, K.L.

NOES

Dawkins, J.S.L. (teller)	Hood, D.G.E.	Lee, J.S.
Lucas, R.I.	McLachlan, A.L.	Ridgway, D.W.
Stephens, T.J.	Wade, S.G.	

PAIRS

Darley, J.A.	Brokenshire, R.L.	Maher, K.J.
Lensink, J.M.A.		

Third reading thus carried.

TATTOOING INDUSTRY CONTROL BILL

Second Reading

Adjourned debate on second reading.

(Continued from 1 December 2015.)

The Hon. K.L. VINCENT (12:45): I am pleased to speak at the second reading stage to put Dignity for Disability's position and some concerns on this bill on the record. Under this bill, as members would be aware, a person would, automatically and permanently, be disqualified from providing tattooing services if he or she or one of their close associates is a member of a prescribed organisation or subject to a control order under the Serious and Organised Crime (Control) Act 2008.

The bill also seeks to give the Commissioner for Consumer Affairs the power to disqualify a person from providing tattoo services based on certain criteria, including the person being a member of a prescribed organisation within the preceding five years, or having been found guilty of a prescribed offence within the preceding 10 years.

My office has received expressions of concern about the bill by participants in, and employees of, the tattoo industry in particular. We are also aware of the concerns raised by the Law Society of South Australia and by some members of the opposition in the other place and some members in this place also. Together, these concerns raise fears that the effect of this bill may be to unfairly penalise innocent people who are pursuing a legitimate business and career, earning their livelihoods and expressing their artistic skills in the tattooing industry.

Participants in the tattooing industry, including trainees, employees and business owners, have advised my office that they believe that they are captured in the current incarnation of the bill under the definition of 'close associate' of a member of a prescribed organisation. Some thought that the bill labels them as criminals, simply because they work as tattooists. The Law Society expresses opposition to the bill because, in summary, its powers would be too sweeping. The Law Society feels its scope is too wide and its potential consequences are grave and unfair.

The society also expressed concerns that the bill does not strike the right balance between preventing or reducing crime and placing restrictions on rights and freedoms of individuals, and that the bill does not address health risks inherent in tattooing, notably the use of contaminated ink or needles. In light of the concerns about the bill raised by the Law Society, some of the tattooing industry participants and some members in both this place and the other place, there appears to be some risk that this legislation in its current form could be susceptible to a legal challenge.

Given this, Dignity for Disability shares the concerns expressed that the government is asking members of this chamber to support this bill without the evidence that it will actually assist in fighting crime. We also share the concern that the bill is likely to increase unemployment and force skilled young workers in particular to seek employment interstate. Certainly, given the state of unemployment in this state currently and the outlook into the future, that is something we cannot afford to have happen.

We agree that to facilitate an informed debate on this bill the government needs to answer some questions about the links between tattoo parlours and organised crime in this state in particular, and how many employees and owners of tattoo parlours would fall within the current definitions of the bill, the effects of similar legislation in New South Wales and Queensland, and which members of the tattooing industry were consulted in the drafting of this bill.

With those few words, Dignity for Disability expresses its opposition to the bill in its current form, and I hope we can quickly get some answers to those questions we have raised just now in order to assist us in forming a position in later stages.

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) (12:49): I thank honourable members for their second reading contributions. A couple of questions were asked during those contributions for which I will now seek to put a response on the record. It has been pointed out that the bill seeks to prevent organised crime gangs and their associates from owning or controlling tattoo parlours and pawnshops, using them as a front for illegal activities. Legitimate businesses in these industries are threatened by acts of violence, arson and other property damage.

The bill introduces a negative licensing scheme to ensure that the regulatory impact upon legitimate businesses is minimal. A person will not be required to obtain a licence in order to provide

tattooing services, as is the case in New South Wales and Queensland; however, it will be an offence for a person to provide tattooing services if they are disqualified from doing so. The person is automatically disqualified if he or she is a member of a prescribed organisation or a close associate of a person who is a member of a prescribed organisation, or is subject to a control order under the Serious and Organised Crime Control Act 2008.

This is similar to the situation in New South Wales and Queensland where a person cannot get a licence if the person is a controlled member of a declared organisation or an adverse security determination has been made by the commissioner about the applicant. Carrying on a body art tattooing business without a licence is an offence.

The Hon. Ms Franks asked a number of questions in her second reading contribution. In relation to her first question: could the government indicate how many tattoo parlours, etc., advice has been provided by SAPOL and there are currently around 70 or so tattooing businesses operating in Adelaide, mostly in the metropolitan area. Of those 70-plus businesses there are, as noted by the opposition in the other place, a number that have direct links to outlaw motorcycle gangs. I cannot provide the exact numbers for the honourable member because that information is in the nature of criminal intelligence, and I would not want to prejudice ongoing police operations by repeating that information here, but it definitely is a considerable number.

A person is only automatically disqualified if they are a member of a prescribed organisation or a close associate of a member, or if they have been disqualified from providing tattooing services in another jurisdiction. As noted by the Hon. Ms Franks, a 'close associate' includes a spouse. A person is a spouse if they are legally married. If a person ceases to be a member of a prescribed organisation, or ceases to be a close associate of a member, i.e. because they are divorced, then they are no longer automatically disqualified. It is true that they could still be disqualified under clause 8 by the Commissioner for Consumer Affairs but that power is discretionary and the exercise of that power which would include consideration of a person's circumstances can be appealed against.

The Hon. Ms Franks has also asked: can the government provide instances where powers and provisions in New South Wales and Queensland have led to a reduction in bikie-related organised crime? I have been advised that both jurisdictions have indicated to SAPOL that the implementation of legislation banning outlaw motorcycle gang involvement in tattoo parlours has resulted in a decline in violent offending, such as arson attacks and drive-by shootings, in and around tattoo parlours. The new legislation has also led to greater reporting confidence, for example, reporting 'standover' tactics and other blackmail-type offending, by legitimate operators who do not have links with outlaw motorcycle gangs.

The Hon. Ms Franks has asked that the government provide cases where individual members of the community, who were not engaged with an organised criminal gang in those states, have been taken in for questioning. I have been advised that we are not able to access that information.

The Hon. Ms Franks also asked to be provided with a list of tattoo parlours supporting this bill and which were consulted. I have already advised in the briefing that the government did not consult with the tattoo industry on the drafting of this bill. The bill represents an election commitment of this government to prevent organised crime gangs from owning or controlling tattoo parlours. It does this by making it an offence to provide tattooing services if you are disqualified from doing so under the act.

The Hon. Andrew McLachlan has sought further information on the implementation of this legislation. I am advised that it is the government's intention to delay commencement of the legislation for at least six months to enable tattooists and tattoo parlour owners to determine whether they will fall foul of the legislation and to give them time to sell or close their business and deal with any existing contractual arrangements.

For example, a person who is a member of a prescribed outlaw motorcycle gang or a close associate of a member will be automatically disqualified from providing tattoo services once the legislation comes into force, and liable to four years' imprisonment if they continue to provide tattooing services in contravention of this provision. SAPOL has advised that once the legislation

comes into operation it will work with CBS to determine whether or not action will be initiated against proprietors.

The Hon. Andrew McLachlan has also stated that the Commissioner for Consumer Affairs does not need to provide reasons for his decision to ban someone from operating a tattoo parlour and has asked the government to provide greater clarity on the appeal provisions. Pursuant to clause 8 of the bill, the Commissioner of Consumer Affairs may, by notice in writing, disqualify a person from providing tattooing services. Subclause (5) provides that a disqualification notice must state the grounds on which the notice has been given and set out a person's right to appeal against the decision.

On appeal, the appellant may, if not satisfied with the grounds already set out in the disqualification notice, require the Commissioner for Consumer Affairs to state in writing the reasons for the decision or a direction appealed against them. The requirement to give reasons is subject to clause 5 of the bill. Where a decision to disqualify a person has been made because of information that is classified by the Commissioner of Police as criminal intelligence, the Commissioner for Consumer Affairs is not required to provide any grounds or reasons for the decision other than that it would be contrary to the public interest if the person were to provide tattooing services.

In relation to the Hon. Andrew McLachlan's questions in relation to section 74A of the Police Act, a retired judicial officer has been approached and has agreed to conduct the section 74A review for the 2013-14 and 2014-15 years. The Attorney-General's Department is liaising with SAPOL regarding the necessary arrangements, such as access to the relevant information. The Attorney-General will undertake to provide a response to the Hon. Andrew McLachlan detailing the arrangements shortly.

Again, I wish to take this opportunity to thank honourable members for their contributions and look forward to dealing with this expeditiously through the committee stage.

Bill read a second time.

PORT PIRIE RACECOURSE SITE AMENDMENT BILL

Second Reading

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) (12:59): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill amends the *Port Pirie Racecourse Site Act 1946*.

The Act first came into operation in 1946 and sets up a statutory purpose trust over the Port Pirie Racecourse land. The land was originally gifted to the Port Pirie Trotting and Racing Club (now known as the Port Pirie Harness Racing Club inc) (the Club) by the Crown on the basis that it would be used for the objects of the club, in accordance with its constitution at the time of its establishment. These objects include carrying on horse-racing for the purposes of recreation and amusement, providing social and sporting advantages for its members and persons interested in horse-racing, promoting the improvement of horse racing in South Australia, to acquire and hold property for achieving its objects, and to apply its profits for the furtherance of its objects.

This means that the Act, as it stands, does not allow the Club to use the land for any other purpose. This Bill changes this by amending the Act to allow the Club to enter into a lease, licence or easement with a person or entity which can involve using the land for a purpose other than horse racing. The changes to the Act proposed in the Bill mean that the Minister for Racing will have the ability to authorise activities, including commercial development on the site. This amendment broadens the Club's ability to generate opportunities to best meet its objects. The amendment ensures that there are appropriate measures in place and provides that the lease, licence or easement is approved by the Minister responsible for the Act.

The passing of this Bill will enable the possibility of a commercial and regional centre development in Port Pirie involving a portion of currently disused racecourse land coming under the Act and an area directly adjacent to the racecourse. This proposed development will support economic and commercial development in the Port Pirie

community and surrounding regions, stimulating job creation, business opportunities and other benefits for the community. It will enable the Club to generate funds that, in turn, will be used to promote the objects of the Club.

The Bill allows for a lease, licence or easement to be renewed from time to time and sets up a system whereby any major variations to a lease, licence or easement that have not been approved are voidable by the Minister.

In addition, the Bill creates a mechanism to rectify the situation where a party to an approved lease, licence or easement fails to comply with the terms and conditions of the lease, licence or easement. In these cases, the Minister would give notice to the Club in writing requiring the Club to comply with a term of the lease, licence or easement or, if the other party was at fault, to require the Club to enforce a term or condition of an approved lease, licence or easement against another party to it. In accordance with section 4(3) of the Bill, if the Minister was satisfied that the Club had not complied with the Notice after a period of 6 months, the Governor could by proclamation resume the portion of racecourse land that is subject to the lease, licence or easement and the Club's title to the resumed land would again vest in the Crown. In accordance with section 4(4)(e) of the Bill, the rights of any holder of an approved lease or licence in relation to the land, subject to the terms of the lease, licence or easement, would remain in full force and effect.

This system would operate alongside the current mechanisms in the Act that require the Club to abide by its objects when using of the balance of the land, which are those parts not subject to an approved lease, licence or easement.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

This clause is formal.

2—Interpretation

This clause defines the *principal Act* that is to be amended by this measure. The principal Act is defined as the *Port Pirie Racecourse Site Act 1946* ('the 1946 Act') as read together with or amended by the *Port Pirie Racecourse Land Revestment Act 1960*, the *Port Pirie Racecourse Land Revestment Act 1965* and the *Port Pirie Racecourse Land Revestment Act 1981* ('the revestment Acts'). Each revestment Act states that a certain portion of the land vested by the 1946 Act in the Port Pirie Harness Racing Club Incorporated ('the club') ceases to be so vested and each of those Acts has to be read together with the 1946 Act for that purpose. It is therefore the 1946 Act read together with the revestment Acts that is to be amended by this measure.

3—Amendment of principal Act

This clause contains all of the amendments to the principal Act, as follows:

(a) Paragraph (a) adds definitions of certain terms to be used in the principal Act and updates the definition of certain terms currently used in the Act:

- an *approved lease, licence or easement* is defined to mean a lease, licence or easement approved by the Minister under section 4(1b) of the principal Act;
- the existing definition of *the club* is altered to refer to the current name of the club;
- the existing definition of *the defined land* is altered to refer to the current definition of the part of the land originally vested in the club under the 1946 Act that remains after the removal of various portions of that land by the revestment Acts;
- an *easement* is defined to include a right-of-way;

(b) Paragraph (b) makes provision for the land vested in the club under the 1946 Act to be used for purposes other than those currently permitted by the Act. The land can only be used at present for the objects for which the club was established in 1946. Under the amendments, however, the club can grant to another person or body a right to use the land vested in the club by the 1946 Act for objects other than those for which the club was established provided that the right is conferred under a lease, licence or easement approved by the Minister by notice in writing. The use of land for purposes provided for under such an approved lease, licence or easement will be taken to comply with the objects for which the club was established. The Minister's approval can be subject to such terms and conditions as the Minister considers necessary or appropriate and specifies in the notice.

A variation (other than a minor variation) of such an approved lease, licence or easement has to be approved by the Minister, otherwise the variation is voidable at the option of the Minister.

If an approved lease, licence or easement is renewed, it continues to be approved as long as the terms and conditions are the same or substantially the same as those originally approved.

Paragraph (b) also amends the power of the Minister to intervene where the club does not comply with the requirements of the principal Act. Currently, if the land is not used by the club for the objects for which the club was established, the Minister can by notice in writing require the club to use the land for those objects. If the club fails to do so within 6 months the Governor can by proclamation resume the land vested in the club by the Act. Under the amendments, if the land is not used by the club for the purposes for which the club was established or if a party to an approved lease, licence or easement does not comply with the terms and conditions of that lease licence or easement, the Minister can by notice in writing require the club to take such action to remedy the default as the Minister thinks fit and specifies in the notice. In particular, the Minister can require the club to comply with any term or condition of an approved lease, licence or easement or require the club to enforce any term or condition of such a lease, licence or easement against another party;

(c) Paragraph (c) amends the principal Act to provide that if the club fails to comply with a notice from the Minister to remedy a default in the use of the land or in the compliance with the terms and conditions of an approved lease, licence or easement, the Governor can resume the land vested in the club by the Act or can resume the part of the land that is subject to the lease, licence or easement. The Act currently allows only the resumption of the land vested in the club by the Act;

(d) Paragraph (d) amends section 4(4)(a) of the principal Act. The change is consequential on the alteration of the Governor's powers to resume land referred to in paragraph (c) above;

(e) Paragraph (e) gives the Registrar-General power to make such alterations to land records and titles as may be necessary to give effect to a resumption by the Governor of land currently vested in the club by the principal Act;

(f) Paragraph (f) amends section 4(4)(c) of the principal Act. That provision currently enables the club to remove all buildings on the land vested in the club by the Act if that land is resumed by the Governor. That power is currently subject to the rights of any mortgagee over the land. This amendment provides that that power of the club is now also subject to the rights of the holder of any approved lease, licence or easement;

(g) Paragraph (g) amends section 4(4)(c) of the principal Act. The change is consequential on the alteration of the Governor's powers to resume land referred to in paragraph (c) above;

(h) Paragraph (h) amends section 4(4)(d) of the principal Act. This change is also consequential on the alteration of the Governor's powers to resume land referred to in paragraph (c) above;

(i) Paragraph (i) amends the principal Act to provide that where the Governor resumes land vested in the club under the principal Act, the rights of the holder of an approved lease, licence or easement to or in relation to the resumed land will, subject to the terms and conditions of the lease, licence or easement, remain in full force and effect. This is similar to an existing provision in the principal Act preserving the rights of a mortgagee over such land (section 4(4)(d));

(j) Paragraph (j) amends the principal Act to insert the current name of the council within whose area the land vested by the principal Act falls;

(k) Paragraph (k) amends section 6 of the principal Act. Section 6 currently provides that the land vested by the Act and all buildings and erections on the land are exempt from land tax and council rates, except for land and buildings used for residential purposes. This amendment provides that the exemption from land tax and council rates also does not apply to land under an approved lease, licence or easement;

(l) Paragraph (l) removes a reference in the principal Act to legislation that is no longer applicable.

4—Repeal of revestment Acts

This clause repeals the *Port Pirie Racecourse Land Revestment Act 1960*, the *Port Pirie Racecourse Land Revestment Act 1965* and the *Port Pirie Racecourse Land Revestment Act 1981*. Each of these Acts removed a portion of the land originally vested in the club by the 1946 Act. They did so by describing the land to be removed and stating that that land ceased to be vested in the club. Each has to be read with the 1946 Act in order to identify the land that is still vested in the club. Clause 4(a) of this measure now inserts into the principal Act the current description of the land that is still vested in the club. The revestment Acts are therefore no longer required.

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

YOUTH JUSTICE ADMINISTRATION BILL

Second Reading

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) (13:00): I move:

That this bill be now read a second time.

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

Leave granted.

Young people who become involved in the criminal justice system present a complex task for Government. When dealing with young people, the justice system requires a balance between a justice and rehabilitative response, delivered within a family and community context. The *Youth Justice Administration Bill 2015* will form part of the Government's legislative policy response to criminal behaviour in South Australia which seeks to deliver both community safety and positive, non-offending outcomes for young people.

The Bill is necessary for various reasons.

In October 2011, machinery of government changes occurred, which resulted in the Minister for Communities and Social Inclusion, the Department for Communities and Social Inclusion (DCSI) Chief Executive, and departmental officers no longer, having the necessary powers to administer youth justice functions.

As a result, the legislative framework for youth justice administration became highly complex and required a significant number of delegation instruments to ensure adequate powers were in place to act lawfully. The critical delegation requirements arise primarily from the *Family and Community Services Act 1972* (power to establish youth training centres) and the *Young Offenders Act 1993*. Powers that are contained in other relevant legislation also require delegation instruments via these Acts.

The provision of youth justice services has undergone significant reform since these functions were provided as a stand-alone Directorate. The development of the Adelaide Youth Training Centre and state-wide community supervision has been core elements in the reform. Youth Justice requires legislation that fully reflects the powers and functions of all youth justice operations. Current legislation fails to do this.

The Bill seeks to consolidate all youth justice administrative functions into one clear, concise legislative framework while at the same time contemporising other relevant legislation to better reflect best practice in this area, particularly in respect to the detainment of children and young people. It achieves this by aligning legislative powers for administrative management, particularly of youth training centres, with the *Young Offenders Act 1993*, while addressing gaps in existing legislation. It also ensures that legislation reflects a contemporary standard of practice for youth justice functions, given the *Family and Community Services Act 1972* is now 43 years old.

The Bill proposes consequential amendments to the *Young Offenders Act 1993*, as the principle Act in which offences against the criminal law by young people are considered. The *Young Offenders Act 1993* was established to place emphasis on holding young people accountable for their behaviour, imposing penalties of sufficient severity to act as a deterrent, increasing victims' access to reparation and to strengthen the powers of the Youth Court in criminal justice matters, whilst maintaining objectives for rehabilitation and community connection.

Therefore, the aim of this legislative reform is to bring the administration of training centres and community-based supervision services in line with contemporary operational requirements and current Government which:

- clearly defines the legislative powers and responsibilities of the Minister, Chief Executive and departmental officers;
- provides a legislative framework for contemporary and best practice approaches to the management of young people in custodial environments and subject to community-based supervision;
- reflects the particular experiences of Aboriginal young people in the justice system;
- reflects that assessment, case planning and rehabilitation programs are key to crime reduction objectives;
- reflects the important contribution of families and communities in supporting young people;
- aligns with the objects and policy principles contained in the *Young Offenders Act 1993*;
- aligns with and reflects the rights of victims and promotes community safety;
- aligns with national and international protocols and agreements with respect to administration of youth justice;
- aligns with and reflects South Australian Government strategic planning; and
- is forward thinking in allowing for growth and continuous improvement in Youth Justice.

Consultation with stakeholders

Given the importance of the provisions contained in the Bill, extensive consultation has taken place with key stakeholders.

There have been multiple opportunities provided for key stakeholders, both Government, non-government and community members to participate in the discussion about how to reflect best practice of youth justice administration in a legislative scheme. Previous consultation has included:

- the release of the Youth Justice Discussion Paper inviting submissions
- the delivery of numerous information sessions
- direct stakeholder meetings with those agencies most directly affected by the Bill
- Ministerial Roundtable Forums

Most recently, stakeholders were again invited to make written submissions on an exposure draft of the Bill which was publicly released on 3 August 2015.

Fifteen written submissions were received as well as internal submissions from Youth Justice staff, who were also consulted throughout the development process.

As a result of feedback received a number of consistent themes were raised for consideration and have been included in the Bill. These themes include:

- that the provisions provide a balance between community safety and rehabilitative aims
- the inclusion of an Youth Justice Aboriginal and Torres Strait Islander Principle
- the inclusion of a Training Centre Visitor of the Adelaide Youth Training Centre
- the inclusion of provisions which provide greater flexibility in managing older residents accommodated at the Adelaide Youth Training Centre to support the safe and secure functioning of the facility
- the inclusion of provisions clearly outlining the administration of the Adelaide Youth Training Centre to ensure that children and young people's rights are properly protected whilst detained.

Objectives and guiding principles

The objects and guiding principles of the Bill reflect best practice for achieving a balance between recognition of the vulnerability of children and young people, responding to their rehabilitation needs in the youth justice system and the importance of community safety.

The Bill has been developed with consideration of national and international standards and State Government policy frameworks. Age, gender, gender identity, disability, culture, race and other particular needs must be considered in the design of service delivery.

The particular regard to young people under the Guardianship of the Minister (Child Protection orders) has also been specifically included to recognise a whole-of-government approach for these young people.

In South Australia, a long-held policy position has been that a young person's family, both immediate and extended, forms a key role in supporting a young person to lead a non-offending lifestyle. However, there has been a significant increase in the body of evidence on the positive impact that family-based interventions can have when working with young people in contact with the justice system. To ensure this policy position is supported in legislation, the Bill includes a principle and objective that family inclusive practice should be applied wherever practicable.

Youth Justice Aboriginal and Torres Strait Islander Principle

While the need to recognise different cultural backgrounds is included in the overarching objects and guiding principles of the Bill, it was also important to include Aboriginal children and young people more specifically, given the over-representation of this group in the justice system. It is also important to recognise that this is a result of the effects of colonisation, inter-generational trauma and compounded grief and loss experiences.

Included in the Bill, in relation to Aboriginal and Torres Strait Islander young people, is a requirement that the Youth Justice Aboriginal and Torres Strait Islander Principle be observed. The Minister has worked closely with Aboriginal stakeholders in developing the Principle, which is intended to clearly outline what is expected for culturally appropriate practice, and it is intended for inclusion in Regulations.

The Principle will support a policy position of self-determination for Aboriginal children and young people as active participants in decisions that affect them where it is possible to do so. The Principle will necessitate culturally appropriate assessment and case planning which is inclusive of family, kinship, and community in decision-making. It will require that services are culturally relevant to the needs of the child or young person and reflect the cultural diversity among Aboriginal communities.

Culturally diverse and linguistically diverse populations

It is unfortunately the case that young people from minority communities are often over-represented in the youth justice system. They present with very unique needs which require particular consideration.

For example, more recent experiences of newly arrived immigrants have been a focus of youth justice policy and practice development. It is, therefore, necessary for the Bill to reflect the particular needs of this group of young people, reflected in a specific clause in the guiding principle.

Training Centre Visitor

It is a standard requirement in international and national protocols and agreements for youth justice administration that there must be an independent monitoring mechanism in places of detention. Any legislative basis for depriving a person of their liberty requires transparency and accountability measures. Nowhere is this arguably more important than in the case of young people. The Bill provides for this requirement.

The Guardian for Children and Young People currently acts in this capacity via delegation instruments and administrative agreement. The new provisions relating to the Training Centre Visitor will provide stronger legislative power for this important function.

Adelaide Youth Training Centre

The provisions contained in the Bill relating to Training Centres ensure that each phase of a resident's custodial period is considered. Responsibilities in respect to admission, assessment, case planning and targeted programs is required.

The Bill includes various provisions which are required for safety and security reasons. Some of these provisions were formerly contained in Regulations because of their importance, such as the use of safe rooms and use of force. While staff are trained to support young people in the facility to behave safely, there are times when a young person requires increased security responses. It is necessary that the Bill clearly identifies the perimeters of permitted actions and ensures the appropriate checks and balances are in place.

There are new provisions in the Bill in relation to drug testing for example, which provides the powers to ensure that residents and staff are kept safe from the harm that illicit drug use can create in a custodial environment.

Consequential amendments to the *Young Offenders Act 1993*

During the development period of the Bill, the Government launched the Transforming Criminal Justice initiative. This provided the opportunity to review the *Young Offenders Act 1993* in light of the aims of the Transforming Criminal Justice initiative.

The Bill proposes the expanded use of home detention as a sentencing and early release option. The Home Detention Program has been operating for young people in South Australia since 1995. Home detention diverts young people from incarceration in youth detention facilities by providing the Youth Court with this option for sentencing, as well as a condition of bail. In addition, home detention is an option in considering the early release of a young person from detention.

The *Young Offenders Act 1993* anticipates a role for youth justice administration with respect to youth over 18 years of age, in both the community and custodial settings. This reflects the legal principle that offences committed as a youth should be managed within the youth jurisdiction wherever possible. However, the *Young Offenders Act 1993* requires strengthening to ensure the safe and secure administration of the youth training centre and to ensure that older youth have access to programs that can meet their developmental needs. As such, the Bill proposes amendments to the *Young Offenders Act 1993* to establish a framework for the management of custodial and supervision orders for youth over 18 years of age, either by youth justice or correctional services, where appropriate. Proposed amendments include:

- a ceiling age of 21, with discretionary provision, for custodial placement in a youth training centre and for community supervision by DCSI;
- transfers to prison through increased reviews of custodial placement; and
- limits on custodial placement in a youth training centre after a period in adult custody.

Regulations

It is common, that for legislation, which is largely administrative in nature, there will be a requirement for numerous administrative processes to be captured in the Regulations. While the development of such Regulation cannot begin until the Bill has passed, it is necessary to provide assurances to stakeholders and the Parliament that all necessary administrative responsibilities will be addressed. Therefore an overview of what is intended for Regulation is required.

Adelaide Youth Training Centre

There is a range of provisions contained in the Bill which require greater detail in Regulation. Areas of administration which will be considered include:

- documentation upon admission;
- rules of the facility;

- behaviour management and incentive schemes;
- segregation and bedrooms;
- searching of visitors;
- use of force and restraints;
- leave of absence from the facility;
- health and education needs;
- security provisions, such as telephone communications, internet, CCTV, and biotechnology;
- handling of mail; and
- complaints processes.

Community Supervision

With regard to community supervision:

- community service, such as ensuring child safe environments; and
- reporting and compliance processes will be considered for regulation.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Objects and guiding principles

This clause sets out the objects of the measure and the guiding principles to be followed by the Minister, the Chief Executive, the Department and other persons and bodies involved in the administration of this measure in the performance of their functions.

4—Interpretation

This clause sets out the definitions of words and phrases to be used in interpreting the measure.

5—Interaction with companion legislation

This clause provides that this measure and the *Young Offenders Act 1993* (the YOA) are to be read together and construed as if the 2 pieces of legislation constituted a single Act.

Part 2—Administration of youth justice

6—Power of Minister and Chief Executive to delegate

This clause provides the Minister and the Chief Executive with power to delegate powers, duties, responsibilities or functions under this measure in the usual terms.

7—Functions of Chief Executive

The functions of the Chief Executive include—

- responsibility for ensuring that proper standards of administration are observed in the management of a training centre established under this measure; and
- establishing community youth justice programs for the purposes of the supervision of youths who are required to carry out community service; and
- any other function conferred on the Chief Executive under this measure or any other Act.

8—Use of volunteers in administration of Act

The Minister must promote the use of volunteers in the administration of this measure to such extent as the Minister thinks appropriate.

9—Chief Executive's annual report

The Chief Executive is required to make an annual report in relation to the administration and work of the Department in relation to this measure.

Part 3—Official visitors

10—Official visitors

The following persons are entitled to visit a training centre:

- Members of Parliament;
- judges;
- the Guardian for Children and Young Persons;
- the Training Centre Visitor;
- and any other person authorised in writing by the Minister.

11—Training Centre Visitor

This clause establishes the office of the Training Centre Visitor and provides for the terms and conditions of, and suspension and vacancy in, the office.

12—Independence

In performing and exercising his or her functions and powers under this measure, the Training Centre Visitor must act independently, impartially and in the public interest.

13—Staff and resources

This clause provides that the Minister must provide the Training Centre Visitor with the staff and other resources that the Visitor reasonably needs for carrying out his or her functions.

14—Training Centre Visitor's functions

This clause sets out the functions of the Training Centre Visitor, as follows:

- to conduct visits to training centres as required or authorised;
- to conduct inspections of training centres as required or authorised;
- to promote the best interests of the residents of a training centre;
- to act as an advocate for the residents of a training centre to promote the proper resolution of issues relating to the care, treatment or control of the residents, including issues raised by a guardian, relative or carer of a resident or any person who is providing support to a resident of a training centre under the measure;
- to inquire into, and provide advice to the Minister, in relation to any systemic reform necessary to improve—
    - the quality of care, treatment or control of residents of a training centre; or
    - the management of a training centre;
- to inquire into and investigate any matter referred to the Visitor by the Minister;
- any other functions assigned to the Visitor under the Act or any other Act.
- 15—Use and obtaining of information

This clause requires government and non-government organisations involved in the provision of services to children to provide the Visitor, at his or her request, with information relevant to the performance of the Visitor's functions

16—Visits to and inspection of training centres

The Training Centre Visitor may, on a visit to a training centre—

- so far as practicable, inspect all parts of the centre used for or relevant to the custody of youths; and
- so far as practicable, make any necessary inquiries about the care, treatment and control of each resident of the centre; and
- take any other action required for the performance of the Visitor's functions.

A visit to a training centre by the Visitor may be made on the Visitor's own initiative or at the request of a resident of the centre. Although a visit may take place at any reasonable time of the day and be of such length as the Visitor thinks appropriate, there is a requirement for the manager of the centre to give reasonable directions in relation to security of the centre.

17—Requests to see Training Centre Visitor

A request may be made to see the Training Centre Visitor by a resident of a training centre, or a guardian, relative, carer or support person of a resident.

18—Reporting obligations of Training Centre Visitor

The Training Centre Visitor is required to present an annual report to the Minister in connection with the Visitor's functions and may prepare special reports from time to time as the Visitor considers necessary.

19—Other reports

The Training Centre Visitor may, at any time, prepare a report to the Minister on any matter arising out of the exercise of the Visitor's functions under this Act.

20—Confidentiality of information

Information about individual cases disclosed to the Training Centre Visitor or a member of the Visitor's staff is to be kept confidential and is not liable to disclosure under the *Freedom of Information Act 1991*.

Part 4—Training centres

Division 1—Establishment of training centres, facilities and programs

21—Training centres, facilities and programs

The Minister may establish such training centres and other facilities and programs as the Minister thinks necessary or desirable for the care, rehabilitation, detention, training or treatment of youths and any such centre will be under the control of the Minister. The Chief Executive is required to ensure that adequate arrangements are in place in training centres to ensure the welfare of the residents, as set out.

Division 2—Charter of Rights for Youths Detained in Training Centres

22—Charter of Rights for Youths Detained in Training Centres

This clause provides that there will be a Charter of Rights for Youths Detained in Training Centres. The Charter has effect if approved by the Minister. A copy of the Charter is to be made available on a website maintained by the Department.

Division 3—Procedures on admission

23—Initial assessment on admission

The Chief Executive is required under this clause to ensure that a youth newly admitted to a training centre is given a copy of the rules of the centre and a copy of the Charter. There is also a requirement for the youth to be given a written and verbal explanation of the rules in a language that he or she is able to understand. The youth is to be made aware of the consequences of non-compliance with the rules. A guardian, relative or carer of a newly admitted youth is to be notified that the youth has been admitted to the centre. This clause also includes requirements for periodic assessment of youths in detention.

Division 4—Custody of residents of training centres

24—Minister has custody of youths in detention

The Minister has the custody of a resident of a training centre. This is the case whether the resident is within, or outside, the precincts of a training centre in which he or she is being detained, or is to be detained.

25—Chief Executive responsible under Minister for management of training centres

This clause sets out the Minister's discretion in relation to placing youths in training centres and establishing regimes for various aspects of a youth's day-to-day life in a training centre.

Division 5—Management of residents of training centres

26—Chief Executive may make rules relating to management of training centre

This clause provides for the making of rules by the Chief Executive relating to the management of training centres and regulating the conduct of residents of training centres.

27—Education

The Chief Executive is required under this clause to arrange courses of instruction and training to be made available to residents of training centres.

28—Safe rooms

This clause limits the circumstances in which a resident of a training centre may be detained in a safe room. A resident under the age of 12 years must not be detained in a safe room.

29—Prohibited treatment of residents

This clause sets out the kinds of treatment to which a resident of a training centre may not be subjected:

- corporal punishment of any form (that is, any action that inflicts or is intended to inflict physical pain or discomfort);
- isolation or segregation (other than in a safe room or in prescribed circumstances) from other residents;
- psychological pressure or emotional abuse of any form intended to intimidate or humiliate;
- deprivation of medical attention, basic food or drink, clothing or any other essential item;
- deprivation of sleep;
- restriction of free movement by means of mechanical restraints (other than in prescribed circumstances);
- unjustified deprivation of contact with persons outside the centre;
- any other treatment that is cruel, inhuman or degrading.

30—Power to search residents

A resident's belongings may be searched in the situations set out in this clause, namely:

- when the resident is received into the centre or returns after an absence from the centre;
- if the resident has had a full contact visit with a visitor to the centre;
- if the manager of the centre has reasonable cause to suspect that the resident has in his or her possession in the centre any substance or item that is prohibited in, or may jeopardise the security of, the centre.

This clause also prescribes limitations in relation to searching a resident of a training centre:

- the resident may not be required to be completely naked at any time during the search;
- those present at any time during the search when the resident is semi-naked (except a medical practitioner) must be of the same sex as the resident;
- at least two persons (apart from the resident) must be present at all times during the search when the resident is semi-naked (with one of them conducting the search while the other observes);
- if a medical practitioner is required for the purposes of the search—the medical practitioner must be in addition to the two persons required above;
- for the purposes of the search—the resident may be required—
    - to open his or her mouth; and
    - to remove the clothing from his or her upper body or lower body (but not both at the same time); and
    - to adopt particular postures; and
    - to do anything else reasonably necessary for the purposes of the search,

and if the resident does not comply with such a requirement, reasonable force may be applied to secure compliance;

- force must not be applied to open the resident's mouth except by or under the supervision of a medical practitioner;
- nothing may be introduced into an orifice of the resident's body for the purposes of the search except by a medical practitioner;
- the search must be carried out expeditiously and undue humiliation of the resident must be avoided.

31—Drug testing of residents

The Chief Executive may, under this clause, require a resident of a training centre to undergo a drug test in certain specified circumstances.

32—Use of sniffer dogs

This clause authorises the use of sniffer dogs for certain specified purposes, such as carrying out a search at a training centre, tracking an escaped youth or patrolling a training centre. A sniffer dog is—

- a drug detection dog within the meaning of the *Controlled Substances Act 1984*; or

- a dog that is trained and handled by South Australia Police; or
- a correctional services dog (within the meaning of the *Correctional Services Act 1982*).

33—Use of force against residents

The circumstances in which an employee in a training centre may use force against a resident of the centre are limited by this clause. An employee may use force against a resident as is reasonably necessary in a particular case—

- to prevent the resident from harming himself or herself or another person; or
- to prevent the resident from causing significant damage to property; or
- to maintain order in the centre; or
- to preserve the security of the centre.

An employee who uses force against a resident is required to prepare a written report on the use of force for the manager of the training centre.

Division 6—Leave of absence under authority of Chief Executive

34—Leave of absence under authority of Chief Executive

This clause authorises the Chief Executive to grant a youth detained in a training centre leave of absence from the centre in certain circumstances.

Division 7—Transfer of youths under detention from 1 jurisdiction to another

35—Interpretation

This clause sets out definitions required for the purposes of the Division.

36—Transfer of young offenders to other States

Under this clause, the Minister may enter into arrangements with the appropriate authority of another State for the transfer of a young offender to the other State.

37—Transfer of young offenders to this State

Arrangements may be made by the Minister under this clause with the appropriate authority of another State for the transfer of a young offender from that State to this State.

38—Adaptation of correctional orders to different correctional systems

An arrangement made for the transfer of a young offender may provide that the relevant correctional order is to operate with necessary modifications to ensure its effective operation in the correctional system of the State to which the young offender is to be transferred.

39—Custody during escort

This clause provides that an escort in whose custody a young offender is placed for the purpose of bringing the him or her into, or taking the him or her out of, South Australia has, while in this State, lawful custody of the young offender.

Division 8—Release from detention

40—Release of youth from detention

This clause provides that a youth will be released from the training centre in which he or she is being detained on the day on which his or her sentence of detention expires. This applies unless the youth is released earlier under Part 5 of the Young Offenders Act or another Act or law. A youth is to be released from the training centre in which he or she is being detained as near as practicable to 10 am on the day of release.

41—Manner in which former resident's personal property is to be dealt with

This clause sets out procedures for dealing with personal property left at a detention centre by a youth after his or her release.

42—Certain prohibited items not to be returned to former residents

This clause makes it clear that there is no requirement for a prohibited item of property to be returned to a person.

Part 5—Community programs and community service

43—Community programs

The Minister may establish programs for the care, rehabilitation, training or treatment of youths required to be under supervision in the community. The Chief Executive is to ensure that adequate arrangements are in place to ensure that a youth is supervised by a community youth justice officer.

44—Restrictions on performance of community service and other work orders

This clause sets out various restrictions and requirements that apply where a youth is required to perform community service or to carry out work under an order.

45—Insurance cover for youths performing community service or other work orders

There is a requirement under this clause for a youth who is to perform community service or other work pursuant to an order or undertaking to be insured against death or bodily injury arising out of, or occurring in the course of, performance by the youth of that community service or work.

46—Community service or other work orders may only involve certain kinds of work

This clause requires that the work selected for the performance of community service or other work pursuant to an order or undertaking under this Act or the Young Offenders Act be for the benefit of—

- the victim of the offence; or
- persons who are disadvantaged through age, illness, incapacity or any other adversity; or
- an organisation that does not seek to secure a pecuniary profit for its members; or
- a Public Service administrative unit, an agency or instrumentality of the Crown or a local government authority.

Part 6—Miscellaneous

47—Hindering a person in execution of duty

It is an offence under this clause for a person to hinder the Chief Executive, a community youth justice officer, a home detention officer or any person in the execution, performance or discharge of a power, function or duty under the Act.

48—Impersonating an employee of Department

Under this clause, it is an offence for a person to falsely represent himself or herself to be an officer or employee of the Department and to be authorised to exercise powers by or pursuant to this or another Act.

49—Confidentiality

This clause prohibits the disclosure of information relating to a youth or resident of a training centre if the information was obtained in the administration or enforcement of the Act. The clause specifies a number of exceptions to this general rule.

50—Disclosure of health information

This clause requires disclosure to the Chief Executive of relevant health information about a youth detained in a training centre or released on home detention as reasonably required for the treatment, care or rehabilitation of the youth, or the safe management of the youth in the centre or in the community.

51—Information about youth may be given in certain circumstances

This clause authorises the Chief Executive to release, on application by an eligible person, information relating to a youth sentenced to detention or imprisonment. A person is an eligible person in relation to a youth sentenced to detention or imprisonment for an offence if he or she is—

- a registered victim in relation to the offence; or
- a member of the youth's family or a close associate of the youth; or
- a legal practitioner who represents the youth; or
- any other person who the Chief Executive thinks has a proper interest in the release of such information.

52—Information about youth to be given when youth to be imprisoned

Under this clause, the Chief Executive is required to provide the Department (within the meaning of the *Correctional Services Act 1982*) with information he or she holds relating to a youth transferred to a prison from a detention centre if the information is required in order to ensure—

- the safety and security of the youth while he or she is detained in the prison; and

- the safety and security of other persons at the prison; and
- that the rehabilitation needs of the youth will be met while he or she is detained in the prison.

53—Minister may acquire land

The Minister may acquire land in accordance with the *Land Acquisition Act 1969* for the purposes of the measure.

54—Evidentiary provision

This clause is an evidentiary provision relating to the use of sniffer dogs under clause 32 of the measure.

55—Regulations

This clause authorises the making of regulations for the purposes of this measure.

Schedule 1—Related amendments and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Children's Protection Act 1993*

2—Amendment of section 52C—The Guardian's functions and powers

This clause amends the *Children's Protection Act 1993* by making it clear that the Guardian for Children and Young Persons to carry out functions relating to children and the welfare of children assigned to the Guardian under the *Youth Justice Administration Act 2015*.

Part 3—Amendment of *Criminal Law Consolidation Act 1935*

3—Amendment of section 269A—Interpretation

This clause amends mental impairment provisions of the *Criminal Law Consolidation Act 1935* by providing clarification in relation to the meaning of certain terms as they apply to youths.

Part 4—Amendment of *Criminal Law (Sentencing) Act 1988*

4—Amendment of section 3—Interpretation

A definition of *Minister for Youth Justice* (being the Minister responsible for the administration of the *Youth Justice Administration Act 2015*) is inserted.

5—Amendment of section 3A—Application of Act to youths

6—Amendment of section 23—Offenders incapable of controlling, or unwilling to control, sexual instincts

7—Amendment of section 79A—Rights on arrest

A number of consequential amendments arising from the enactment of the *Youth Justice Administration Act 2015* are made by these clauses.

Part 5—Amendment of *Family and Community Services Act 1972*

8—Repeal of section 7

Section 7 of the *Family and Community Services Act 1972*, which is redundant, is repealed by this clause.

9—Amendment of section 36—Establishment of facilities and programs for children

This clause amends section 36 to remove a reference to the establishment of training centres by the Minister as training centres are to be established by the Minister under the *Youth Justice Administration Act 2015*.

10—Amendment of section 77—Unlawful communication with children in certain facilities

The amendments made by this clause remove references to training centres and detention.

11—Amendment of section 236—Limitation on tortious liability for acts of certain children

The amendment made by this clause removes a reference to persons detained in training centres.

12—Amendment of section 251—Regulations

This clause makes further amendments to remove references to training centres and detention.

Part 6—Amendment of *Young Offenders Act 1993*

13—Amendment of section 4—Interpretation

This clause inserts a number of definitions required because of the proposed enactment of the *Youth Justice Administration Act 2015.*

14—Amendment of section 15—How youth is to be dealt with if not granted bail

Section 15(1) of the *Young Offenders Act 1993* requires that a youth who is not granted bail is to be detained by the Chief Executive with a person or in a place that is not a prison. Under subsection (1a) as substituted by this clause, subsection (1) will not apply in relation to a youth who is already in custody in a prison, a youth who has previously been in custody in a prison or a person who is aged 21 years or more (regardless of his or her alleged age at the time of the relevant alleged offence).

15—Amendment of section 23—Limitation on power to impose custodial sentence

Section 23 currently limits the period for which a youth can be sentenced to six months. This clause amends the section by increasing the maximum period to 12 months.

The section as amended will provide that the Court must, when sentencing a youth to detention, direct that the youth serve the period of detention in a prison if the youth has previously served a sentence of imprisonment or detention in a prison. This does not apply if the court considers that there are exceptional circumstances for not directing that the detention be served in a prison. The section as amended will also provide that where a sentence of detention will extend past a youth's 21st birthday, the Court must, unless satisfied that there are exceptional circumstances for not doing so, direct that any period of the detention that is to be served by the youth after he or she reaches 21 years of age is to be served in a prison rather than in a training centre.

16—Amendment of section 26—Limitation on Court's power to require bond

Section 26 as amended by this clause will provide that, where an order has been made under the section imposing an obligation that a person be supervised for a period that will extend past his or her 21st birthday, the Court may, on application by the person or the Chief Executive, direct that, after the person reaches 21 years of age, the person be supervised by a community corrections officer (under the *Correctional Services Act 1982*) rather than by a community youth justice officer.

17—Amendment of section 36—Detention of youth sentenced as adult

If a youth is serving a sentence of imprisonment in a training centre, section 36 requires the sentencing court to review the detention before the youth reaches 18 years of age. Under the section as amended by this clause, the Chief Executive is to provide a report to the sentencing court on the youth's progress in detention.

18—Amendment of section 36A—Transfer following imposition of concurrent prison sentence

Section 36A provides that if a youth who is serving a sentence of detention or imprisonment in a training centre is sentenced to imprisonment for an offence committed after he or she turned18, and the latter sentence is to be served concurrently with the youth sentence, the youth is to be transferred to a prison where he or she is to serve the sentences. The section currently provides that this is to be the case unless the court directs otherwise. Under the section as amended, the court will be required to direct that the youth be transferred to a prison to serve the sentences unless it considers that there are exceptional circumstances as to why the direction should not be given.

19—Amendment of section 39—Reviews etc and proceedings of Training Centre Review Board

Section 39(6) as amended will require consideration to be given as to whether a youth who has turned 18 and is serving a period of detention in a training centre should complete the sentence in a prison. Currently, the section requires this to occur only at the last periodical review before the youth's 18th birthday. Under the provision as amended, the required consideration is to be given at each periodical review that occurs following the youth's 18th birthday.

20—Amendment of section 40A—Leave may be authorised by Board

Section 40A provides for the Training Centre Review Board to authorise the Chief Executive to grant a youth periods of leave from a training centre during which the youth will not be under the supervision of the Chief Executive. The section as amended will provide that periods of leave granted under the section may be subject to a condition that the youth be monitored by use of an electronic device.

21—Amendment of heading to Part 5 Division 3 Subdivision 3

This amendment is consequential on amendments made to Subdivision 3 of Part 5 Division 3.

22—Amendment of section 41A—Conditional release from detention

Section 41A sets out a number of provisions that apply to the release of a youth from detention. Currently, those provisions apply in relation to the release of a youth on home detention. Under the section as amended, provisions requiring that a youth must have completed at least two thirds of the period of detention in a training centre to which he or she has been sentenced before he or she can be released on detention will not apply in relation to release on home detention.

23—Amendment of section 41B—Release on condition of home detention

Section 41B is amended by this clause so that the Training Centre Review Board may release a youth on home detention on the application of the Chief Executive or on its own initiative.

24—Repeal of Part 5 Division 4

This clause repeals Division 4 of Part 5 because it is proposed that the relevant provisions be moved to the *Youth Justice Administration Act 2015*.

25—Repeal of sections 49A to 52

This clause provides for the repeal of sections 49A to 51. These sections are to be reproduced in the Youth Justice Administration Act 2015.

26—Substitution of section 63

Section 63, as substituted by this clause, provides for (among other matters) a person of or above the age of 17 years who has been remanded to, or is being detained in, a training centre or another place pursuant to an order of a court, to be transferred to a prison for the remainder of the period of remand or detention. The Youth Court may order this to occur if it is satisfied, on application by the Chief Executive, that—

- the person—
    - cannot be properly controlled in the training centre or other place; or
    - has, within the period of 14 days preceding the date of the application, been found guilty of assaulting a person employed, or detained, in that training centre or other place; or
    - has persistently incited others in the training centre or other place to cause a disturbance; or
    - has escaped or attempted to escape from the training centre; or
- the person's needs for rehabilitation, care, correction and guidance cannot be met in that training centre or other place and it is in the best interests of the person for him or her to be transferred to a prison.

27—Amendment of section 63B—Application of *Correctional Services Act 1982* to youth with non-parole period

28—Amendment of section 64—Information about youth may be given in certain circumstances

The amendments made by these clauses are consequential.

Part 7—Amendment of *Youth Court Act 1993*

29—Amendment of section 24—Persons who may be present in Court

This clause adds officers or employees of the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of the *Youth Justice Administration Act 2015* to the list of persons entitled to be present in the Youth Court.

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

HEALTH CARE (MISCELLANEOUS) AMENDMENT BILL

Second Reading

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) (13:00): I move:

That this bill be now read a second time.

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

Leave granted.

The Government is introducing the *Health Care (Miscellaneous) Amendment Bill 2015* to Parliament to amend the *Health Care Act 2008* to:

- Enable the licensing of stand-alone private day procedure centres;
- Remove the prescribed limit of hospital bed numbers in metropolitan Adelaide;
- Provide for the standards of construction, facilities and equipment to be set by notice in the Gazette;

- Enable a private hospital to provide services both at their licensed premises and approved off-site locations; and
- Provide for the inclusion of two new fee types.

The legislative framework governing the licensing of private health facilities in South Australia has essentially remained unchanged since the early 1990s. During this time, there has been a substantial growth in the private healthcare sector, particularly evident in the case of day procedure centres which are not currently regulated in this state.

At present, in accordance with Part 10 of the *Health Care Act 2008*, only private hospitals are licensed in South Australia. The Act gives the responsible Minister, the Minister for Health, the power to grant licences, impose specific licence conditions, transfer, suspend or cancel licences, appoint inspectors, fix licence fees and apply penalties. There are currently 27 licensed private hospitals operating in the state.

At the national level, the Australian Government Department of Health is responsible for declaring hospitals, including 'day hospitals', under the *Private Health Insurance Act 2007* (Cth) and issuing a provider number for health insurance purposes, Medicare benefits and the Pharmaceutical Benefits Scheme. Accreditation by an appropriate accrediting body against the National Safety and Quality Health Service Standards is one of the conditions that the Australian Government Minister for Health must have regard to when deciding to declare a facility or to revoke such a declaration.

If a stand-alone private day procedure centre wishes to obtain a provider number under the *Private Health Insurance Act 2007* (Cth), SA Health has an arrangement with the Australian Government Department of Health to undertake an assessment and inspection process in order to provide them with a recommendation. Beyond this however there is no further monitoring of private day procedure centres by SA Health.

The data clearly demonstrates the growth of the private day procedure sector. Between 2001-02 and 2011 12, the number of private day surgery beds and chairs increased by 68.5% and separations increased by 115.6% nationally (Australian Bureau of Statistics, 4390-0-Private Hospitals, Australia, 2011-12). A variety of services are provided by day procedure centres to patients who are not admitted to hospital overnight, including plastic, reconstructive and cosmetic surgery, ophthalmic surgery, endoscopy, ear, nose and throat, fertility treatment and family planning, dental and oral maxillofacial surgery, renal dialysis, cardiac, oncology (chemotherapy and radiotherapy), urology, paediatric, orthopaedic surgery, general surgery and mental health treatment.

The substantial growth of the sector is due to the fact that many procedures which previously required an overnight hospital stay can be performed on a same day basis. The major factors contributing to this growth have been developments in anaesthesia, new operation techniques and improvements in surgery. The sector is expected to continue to expand in the future, accompanied by advances in technology, innovation, new treatments and new service delivery methods.

South Australia and the Northern Territory are the only jurisdictions which do not currently regulate stand-alone private day procedure centres. The absence of a licensing regime applicable to private day procedure centres presents a potential safety and quality risk to the public.

There are currently 30 stand-alone private day procedure centres in South Australia that have been declared as 'day hospitals' by the Australian Government for private health insurance purposes. In addition, there are a number of private day procedure centres operating in this state who have not sought a provider number and who offer procedures that don't attract private health insurance benefits, in other words full fees are charged. By remaining undeclared, and in the absence of a jurisdictional licensing regime, these providers are effectively able to avoid National Safety and Quality Health Service Standards accreditation requirements. A number of these providers are within the plastic and cosmetic surgery industry.

The Government believes that licensing stand-alone private day procedure centres will provide a range of measures, including the ability to impose specific licence conditions, to ensure that potential safety risks to the public are addressed. In addition, it will create a level playing field with private hospitals, subjecting the private sector to the same regulatory compliance requirements.

The Bill proposes that the definition of a 'prescribed health service' for the purposes of requiring a stand-alone private day procedure centre to be licensed under the Act, include the following elements, consistent with the approach of other jurisdictions:

- A health service that involves the administration of general, spinal, epidural or major regional block anaesthetic; or
- A health service that involves intravenous sedation (other than simple conscious sedation); or
- A health service, or health service of a class, prescribed in the *Health Care Regulations 2008*.

Health services to be prescribed in the Regulations, consequent to any change in the Act, will include:

- Cardiac catheterisation or stress testing;

- Chemotherapy;
- Gastrointestinal endoscopy;
- Psychiatric day care;
- Radiotherapy;
- Renal dialysis;
- Reproductive treatment;
- Specialist rehabilitation services; and
- Services involving significant procedural complexity using local anaesthetic.

Prescribing health services by Regulation, rather than in the Act, will allow the Government the flexibility to add additional services as and when required in response to changes in technology and service delivery methods.

The Government believes that the regulatory impact will be limited. Day procedure centres that provide only low risk or minimally invasive procedures, such as minor cosmetic treatments, will not be subject to licensing. Only services that involve a significant patient risk will be required to be licensed.

In relation to the cap on bed numbers, South Australia is the only jurisdiction which currently sets a limit on the number of hospital beds that can be provided within a prescribed region, in this case, metropolitan Adelaide. The prescribed limit on the number of beds that may be provided by incorporated hospitals and private hospitals combined in metropolitan Adelaide is 5,169. The current limit was set in December 1994 and has not been revised since this time.

It is understood that the limit on bed numbers was first introduced with the justification that it would be used to underpin the planning and coordination of service provision across the private and public sectors. In practice, the introduction of the limit on bed numbers in 1991 resulted in the creation of an artificial market and trade in 'bed licences', which in the past may have served as a barrier to entry to the market and provided a level of protection for existing private hospitals.

The private hospital sector provides an increasing proportion of total hospital services in many different speciality groups, particularly in the areas of cardiac medical, cardiac interventional, oncology, obstetrics, orthopaedics and gastroenterology. A number of complex procedures and treatments traditionally associated with public hospitals are now performed more often in private hospitals, including knee replacements, procedures of the digestive system, prostatectomies, chemotherapy and major malignant breast conditions. In 2012-13, private hospitals accounted for 41% of all hospital separations nationally. From 2003-04 to 2012-13, the total number of private hospital separations increased by 46% (Australian Institute of Health and Welfare, Australian Hospital Statistics 2012-13: private hospitals).

The Government believes that removing the cap on bed numbers will allow the private hospital sector to further expand and complement the public health system in meeting the demands of an increasingly ageing population. Any expansion will still be able to be closely monitored and controlled through the use of already existing provisions allowing an application for a licence to be refused based on the proposed location of a facility, proximity to other facilities and adequacy of existing facilities in the locality. Clearly, a cap on bed numbers is therefore not needed.

In addition, the Bill proposes a number of other legislative amendments aimed at improving the functioning of this section of the Act, including:

- Providing for the standards of construction, facilities and equipment to be set by notice in the SA Government Gazette. Many of the prescribed standards, which are currently detailed in the Regulations, are out of date or are duplicated by other regulatory provisions, building and development codes, or professional registration standards and guidelines. Rather than prescribing the standards in the Regulations, it is proposed that they be set by notice published in the Gazette with reference to a requirement to meet Building Code of Australia standards and other relevant guidelines, such as the Australasian Health Facility Guidelines.
- Enabling a private hospital to provide services both at their licensed premises and approved off-site locations. Currently, the Act states that health services must not be provided by a private hospital except at premises in respect of which a licence is in force. Over the past decade there has been an increasing trend for hospitals to expand service delivery models to include the provision of off-site services, for example in the area of low acuity post-natal nursing care, sleep laboratories, chemotherapy treatment and rehabilitation services. By requiring approval for services to be provided at off-site premises, the Government is recognising these changes in service delivery models.
- Providing for the inclusion of two new fee types. No fees are currently charged for licence amendments or for applications to alter or extend a facility. The inclusion of these fee types would more accurately reflect the cost of administering the licensing regime. In addition, the general level of fees, published by notice in the Government Gazette, will be reviewed in consideration of the fact that licensing fees are substantially lower in South Australia than the national average.

The Government consulted with external stakeholders on the draft Bill, including licensed private hospitals, private day procedure centres, peak industry bodies, and surgical and medical colleges and associations. Stakeholders were sent a copy of the exposure draft of the Bill on 13 March 2015 and were provided with six weeks to lodge formal submissions. Eleven submissions were received. In addition, SA Health coordinated a number of information sessions and individual meetings to discuss the proposed legislative amendments and outline the expected impacts of these changes.

In general, the draft Bill received overwhelming support from the private hospitals and the majority of private day procedure centres also recognise the benefits of the sector being subject to regulation.

A minority of private day procedure centres argued that they should be exempt from regulation in South Australia, having been declared by the Australian Government for private health insurance purposes and holding current accreditation against the National Safety and Quality Health Service Standards. However, it should be noted that for jurisdictions that already regulate private day procedure centres, the Australian Government declares facilities based on their jurisdictional licensing status. If a licensing regime is implemented and some facilities are exempted from the requirement to be licensed, this could lead to the Australian Government revoking their declaration and health insurance funds may choose not to contract with them at a detriment to their business. It is further held that all private day procedure centres meeting the definition of a 'prescribed health service' in the amended Act should equally be required to be licensed.

One private hospital expressed a concern that the removal of the bed limit would result in a reduction in the historical value of 'bed licences' that may be recorded as an asset in private hospital balance sheets. It should be noted however that no other private hospital has raised this as an issue and there has not been a transfer of beds between hospitals for many years.

The Government reflected on the comments and issues raised in the formal submissions and during the information sessions and this informed the drafting of the following amendments to the Bill:

- Existing private day procedure centres that have been declared and issued with a provider number by the Australian Government, on the basis of a previous recommendation by SA Health, will be deemed to be licenced under the Act.
- The definition of a 'prescribed health service' for the purposes of licensing private day procedure centres has been amended so that the part relating to a health service that involves intravenous sedation reads 'intravenous sedation (other than simple conscious sedation)'. This serves to exclude a large number of general dental surgeries performing low complexity procedures from being subject to licensing, which is consistent with the approach taken in other jurisdictions.
- The standards of construction, facilities and equipment, to be set by notice in the Government Gazette, will not be applied retrospectively to already licensed private hospitals and Australian Government declared private day procedure centres. However, the standards will apply to assessing applications from licensed private hospitals and declared private day procedure centres in relation to the alteration or extension of premises or where there is a proposed change in the health services to be provided. The primary concern is that services are provided in a safe environment.

The new section to be inserted into the Act, Part 10A – Private day procedure centres, is very similar to Part 10 – Private hospitals of the Act and the licensing of private day procedures will function in essentially the same manner as private hospitals are currently licensed.

The Government believes that the proposed changes will modernise private health facility licensing arrangements and bring South Australia into alignment with other state and territory jurisdictions, without unnecessarily increasing the administrative burden on private sector providers.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Health Care Act 2008*

4—Amendment of section 3—Interpretation

This clause proposes to include 2 new definitions in section 3 (Interpretation) of the principal Act which are consequential on the insertion of new Part 10A in clause 10. The definitions are of *private day procedure centre*

(premises in respect of which a day procedure centre licence is in force under Part 10A) and *private day procedure centre* licence (which is defined in section 89C).

5—Amendment of section 63—Preliminary

This clause proposes to include an entity that provides health services at a private day procedure centre as a *prescribed health-sector body* for the purposes of Part 7 of the principal Act (Quality improvement and research).

6—Amendment of section 68—Preliminary

This clause proposes to include an entity that provides health services at a private day procedure centre as a *prescribed health-sector body* for the purposes of Part 8 of the principal Act (Analysis of adverse incidents).

7—Amendment of section 79—Prohibition of operating private hospitals unless licensed

This clause proposes to expand the exception to the offence in section 79 to apply in relation to the holder of a licence under Part 10 who provides health services at premises in respect of which a licence is not in force under this Part with the written approval of the Minister.

8—Amendment of section 81—Grant of licence

This clause proposes to amend section 81 of the principal Act in 2 respects. Firstly, it is proposed to delete reference to the prescribed limit of hospital beds and the Ministerial power to refuse to grant a licence by reference to that limit. Secondly, it is proposed to insert new subsections giving the Minister the power to establish standards of construction, facilities and equipment for the premises of private hospitals for the purposes of Part 10.

9—Amendment of section 82—Conditions of licence

This clause proposes to make provision for the holder of a licence to be able apply to the Minister for the variation of the licence or a condition of the licence and for the Minister to make such a variation on application in the manner and form approved by the Minister and on payment of the fee fixed by the Minister.

10—Insertion of Part 10A

This clause proposes to insert new Part 10A into the principal Act. Part 10A provides for a licensing scheme in relation to premises where a *prescribed health service* is provided (other than an incorporated hospital or private hospital). Proposed section 89B provides an offence of providing a prescribed health service at unlicensed premises, the maximum penalty is $60,000.

A *prescribed health service* is defined as—

(a) a health service that involves the administration of general, spinal, epidural or major regional block anaesthetic; or

(b) a health service that involves intravenous sedation (other than simple conscious sedation); or

(c) a health service, or health service of a class, prescribed by the regulations for the purposes of this definition.

For the purposes of Part 10A, the Minister may, by notice in the Gazette, establish standards of construction, facilities and equipment which may be of general or limited application.

Proposed clauses 89C and 89D of Part 10A provide for applications for private day procedure licences to the Minister and for conditions of licences to be fixed by the Minister. The Minister may, on application or the Minister's own motion, vary or revoke a condition of a licence or impose a further condition by notice in writing given to the holder of the licence. Proposed clause 89E provides an offence of contravening or failing to comply with a provision of the Act or a condition of the licence which carries a maximum penalty of $60,000.

Proposed clause 89F provides that a private day procedure licence remains in force until it is surrendered or the holder of the licence dies or is dissolved (in the case of a corporation). Under proposed clause 89G a private day procedure licence may be transferred in accordance with that clause. Proposed clause 89H provides for the processes of surrender, suspension and cancellation of private day procedure centre licences.

Proposed clause 89I provides for a right of appeal to the Supreme Court against a decision or order of the Minister under Part 10A and provides for the powers of the Court on such an appeal.

Proposed clause 89J provides that the Minister may appoint suitable persons to be inspectors who may, at any reasonable time, enter a private day procedure centre or premises reasonably suspected of being used in contravention of Part 10A and, while on the premises, may inspect the premises or any equipment or other thing on the premises, may require any person to produce any documents or records and may examine any documents or records and take extracts from, or make copies of, any of them. This clause contains an offence of failing to comply with a requirement of an inspector and an offence of hindering or obstructing an inspector in the exercise of the powers conferred by the clause. In each case the maximum penalty is $10,000.

Proposed clause 89K provides for vicarious liability for a principal or employer in respect of an offence committed by an agent or employee unless it is proved that the principal or employer could not, by the exercise of

reasonable diligence, have prevented the commission of the offence by the agent or employee. This clause also provides that, if a body corporate is guilty of an offence against Part 10A, each director of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless the director proves that he or she could not by the exercise of due diligence have prevented the commission of the offence.

11—Insertion of section 99A

This clause proposes to insert new clause 99A that provides for the Minister, by notice in the Gazette, to set fees and charges for the purposes of the principal Act. It further provides that the Minister may remit, reduce, waive or refund a fee (or part of a fee) payable under the Act as the Minister sees fit.

12—Amendment of section 100—Regulations

This clause amends the regulation-making power contained in section 100 of the principal Act to include reference to private day procedure centres.

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

Sitting suspended from 13:01 to 14:15.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

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

Architectural Practice Board of South Australia—Report, 2014-15

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Coast Protection Board—Report, 2014-15

By the Minister for Water and the River Murray (Hon. I.K. Hunter)—

South Australian Water Corporation—Amended page 13—Report, 2014-15

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter) on behalf of the Minister for Manufacturing and Innovation (Hon. K.J. Maher)—

Department of Planning, Transport and Infrastructure—Report, 2014-15

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:17): I bring up the 17th report of the committee.

Report received.

Ministerial Statement

BAIL ACCOMMODATION SUPPORT PROGRAM

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) (14:17): I table a copy of a ministerial statement by the Hon. Tony Piccolo on bail accommodation support programs.

RAJASTHAN SISTER-STATE RELATIONSHIP

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) (14:18): I table a copy of a minister statement by my wonderful friend and colleague, the Hon. Martin Hamilton-Smith, on the issue of our sister-state relationship.

Parliamentary Procedure

ANSWERS TABLED

The PRESIDENT: I direct that the written answers to questions be distributed and printed in *Hansard*.

Question Time

PARIS CLIMATE CHANGE CONFERENCE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:19): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about the Paris climate change conference.

Leave granted.

The Hon. D.W. RIDGWAY: Yesterday in this chamber, the minister tabled a copy of South Australia's Climate Change Strategy 2015-2050. I did have a quick look through it, and it identifies agriculture as one of our biggest emitters of greenhouse gases, although there is no recognition of the great work that minimum tillage and Roundup and a whole range of other new technologies have done to reduce the carbon footprint of agriculture, but that is not the question I am asking. The minister is travelling, I think; we are informed he will be absent tomorrow and all of the next optional sitting week attending the conference in Paris, along with the Premier. My questions to the minister are:

1. Can the minister inform the house how many people will be travelling with the Premier and the minister to attend the climate change conference in Paris? The opposition has heard, and it has been quoted around the traps, that it may be as many as 15 people on that particular delegation, or entourage, or trip.

2. Can the minister inform the house how the carbon emissions from this travel will be offset?

3. Is it correct that he and the Premier are taking a camera crew as part of this entourage?

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:21): I thank the honourable member for his most important question. I cannot for the life of me understand how these Neanderthals from Tony Abbott throwback days still have not got the message from the federal Liberal Party and the government. They still have not got the memo from Malcolm Turnbull that things have changed and that, in fact, we have a new policy—slightly nuanced, of course. Nothing has changed in terms of the actual application of the policy, but the language has changed.

In fact, his own Prime Minister, Malcolm Turnbull, I think has just been in Paris himself. So, it is quite remarkable that the outlying bastions over here in the Adelaide Club that the Liberal Party are tied to, spend their mornings and afternoons in, have not yet got the memo from the Prime Minister: things have changed. It will happen eventually. I am sure they will even allow them to download—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: —the latest memo from Liberal Party headquarters at some stage.

Members interjecting:

The PRESIDENT: Allow the minister to complete his answer. Minister, sit down for a second. You have asked the question. We all sat there in absolute silence while you asked it, so at least give the honourable minister a chance in silence to answer the question. Minister.

The Hon. I.K. HUNTER: Thank you, Mr President, for your protection; I need it desperately. In relation to the question about the party travelling with me, and that is all I am responsible for and all I can speak to, I am taking my chief of staff with me.

The Hon. G.E. Gago interjecting:

The Hon. I.K. HUNTER: I know, that is outrageous. I understand our flights have been offset with the Qantas program, which they usually are. I just have to say again: this lot over here on the other side have not got with the program. They have not heard what is coming from the community and what is coming from the business sector.

I have scads of things I can read into the record about how the world has changed, but the Liberal Party in South Australia? Not one jot. They still hark back to the days where we don't like wind farms—they are ugly. They still hark back to the days where climate change is crap, according to the former Prime Minister. They still hark back to the days where coal was good for humanity.

That is the mindset of the Liberal Party opposite. It is not the mindset of Australia; it is not the mindset of Australians, who, in every survey—just last week in the *Sunday Mail*, what was it, 67 or 65 per cent of South Australians—want further action on renewables and climate change. If they look at the Liberal Party, they are not going to get it over there.

PARIS CLIMATE CHANGE CONFERENCE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): A supplementary, sir. My unanswered question is: is the Premier taking a camera crew? Is there a camera crew going with him on this trip?

The Hon. G.E. Gago interjecting:

The Hon. D.W. RIDGWAY: I am asking this minister. I know you've only got a couple of days left and you're begging—you want more questions—but the question is to this minister: are you taking a camera crew, and will your chief of staff, as always, be flying up the front of the plane in business class with you?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:24): The honourable member knows perfectly well he needs to address those questions to the Premier in the other place, and when he wants to do that, he can do it.

PARIS CLIMATE CHANGE CONFERENCE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:25): A supplementary question: is the minister telling us he has no idea who is travelling on the taxpayers' purse to Paris tomorrow with the delegation of himself and the Premier? Are you telling us you have no idea?

The PRESIDENT: I think the minister has answered the question.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:25): Mr President, I have answered the questions related to myself and my portfolio, and that's what I will always do.

TAFE SA

The Hon. S.G. WADE (14:25): I seek leave to make a brief explanation before asking a question of the Minister for Employment, Higher Education and Skills questions in relation to TAFE.

Leave granted.

The Hon. S.G. WADE: The state currently receives approximately $65 million a year from the commonwealth government under the national partnership agreement so that students receive subsidised training at a provider of their choice of which 90 per cent currently goes to TAFE. Given that TAFE has spent almost $60 million in separation packages only to retain the same staffing levels and incur increased staff costs, has TAFE effectively spent South Australia's federal training grant on its own staff separation packages?

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) (14:26): I thank the honourable member for his most important question. It's incredibly mischievous of him, the Hon. Stephen Wade, to come into this place and make that suggestion. He knows only too well that I have recorded in this place on many occasions the fact that TAFE is increasing their number of training positions this year compared with last year, and I've formally put those figures on the record.

He knows only too well that TAFE will be producing more training outcomes than in previous years, and that is part of the arrangements in relation to about 90 per cent of the new enrolment-subsidised training positions being allocated to TAFE. It was just, as I have indicated in this place before, for this year alone. That figure comes down in future years as the pipeline empties out, and as the current enrolment is emptied out of the system, and I have indicated that that will help increase the allocation of subsidised training places to private RTOs.

Also, I have indicated, with the arrangements, particularly for this year, and with some assistance next year but not to the same degree as this year, that TAFE is undergoing a significant transition task to reform the model of training that they provide to ensure that more people have access to training and that the model of training is more efficient and more effective.

We know that there is a great deal of TAFE infrastructure that is not fit for purpose, and also the training options have moved on, given the significant impact of information technology. More students are wanting to do their training, or components of the training, online, and so the demands from the customer have changed as well. So, their expectations have changed.

TAFE have undertaken an extensive consultation region by region with a wide cross-section of stakeholders to understand each region's needs in terms of its training, and to facilitate the design of improved training for South Australians.

TAFE SA

The Hon. S.G. WADE (14:29): I have a supplementary question. I thank the minister for her answer on the number of training places. Unfortunately, my question wasn't about training places—it was about staffing levels. I ask again: given that TAFE has seen almost $70 million in separation packages only to retain the same staffing levels and increased staff costs, has TAFE effectively spent South Australia's federal training grant on staff separation packages? It's got nothing to do with training places.

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) (14:29): It has got to do with training, because they are simply doing more with pretty much the same—so I have answered the question. TAFE has been able to produce considerable efficiencies over the years. It was not all that long ago that we had numerous separate TAFE entities spread all around the state. We consolidated those into three corporate entities and since have consolidated that into one corporate entity and huge efficiencies have been produced from that. As each individual TAFE is no longer required to have its separate HR, its separate IT, etc., huge efficiencies have been made by consolidating those into one single corporate entity. So, with that, considerable efficiencies have been created, and that is one of the reasons TAFE has been able to increase its number of training hours for this year, significantly more training than they did the year previously.

CEDUNA WATERS

The Hon. T.J. STEPHENS (14:30): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation questions about the Ceduna Waters development.

Leave granted.

The Hon. T.J. STEPHENS: The minister was asked a question raised by the excellent, hard-working member for Flinders during the noting of the report of the Auditor-General about the cost of the ongoing legal proceedings in regard to the Ceduna Waters project. The minister took the

question on notice, but is yet to return an answer. This was in addition to the original question asked in another place on 3 June regarding a resolution of the dispute. My questions to the minister are:

1. When is this dispute likely to be resolved, if it has not already been resolved?

2. What is the cost to the taxpayer of these protracted proceedings?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:31): I thank the honourable member for his most important question. I apologise if I go over previous ground, but it is important to put the background on the record. I am advised that criminal proceedings for breach of section 26 of the Native Vegetation Act 1991 have commenced, and hearings were held in July, with further hearings scheduled for February 2016. Given the court proceedings, I will not provide commentary on this matter, except to say that the government remains committed to seeking the best possible outcome for the local residents, the environment and the wider community.

SCIENCE, TECHNOLOGY, ENGINEERING AND MATHEMATICS

The Hon. T.T. NGO (14:32): I seek leave to make a brief explanation before asking the Minister for Science and the Information Economy a question about science.

Leave granted.

The Hon. T.T. NGO: South Australians throughout the state have access to science engagement initiatives and activities that raise the awareness of science and technology and highlight the opportunities and career pathways these skills can offer. Can the minister inform the chamber of one such program that increases engagement and awareness of science?

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) (14:33): I thank the honourable member for his most important question. Science and technology-based careers, together with the need for entrepreneurship and creativity are an important element in the support of the government's STEM skills strategy and Investing in Science action plan. Through government and industry partnerships a number of science and research engagement opportunities are emerging.

Hewlett Packard's Innovation and Collaboration Centre is a great example of collaboration between industry, the university sector and government. The centre will be housed within the University of South Australia's new health innovation building development as part of the North Terrace health and biomedical precinct, and will provide a unique environment that connects technology, knowledge and commercialisation expertise to South Australia's business and industry.

In conjunction with Hewlett Packard the University of South Australia will deliver a four-year ICT Honours degree, including work placements with Hewlett Packard to further support workforce development and expansion. At the launch of Hewlett Packard's Innovation and Collaboration Centre the Premier announced the government's support of the University of South Australia's Science Creativity and Education Studio, known as SciCEd.

Hewlett Packard and the state government will be foundation partners in the studio, which will also be located in the new building on North Terrace. Through a collaborative effort between the Department of State Development and the Department for Education and Child Development, the government has committed to providing $750,000 to the SciCEd Studio over six years. By providing an exciting and interactive space for visitors, SciCEd is designed to transform public perceptions of science, technology and innovation.

Bringing science and technology out of the labs and into the public realm can help inspire, particularly our young people, with dazzling possibilities of careers in science and innovation. SciCEd will demonstrate to the wider community the strong links that exist between science and creative industries and business. Through foundation membership of the SciCEd Studio, the government can support the delivery of this fabulous initiative.

The SciCEd Studio has enormous potential to be at the forefront of science engagement in South Australia, and complements the government's mission to attract and retain interest in science

and technology and to grow our economy through the growth of innovative industries. With the general public and, in particular, our young people as the target audience, once the studio opens in 2018, SciCEd's state-of-the-art facilities will raise people's awareness, understanding and appreciation of science by inviting them to physically interact with the latest science and technology exhibits, opportunities that are so often difficult to provide in research and commercial environments.

LOW CARBON ECONOMY EXPERTS PANEL

The Hon. M.C. PARNELL (14:36): I seek leave to make a brief explanation before asking a question of the Minister for Climate Change about the report of South Australia's Low Carbon Economy Experts Panel.

Leave granted.

The Hon. M.C. PARNELL: Last Wednesday the state government released the report of South Australia's Low Carbon Economy Experts Panel. The experts panel was led by economist and former federal Liberal leader, Dr John Hewson. The panel was asked by the state government to provide independent advice about climate change targets and objectives for the state to the year 2050. The panel found what the Greens had been saying for many years, namely:

> …there are many benefits of a low carbon economy for South Australia. As well as contributing to the national and global decarbonisation effort and building resilience to climate change, a low carbon economy will provide significant economic, social and environmental benefits for South Australia. These include more liveable cities, better energy productivity, improved land and biodiversity management and new industries and jobs. Crucially, moving early towards low carbon industries of the future can also give the State a competitive advantage.

The panel noted that South Australia has the capacity to move to 100 per cent renewable energy more quickly than other states. In considering the options for cost-effective ways for South Australia to move to low carbon electricity, the panel excluded nuclear power as a viable option, pointing out that modelling found that nuclear power in South Australia would be uneconomic. My questions of the minister are:

1. Does the minister accept this advice that nuclear power is uneconomic for South Australia?

2. Has the minister forwarded the report to the Royal Commission into the nuclear fuel cycle for their consideration?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:38): I thank the honourable member for his very important question and his attempt to associate himself and his party with these progressive and forward-thinking policies that this government has been pursuing for well over a decade now. I welcome that support and I always will.

The South Australian Low Carbon Economy Experts Panel was established to provide the government with advice on the objectives and targets for the South Australian Climate Change Strategy and legislation, having regard to national and international developments; and the key strategies and actions that the South Australian government should pursue in meeting these objectives to maximise economic opportunities and to ensure that the South Australian economy is best placed to adjust to a carbon constrained future.

The panel is comprised of Dr John Hewson, Ms Anna Skarbek, and Dr Frank Jotzo. The panel's report was released on 25 November 2015. In developing its report for the South Australian government, the panel undertook an initial high-level assessment of the achievability of net zero emissions for South Australia by 2050, drawing on a high-level abatement technical analysis commissioned for the panel. As a result of its assessment, the panel found that it is feasible for South Australia to achieve a target of net zero emissions by 2050 and that a commitment to this target will position South Australia well in a low carbon world.

Already the world is moving in this direction, with other nations and subnational governments and cities and many corporates making low carbon commitments and taking strong action. The panel has found there are many benefits of a low carbon economy for this state. As well as contributing to the national and global decarbonisation effort and building resilience to climate change, a low carbon

economy will provide significant economic, social and environmental benefits for South Australia, as outlined by the honourable member in the preamble to his question.

These include more liveable cities, better energy productivity, improved land and biodiversity management and new industries and new jobs. Crucially, moving early towards the low carbon industries of the future can also give the state a competitive advantage. One example is the potential for South Australia to be a low carbon electricity powerhouse and a net exporter of renewable energy. The honourable member opposite, David Ridgway, sniggers because, again, they are stuck in the past. They are absolutely stuck in the past.

Abundant renewable electricity combined with its rich resource base and existing manufacturing expertise mean that the state could be a natural base for energy-intensive mining and manufacturing industries in the low carbon world to come. The panel made the three key recommendations for the South Australia government that it should: signal the transition to a zero net emissions economy by 2050; support the community and industry for the transition to a zero net emissions economy; and implement the transition by taking action now to drive the transition to a zero emissions economy.

It also suggested around 25 actions to assist with the implementation of these recommendations, and the South Australian government has already committed to implement a number of these actions, including signing the Under 2 MOU in Paris, and amending its climate change legislation to incorporate the net zero emissions by 2050 target. I look forward to the support of honourable members across the chamber on that initiative once they get the memo from Malcolm Turnbull. Other actions that are included in South Australia's climate change strategy 2015-2050 towards a low carbon economy and others are currently under active consideration.

In making its recommendations, the panel also acknowledged that there are some challenges for the state in moving to a low carbon economy. It cites the examples of the closures of the power plant at Port Augusta and the coal mine at Leigh Creek which provide some challenges into the near term. However, they give the state an opportunity to transition more quickly to a greater share of renewable energy and greater national grid integration. Other challenges, such as the integration of a high level of renewable energy into the electricity grid, can also be transformed into opportunities giving South Australia an early mover advantage.

The Hon. J.S.L. Dawkins: How?

The Hon. I.K. HUNTER: The honourable members ask, 'How?' Again, he is not following the literature, he is not following the discussion. One of the very important aspects about this is innovation in storage technology. We in South Australia have solar PV on our roofs at a ratio of 1:4, the highest penetration in the country. Why would you not think that it is a very attractive proposition for companies in the storage sphere to come to South Australia because of that high penetration of rooftop solar, where they already have a market—the biggest market in the country—for people to move from solar PV alone to solar PV plus battery storage? Why would you not think it is a huge advantage for industry to come to South Australia and take advantage of it?

The Hon. Mr Ridgway nods his head and turns it on one side, going to sleep once again, which is the usual state of torpor of the Liberal Party in this state. When it comes to renewable energy and global warming action, they drop off to sleep. They have no plans, no ideas about the future; they do not even want to participate in the debate. It is absolutely unfortunate that they do not want to be there, but this government will be. This government understands where the future is heading in terms of the international economy.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: This government understands that, when you have the United States, the EU and China all collaborating together on putting a price on carbon and an internationally tradeable market for carbon, that will be imposed on all of their trading partners, including us. We understand that to make the best advantage for our society and for our state we need to be at the front leading the charge, and that is exactly what we intend to do.

LOW CARBON ECONOMY EXPERTS PANEL

The Hon. R.L. BROKENSHIRE (14:44): I have a supplementary to the minister's answer. Can the minister advise the chamber what the package is for Dr John Hewson, as a member of the committee?

The PRESIDENT: I do not think that really relates to anything that I heard.

The Hon. R.L. BROKENSHIRE: He has talked three times about John Hewson and how good he is. What are they paying him?

The PRESIDENT: The Hon. Mr Parnell.

LOW CARBON ECONOMY EXPERTS PANEL

The Hon. M.C. PARNELL (14:44): I have a supplementary question. I thank the minister for his comprehensive statement, which bore no resemblance to the questions I asked, which were:

1. Does the minister accept the advice of the expert panel that nuclear power is uneconomic for South Australia?

2. Has the minister forwarded the report to the royal commission for its consideration?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:44): I thank the member for his supplementary, which at least made a little bit of sense. I don't know what the fascination is with the package of the Hon. John Hewson, or even Anna Skarbek or Frank Jotzo. The honourable member may have overlooked part of my explanation, where I said that other recommendations are currently under active consideration, and that still continues to be the case. It is not my position to refer a report of the independent panel to the royal commission. That is a matter for the panel if they wish to do so, or indeed for the royal commission to request it.

TAFE SA

The Hon. A.L. McLACHLAN (14:45): I seek leave to make a brief explanation before asking the Minister for Higher Education, Employment and Skills a question regarding TAFE SA and the recent Auditor-General's Report.

Leave granted.

The Hon. A.L. McLACHLAN: One of the findings in the Auditor-General's Report was that purchase cards had been used for inappropriate expenditure items, such as staff gifts, computer software, mobile phones and fuel. TAFE SA have advised that a communication was to be issued to all staff, reminding them of their responsibilities regarding the use of purchase cards and the need to comply with existing policy. My questions to the minister are:

1. Has TAFE SA issued the communication?

2. Have any other measures been implemented to mitigate the risk of further inappropriate use of purchase cards?

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) (14:46): I thank the honourable member for his question. The advice I have received is that this matter has been addressed and the problem fixed. I don't have the detail at this point in time in terms of what steps have been taken, but I am happy to take that on notice and bring back a response. I have been assured that they have addressed the matter.

CLIMATE CHANGE

The Hon. G.A. KANDELAARS (14:47): My question is to the Minister for Climate Change. Could the minister inform the chamber about the economic opportunities that will be created in the South Australian economy as we transition to a low carbon economy?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:47): At last, a

sensible question from a very sensible member of this chamber. I thank the honourable member for his brilliant question. To quote:

> The transition to clean energy is a global trend. It is an irreversible movement pushed by the technology at the same time through the digital revolution and also the renewable revolutions in technologies for wind, solar and for heat.

These are not my words; they are a quote from Mr Gerard Mestrallet, chairman and CEO of the French energy giant Engie, formerly known as GDF Suez, which operates in over 70 countries, including Australia. In a recent interview in the French newspaper *Le Figaro*, Mr Mestrallet announced Engie's decision to stop building new coal-fired power plants. It was reported that Mr Mestrallet initiated the formation of the Magritte Group, made up of Europe's largest energy companies, in 2013. He said:

> Since then, we have lobbied for a realistic carbon price high enough to encourage operators to invest in renewables and limit their CO_2 emissions.

He joins a chorus of voices, including BHP Billiton and ANZ, who are responding to demands by superannuation funds whose customers expect investment in cleaner energy. The latest is AGL Energy chairman, Mr Jerry Maycock, who was recently quoted in *The Sydney Morning Herald* calling for a coherent national plan to shift the country's electricity generation sector away from fossil fuels. His CEO, Mr Andrew Vesey, told the ABC last week that finally people—some people, notwithstanding those on the opposite side of the chamber—see a carbon constrained world as an inevitability.

These are some of the world's largest companies in the energy and finance sectors. While I am sure they are motivated to do the right thing by their environment, at the same time they have certainly done their sums and noticed the vast economic opportunities that are inherent in this economic shift. The world's biggest economies are getting on board. The European environmental goods and services sector, for example, employs more than 4 million people, with 700,000 new jobs expected to be created by 2030.

China has committed to reducing the greenhouse gas emissions intensity of its economy by 60 to 65 per cent and peak emissions by 2030. India has set an investment target of $100 billion in renewable energy generation. And President Obama has committed to cleaning up power stations and boosting renewable energy by 30 per cent by 2030, creating tens of thousands of jobs.

Almost a quarter of a trillion dollars every year is invested in renewable energy around the world. Each of these examples demonstrates clearly that climate change is not simply an environmental challenge: it is also very much an economic challenge. Australia cannot afford to get left behind and certainly South Australia has no intention of it.

We have already begun the transition in South Australia. In fact, I was at a conference in Sydney recently where the CE of AGL, I think it was, Mr Vesey, told the audience, 'If you want to look at the future, go to South Australia. They are already in transition. They are already grappling with these issues and, if you want to see the way the economy is responding, go and look at South Australia, because you will learn lessons there to put into your own economies.'

Emissions are down in South Australia by 9 per cent on 1990 levels and the economy has grown 60 per cent in that time. Forty-one per cent of our electricity comes from renewable energy, a sector where thousands of jobs have been created, many of which are in regional areas of our state. But, in order to really capitalise on these economic opportunities, we need the entire country to join together. In particular, like the other major economies around the world, we need the federal government to clearly commit to this transition.

South Australia stands to benefit in the low carbon world. This is the clear and unequivocal advice of the Low Carbon Economy Expert Panel. The new Climate Change Strategy sets a bold target: net zero emissions by 2050. It is what the science tells us is required if we are to avoid over 2° change. In setting this target, the state is sending a very clear message to business and investors: if you want to do business in the low carbon economy, if you want to help the world get to that transition, if you want to innovate business and technology, come to South Australia.

The strategy also looks to the more immediate future, in particular with our efforts to make Adelaide the world's first carbon neutral city. In doing this, we are using the tools available to government to drive jobs, transition the economy and create a vibrant and liveable city. We have committed to new energy efficiency measures for government offices to help boost local employment. The government has offered up its entire power supply to clean and renewable energy in an effort to boost this industry in the state. We have offered up the entire fleet of motor vehicles to low or zero emissions car makers and asked them to invest in South Australia if the government buys their cars.

The strategy also explores a number of other areas that will require investigation if we are to achieve our aim of transition to a net zero economy. We have committed to working with the community and business, discussing with them how best to achieve this. South Australians are doing their bit. I mentioned earlier that we have the highest penetration of rooftop solar in the country, but we need the federal government to step up and do their bit as well. If they don't it will be Australians ultimately who will pay the price. We believe that we need to lead this transition so that we have a fair and just transition for all South Australians.

PRE-POLL VOTES

The Hon. J.A. DARLEY (14:53): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, questions with regard to pre-poll votes.

Leave granted.

The Hon. J.A. DARLEY: Earlier this year my office submitted a freedom of information application with regard to declaration votes made pre-poll. When a declaration vote is made electors are asked for reasons as to why they are attending pre-poll and unable to vote on polling day. My FOI request asked for statistics on the reasons given by electors. I was advised that the Electoral Commission does not keep information on this. My questions therefore are:

1. Can the minister advise whether this information is used in any way?

2. Why do electors have to give a reason if this information is not kept?

3. Can the minister advise if anyone has been refused casting a vote pre-poll as they have been unable to provide a reason which was accepted by an authorised officer?

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) (14:54): I thank the honourable member for his questions and will refer those to the relevant minister in another place and bring back a response.

FIRE MANAGEMENT PLANS

The Hon. J.S.L. DAWKINS (14:54): My question is to the Minister for Sustainability, Environment and Conservation. Further to my questions of 28 October and supplementary question in this place on 17 November, does the minister have the information about the facts regarding the Warren Conservation Park fire that he was going to check?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:54): I took those questions on notice, I believe, and when they have been put together and finalised I will bring them back to the chamber in due course.

FIRE MANAGEMENT PLANS

The Hon. J.S.L. DAWKINS (14:55): A supplementary question: given that I am reliably informed that the information the minister provided to the house on 28 October was not accurate, when will he come back to the house and provide us with the information that is accurate about the preparation for a prescribed burn on the day before a hot day in the Adelaide Hills?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:55): As speedily as possible, as we always do.

THE INTERNET OF THINGS INNOVATION HUB

The Hon. J.M. GAZZOLA (14:55): I seek leave to make a brief explanation before asking the Minister for Science and Information Economy a question about smart cities.

Leave granted.

The Hon. J.M. GAZZOLA: The information economy is transforming the way we live and work and is crucial to our global success, our competitiveness and our connectedness. Can the minister inform the chamber on an initiative in partnership with industry that supports innovation and economic development?

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) (14:56): I thank the member for his question. South Australia is facing some very serious economic challenges into the future, and the state government understands the imperative behind seizing the opportunity offered by a range of technological advances, but particularly the Internet of Things.

With a potential world market of $26 billion, the Internet of Things connected things by the year 2020, the opportunities to generate commercially smart city innovations and applications are endless. In 2014 the state government, Adelaide City Council and telecommunications giant Cisco, signed an MOU to establish an Internet of Things innovation hub in the Adelaide CBD. Adelaide is the first Australian city to sign on to an Internet of Things innovation hub.

The hub, named Adelaide Smart City Studio, was launched last week in a dedicated space on the ground floor of the Adelaide City Council's administration centre at 25 Pirie Street. The studio will provide a physical space for entrepreneurs and other companies to collaborate on, develop and test smart city applications and technologies. The studio utilises the AdelaideFree Wi-Fi network providing an ideal test bed for companies to innovate and develop a range of smart city products, services and applications.

The MOU also formalises the collaboration between the parties to specify a range of Internet of Things initiatives and to explore potential opportunities to take advantage of Cisco's expertise for smart and connected communities and sustainable, innovative and cost-effective solutions for community and smart city development. In line with the MOU, a consortium comprising internet service provider iiNet with Cisco, US company Sensity Systems and local app developer Esmart21 has been selected by the Adelaide City Council to conduct two smart city pilot projects.

These projects involve smart street lighting and smart parking trials in the pilot areas of Hindmarsh Square and Pirie Street. The pilot projects commenced on 15 May 2015 and are expected to conclude in early 2016. These projects will inform potentially larger scale deployments across the CBD and the development of other pilot projects as well as the Adelaide Smart City Studio. I also believe that we furnished those sites with sensors attached to the lighting system to be able to provide us with a range of other information.

On 29 January 2015, Cisco announced that Adelaide will be part of its Smart and Connected Communities Lighthouse Cities program through which key partner cities around the world are designated as lighthouse cities and are used as places to showcase the Internet of Things innovations. Adelaide is the only Australian city to have been designated that status by Cisco.

Adelaide has a world-class reputation as a learning city and a diverse and exciting entrepreneurial system. This, paired with our Adelaide Free Wi-Fi Network, lighthouse city status and successful government-industry partnerships, will help ensure Adelaide's global competitiveness and success.

I would like to acknowledge the Adelaide City Council and Cisco for their significant investment and dedication to the Adelaide Smart City Studio. I look forward to seeing the Adelaide Smart City Studio evolve into a creator of compelling 21st century smart city solutions.

ILLICIT DRUGS

The Hon. D.G.E. HOOD (15:00): I seek leave to make a brief explanation before asking the minister representing the Minister for Police a question in relation to illicit drug use at music festivals.

Leave granted.

The Hon. D.G.E. HOOD: Stereosonic is an annual music festival that takes place across many capital cities throughout Australia, including Adelaide, attracting crowds of up to 90,000 per event, apparently. Unfortunately, large-scale music festivals such as this are not only known for music but are also notorious for their culture of alcohol and illicit drug consumption, usually onsite.

During the Sydney music festival over the most recent weekend, a total of 69 people were charged with drug supply and possession, while 23 others were given cannabis cautions, as the law in their state differs from ours. Of those summoned to court, 57 were charged with possessing MDMA, two with cocaine, two with other restricted substances, and one with LSD (or acid). Moreover, two men were found earlier in the week before the event allegedly drilling holes in buildings at the festival site to hide drugs before the park went into what they call lockdown.

At the Sydney event alone, more than 120 people were treated for the effects of illicit drugs, while nine were taken to hospital. Tragically, as members would no doubt be aware, a young woman died after attending the event, believed to have taken ecstasy and MDMA at the same time. Sadly, there have been many cases like this in the past, as those attending these events in some cases choose to ignore the repeated warnings about the dangers of illicit drugs despite high police presence, in the case of the Sydney festival. My questions to the minister are:

1. How does the government plan to deter and prevent people from using, or planning to use, illicit drugs at music festivals and other public entertainment events, such as we have seen in New South Wales very recently?

2. I note that trafficking a controlled drug in a prescribed area such as at a public entertainment event attracts harsher penalties, but what other measures has the government implemented to target those who wish to sell, in particular, and traffic these substances at these festivals?

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) (15:02): I thank the honourable member for his questions. I will refer them to the Minister for Police in another place and bring back a response.

CARBON NEUTRAL ADELAIDE

The Hon. R.I. LUCAS (15:02): I seek leave to make a brief explanation prior to directing a question to the Minister for Environment on the subject of Carbon Neutral Adelaide.

Leave granted.

The Hon. R.I. LUCAS: Since the weekend, the Premier and the minister have made a number of statements publicly about Adelaide being the world's first carbon neutral city, based upon the release of the document to which the minister has referred in parliament this week.

In the Budget and Finance Committee on 2 November this year, the chief executive officer of the minister's department, Ms Sandy Pitcher, gave evidence in relation to various claims to be the world's first carbon neutral city. In summary, Ms Pitcher conceded that there are a number of cities making the particular claim, and she was then asked to provide evidence of the ones that were to be most competitive in time terms with Adelaide.

Ms Pitcher indicated Copenhagen had nominated a target dated 2024, but then went on to say that, when you scan the whole world, probably our only risk competitor might well be Melbourne, and they are looking at the end of 2019. So, Melbourne has already established a target, according to the CEO of the minister's own department, that they will be carbon neutral by 2019.

My question to the minister is: given the claim from the minister and the Premier that the target is, and I quote from the document: 'Adelaide will be the world's first carbon neutral city', and

given Ms Pitcher's evidence to the Budget and Finance Committee, does the minister accept that if this target promise is to be achieved, the target date for Adelaide to be the world's first carbon neutral city will need to be no later than 2018?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:04): I thank the honourable member for his most important question, which gives me an opportunity once again to spruik the leadership of the Adelaide City Council and the state government working together to embrace this very ambitious goal. The state and the Adelaide City Council are committed to creating a vibrant and sustainable city that attracts the best and the brightest to live in the city, but also creates our city as a showcase for clean technology and renewables.

We have committed to an ambition to make Adelaide the world's first carbon neutral city. The state government is working with the Adelaide City Council on delivery of this initiative, and on 29 November of this year, the government of South Australia and the Adelaide City Council formalised their partnership through the signing of a sector agreement under the Climate Change and Greenhouse Emissions Reduction Act 2007. On the same day, a shared vision for Carbon Neutral Adelaide was released. This document will be underpinned by the action plan, to be collaboratively developed in 2016.

In November of 2015, the Adelaide City Council released its Carbon Neutral Strategy 2015-2025, which outlines a target to have their own operations being carbon neutral by 2020 and a target to achieve carbon neutrality by 2025, with an aspiration for Adelaide to be the world's first carbon neutral city. We have also released the foundation report by pitt&sherry for Carbon Neutral Adelaide, which scopes the carbon neutral commitment.

In 2012-13, the City of Adelaide generated nearly one million tonnes of greenhouse gas emissions, I am advised, from electricity and gas consumption, transport and waste. Stationary energy and transport were the primary sources of carbon emissions, contributing 60 per cent and 35 per cent respectively. Waste that was disposed off to landfill generated 5 per cent of the city's emissions.

The new approach will concentrate on realising the economic opportunity of the transition to a low carbon economy whilst focusing government funding on unlocking investment in South Australia. This will differentiate Adelaide from other Australian capitals and could also help to make Adelaide much more attractive to business. On 2 September of this year, Adelaide was selected to launch a new battery storage product, in part because of this initiative and because of our state's commitment to growing the renewables industry.

The Carbon Neutral Adelaide initiative is designed to drive further emissions reductions, increase the demand for renewable energy, build the state's green industries, increase resource efficiency, improve waste management, and facilitate the transition to cleaner transport modes. The City of Adelaide will be used as a testing platform for the rollout of successful mitigation initiatives across the state. Achieving significant emissions reductions will require innovative solutions and will provide opportunities for the deployment of new low carbon technologies.

Consultation on Carbon Neutral Adelaide was undertaken as part of the development of a new Climate Change Strategy for South Australia. Consultation occurred with key stakeholders such as the Adelaide City Council, the property sector, the transport sector, the Premier's Climate Change Council, the broader community and relevant government agencies. A workshop was held earlier this year, jointly hosted with the Lord Mayor of Adelaide, Mr Martin Haese.

The members of the Premier's Climate Change Council and state government and Adelaide City Council executives used the opportunity to unite and discuss the way forward for Carbon Neutral Adelaide. Workshops organised by the Cooperative Research Centre for Low Carbon Living, involving government agencies and including the Adelaide City Council, research institutions and members of the Premier's Climate Change Council, have explored innovation and pathways and research opportunities to achieve the Carbon Neutral Adelaide vision that we both share.

In our early work, we have identified four key pathways to achieve this goal: increasing renewable energy; increasing energy efficiency in the built environment, which will be helped along,

I might say, hugely by the legislation that was passed in this chamber today (the building upgrade finance legislation—we thank the chamber for their support for that legislation and look forward to its passage through the lower house); reducing emissions from the transport sector; and developing iconic offset projects in South Australia. Appropriate greenhouse gas accounting and reporting will also be important in achieving this commitment.

To support the Carbon Neutral Adelaide initiative, the state government has provided $150,000 funding for the Adelaide City Council's sustainable city incentives scheme to provide incentive payments to building owners and tenants, including businesses, residents, schools, community and sporting organisations, who want to install solar PV, solar hot water systems, energy storage and energy efficiency solutions, electric vehicle charging controllers, and, of course, rainwater tanks. These are important goals that we are uniting on and working on together. It is important that we take community and business and residents along with us in this ambitious target.

Yes, it is a race. Yes, a number of cities around the world have entered the race and made claims about when they're going to get there. Melbourne's claim, I understand, is that they'll become carbon neutral by 2020; Copenhagen by 2025. Whether you say it's the end of the year 2019 or the end of the year 2024, regardless, they are their ambitions; we want to beat them. Why wouldn't you, if you're a South Australian, want to beat Melbourne, even if it's only by one day?

CARBON NEUTRAL ADELAIDE

The Hon. R.I. LUCAS (15:10): A supplementary question: in the middle of the minister's long answer there, did he not indicate that the target date for Carbon Neutral Adelaide was 2025?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:10): No, I didn't.

CARBON NEUTRAL ADELAIDE

The Hon. R.I. LUCAS (15:10): Can I then ask the minister: what is the target date for Adelaide to be Carbon Neutral Adelaide?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:10): We will be the first carbon neutral city.

Members interjecting:

The Hon. I.K. HUNTER: We will be the first carbon neutral city. And the honourable member, when he reads the transcript of *Hansard*, will find out that in fact the date that I've referred to applied to the Adelaide City Council's own document, not the government's plan to be the world's first carbon neutral city. We will beat the others.

The Hon. R.I. Lucas: What's the date?

The Hon. I.K. HUNTER: The honourable member wants to pin us down to a particular date; he wants to play that game. We are going to be first—that is an ambitious goal. It is an ambitious goal where will be uniting with communities, residents, business, state government level, and local government level to achieve that outcome. Why are they afraid of ambitious targets over there? Because they always have been. Their level of ambition lies down in the gutter, and that's why they've been in opposition for most of their political life, and will continue to be.

CARBON NEUTRAL ADELAIDE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:11): A supplementary question: does the minister have solar panels on the roof of his house?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:11): We might put a survey out for honourable members opposite to see what they might say. I believe that the choice to put solar panels or, indeed, battery storage into residents' homes is a matter for residents themselves. They make that decision based on their own interests.

The Hon. D.W. Ridgway: I've had them for years.

The Hon. I.K. HUNTER: Well, that's fantastic, Mr Ridgway, that's fantastic, and I'll put my hand up that I also have them.

CARBON NEUTRAL ADELAIDE

The Hon. R.I. LUCAS (15:11): Supplementary question arising out of the minister's first answer: given the minister has conceded that the target for Melbourne is 2019, does he accept that his target—

The Hon. I.K. Hunter: I don't think I did concede that.

The Hon. R.I. LUCAS: Yes, you did say that. Does he accept that the target for Adelaide has to be earlier than 2019?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:12): What a pathetic contribution from a pathetic and failed former Liberal treasurer who is trying to work on dates—

The Hon. S.G. Wade interjecting:

The Hon. I.K. HUNTER: Well, if the honourable member knows me particularly well at all he will know that I get very irritable when I have to face the concept of travel—but that's just my personal problem. But, again, I invite the honourable member to actually embrace a challenge; embrace ambition for a change. For once in your life, why don't you actually embrace stretch targets?

Members interjecting:

The Hon. I.K. HUNTER: The problem with that is that when they embrace stretch targets they actually have to work a little bit; they actually have to do a bit of hard work. They actually have to go out to the community and talk to them about what their ambitions are and try and unite communities around a common goal. That's not the strength of the Liberal Party. This is a party made up of individuals, individuals who can't work together. They can't work together. You only have to look at what they've done in terms of the revolving door around leadership to work out that they actually can't work together to save themselves and, goodness knows, they certainly can't work together to run a government.

CARBON NEUTRAL ADELAIDE

The Hon. R.I. LUCAS (15:13): Supplementary: given the minister's reference to stretch targets, what is the minister's stretch target? Is it 2018?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:13): The stretch target is for Adelaide to become the world's first carbon neutral city. Come and join us! Come and join us! Get on the wagon and get into the competition with us! Get out there and stir up people to challenge this, to drive innovation in this state. Why won't you get on the positive bandwagon and actually help us get there? Instead, no, you want to—

Members interjecting:

The Hon. I.K. HUNTER: These guys are a joke, these guys are an absolute joke. But what more do you expect from people who have just nothing but negativity in their bones, and they just can't be bothered engaging with ambitious targets? The level of their ambition is evident over there: they are stuck in opposition where they have been for the last 15 years, and will be stuck in opposition for the future, and this is all they've got: 'Give us a date.' How pathetic. How pathetic is that? Get on board with us, join the competition, help us get there; we will be first.

Members interjecting:

The PRESIDENT: The Hon. Mr Ngo.

Members interjecting:

The PRESIDENT: The Hon. Mr Ngo has the call.

NATURAL RESOURCES MANAGEMENT BOARDS

The Hon. T.T. NGO (15:14): My question is to the Minister for Sustainability, Environment and Conservation. Could the minister inform the chamber about how the state's natural resources management boards are partnering with community and stakeholders to achieve great outcomes for the state?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:14): Members on this side of the house understand that you actually need to work together to achieve in this state. This is how we have achieved historically, by uniting communities together. That is exactly what we have done. We have a fantastic and growing reputation as a clean and green state that produces premium food and wine. Over the past 10 years our natural resources management model has helped to cement this reputation. The NRM model does this by engaging directly with community, traditional owners, producers and industry to identify and implement solutions to environmental and natural resource challenges.

South Australia's internationally recognised NRM model is an exemplar of a partnership approach. It uses a regional focus that is informed by local needs and experiences, and there are many examples of the NRM boards taking a partnership approach to resolve complex problems. For example, the South Australian Murray Darling Basin NRM Board is partnering with other state agencies and the University of Adelaide to protect the South Australian bee populations from potential threats, including the varroa mite.

The varroa mite is a parasitic insect that has decimated feral honey bee populations in other parts of the world and, while it has not yet been detected in Australia, it has the potential to compromise the pollination of a wide variety of agricultural crops, including almonds, apples, pears and canola. If we do not adequately prepare for this parasite, it could have severe consequences for the agricultural sector, an industry that contributes about $16 billion to the state economy.

This pilot program aims to help build South Australia's native bee populations, because they are immune to the varroa mite, I am advised. This can be achieved through effective native revegetation adjacent to important pollination crops to encourage native bees to congregate in those areas. This project is a great example of how NRM researchers and agricultural producers can work together to achieve a positive outcome for their industries and their communities.

A further example of outstanding partnerships is the Bite Back program, led by the South Australian Arid Lands NRM Board. Wild dogs, including dingoes, have increased significantly in recent years, threatening the state's sheep industry, and this program has been particularly successful because it encourages land managers to collaborate with their neighbours, to undertake coordinated wild dog control across a very large area.

The SAAL NRM board is working closely with Livestock SA and the sheep industry to deliver additional on-ground assistance to manage wild dog impacts. This is through $300,000 in state and federal government drought assistance funding and a further $100,000 from the SAAL Board's regional NRM levy.

New measures to benefit the livestock industry include initiatives such as funding a second Bite Back officer working one on one with landholders, additional bait supply services inside and outside the dog fence, support for travel costs for specialist shooters to drought-affected properties, engaging a professional regional dog trapper, and training land managers in trapping techniques. I understand the trapper has already removed around 50 problem wild dogs from inside the dog fence.

Many of these initiatives have arisen as a result of improvement in communication and coordination following the establishment of the South Australian Wild Dog Advisory Group. Innovative and collaborative solutions to feral cat management are also underway on Kangaroo Island. Feral cats have had a considerable impact on the island, including predation on over 50 native animal species and the spread of livestock diseases that impact production and profitability.

The Kangaroo Island feral cat eradication prospectus, launched in July of this year, outlines the phased program, with the long-term goal of eradicating feral cats on the island by 2030. This bold project is a joint initiative between the Kangaroo Island Natural Resources Management Board, the

Department for Environment, Water and Natural Resources and the Kangaroo Island Council, in collaboration with Primary Industries and Regions SA.

Finally, we have had some fantastic outcomes as a result of the NRM partnership regarding environmental water, which is essential to maintaining a healthy river system that supports the river's vital ecosystems. Since environmental watering began in 2008, a successful partnership has flourished between the SAMDB NRM Board, the Commonwealth Environmental Water Holder, wetland managers, landholders and the non-government sector, and each year DEWNR puts together an annual plan that coordinates and prioritises the delivery of environmental water to South Australia, consistent with the Murray Darling Basin Authority Basin Plan.

The SAMDB NRM board plays a fundamental role in the process by collaborating with land managers in the delivery of environmental water to priority wetlands along the River Murray. Since 2008 the region has successfully delivered over 26.5 gigalitres of environmental water to 50 priority wetland sites located from the SA border to wetlands fringing the Lower Lakes. We have already seen positive results, including high numbers of the nationally threatened Murray hardyhead fish and the southern bell frog, as well as improvements to river red gum and black box tree conditions.

I should probably relate recent advice that I received about a great success program that has lasted over 20 years in collaboration with local communities on Kangaroo Island and that is the glossy black cockatoo. That population was reduced, I think, to about 200 remaining on KI. There are populations in the Eastern States but I understand the only extant population in our state is on KI and, as I said, it got down to 200.

Together with the federal government and a long rehabilitation plan involving local community members' annual reports, we sent people across to the island and they found out and they looked for these black cockatoos and they did a little census of them. My understanding is that over the last two years, the population has stabilised at around 350 cockatoos.

They are not incredibly prolific breeders; they only have one chick a year, I understand, and the chick is very vulnerable to predation by possums, and so our volunteers and DEWNR on KI and the NRM board all collaborate to go around putting iron collars on trees that have these nesting sites so they are favoured by the glossy black cockatoos.

In addition, they also patrol them for feral bees that escape from beehives and establish themselves in the hollows that glossy black cockatoos like to nest in and eradicate those. Additionally, on top of that, we also have a dedicated troop of volunteers who go around putting up artificial hollows made out of PVC pipe, and I understand they have been particularly attractive to glossy black cockatoos and have resulted, as I said, in the population bouncing back from 200 to 350.

That is not a substantial population by any means. We are very keen to continue this program into the future. We have a very dedicated group of volunteers on the island without whom we could not do this very important work. Ideally we would like to see the population grow to a point where they extend their range back to their natural range which is up the Fleurieu Peninsula and into the Mount Lofty Ranges, but that is for a future date.

The stabilisation of the population is at 350 or thereabouts. I think it has gone down by five from last year but, given the difficulties of actually doing a census and counting these animals through some of the rugged terrain on Kangaroo Island, the population is probably not very different from last year. It is very successful and I want to congratulate the KI community for doing that work with us.

In order to maintain our clean and green image and to ensure our future prosperity, we have to sustainably manage our natural resources and we do that in collaboration with business, community and our residential population, who give us countless hours of volunteer work and I thank them sincerely.

Matters of Interest

WORLD AIDS DAY

The Hon. T.T. NGO (15:22): Yesterday, 1 December, was World AIDS Day, a day which aims to raise awareness of HIV and ensure that HIV positive people live free from stigma and discrimination. As someone who grew up in the 1980s, I am well aware of the publicity that

surrounded the HIV/AIDS epidemic at that time. I remember when Hollywood legend and movie star, Rock Hudson, announced that he had AIDS. That was when I, my schoolmates, and many people around the world first learned about AIDS.

It was an even bigger shock when less than four months later Hudson died of the disease. I also remember the media coverage of Hudson's announcement and subsequent death. The daily images of Hudson looking very pale in a wheelchair and the revelation that he was in a homosexual relationship for years gave the misconception that both HIV and AIDS are life-threatening conditions associated with death—very quick death—and HIV is associated with behaviours that even today many people disapprove of such as homosexuality.

More recently, HIV has again had increased media coverage due to Charlie Sheen's announcement that he is HIV positive. Again, the media has focused on Sheen's supposedly bad behaviour and not the disease itself. It saddened me that there were many misconceptions about HIV and AIDS when I first learned about it in the eighties. It saddens me even more that there are still misconceptions about the disease and that HIV positive people still face stigma and discrimination.

Recently, I represented the Hon. Jack Snelling, the Minister for Health, at 'Nothing about us without us,' an event held by Relationships Australia which focused on the stigma and discrimination that people who are HIV positive face. I have learnt a great deal from the keynote speaker, Dr Lydia Mungherera. Dr Lydia Mungherera is an extraordinary advocate for people living positively with HIV. She herself breaks the stereotype that many believe is a typical HIV positive person. As a doctor from a wealthy family many would not think that Dr Lydia is HIV positive. She and others demonstrate that there is no typical HIV positive person—after all, HIV does not discriminate.

The World Health Organisation cites fear of stigma and discrimination as the main reasons people are reluctant to get tested, disclose their HIV status and take antiretroviral drugs. This fact alone should be reason enough for the community to tackle this issue. An unwillingness to take an HIV test means that more people are diagnosed late when the virus may have already progressed to AIDS. This makes treatment less effective, increasing the likelihood of transmitting HIV to others and causing early death.

Despite Australia's response to HIV, Australia and the world continue to be challenged by new HIV infections. At the end of 2014 in Australia, around 27,150 people were living with HIV. In the most recent annual surveillance report for South Australia there were 55 new notifications of HIV in 2014. The South Australian government is working with non-government sector organisations, including Relationships Australia South Australia, to provide programs and services that target South Australians who are at the highest risk of HIV and blood-borne virus infections.

These programs and services assist people with HIV to live a normal life and also help to break the community's negative perceptions of this disease. By breaking these perceptions people will be empowered to get tested, disclose and get treatment. An extract from a HIV positive woman in Vietnam shows the severe impact that misconceptions can have. She said:

> I am afraid of giving my disease to my family members, especially my youngest brother who is so small…I don't hold him in my arms now.

DIVERSITY

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:27): I rise to speak on a matter of interest. During yesterday's joint sitting of both houses the Leader of the Opposition Mr Steven Marshall made the comment that it was a privilege and an honour to become a member of this parliament. Indeed, it is an honour and a privilege to serve and represent the people of South Australia in this parliament and in the Legislative Council.

In representing the full breadth of South Australia's diverse population, I believe that it is important that the elected representatives in this council especially reflect this diversity, allowing us to draw on a similarly diverse range of experiences and backgrounds for the betterment of the people of South Australia.

Many of the members of this council embody diversity. For example, I come from a farming background; my colleague the Hon. Michelle Lensink was a physiotherapist; the Hon. Terry Stephens

was a small business owner; and the Hon. Mark Parnell was a lawyer with the Environmental Defenders Office and, as he constantly tells us, he was a very good lawyer.

Without this range of experience we cannot hope to properly understand the needs and concerns of our constituents around the state. We need to have experienced the things that keep a small business owner awake at night or which keep a farmer or a self-employed tradesman from enjoying time with their family. We need the representatives in this council who have lived these experiences if we are to properly understand them and if we are to work with the people of South Australia to address the problems that exist and improve this great state for all, not just a club for a few.

The lack of real-world experience held by the Labor members opposite is an important contributor to the state's poor economic performance in recent years. The leadership of this state under this Labor government is made up of a group of people who have not run a business, who have not employed people and who do not understand the things that actually matter.

Instead, the government benches of this council are filled with people who have played the political game successfully, people who have been loyal to a small group of union party officials and who have been rewarded for their loyalty. We have a leader, at least for now, who has been rewarded for her role as a union official. Soon she will be gone, replaced by a state secretary of a union and former party president. He is sitting next to someone who has secured 20 inches of red leather by becoming a Labor staffer and a union official.

Our former and current presidents—you, Sir—are former union officials. Our current Minister for Manufacturing and Automotive Transformation and the minister for water and the environment are both former state Labor secretaries. And the government whip has worked diligently as a staffer before waiting for his turn to become a member of the Legislative Council.

None of these people have run a business. None have been responsible for employing South Australians and creating jobs or experienced the daily struggles of ordinary South Australians trying to find work in today's economy. They may have represented the interests of those belonging to these unions, but these days roughly only one in 10 workers belongs to a union. So Labor's legislative councillors have no understanding of the experience of the other nine out of 10 people and have done nothing to support the majority of workers.

The collective lack of experience of the Legislative Council members on the government has a real and damaging impact on the quality of the outcomes achieved by this Labor government for the people of South Australia. This group's lack of understanding about what actually matters to business filters through their policy, or lack thereof. Instead of having a series of concrete actions to fix our state's economy, we have Labor's economic priorities.

These are aspirations and platitudes, not firm commitments to take specific actions. Today we could see the Minister for Climate Change unable to tell us the date for their target for being a carbon neutral city. In fact, he was embarrassed that he was unable to tell us the date. It is quite surprising that the government does not have a date for its carbon neutral city.

Until the people of South Australia are represented by people who have actually experienced the real world, the world as it exists outside of politics and unions, we cannot hope to have a government that is capable of fixing the problems plaguing our state and its economy. The state Liberals understand these issues and understand how to create jobs, because we have lived these experiences and actually created jobs alongside the thousands of other small and medium-sized businesses that employ South Australians.

Mr President, I can assure you that we will continue to work with South Australians from all backgrounds to ensure we deliver the right policy settings to create jobs and positive outcomes for the people of South Australia. I encourage the members opposite to start doing the same for the benefit of our great state.

MUSIC DEVELOPMENT OFFICE

The Hon. J.M. GAZZOLA (15:32): The Music Development Office (MDO) was designed to bring areas of government together to meet the state's strategic priorities through music activities.

They also developed links with education to build pathways into creative and industry development, with city vibrancy and economic benefit being the ultimate outcomes. As the MDO was launched in the second half of 2014, there is no previous year to use as a benchmark for comparative achievement.

However, the only support available to the South Australian music industry prior to the launch of the MDO was the contemporary music program, which now forms just a part of the suite of support available. Funding for contemporary music in South Australia supports artist and audience development, the creation of original South Australian music and local music businesses that develop the careers of professional musicians and contribute to a buoyant SA music sector.

In 2015, four organisations funded by the MDO were Music SA, Semaphore Music Festival, 54-Entertainment and Northern Sound System. Music SA delivered a program of activities that directly supported more than 100 artists. A music festival was delivered in Semaphore. Port Adelaide music activation saw 10 venues presenting live music. Two people undertook long-term paid internships, and Northern Sound System's emerging artist program mentored four artists.

There have been four rounds of contemporary music grants between May and August 2015, with 46 small businesses and artists funded. Connected Music City is an umbrella title for a series of initiatives being developed by the Music Development Office which will be delivered by industry partners. The first two initiatives are: the Connected Music City Challenge, which saw IBM award two teams places on their global entrepreneurship program, worth $24,000 each, and the Adelaide Area Music and Trails, which via an app takes music fans on a walk of 25 CBD music venues. This will be launched during the Fringe 2016.

The annual Robert Stigwood Fellowships provide personalised professional development to local musicians and industry entrepreneurs and help them forge global connections. This program ran over a 12-month period in 2014-15 and benefited over 100 musicians and businesses. The 2015 Stigwood fellows include Tkay Maidza, now one of Australia's most promising exports. Her achievements include being awarded best new artist at the 2015 Rolling Stone Australia Awards. Both Tkay and Bad//Dreems have successfully sold out national tours and continue to build sustainable markets in Australia and internationally.

The Producer's Series is a mentoring program supporting the development of some of South Australia's most promising music producers. Three series ran in 2015 which were the Sam Dixon Sessions, the Fresh FM and the Proof of Life Sessions.

St Paul's Creative Centre is the flagship of the Music Development Office. This CBD-based co-workspace for the creative industries became fully operational in January 2015. St Paul's hosts 10 small businesses and 10 co-workers, has hosted approximately 40 events and given 60 students the opportunity to receive training from Music SA. The MDO is working closely with the Department of the Premier and Cabinet to simplify regulation affecting the live music industry, and most recently the entertainment consent bill passed through parliament. This was in direct response to the Music Industry Council recommendations, which will remove development barriers for small arts and cultural venues.

The MDO supported three new pieces of research published this year, the most prominent of which is the UTAS Economic and Cultural Value of Live Music, which found that live music delivered a 3 to 1 investment and injects approximately $264 million to the South Australian economy and employs approximately 4,100 people.

The MDO has had a most successful first year. These achievements do not happen by accident. The MDO is staffed by Becc Bates and Karen Marsh, who have recently been joined by Michael Radzevicius. I wish to thank the Music Development Office for its achievements, resilience and expertise. I also congratulate the winners and nominees of the inaugural Music SA Awards this year. I encourage all South Australians and visitors to support our artists and visit a venue because, as Joni Mitchell sang, 'Don't it always seem to go, that you don't know what you've got 'til it's gone.'

CLOVERCREST BAPTIST CHURCH

The Hon. R.L. BROKENSHIRE (15:36): I rise under this matter of interest today to place on the public record my appreciation, and that of Family First's, for the Clovercrest Baptist Church,

which is located at Modbury North. The church is founded on the Word of God. Its people are friendly, it is multigenerational and contemporary and, importantly, the church does great work in its local community and beyond.

Their pastor is the Reverend Mark Purser, who is a man of integrity and an excellent leader. Mr President, you and colleagues may be familiar with Mark following a number of *Advertiser* articles earlier this year, as he is also the chaplain to the greatest AFL team, namely the Adelaide Crows.

The church has a community focus and operates many community-based groups and activities for all ages throughout the week. For many years they have also been a blessing to the Nipapanha Aboriginal community in the northern Flinders Ranges and each year a group of young adults join Encounter Youth Green Team, providing voluntary assistance to school leavers during the Schoolies celebrations at Victor Harbor.

Schoolies Week is not very far from where I live. I commend all of the young volunteers, particularly the leadership of Mr Nigel Knowles from the Encounter Youth Green Team and all those who join with him to provide the safest possible environment for many thousands of young people who go to celebrate the end of often 13 years of continuous schooling down at Victor Harbor.

Whilst some of our community down there do not necessarily like Schoolies Week, the reality is that Schoolies Week is there. It is in every state. Victor Harbor probably has the best, most disciplined and well behaved Schoolies Week in Australia. A lot of credit goes to the Encounter Youth Green Team, particularly those young volunteers from the Clovercrest Baptist Church.

Before Christmas the church community put together hundreds of shoeboxes for Operation Christmas Child for Samaritan's Purse. They send the boxes to developing countries around the world, helping to put smiles on children's faces. The church also has a partnership with another church in India to provide schooling to the local Dalit children.

Clovercrest Baptist Church manages the Pathway Community Centre, which seeks to meet people's needs, teach skills and provide connections, which in turn offers hope, dignity and support networks. The centre provides emergency relief and food hampers, counselling, advice about budgeting, tax help and referrals to other agencies. One of their exceptional groups is OASIS, a group for people with disabilities. Pathway also offers English classes to assist refugees and migrants as well as having an op shop providing well-priced, pre-loved clothing and goods to the community.

Earlier this year Clovercrest Baptist Church and the Pathway Community Centre were recognised by the then prime minister, the Hon. Tony Abbott, for their efforts during the Adelaide Hills/Sampson Flat bushfires in January. I congratulate them for the great work that the church did there in supporting those people who were tragically affected by that very significant fire. Donations and goods received were overwhelming as many generous people sought to show love and care for those in their community.

An emergency relief centre was set up and volunteers provided support, a listening ear, food, toys, gift vouchers and household goods to those affected by the fires. Hampers were also delivered to checkpoints at the edges of the fire zone. In recent times, the church's building has undergone renovations for expansion in order to service the community to a greater capacity. A café with a children's playground has also been established and is now open to the public.

This is a fantastic example of a living church, a church that is working directly with the community. I congratulate approximately 1,000 members of that church who go there and support. They do not necessarily put their hand out for government support. They just get on with the job in their community, and that is what the church is and should be about. It is a growing church itself, and I am sure there will be hundreds more people joining that church to connect both with the church and with that community. I know in the north-eastern suburbs that church is very much appreciated by a lot of the leadership people for the great work it provides in the community.

At the end of the day there has to be a leader of that church and, as I said earlier, that is the pastor, the Reverend Mark Purser. I congratulate him and his team, quite a significant team of staff, a huge contingent of volunteers and all members of the church for the great work that they do. Family First and I offer support to the Clovercrest Baptist Church and thank them for their continued service to the community.

BICAMERAL REPRESENTATION

The Hon. A.L. McLACHLAN (15:41): I rise to defend the honour of the Legislative Council. I wish to speak in response to the intellectually bereft article recently written by Mr Rex Jory, calling for the abolition of this chamber. Mr Jory sets out a number of arguments for abolition. I am being kind to Mr Jory in describing his aggressive and inane assertions as arguments. Arguments usually have a rational basis and are an attempt to be persuasive. His writings on the Legislative Council do not share these attributes.

It is difficult to know where to start. At the outset he implies that the circumstances surrounding Mr Finnigan somehow justify that we are no longer relevant. Criticism of Mr Finnigan cannot be sheeted home to the chamber or an argument in support to abolish. Indeed, the Premier acknowledged yesterday that the Labor Party accepted responsibility and is seeking to repair the reputation of the chamber by the appointment of a new member.

Mr Jory fails to recognise that to abolish this chamber means significant and far reaching reform of the lower house. It is not a case of just losing one chamber. Our democracy will have to be completely restructured. I remind Mr Jory that this chamber has two broad functions—scrutiny and accountability. We undertake a detailed examination of legislation. Even a quick glance at the other place's *Hansard* reveals that the government control ultimately works against detailed examination of the impact of a bill.

We are also able to hold the executive and senior public officials to account for their actions to the parliament and in turn to the people. What Mr Jory is suggesting is a four-year dictatorship without any restraints on government and then an election. Our citizens seek certainty in their lives. They do not need large scale and erratic change every four years. Further, an election rarely delivers a pure mandate for a government on a particular issue. People vote for a party for a variety of reasons.

If there is a prima facie case for reform, it is with the other place as well as the role of committees. I think we should have a good look at the size of our lower house electorates. With modern means of transportation and communication, our electorates could become much larger in the number of their voters. This would in turn enable us to reduce the number of seats in the other place. Parliamentary committees also need greater independence and power. The council rarely, if ever, creates an impediment to any government's capacity to react decisively to opportunities or changing circumstances. Much government decision-making today is administrative and does not require legislation. The attempts at reforming the health sector are a good example.

This chamber does not stand in the way of progress. Rather, it is a chamber devoted to pushing for economic and social progress. Mr Jory was wrong to suggest that ministers are unable to guide legislation through the chamber. For the record, I remind him there are three ministers, not two, as he asserted. The ministers are ably assisted through the process by parliament counsel and ministerial officers.

The strongest voice in favour of this chamber is from the people of South Australia themselves. This support for the distribution of power can be seen clearly in South Australia's voting patterns, which suggest that voters do actually value the upper house. Since the introduction of proportional representation in 1973, the government has never controlled the Legislative Council. The existence of minor parties in the upper house is testimony to that fact. They grace this chamber with their intellect and passion.

Is Mr Jory suggesting that the minor parties and their important constituencies have no voice, or is he suggesting—which is what I suspect—that scrutiny of government and advocacy of issues be left simply to the media and the faceless and unelected editorial teams? Accountability mechanisms in the Westminster system are composed of many checks and balances. All rely on the concept of power against power.

Even though the government of the day may find the idea of scrutiny of the executive frustrating, especially if it feels the scrutiny is politically damaging, the division of power between the two houses is used around the world in virtually all the leading democracies as the best way to hold governments and bureaucracy to account. No reigning political party should be left unchecked to destroy the state's future. US president Woodrow Wilson stated:

Liberty has never come from the government. Liberty has always come from the subjects of the government. The history of liberty is a history of resistance. The history of liberty is the history of the limitation of governmental power, not the increase of it.

Before the 1970s, this chamber was the last bastion of conservatism, but today it is where democracy resides at its most vibrant.

ILLICIT DRUGS

The Hon. J.A. DARLEY (15:46): I rise today to speak about drug use, and particularly their use in conjunction with music festivals. The Stereosonic music festival is currently touring the country and is due in Adelaide this coming Saturday. Tragically, as most in this place would know, a 25-year-old pharmacist died after allegedly taking a number of illicit drugs at the music festival's Sydney stop last weekend.

It is a calamity that we are needlessly losing so many young lives from this drugs scourge. Without meaning to revisit the 'good old days', this phenomenon is particularly alarming for me, as these drugs simply did not exist when I was young. Yes, drugs such as heroin, marijuana and cocaine existed; however, illicit chemically manufactured drugs in their current form (namely, ecstasy, ice and speed) did not exist.

Drugs are now mixed and cut with an immeasurable number of substances, to the point where people simply do not know what they are taking. Drugs are also more potent, which is alarming, as not only are more people consuming them, but they are consuming more of them in one sitting. The combination of increased strength and dosage is a recipe for disaster. The availability and accessibility of these products is extremely broad, and we are seeing more and more young people experimenting with illicit drugs.

I understand it is not difficult for individuals to obtain whatever substance they seek, and for many it is their preference to take drugs rather than have alcohol on a night out. Drugs are cheaper and last longer for a similar effect. Kids simply see it as being economical to take drugs, but the real cost may be that they pay with their lives.

This increasing popularity of dance music festivals also contributes to the widespread consumption of drugs. There is an anecdotal correlation between dance music and drug taking. Whereas previously music festivals featured bands, dance music and DJs have increased in popularity in recent years. Festivals such as the Big Day Out and Groovin' The Moo anecdotally have a lower incidence of drug use when compared to the Future Music Festival and Stereosonic.

Most disturbing is the fact that a festival like Future Music is an all-ages event, which means that not only minors are exposed to drugs and drug-affected individuals, but it normalises the behaviour from a younger age. I am advised that because minors know the control of alcohol at events will be strictly monitored, they are likely to turn to taking drugs as an alternative.

Similarly, the high cost of alcohol at events makes taking drugs a more attractive alternative for many. The picture I paint is a bleak one. I fear that things will only get worse before they get better. There are already numerous education and awareness campaigns; however, they do not seem to be effective. It is easy for me to stand here and condemn drugs, and I wish that finding a solution to this problem would be equally as easy, but it is not. It is devastating to see so many people affected by this issue when it is completely preventable. I only hope the issue will come to a tipping point soon and the attitude towards these substances changes for the good.

TZU CHI FOUNDATION

The Hon. G.A. KANDELAARS (15:50): Today I wish to talk about one of the organisations that assisted families affected by the Sampson Flat bushfires: the Tzu Chi Foundation of South Australia. Established in Taiwan in 1966, Tzu Chi (translating to 'compassionate relief') is an international humanitarian non-government organisation with its roots in Buddhist origins and beliefs. Started by a nun, it has grown from a group of 30 housewives donating a small amount of money each day into a global organisation with a network of 10 million members in 47 countries. Tzu Chi's ongoing efforts have seen it be awarded a special consultative status to the United Nations Economic and Social Council.

The shared goal of Tzu Chi volunteers is to cultivate sincerity, integrity, faith and honesty within while exercising kindness, compassion, joy and selflessness to humanity through concrete action. Tzu Chi's four major missions consist of charity, medicine, education and humanity. Furthermore, there are ongoing efforts in bone marrow donation, environmental protection, community volunteerism and international relief. These eight concurrent campaigns are collectively known as Tzu Chi's eight footprints.

Its environmental projects include recycling plastic bottles into cloth in their recycling stations throughout Taiwan. In Australia, members of Tzu Chi annually participate in Clean Up Australia Day. Tzu Chi Australia is also involved in providing medical, dental and orthodontic care, including running a free dental clinic in the rural town of Tara in Queensland. Tzu Chi has organised complex surgeries for people in disadvantaged countries. As an example, they brought a Malaysian teenager to Adelaide for facial surgery.

A core area of Tzu Chi's work is humanitarian aid, providing relief in disaster-stricken areas, not only here in Australia but in other countries. Tzu Chi provided aid in Sri Lanka after the 2004 tsunami, in Christchurch after the earthquake, and in Myanmar after Cyclone Nargis. It was also the first NGO to help with the aid of the Sichuan earthquakes in China and, as I understand it, was one of the only aid organisations allowed to use its own volunteers. In the 2011 floods in Queensland, Tzu Chi mobilised their volunteers, providing thousands of cash cards, medical kits, blankets and relief for those affected by the floods. In the 2013 bushfires in the Blue Mountains, Tzu Chi donated $180,000 to the relief fund.

In the case of the Sampson Flat bushfires in Adelaide, the Tzu Chi Foundation of Adelaide became aware of the direct impact when one of its Tzu Chi volunteers had a friend directly impacted. Sadly, the friend's home had been totally destroyed. Fortunately, the family were not at the property at the time. The Tzu Chi Foundation of South Australia hosted a donation event for the family in their headquarters in Wright Street, which I attended. Tzu Chi volunteers in their distinctive white trousers and blue polo tops made all welcome and at the event provided a donation of $1,500 to the family, handing over emergency cash aid and some necessities. The donation was not only limited to this family, as Tzu Chi announced at the event they aimed to donate $700 to all the families who had lost their homes as a result of the fires. The volunteers also visited affected areas providing relief work.

With the help of Tzu Chi, countless other community organisations of families affected by the Sampson Flat bushfires were provided with significant support. I am sure Tzu Chi and its volunteers will again come forward to support those affected by the recent Pinery fires. I thank the Tzu Chi Foundation for displaying compassion and generosity to our community. Tzu Chi and other like-minded organisations are a great example of the community spirit at work within our state.

Parliamentary Committees

SELECT COMMITTEE ON TRANSFORMING HEALTH

The Hon. S.G. WADE (15:55): I move:

That the first interim report of the committee be noted.

The Hon. S.G. WADE: I am convinced that the Weatherill government's process to identify the site for the new post-traumatic stress disorder centre of excellence was significantly flawed and cannot guarantee the best outcomes for veterans and other people with mental health issues. The select committee recommendations are a pathway to getting the process back on track and ensuring the best-possible outcomes for veterans. The select committee is of the view that the ministerial expert panel, which was established to consider the model of care and the location of the service, should not have ruled out some public health services remaining at Daw Park.

Similarly, and importantly, the select committee is also of the view that the ongoing expression of interest process for the Daw Park site should also not rule out public health services remaining there. These services could be a public unit co-located with private services or, alternatively, the PTSD centre of excellence could be located in a private facility similar to what happens in other former veterans' hospitals around Australia. These are both viable options that need to be explored.

Further, the select committee has received a staff-initiated proposal for public orthopaedic and neurological services to be provided at Daw Park, either freestanding or as part of a wider health precinct. The committee has also received evidence highlighting opportunities to pursue commonwealth funding to improve health services to both veterans and serving Australian Defence Force personnel.

By making a decision about the location of the PTSD centre of excellence before the future use of the Daw Park site has been determined, the Weatherill government is closing the door on opportunities to significantly improve PTSD and other health services on the Daw Park site as part of a health precinct. An expanded expression of interest process for future uses of the Repatriation General Hospital site could bring forth proposals which significantly change the context of the expert panel's recommendation as to the location of the new centre of excellence.

I hope that members of this chamber and the community might find the report of the select committee readily understandable. Rather than restate it, I would like to focus my remarks on responding to the dissenting statement of the government member, the Hon. Tung Ngo. I acknowledge the diligent and constructive engagement of the honourable member and the work of the committee, but I respectfully disagree with most of his dissenting statement. I am pleased to note that one recommendation has the unanimous support of the committee, including the Hon. Tung Ngo. The first recommendation reads:

1. That a Commonwealth/State task Group be established bringing together SA Health and relevant Commonwealth Government agencies to identify opportunities to improve and better coordinate health services to veterans and serving members of the Australian Defence Force, and to support research related to these services.

Given the unanimous support, I trust that the government will move quickly to establish such a task group. The select committee's second recommendation states:

2. That the expressions of interest process be paused and relaunched once the Commonwealth/State Task Group is concluded, thus allowing time for opportunities with other publicly funded services to be considered.

End of recommendation. The government member has indicated that he does not support this recommendation. The government member says the recommendation for the location of the PTSD centre of excellence was based on the requirements of the model of care, and that the Glenside campus was strongly recommended as the best site.

The government member makes no attempt to rebut the central argument of the report and of this recommendation that we cannot know what we have achieved is the best outcome for veterans' health if we do not test all the realistic possibilities through a robust expressions of interest process, and only then can we decide the location. The expressions of interest process needs to be paused and relaunched with all relevant information on opportunities.

I would highlight these opportunities in terms of three classes: first, there are the opportunities for the commonwealth support for both ADF and veterans' health. These opportunities were highlighted to the committee by Professor Sandy McFarlane, a world renowned expert on PTSD. Secondly, staff-initiated proposals for the future use of the site, presented to us by a senior nurse and heads of the unit from the Repat, demonstrated opportunities to use the site in an ongoing way for both public and other services.

Thirdly, the opportunities include synergies that could be achieved between the new uses for the site and current services. For example, a private hospital, an opportunity affirmed by a number of witnesses to the committee and also in public statements by the Minister for Veterans' Affairs, the Hon. Martin Hamilton-Smith. The third recommendation of the committee is:

That the expressions of interest process for the future use of the Repatriation General Hospital be broadened to encompass proposals, which could involve the continuation of publicly funded services on the site or for currently publicly funded services to be provided on the site for not-for-profit or private providers.

The government member does not support recommendation 3. He says that, as the current expressions of interest process does not limit any proposals being put forward, the recommendation is irrelevant. On this fact the member is not correct. On page 9 the expressions of interest document produced by the government in relation to the Daw Park site states clearly:

That the transition of SA Health services from the site will be completed in late 2017.

A short list of SA Health services are listed as remaining on the Daw Park campus. The vast majority of SA Health services are excluded from it EOI process—they are not on the list. Ward 17 is not one of the services listed.

Contrary to the statements of the government member, the EOI process does limit proposals, it does exclude proposals for Ward 17. If the process can allow for proposals for Ward 17 on the Daw Park site, as the government member suggests, the government should make that clear and accept the committee's recommendation to pause and relaunch the expressions of interest process, with clear information to stimulate the full exploration of the prospects of publicly funded services on the site. The fourth recommendation is:

> That SA Health staff be encouraged and supported to develop proposals in relation to the provision of services at the Daw Park site.

The government member does not support the recommendation because he says that staff have been encouraged by the minister and SA Health to put forward any proposals they wish for consideration in relation to Daw Park. If that were true, why is there then no mention of such opportunities in the EOI documentation? If it were true, how do EOI participants become aware of the SA Health staff proposals, proposals which could stimulate and inform their own proposals and highlight the very useful synergies. It is one thing to say that people are free to speak, it is another thing to put in place a process so other people get the chance to listen. The fifth recommendation is:

> That the veterans' community and the public be given at least four weeks to assess non-confidential information and comment on the short list of proposals coming out of the expressions of interest process.

The government member says that recommendation 5 is not supported because 'there was public consultation during 2005 that canvassed views about future uses for the Repat site, and this has been incorporated into the EOI document'. I am surprised that the government member opposes consultation on the outcome of the EOI process.

His position is completely at odds with the position of the Hon. Martin Hamilton-Smith, the Minister for Veterans' Affairs who, as both minister for Veterans' Affairs and as acting health minister, in a press release on 21 April 2015 said that, following the conclusion of the expressions of interest process, 'the veterans' community and the public will have the opportunity to have their say about the plans'.

In April the government was committed to consultation after the EOI proposals were in. What has changed, or is it just that the member for Waite is demonstrating yet again his impotence when it comes to standing up for veterans and his electorate? The sixth recommendation is that:

> The location of the PTSD Centre of Excellence be revisited following the conclusion of the Expression of Interest process.

The government member says that, 'whilst he supports the intent of the sixth recommendation, he considers it unnecessary'. I respectfully disagree with the member. The recommendation is necessary. His comment is the first indication that the government has given that it accepts that the decision of the expert panel needs to be reconsidered. If the government has accepted that reality I would be delighted, but one swallow does not make a spring. The seventh recommendation is, and I quote:

> That, in consultation with the Probity Auditor for the Expression of Interest process, SA Health brief all members of the Veterans Advisory Council, the Veterans Health Advisory Council and members of the oversight panel and working groups on Veterans Mental Health Governance on their responsibilities under the Public Sector Honesty and Accountability Act 1995, in particular in relation to conflicts of interest.

The government member says that he does not support recommendation 7. In his dissenting statement he says:

> The select committee admits in section 6 that it 'has no evidence of active misconduct', yet Recommendation 7 implies that there may be inappropriate behaviour.

Firstly, the member misquotes the report. The report states that the committee has no evidence of 'actual' misconduct not 'active' misconduct. The member goes on to assert that recommendation 7 is, and I quote:

> …an unacceptable slur on the reputations of the members of the Expert Panel.

I ask: how can it be? It does not mention the expert panel: it talks about the Veterans Advisory Council and the Veterans Health Advisory Council. Further, it talks about people being reminded of their statutory duties. It is no more a slur on anyone on those bodies than a road speed limit on the side of the road is a slur on all road users.

The member then goes on to criticise the committee for the fact that this is an interim report. He is upset that we have not addressed issues which will be considered in a future report, matters related to the probity of the expert panel process. He says that he finds it 'both disappointing and perplexing that this important issue was not included in the interim report'.

The fact of the matter is that the committee was clear in its interim report that this was a narrowly focused, time sensitive interim report tabled to address issues which relate to the expressions of interest process that is scheduled to conclude at the end of November. There is no point in recommending that a process be paused and broadened if it has already been completed by the time the report is tabled.

The committee was simply not in a position to finalise its consideration on all issues such as the robustness of the expert panel process. For one thing, the committee received a folder full of evidence from SA Health only one business day before it finalised its report. I would have thought that the government would want us to consider that information before we finished our deliberations on the broader issues.

With those comments, I commend the report to the council and urge the government to accept the recommendations as a matter of emergency if, indeed, they are committed to the best possible outcomes for the veterans.

The Hon. T.T. NGO (16:08): I rise to speak on this motion, which seeks to move the select committee's interim report. Being a member of the select committee, I consider that the evidence that this committee has heard so far does not support the recommendations currently within the interim report.

Witnesses have described a robust process which resulted in the decision to recommend Glenside campus as the future site for a centre of excellence for post-traumatic stress disorder (PTSD) and the Ward 17 services currently located at Repatriation General Hospital (RGH). This decision was based on the model of care developed by the independent expert panel during 2015 and the resultant requirements, both clinical and nonclinical.

I want to put particular focus on the seventh recommendation of the interim report. The select committee admits in section 6 of the interim report that it has no evidence of actual misconduct, yet recommendation 7 implies that there may be inappropriate behaviour. I consider this to be an unacceptable slur, as the Hon. Stephen Wade said, on the reputation of many members of the expert panel who are well regarded and dedicated advocates for many veterans.

The committee has, so far, spent a considerable amount of time—I repeat, a considerable amount of time—investigating whether the process used by the expert panel in choosing the Glenside site was biased towards a predetermined outcome, and whether all the expert panel members voted for the Glenside site, meaning the decision was unanimous, as stated publicly by both co-chairs of the expert panel.

The interim report has completely left out this part of the investigation. I find it both disappointing—of course, considering we spent so much time investigating these two matters—and perplexing that this important issue was not included in the interim report at all. Instead, a potential conflict of interest that a few witnesses mentioned sparingly and for which the committee found no evidence, featured predominantly in the interim report and was included in the recommendations.

That is what I found strange about this interim report. I do not mind if it mentions that, but it also mentioned the amount of time we spent investigating these two matters and they completely left it out. It is my view, however, that from the evidence provided to the committee so far, for the most part individual members of the expert panel have consistently outlined their full confidence in the robustness and frankness of its deliberations, as well as reflecting on the unanimous decision made in promoting the advice which it subsequently provided to the minister.

It is unfortunate that this has not been reflected in the committee's interim report. The absence of this evidence in the interim report shows that the committee only aims to undermine the credibility of the expert panel's advice to the minister, which was that Glenside campus should be the future site for the Centre of Excellence for post-traumatic stress disorder (PTSD) as well as the Ward 17 services currently located at the Repat General Hospital.

I will take this opportunity to paraphrase some of the comments that various distinguished members of the expert panel have made to the committee about their satisfaction with the process and deliberations of the expert panel. First, there is Mr Chris Burns, the presiding member of the Veterans Health Advisory Council. He has stated his opinion—

The Hon. S.G. WADE: Point of order, Mr Acting President.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): There is a point of order; the honourable member will resume his seat. The Hon. Mr Wade.

The Hon. S.G. WADE: It appears that the honourable member is about to reveal evidence to the committee which has not been brought before the council. I did not selectively quote to support my case; he should do the same. This is not what the interim report is about.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The honourable member will resume his seat. I am sure the honourable member will not be going into anything that was done in a deliberative sense in private.

The Hon. T.T. NGO: He has not heard my—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I ask you to continue your remarks with that in mind.

The Hon. T.T. NGO: I will start again. First, Chris Burns, the presiding member of the Veterans Health Advisory Council, has stated that in his opinion he does not believe that the expert panel process could have been conducted in a better manner. He believed the process to be open, engaging, egalitarian, inclusive and beyond reproach.

The Hon. S.G. WADE: Mr Acting President—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Just resume your seat. There is a point of order.

The Hon. S.G. WADE: Clearly, the member is suggesting that Mr Burns conveyed that information within the committee; that is the deliberations of the committee.

The Hon. T.T. NGO: I have not quoted.

The Hon. S.G. WADE: I am sorry, if the honourable member is not suggesting that Mr Burns said that within the committee, he should tell us where he found that, because it is remarkably similar to evidence that has not been brought to this council.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I think the honourable Mr Ngo needs to be very careful in the way he describes the way in which people have made statements and where they have made statements.

The Hon. S.G. WADE: He might be misleading the house if he suggests they said it elsewhere.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I am not sure that you have done that, so I think if you are going to continue quoting Mr Chris Burns you probably need to be clear about that, and I ask you to continue.

The Hon. T.T. NGO: I am not quoting Mr Burns. I am paraphrasing what he—

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): You need, I think, to be clear, if you are paraphrasing what he is saying, where he said that. I think that is something that you have not done at this stage.

The Hon. T.T. NGO: I have said it already. I am paraphrasing when he gave evidence.

The Hon. T.A. FRANKS: Point of order: it is disorderly for members to remark on the proceedings of committees still underway, and that is what the honourable member has just done.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): I think the Hon. Mr Ngo has probably got the message that he probably should not proceed any further. This is an interim report. Your committee has not finished. I ask you to continue your remarks, but be very cautious about the way in which you refer to evidence that has been given to the committee that is still sitting.

The Hon. T.T. NGO: Thank you, Mr Acting President. The evidence from various committee members has backed up my argument that the process of that—

The Hon. T.A. FRANKS: Point of order: the honourable member continues to refer to evidence from committee hearings which are not to be commented upon until that committee reports.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The honourable member has referred to evidence without saying who it is coming from, but it is still not appropriate for this, because your committee is still sitting. I would ask you—

The Hon. T.T. NGO: That's fine. I am not referring to anybody.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): No, I know that, but you are making reference to evidence that could be connected back to various people. I would ask you to continue your remarks—

The Hon. T.T. NGO: I am not naming anyone.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): No, there's no debate; I ask you to continue your remarks without treading that line. The Hon. Ms Franks, on the point of order.

The Hon. T.A. FRANKS: On the point of order, it may be perhaps advisable if the honourable member would refer to standing order 190 and absorb that before continuing his speech.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): We do not really have time for the honourable member to do that now. He can seek leave to conclude if he wishes.

The Hon. T.T. NGO: Alright. I made my points clear, Mr Acting President, so there is no point in going on—I could go on, but there's no point; I've said enough.

Debate adjourned on motion of Hon. T.A. Franks.

Bills

FARM DEBT MEDIATION BILL

Introduction and First Reading

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:18): Obtained leave and introduced a bill for an act to provide for the mediation of disputes between farmers and creditors relating to debt incurred in the conduct of farming operations; and for other purposes. Read a first time.

Second Reading

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:19): I move:

That this bill be now read a second time.

It gives me pleasure in one sense to introduce this bill, namely the Farm Debt Mediation Bill 2015. It has been some while in gestation. Members will recall that the Labor government appointed the former Liberal Premier, the Hon. Dean Brown, as their drought coordinator, I think was the role that the Hon. Dean Brown had back a few years ago during the millennium drought, in the 2006-07 period.

It was in conversations with Mr Brown some time ago, well before the last election, that he suggested we should look, from a beneficial point of view to some of our rural producers, at having mandatory farm debt mediation in South Australia. He thought it would be beneficial for negotiations between farmers and their creditors. I had that conversation some years ago, prior to the last election. Mr Brown and I thought it might be something that we should consider.

More recently, I have had some feedback from rural financial counsellors in the South-East, especially where, as members would know, we have had a particularly tough season. The last 12 months are the driest on record in some parts of the South-East. These rural financial counsellors say that on the Victorian side of the border there is mandatory debt remediation legislation in place—and there are in some other states as well—and that it works really well and that it would be beneficial to have that here in South Australia. I will go into some more detail shortly when explaining the bill.

We do have a sort of code for the Small Business Commissioner but it is not mandatory, so it is not binding on the banks, creditors or farmers to enter into it. As a couple of my farming colleagues have said to me, often this process will make people address certain financial circumstances a little earlier than perhaps they would have if there wasn't a process in place.

Of course, we have had the disastrous fires in the Mid North, and I suspect that some financial concerns will spill out of that disaster as well. It may be important to have this formal mandatory structure in place. I would hope and I suspect that in those circumstances the banks would be very considerate. Nonetheless, it is something that people who are involved in rural financial counselling and rural business support have said to me is something they are very keen to look at.

I did some preliminary consultation earlier in the year and showed the bill to a number of the banking fraternity here in Adelaide. Some were supportive and some were not so supportive. Nonetheless, I think it is important that we look at this particular mandatory framework in the light that it will give our primary producers just a bit of comfort that, if things do come to an awkward and unpleasant financial situation, there actually is a formal structure for them to use.

Federal minister Barnaby Joyce spoke at one stage about having a national farm debt mediation framework or legislation, although that has not been forthcoming as yet. Some would say, 'Why don't you wait until you have a national framework?' Well, the federal government does move a bit more slowly than the state government and we do have it in Victoria.

This is not dissimilar to the poppy situation, where we had poppies able to be grown on the Victorian side of the border but not the South Australian side, and I am delighted that the parliament has seen fit to support that. This is very similar. You will have farmers facing the same circumstances and operating, if you like, under different rules because of an old netting fence that we call the border.

Mediation is a structured negotiation process in which the mediator, as a neutral and independent person, assists the farmer and the creditor in attempting to reach agreement on the present arrangements and future conduct of financial relations between them.

South Australia has no legally enforceable bank mediation mechanism for primary producers. At present, two farm debt resolution procedures exist, including the Financial Ombudsman Service and the voluntary South Australian Farm Finance Strategy 2007, known as the strategy.

The strategy is essentially an agreement between the South Australian Farmers Federation (SAFF) and the Australian Bankers' Association (ABA) formed after a consultative process with the SAFF, the ABA, PIRSA, the Rural Financial Counselling Service SA and the Law Society of South Australia.

Of course, the Farmers' Federation no longer exists, so I am not sure of the actual status of that agreement because we now have Primary Producers SA (PPSA), so I am not sure whether that strategy is still in force. Further, it is not a legal document and does not impose enforceable contractual obligations on any party. The purpose of this document is for financial institutions, assistance authorities, rural organisations and primary producers to work together to improve farm viability and resolve financial problems.

The strategy provides for access to independent professional advice by Primary Producers, early recognition of financial problems, resolving financial problems by negotiation and voluntary mediation. Currently the Rural Financial Counselling Service SA (RFCSSA) (formerly Rural Business Services) provides farmers and other primary producers services in financial counselling and also offers a range of farm business management services to a broader range of agricultural businesses. The RFCSSA is a not-for-profit organisation primarily funded by the state and commonwealth grants until 30 June 2015, which was a few months ago. I think they have been funded on past that.

Legislation exists to facilitate farm debt mediation in New South Wales and Victoria, and the bill was introduced in 2003 in Queensland but for some reason was unsuccessful. The New South Wales relevant legislation is the Farm Debt Mediation Act 1994. The object of the act is to provide efficient and equitable resolution of farm debt disputes, and mediation is required before a creditor takes possession of a property or another enforcement action under a farm mortgage.

The New South Wales legislation establishes a process by which a creditor must not take enforcement action against a farmer until 21 days have elapsed after the creditor has given a notice indicating an intention to take enforcement action and of the availability of mediation. A farmer then has 21 days to notify the creditor that they wish to pursue mediation. Once a farmer has given notice, a creditor must not take enforcement action. There is an exemption. If a creditor refuses to mediate, a farmer may apply for a certificate of exemption from enforcement action.

The act also establishes the functions of the mediator, the process by which the mediator is selected, rules regarding representation and evidence to be presented during the mediation and the rules pertaining to a Heads of Agreement following a successful mediation. The corresponding Victorian legislation is similar to that of New South Wales with variances regarding the rules of mediation and a subsequent Heads of Agreement.

The main shortcoming of the current South Australian agreement is that it is voluntary; therefore, a bank or other creditor has no legal obligation to enter into mediation with a farmer. The farmer must rely on the goodwill of the bank or other creditor to demonstrate leniency. This is at times to the detriment of the farmer and does not promote an equitable approach aimed at achieving a positive result. The concern is that the bank or creditor will not always act in good faith or in the best interests of the farmer.

The RFCSSA is limited as it is a voluntary service that only 25 per cent of farmers in South Australia utilise. Given its voluntary nature, it is often bypassed or ignored by farmers and creditors, usually to the detriment of farmers. The RFCSSA has acknowledged this and will support proposed legislation enforcing mandatory mediation. It is worthy to note that since the global financial crisis, banks and financial institutions are less likely to lend money and increasingly likely to foreclose on a defaulting property without paying attention to individual circumstances.

Initial consultation with various stakeholders has seen support for the implementation of a legislative framework similar to that in place in New South Wales. The proposal has support from stakeholders on both sides of the mediation process. The view of the RFCSSA is that this legislation is fair and reasonable and they will support proposed legislation enforcing mandatory mediation. Primary Producers SA said the RFCSSA would be best to consult and they would support their position. However, PPSA did question whether the legislation was necessary.

It seems the views amongst banks are divided. The State General Manager of ANZ, Mr Kym Darcy, has signalled his bank would support the proposed legislation given the independence mediation offers. However, initial conversations with Regional Director of National Australia Bank in South Australia, Mr Malcolm Pridham, indicates support for the current model and nervousness that mandatory mediation may drag out the process and cause undue pressure on both parties. So, we are still in the process of consulting with the Australian Bankers' Association on this matter.

A report into the New South Wales act included surveyed data from all parties to the mediation process including farmers, creditors, mediators and representatives. Generally, the report found the act is achieving its objectives, that all participants in the farm debt mediation support the opportunity for farm debt mediation, and that farm debt mediation is cost-effective. The majority of farmers, and overwhelmingly, the majority of lenders, would use and recommend the mediation again.

The results of mediation under this act highlight the benefits of mandatory farm debt mediation, and, more specifically, 72 per cent of farmers reached a settlement. Positive settlements reported by farmers included: 37 per cent of the time farmers refinanced the debt; 27 per cent of the time the lender gave the farmer more time to pay; and 23 per cent of the time, the lender paid off part of the debt. Additionally, 60.7 per cent of the farmers felt positive after the farm debt mediation, and only 17 per cent had a negative response.

It should be noted that at a roundtable in late September 2014, federal Minister for Agriculture Barnaby Joyce flagged his intention to implement a national approach to farm debt mediation. As I said earlier, I have not been able to confirm timing and the details with the minister's office. Notwithstanding this, I believe this is an opportunity for the state Liberals and the state parliament to be on the front foot and implement some positive legislation.

I will summarise some of the key components of this bill. It is my intention to table this today, speak to it, and then certainly go out and consult more widely and obviously speak to the Minister for Agriculture and other members of the government so that we can at least have a debate next year, when parliament resumes. I will reiterate some of the key components.

A creditor who proposes to take enforcement action against a farmer under a farm mortgage must, before doing so, give written notice to the farmer. A creditor must not take enforcement action until the expiry of the period of 21 days from the day that notice is given. The notice must state that, under this act, mediation between the farmer and the creditor is available. A farmer who is liable for debt (whether or not the farmer is in default) may request mediation under this act.

A farmer who is given a notice may, within 21 days from the date the notice was given, notify the creditor in writing that the farmer requests mediation concerning the farm debt involved. A creditor who receives a request for mediation from a farmer may, by written notice given to the farmer, agree or refuse to participate in mediation in respect of the farm debt involved.

If a creditor refuses to participate in mediation with a farmer who has made a request and the farmer is in default, the farmer can apply to the Small Business Commissioner for a prohibition certificate, preventing the creditor from taking enforcement action against the farmer for up to six months.

Conversely, the creditor is entitled to apply for an exemption certificate if the farmer is in default under the farm mortgage, no prohibition certificate is in force against the creditor, and a mediation: has taken place by no settlement was reached; has not taken place due to the farmer's refusal; or has not taken place within three months after the service of the initial notice and the creditor has attempted to mediate in good faith.

The exemption certificate allows the creditor to begin enforcement proceeding and remains in force for varying periods of time depending upon the steps previously taken under the act. If the minister receives notice that a creditor and a farmer have agreed to participate in mediation, the minister must refer the details of the parties to the Small Business Commissioner for mediation as soon as practicable.

These are just some of the key elements of the bill. Given the difficult circumstances in the South-East or the Limestone Coast area, it seems that somewhere in this state each year there is a tough season and variable rainfall. I know the Minister for Environment has been baiting us on this side that we are not interested in climate change and all the other things associated with rainfall variability, but sadly we are seeing a higher variability across the state. The South-East is a good example.

It is very rare to have two poor seasons in a row. Often in those areas where there has been a very rare occurrence of two poor seasons in a row, people have some level of confidence, and banks have a level of confidence in lending quite significantly against the farm assets because there is always next year, or there will be a good season.

I think we need to make sure that we have all the tools in our kitbag for dealing with whatever circumstances may face us in the future. As I said earlier, the Labor-appointed former drought coordinator, the Hon. Dean Brown, had mentioned to me on several occasions that it was something worthwhile and we that should pursue it. Clearly, it works well in Victoria and New South Wales. Rural financial counsellors have said to me that they thought, given the circumstances of the season, we could see a number of defaults on loans in the South-East. It may be an opportunity that, if we have this framework in place and have a mandatory mediation process, it may just help all parties involved. With those words, I commend the bill to the house and look forward to further debate when parliament resumes next year.

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

Parliamentary Committees

JOINT COMMITTEE ON THE OPERATION OF THE TRANSPLANTATION AND ANATOMY ACT 1983

The Hon. T.A. FRANKS (16:35): I move:

That the final report of the committee be noted.

I was pleased to serve on the committee that has produced this report. It was ably chaired by the member for Taylor, Ms Leesa Vlahos, and consisted of myself; yourself, Mr Acting President, the Hon. John Dawkins; the member for Elder, Ms Annabel Digance; the member for Davenport, Mr Sam Duluk; and the Hon. Kelly Vincent of our own chamber here. It was, of course, a rarity in this parliament to be a joint committee of the houses, and I would say it was undertaken with the best of spirits of cooperation between the houses.

It was a committee that received five written submissions and took evidence from 13 witnesses, as well as auxiliary information. Some of the recommendations that will be put forward by this committee aim to address the issues of strengthening our safeguards against organs sourced by unethical and illegal means being used, or South Australians being involved in what is called organ transplant tourism. There are some more basic recommendations which simply seek to modernise the workings of the current act, and I certainly thank those committee members who devoted their time to ensuring not only that more mundane work be done, but indeed to provide some recommendations for the consideration of this parliament and of the government to ensure that we address the unethical, immoral and illegal trade of organ harvesting.

According to the 2014 data, South Australia has the highest per capita organ donation rate amongst all states in Australia. Our state has a proud tradition of ensuring that we facilitate best practice transplant processes in Australia and around the world, and indeed this year South Australia celebrated 50 years of success in kidney transplantation. There was some evidence that there are small changes that can be made to make our performance in this area even better and more streamlined, and certainly to give protections to those both who are from the donor family or friends and also of course those who receive transplants and are no doubt very grateful for that receipt.

The committee addressed, as I say, the quite disturbing issue of organ harvesting. We did hear evidence from those in our own state who had lived under regimes where forced organ harvesting is practised and who had felt threatened by that practice. They were quite compelling in their pleas to the South Australian government to take action where we can. As the member for Taylor stated in the other place in her contribution to this report in that house, we should not wait until we see such practices evident in our own jurisdiction or indeed become rife in our region before acting.

It is not the situation where we should wait to see failings in our laws and then be caused to address them in a time of urgency, as we have with some of the areas of surrogacy. This is an area where this government can take global leadership and ensure those citizens in our jurisdiction and those residents of South Australia are heartened by the leadership of their government in this state against this awful, horrible, cruel, illegal and unethical trade in forced organ transplants. With those few words, I look forward to the contributions of other members in coming weeks and, indeed, to a positive response from government in future months.

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

STATUTORY AUTHORITIES REVIEW COMMITTEE: INQUIRY INTO THE STATE PROCUREMENT BOARD OF SOUTH AUSTRALIA

The Hon. G.A. KANDELAARS (16:40): I move:

That the report of the committee's Inquiry into the State Procurement Board of South Australia be noted.

The Hon. G.A. KANDELAARS: I am pleased to present the 62nd report of the Statutory Authorities Review Committee, on its Inquiry into the State Procurement Board of South Australia. The committee resolved on its own motion to inquire into the practices and processes of the State Procurement Board of South Australia following public concerns about the cross-government stationery contract. During the inquiry, the committee received evidence that broadly fell into two

categories: first, specific concerns about the tender process for the stationery contract and, secondly, broad concerns about the board.

Under its legislation, the committee is charged with a remit to consider the functions, structure and operations of statutory authorities and, as such, the committee considered the stationery contract as a case study of the board's operation. The committee notes that the board's role in the contract was limited to approving the acquisition plan and authorising the Chief Executive of the Department of Premier and Cabinet to approve the purchase recommendation. The committee notes that the board had no further involvement in the stationery contract after this point and received no formal complaints in respect of it.

One of the board's statutory functions is to develop and review procurement policies for public authorities. The stationery contract highlighted a number of specific issues in the board's policy framework. These included the definition of value for money, industry participation, and how supplier complaints are investigated. The committee notes the board has subsequently amended the supplier complaints policy in response to feedback from the committee.

After carefully considering the evidence, the committee made five recommendations in its report, intended to strengthen the framework of the State Procurement Board and promote industry participation within government. Some of those recommendations go to the point of avoiding conflict of interest, real or perceived. The committee recommended that members of the state executive service not serve as chairs of the State Procurement Board. It also recommended, importantly, that the State Procurement Board have practical knowledge and experience or expertise in small business. I think those are critical recommendations.

On behalf of the committee, I take the opportunity to thank businesses, community organisations, government departments and the State Procurement Board for providing evidence to the inquiry. I would also thank members of the committee, the Hon. Dennis Hood MLC, the Hon. Rob Lucas MLC, the Hon. Tung Ngo, and the Hon. Stephen Wade, for their commitment to this inquiry. I would also like to acknowledge former members of the committee for their contribution in this inquiry: the Hon. Ann Bressington, the Hon. Terry Stephens MLC, and the Hon. Carmel Zollo for her leadership of the committee.

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

NATURAL RESOURCES COMMITTEE: ANNUAL REPORT 2014-15

The Hon. G.A. KANDELAARS (16:45): I move:

That the report of the Natural Resources Committee, 2014-15, be noted.

The 2014-15 year has been another busy one for the Natural Resources Committee. Membership of the committee has remained unchanged from the previous year, with all members of the 53rd parliament first session continuing into the second session. The committee staff, however, has changed since the previous reporting period. Former research officer, David Trebilcock, retired late in 2014, and I note his tremendous contribution to the committee over the four years that he was the research officer. He was subsequently replaced by Ms Barbara Coddington. The position of executive officer, held by Patrick Dupont, remained unchanged during the reporting period, providing continuing support to the committee.

Over the reporting period 1 July 2014 to 30 June 2015 the committee undertook 23 formal hearings, totalling 62 hours, and took evidence from 77 witnesses. Seven reports were drafted and tabled: the annual report for 2013-14, the Kangaroo Island natural resources management (NRM) regional fact finding visit report, and five reports on the NRM levy proposals for 2015-16. The committee has regular responsibilities to consider NRM levies and to visit NRM regions to observe work done under the auspices of the regional NRM boards, and the staff of the Department of Environment, Water and Natural Resources (DEWNR).

The committee takes its responsibilities very seriously and endeavours to visit all NRM regions over the course of the four-year parliamentary term in order to meet on the ground with natural resources managers and community members. The committee prides itself on arranging and attending regional hearings and fact finding visits. Hearings are transcribed by Hansard officers, who travel with the committee to record proceedings, although I must say that that rarely occurs.

With on-site visits, however, where Hansard is not available, the committee does its best to navigate around and compile records of evidence for inclusion in its report using information technology, which includes mobile smartphones, a laptop computer, a digital audio recorder and a digital camera. Unfortunately, there are presently no suitable phones or laptops available for committee staff to use when out of the office, and this is a general concern of the committee. Staff are forced to actually use their own personal property.

The use of appropriate IT support for committee has been raised with management on a number of occasions, and the committee is optimistic that in the very near future arrangements can be made for committee staff to have access to suitable laptop computers and other appropriate ITC resources, which the staff require to do their job effectively and safely when out of the office. In addition to its NRM responsibilities, the committee generally aims to undertake an additional inquiry. For the 2014-15 period the committee resolved on 17 October 2014 to inquire into aquaculture.

However, shortly after this the committee was referred an additional inquiry into unconventional gas (fracking) by the Legislative Council on 19 November 2014 on the motion of the Hon. Mark Parnell, as amended by the Hon. Tammy Franks, pursuant to section 16(1)(a) of the Parliamentary Committees Act. Due to the overwhelmingly strong interest in the fracking inquiry, the aquaculture inquiry has been delayed temporarily, and members are looking forward to getting back to it in 2015-16.

The terms of reference for the inquiry into unconventional gas include potential risks and impacts in the use of hydraulic fracture stimulation (fracking) to produce gas in the South-East of South Australia and in particular: the risks of groundwater contamination; the impact upon landscape; the effectiveness of existing legislation and regulation; and the potential for net economic outcomes for the region and the rest of the state.

After the inquiry was advertised on 26 November 2014, more than 175 submissions were received and evidence has been taken from 32 witnesses at 10 public hearings held in Adelaide and in the South-East. Much of the evidence received has been of high quality and will be integral to the committee's report and to developing recommendations.

In February 2015, the committee made a fact-finding visit to Millicent in the South-East to take evidence from local communities and visit sites relevant to the inquiry. In total, two fact-finding visits were undertaken in 2014-15: one to the Kangaroo Island NRM region; and one to Millicent to take evidence as part of the committee's inquiry into fracking and unconventional gas.

I commend members of the committee—the Presiding Member, the Hon. Steph Key MP, who does a marvellous job in keeping the committee on track; Mr Jon Gee MP; Mr Chris Picton MP; Mr Peter Treloar MP; the Hon. Robert Brokenshire MLC; and the Hon. John Dawkins MLC—for their contributions. All members of the committee have worked cooperatively throughout the year. Finally, I should thank the parliamentary staff, that is, the executive officer, Mr Patrick Dupont, and Ms Barbara Coddington for their assistance over the year. I commend this report to the council.

The Hon. J.S.L. DAWKINS (16:52): I rise very briefly to support the remarks of the Hon. Mr Kandelaars, and certainly I will not at any stage repeat what he is has said, but I think the Natural Resources Committee remains without a doubt one of the most active in the parliament, if not the most active, and it certainly deals with a wide range of issues. There is the obvious connection we have to the NRM boards and the deliverance of their levies, and there is obviously always some controversy about that.

One thing there has been some controversy about in recent times is the Western Mount Lofty Ranges being involved in the payment of levies and, of course, one thing that we must remember is that those issues were raised by the Hon. Michelle Lensink as the shadow minister for environment about 12 months ago, and she spoke to the chair of the committee and got our committee to have a look at that. As a result, the Adelaide and Mount Lofty Ranges NRM board reduced the levy amount not only for those people who were paying the levy for the first time, but also for other people throughout that region. There is a very large number of people throughout that region—the vast majority of the population of the state. I think that shows that the committee can respond to issues that are raised by other members of parliament who are not on the committee.

That leads me also to the fact that in the inquiry that we are currently doing into unconventional gas fracking, there is input from other members of parliament in this chamber and, of course, the other place, about the committee's role there, and there is certainly interest in the evidence that we have taken in the South-East of the state. A number of members from this place and the other place, as I said, have taken great interest in the work of that committee. I know that in the new year we will take evidence from a number of members of parliament on that inquiry.

I also wish to refer to the staff of the committee, particularly in relation to the retirement of Mr David Trebilcock who was passionate in his pursuit of knowledge about the environment. He was also rather famous in our committee for coming up with titles for reports which sometimes got through the system and sometimes did not. I am not a great fan of putting titles on reports, I must say, but certainly we miss David's passionate work. I do not think anybody could ever deny that.

His successor is Barbara Coddington who has a terrifically wide background, having at one stage worked up in the lofty heights of Hansard so she has some experience in dealing with us that goes beyond her committee experience. She also has wide experience, having worked for the South Australian Murray-Darling Basin NRM board and, of course, in coming from the United States she has added to the work she does for us.

The committee is one that prides itself on getting out into the regions. We have had a few challenges in recent years in getting to the southern part of the AW NRM board. We are, I think, expecting that in April or May (I am not sure but certainly in that period of next year) we will be going to the southern region of the AW board, so I look forward to that.

Like the Hon. Mr Kandelaars I pay tribute to the work of the presiding member, the Hon. Steph Key who keeps a number of us—the remainder of the committee are all males so she keeps us under control pretty well.

The Hon. R.L. Brokenshire: Limits our questions.

The Hon. J.S.L. DAWKINS: Even my colleague over there, the Hon. Mr Brokenshire, she keeps under control pretty well.

The Hon. R.L. Brokenshire: She does; I'm scared of her.

The Hon. J.S.L. DAWKINS: Perhaps I should put that on the record: that the Hon. Mr Brokenshire said he is scared of the Hon. Steph Key. With those few remarks I endorse the comments of the Hon. Gerry Kandelaars and I look forward to continuing to work on that committee. It has been a pleasure to be part of it for I think about six years now. With those remarks I commend the report to the council.

The Hon. R.L. BROKENSHIRE (16:59): I rise to support this report of the NRC, well set out in *Hansard* by the Hon. Gerry Kandelaars and the Hon. John Dawkins, my colleagues. I also have the privilege of being on that committee. It is a committee that works hard. It is arguably the hardest committee in the parliament for its workload and delivery, and it is a privilege and a pleasure to be on the committee.

The Hon. Steph Key does a great job as Chair. I would also like to commend the staff, who do a brilliant job and who work hard with all these reports and all the evidence and facts in our reports. That is why I generally do not speak. I have signed off, like most other members, on them, and I leave them for my colleagues, the Hon. Gerry Kandelaars and the Hon. John Dawkins, because I endorse their remarks. With those few words, I commend the report to the house.

Motion carried.

Bills

RESOURCE OPERATIONS OMBUDSMAN BILL

Introduction and First Reading

The Hon. R.L. BROKENSHIRE (17:00): Obtained leave and introduced a bill for an act to establish the office of the Resource Operations Ombudsman; to provide for the making and resolution of complaints regarding issues related to the conduct of resource operations; and for other purposes. Read a first time.

Second Reading

The Hon. R.L. BROKENSHIRE (17:02): I move:

That this bill be now read a second time.

This bill is a very important bill. This is another attempt for Family First, and my privilege as one of their members, to see some justice put into the state when it comes to farming and mining. I know that the government has had lots of issues in coming to terms with the fact that it is pro mining as against farming. I know that the Minister for Mining is far more vocal and proactive in the areas of promotion of mining than is the agriculture minister, whom I do not hear out there championing the cause for farmers.

As the shadow minister for agriculture said, the agriculture minister does get distracted on a lot of fronts, but we will not go there now, because we have busy business in this house and we cannot be flying around over issue after issue because we do not have frequent flyer points in the Legislative Council.

To get back to the intent of this bill, it is to combat issues where mining companies disregard the concerns of farmers or other affected parties in relation to accessing land, lease and licence agreements; to provide an effective grievance mechanism which is legitimate, accessible, predictable, equitable and transparent; to create an effective institution that provides fair and equitable redress for affected parties; to create an institution which advises of legal rights and obligations and, most importantly, is independent of the government, mining and farming industries; to minimise cost and time burden on parties with a view to limiting legal actions.

Just on that, to be fair, the agriculture sector acknowledges mining and it knows the importance of mining, but it wants a fairer and more level playing field when it comes to the fact that agriculture is still the primary—and with its sustainability will continue to be the primary—primary industry in South Australia.

It is not fair when farmers and their families have to sometimes spend $100,000 just on legal advice to defend their rights. We do not have an ombudsman for education. We should have an ombudsman for education. We are trying to get an ombudsman for education. But we do have an ombudsman for health and for community service complaints. We have a general ombudsman. There are lots of examples of where we have ombudsmen, and those ombudsmen do a great job and important work—the police ombudsman.

We are not changing the intent and purpose of the Mining Act here: we are simply giving an umpire opportunity through an ombudsman to those people who in one way or another are affected by the actions of minors. There are three basic functions:

1. Complaints handling: receiving and investigating community complaints and making detailed recommendations to the communities, the company and, where needed, to the industry.

2. An advisory role: providing advice to industry and government on developments required in policy and standards.

3. Compliance: ensuring that companies comply with the recommendations from the complaints mechanism and that the industry implements appropriate standards and policies.

I have always said that you should not have regulators sitting underneath and being responsible and answerable to the chief executive officer, who first and foremost has to drive progressive mining opportunity. We have the courts, we have police and we have a parliament; we have separation of powers. This would actually give separation regarding the regulatory, management and mediation to be (1) there, because I argue that it is not always there at the moment, and (2) totally independent of DMITRE. The guiding principles are:

1. Independent from stakeholders, especially the mining industry, industry consultants and associations.

2. Funding that is transparent to ensure independence and impartiality, and to ensure the mechanism is free of charge to complainants, as is the case with other ombudsmen. I will just put on the public record that this can be funded. I would already refute any argument from the

government that they cannot afford to fund this, because they can. They can simply do that through some restructuring within the department.

3. Accessibility of information to affected parties, communities, councils and stakeholders, available at all stages of the mine operation.

4. Accountability and transparency that includes public disclosure of investigation results to ensure transparency, trust and accountability.

5. Compliance monitoring, something that we have seen on the Natural Resources Committee, where we have had serious concerns about the lack of compliance monitoring.

Regarding the benefits of this bill, we recognise that the private sector can be a driver of economic growth, which is needed in South Australia. Appropriate legislative and regulatory schemes for mining are required and are arguably already in place; however, an independent body monitoring compliance, grievance and acting in an advisory capacity is required. This would improve:

- compliance with mining legislative and regulatory requirements;
- compliance with best practice for mining—and I have examples where it has been far from best practice with some mining, not necessarily from junior miners, I might say;
- compliance with obligations under their respective mining lease or licence, specifically in relation to degradation of land—and this is where I am talking about examples I have seen with a major minor—degradation of waterways and failure to appropriately rehabilitate land. However, this list is not exhaustive; and
- compliance with entry agreements and any other agreements made with farmers or landowners.

It would also:

- create an independent body specifically advised on issues relating to mining, because currently no independent body exists within South Australia;
- provide timely legal advice to affected parties;
- provide dispute resolution, including reducing financial and time burdens placed on the parties, and the stress, I might add, most specifically to farmers;
- create a mechanism to address and hopefully limit the power differential between mining companies and farmers; and
- improve transparency within the mining industry through regular reporting of issues to the parliament of both the investigations and annual reports.

The powers of the ombudsman include the broad powers to investigate, review, monitor compliance in relation to general mining, fracking, gas and petroleum exploration. Investigation can be commenced on receipt of a complaint or of the ombudsman's own initiative.

The ombudsman will be able to undertake administrative audits; receive complaints and concerns—not abiding by licence agreements and conditions; entry agreements; failure to rehabilitate the land; pollution issues of dust, noise, soil; breaches of relevant acts—make recommendations to the government and industry; provide independent advice as to the rights of each party's processes and procedures, legal obligations under the current legislative system whilst still maintaining impartiality and independence.

It is not intended that the ombudsman advise a party on a matter before the ombudsman but rather be able to give clear, easy to obtain, impartial advice in the first instance about legal rights and obligations of a party. The ombudsman will have alternative dispute resolution powers as to facilitate an agreement between parties; and, as other ombudsmen have, this needs the same powers of a royal commission.

I want to comment briefly in my wrap up of media comments. My interest is about getting a balance between mining and agriculture. As I said earlier, that is not the case at the moment. The

mining industry knows that, the government knows that. We want to see a strong and vibrant mining industry, but we have a lull at the moment which is unfortunate for our economy, but where there is a negative there is also a positive. That positive is that this gives us a chance now to put this mechanism in place for when the mining boom returns, not to work against mining exploration and mining extraction, but to give some equity and fairness back to our agricultural community and their families.

I believe that the farmers on Eyre Peninsula have not had a fair go when it comes to the Mining Act. I have been over there many times and met with farmers and these are sustainable farmers—generational farmers, many of them—who will produce food for hundreds of years into the future, increasing production per hectare year in, year out. As tough as it has been this year, so far in a lot of areas there have been pleasant surprises at just how the grain yields have still been there and, if we had more money put into research and development—and we will need to with climate change—that would continue to underpin the sustainability of the farmers.

I beg to differ with the Hon. Tom Koutsantonis, the Treasurer and Minister for Mining, that farmers expect more here than anywhere else in Australia. That is not true. Farmers do not expect more. I remind this chamber of the house where the Treasurer sits. Not only is the carpet green, it has motifs of wine grapes and wheatsheafs, not by accident because some interior designer decided that it would look nice in the House of Assembly, but it is there to make a statement that this state was built and developed and continues to prosper as a result of agriculture. That is a reminder that all members of the House of Assembly especially should take on board every time they go into their chamber.

We need to have a mining act that is more balanced and fair towards farmers. At the moment those people within the department who are charged with being proactive in getting mines up in South Australia also do the regulation. I am arguing there needs to be a review of the act and we need an independent mining ombudsman for the farmers and the community per se. We have seen what happened when a general review of the act came in or significant numbers of amendments. The reality was that push came to shove and the South Australian Chamber of Mines and Energy (SACOME) got their way.

I say to the CEO, who I have had many talks with, and to SACOME as an industry association, to please look at this in a fair and reasonable way. This will not work against what you want to do in developing the mining industry. It simply makes it fairer for our farming community. DMITRE is the agency that is responsible for licensing approvals and regulating mining licensing conditions. Bringing an ombudsman in there would provide an independent umpire, particularly regarding regulation of the licences that have been approved.

I have worked with farmers across the state. They are all subjected to unprecedented exploration and possible mining ventures occurring, and the Mining Act does not produce fair legislation for farmers. Whether it is Eyre Peninsula, the Mid North, Yorke Peninsula, parts of the Mount Lofty Ranges and also the South-East, the reality is that, of the 6 to 7 per cent of prime agricultural food production land that we have, all of those areas are potentially under threat.

Look at the aeromagnetic surveys; look at what is happening. There is a lot of exploration still occurring, and there will be a lot of intellectual property there when the mining recovery occurs. As I said, it is not quite balanced enough for farmers. Farmers have to go through—pardon the pun—a minefield to actually be able to find out what their rights are. If we are going to grow mining and also grow farming, I think it is time that we allow farmers and other people the right to access an independent mining ombudsman. I commend the bill to the house.

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

EVIDENCE (JOURNALISTS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 14 October 2015.)

The Hon. A.L. McLACHLAN (17:17): This matter is to move through into committee and vote today, so at this stage I will sum up, as there have been no other contributions in relation to the bill. I understand the government will be opposing this bill. I have set out in my second reading the motivations of the Liberal Party in introducing this bill again.

The provisions of the bill are well known to the members of this chamber, given that previous iterations of the bill have journeyed through this place on more than one occasion. I remind members that the provisions have the support around the federation and, in particular, certain states. I especially remind the Labor members that similar provisions have found favour with their federal colleagues.

Executive power is constantly growing. The traditional role of the parliament is being undermined. It is therefore increasingly important that we enable the media to hold the executive to account for its decisions and actions. Strong media are essential for a functioning democracy. This bill seeks to ensure our media remain strong and effective. I would also like to pay tribute to the Hon. John Darley, who originally pursued this legislation, and I commend the bill to the chamber.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. A.L. McLACHLAN (17:21): I move:

That this bill be now read a third time.

Bill read a third time and passed.

Motions

UNITED NATIONS ANNIVERSARY

Adjourned debate on motion of Hon. J.S. Lee:

That this council—

1. Congratulates the United Nations for celebrating its 70th Anniversary in 2015;

2. Acknowledges the significant work and commitment of the United Nations in global development and respecting the principles of equal rights and self-determination of all peoples and international co-operation in solving economic, social, cultural and humanitarian problems around the world;

3. Recognises the local South Australian branch, namely United Nations Australian Association-South Australia (UNAA-SA), and the longstanding commitment made by their committee, volunteers and community leaders in bringing global concerns to the forefront of South Australia's community; and

4. Congratulates the United Nations South Australia Branch for its remarkable efforts in organising many innovative and visible community events to commemorate its 70th Anniversary in 2015.

(Continued from 18 November 2015.)

The Hon. G.A. KANDELAARS (17:22): I rise to speak in support of this motion. Seventy years ago, representatives of 50 countries met in San Francisco to draw up the United Nations Charter. The Charter was signed on 26 June 1945 by representatives of 50 countries. The UN officially came into existence on 24 October 1945, when the Charter was ratified by the majority of signatories.

Australia played a key role in the formation of the UN through the leadership of Dr Herbert Vere Evatt. Doc Evatt, as he was known, is particularly recognised for the prominent part he played at the San Francisco conference in 1945. Doc Evatt went on to become the third president of the UN, from 1948 to 1949, and helped draft the UN Universal Declaration of Human Rights.

The underlining principles and purpose of the UN are to maintain international peace and security, to develop friendly relationships amongst nations, and to achieve global cooperation. These principles are consistent with the values of the South Australian government and in particular with the government's policy on international engagement and multiculturalism.

It should be noted that every day the UN feeds the hungry, shelters refugees and vaccinates children against deadly disease. Every day, the UN defends human rights for all, regardless of race, religion, nationality, gender or sexual orientation. The UN played a key role in dismantling colonialism, bringing freedom to millions. It was at the forefront in mobilising the world to defeat apartheid. UN peacekeepers are on the front lines of war; their mediators often bring warriors to the peace table.

Despite the best efforts of the UN, there has still been genocide, war and immeasurable atrocities suffered by far too many people. Ban Ki-Moon, the eighth and current Secretary-General of the UN, tells us the conflict has forced more people to flee their homes today than at any time since World War II.

In this critical time of world history, people and nations of the world should be striving to support and strengthen the UN. In this respect, we must pay special tribute to the South Australian division of the United Nations Australian Association ably led by John Crawford and supported by Vice President Lidia Moretti and John Langton.

The United Nations Australian Association plays an important role in supporting the work of the UN. Fifteen years ago, the UN adopted the Millennium Development Goals. These goals have not all been met. They are credited with contributing towards significant global gains in halving the number of people worldwide living in extreme poverty, providing greater access to education and health care in the developing world and a reduction in hunger.

The UN's annual General Assembly has recently launched the sustainable development goals that are designed to galvanise and guide the world's effort to eradicate poverty and end hunger and address climate change by 2030. It is worth recognising a South Australian link to this landmark General Assembly of the UN.

On 25 September 2015, Ms Sowaibah Hanifie was among four young Australians who attended the Global Youth Summit—a side event on the UN annual General Assembly in New York. Sowaibah is a journalist student at the University of South Australia and an event organiser for the Islamic Society of South Australia. Earlier this year, Sowaibah impressed us when she addressed guests at the Premier's reception to celebrate Eid al-Fitr in Old Parliament House.

When considering the United Nations Australian Association, South Australia Division, it would be remiss not mention the contribution of Ms Heather Southcott. Heather died in November last year, having provided decades of leadership in the South Australian division. She was President from 1984 until 2012—a remarkable period. In 2007, she was honoured by UNESCO for her work in human rights and, in particular, her commitment to refugees. She and other dedicated members of the United Nations Australian Association, South Australia Division have done much to make this world a better place.

The association has a reputation for holding visible events to draw attention to important issues. Earlier this year, for example, it held a remarkable event at Joe's Kiosk, Henley Beach, to mark the 70th anniversary of the UN. The theme was 'Strong UN. Better World.' which was aptly tied with the celebration of multicultural Australia through a painting by the surrealist installation artist, Andrew Baines. The painting featured prominent South Australians of diverse backgrounds standing in the icy Henley Beach water in multicultural costumes. They included:

- the Hon. Hieu Van Le AO, Governor of South Australia;
- the Hon. Zoe Bettison MP, Minister for Multicultural Affairs;
- the Hon. Grace Portolesi, Chair of the South Australian Multicultural and Ethnic Affairs Commission;
- the Hon. Chris Kourakis SC, Chief Justice of the Supreme Court;
- Mayor Angela Evans, City of Charles Sturt;
- Ms Laura Adzanku, representing the African community;
- Mr Joe Scalzi, President of the Italian Carabinieri Association;

- Mr Jock Zonfrillo, native food chef and restaurateur at Orana;
- Ms Sarika Young, Indian dancer and director of a modelling academy; and
- Sonia Feldhoff, the well-known ABC 891 radio presenter.

There is no doubt that the United Nations Australian Association, South Australia Division, is recognised for many things that really matter to our world and then does what it takes to bring those matters to the public attention.

The Hon. T.A. FRANKS (17:30): I rise to offer support to this motion on behalf of the Greens, congratulating the United Nations for celebrating its 70th anniversary in 2015, and acknowledging the significant work, not only at a global level, but also the work of the local South Australian branch, the United Nations Australian Association-SA, and the long-standing commitment that volunteers and community leaders have made in bringing global concerns to the forefront of the South Australian community's workings.

I particularly want to add my congratulations and echo the words of the motion: 'congratulates the United Nations South Australia Branch for its remarkable efforts in organising many innovative and visible community events to commemorate the 70th anniversary'. South Australia was in no way alone, in fact the world turned blue for the United Nations 70th year. It has been 70 years since the United Nations inception, when it was, of course, born of the horrors of World War II, after the failure of its predecessor, the League of Nations. The United Nations heralded the dawn of a new era, an era that gives a promise that peace-loving nations will join together to ensure international peace and security, development and human rights. In many ways the United Nations has filled that very big promise.

The United Nations Association of Australia-SA Branch is known to me through being my work neighbours when I worked for Amnesty International in the late 1990s and early 2000s and when I went on to work for the YWCA, which is the world's oldest and largest membership human rights organisation for women. The United Nations Association of South Australia is driven by that premise in a quote that is often attributed to Margaret Mead, that is, 'Never doubt that a small group of thoughtful committed citizens can change the world; indeed, it is the only thing that ever has.'

Heather Southcott, AM, the former president and stalwart of the United Nations Association of South Australia was, indeed, one of those thoughtful committed citizens, and I echo the words of my colleague, the Hon. Gerry Kandelaars, in congratulating and commemorating her work. She has, sadly, passed away, but her legacy will live on. She was certainly someone who I have long looked up to and learnt from as I embarked on a working career in the human rights field and in the women's sector. She is an amazing South Australian icon and a woman of whom South Australia should be very proud.

Other members of the UNAA-SA that I have had the pleasure to know of through my work at Amnesty and at the YWCA include John Crawford, Rosemary McKay, Justin McCarthy and Ruth Russell, but there are so many more. Their work really does strengthen the wonderful work of the UN.

My closest contact with the actual physical UN was when I had the privilege of being the YWCA of Australia delegate to the Commission on the Status of Women (Beijing +10) conference at the United Nations from February to March 2005. It certainly was an experience where I saw human rights made real and human rights in the amazing *Star Trek*-like building of the UN in New York. That experience changed my life but, of course, the UN and its work changes so many more lives in a much more meaningful way than having had that experience.

In terms of the connections that I made through my involvement in that particular United Nations conference, I always remember the wonderful Libby Lloyd. At that time, Libby Lloyd, who was of the then UNIFEM, now UN Women, had a gleam in her eye for an idea, and that was the idea of White Ribbon Day, and she was talking to me about who she might approach to be an ambassador, and she had the idea that Andrew O'Keefe, then known more for probably his personality on television, than indeed his quite substantial human rights work, where he was involved with the Public Interest Advocacy Centre in New South Wales for some time, was a fine choice for that White Ribbon ambassadorial role.

The work of White Ribbon Day comes from one of the principles of the discussions that focused our minds at that particular conference, and that is, the role of men and boys in addressing violence against women. Back in 2005, it was actually still quite a radical idea that men and boys would take leadership on the issues of violence against women and their children.

At that time, the movement was very small, and I must say it has been amazing to watch, particularly the White Ribbon movement in this country and across the world play out, and the role of men and boys in standing against, and not accepting, violence against women. That is down to, again, a few small, thoughtful citizens working through processes and institutions such as the United Nations to effect incredible and profound change.

The United Nations, as it reaches its 70th birthday, has had eight secretaries-general, all of them men. As Ban Ki-Moon's tenure comes to an end there is, if you observe the United Nation's website at present, a growing sense and urgency that it is time for a woman to lead the world body. For the first time since its conception, almost 25 per cent of the member states of the UN, in fact, believe that the next secretary-general should be a woman; and 42 countries have signed a document declaring that the time has come for a woman to hold the highest position.

The movement has powerful backers with a new Group of Friends in favour of a Woman for Secretary General, including two of the largest contributors to the UN budget, being Japan and Germany. I must pay tribute to the campaign to elect a woman UN secretary-general campaign, chaired by Krasno, which has compiled a list of some outstanding women who they say are qualified for the job of secretary-general and I would concur.

Some of the names being put forward include Irena Bokova, head of UNESCO; Kristalina Ivanova Georgieva, an economist and EU commissioner; Michelle Bachelet, the President of Chile and former head of UN Women; and more known to us in South Australia and in Australasia, the former prime minister of New Zealand and current head of the UNDP, Helen Clark.

Certainly any of these women will be not just highly qualified but inspirational, and I must concur with the words of Mary Robinson, a former president of Ireland, former high commissioner for human rights, and a member of the Elders, an independent group of global leaders, who has said:

> Women very often have a different way of leading, which could reinvigorate the United Nations as a whole, because there is more listening, being inclusive and working in practical ways to resolve problems. These are the kind of attributes that can very much help strengthen the role of the Secretary-General.
>
> Merit should undoubtedly be the deciding factor in the selection of the next Secretary-General; however, the positive message that choosing a female Secretary-General would send to women and girls around the world cannot be ignored.

While the UN is home to agencies such as UN Women and advocates for gender equality in all streams of its work and, most importantly, in its MDGs, women hold less than a quarter of the highest positions within the organisation. A female secretary-general would tell the world that the UN practises what it preaches. Mary Robertson absolutely summed it up when she said:

> In women's and girls' eyes, the symbolic empowerment of a woman top official, with responsibilities in peace, stability and development, is fundamental. It has a great psychological impact.'

With those few words, I commend the motion. I look forward to not only men and boys taking leadership on women's human rights issues and particularly on the issue of women and violence against women, but indeed a woman leader of the UN in the near future.

The Hon. K.L. VINCENT (17:40): It will come as no surprise, I would hope, that Dignity for Disability certainly welcomes this motion. It is fortuitous that it coincides quite nicely with the United Nations International Day of People with Disability, celebrated on 3 December each year around the globe—that is, of course, tomorrow.

The existence of the United Nations provides a raft of sanity in a sea of unrest around the world. We look to the UN for the big picture thinking that we need to achieve meaningful change in many important areas, particularly around human rights. South Australia would do well to take heed of the UN initiatives such as the sustainable development goals launched earlier this year. Dignity for Disability adds its thanks and congratulations to the United Nations, South Australia Branch for its long standing commitment to its work.

Each year the UN announces a theme for International Day of People with Disability and the theme for 2015 is 'Inclusion matters: access and empowerment for people of all abilities'. There are also three subthemes for this year and they are:

- Making cities inclusive and accessible for all;
- Improving disability data and statistics; and
- Including persons with invisible disabilities in society and development.

There is so much more that we can do to improve our society. When the focus is on people with disabilities there is much to be gained throughout our community and that is because a city, town, suburb or country that embraces and celebrates diversity, including disability, makes itself more available, accessible and interesting to all.

Of course it would be remiss of me not to mention that South Australia and Australia as a nation is falling woefully behind in its obligations under the United Nations Convention on the Rights of Persons with Disability. Women and girls with disability can still be forcibly sterilised or coerced into sterilisation in this country, and have their right to natural parenthood denied on the grounds of disability. I will be moving a motion on this particular subject at some point in the new year where I will elaborate. I think it is fair to say that given that we would not know whether anyone at the age of four, five, or even nine or 10 would be an adequate parent in the future, we should not make that assumption purely on the grounds of disability or health condition.

People with disabilities still face significant barriers to finding and keeping meaningful work. There are still people with disabilities who are paid 20¢ an hour in what are crudely known as 'sheltered workshops' or 'Australian disability enterprises'. People with disabilities still face sexual and physical abuse and neglect at at least two times the rate of those without disability, and that sense of disability only increases with factors such as gender, experience, age and type of disability.

People with disabilities can still be indefinitely detained in prisons, even when found not guilty of any offence, purely because there is no adequate housing accommodation for them in the community. Those are, unfortunately, just a few of the examples I could give where South Australia as a state and Australia as a nation have fallen woefully behind in their obligations under the Convention on the Rights of Persons with Disabilities. I will certainly be raising more of them in the coming weeks, but we have a long way to go. For that reason, I thank the Hon. Ms Lee for bringing this motion to the council and indicate Dignity for Disability's warm and wholehearted support for it.

The Hon. J.S. LEE (17:46): In summing up, I just want to quickly thank the Hon. Gerry Kandelaars, the Hon. Tammy Franks and the Hon. Kelly Vincent for their contributions in endorsing this particular motion for the United Nations. I just want to quickly say that I believe that the Hon. Mr Kandelaars mentioned the vice president's name for the South Australian branch as Lila Moretti; it should be Lidia Moretti. Also, on the 10 personalities who were at the photo shoot for the United Nations at Henley Beach, minister Zoe Bettison was supporting the particular activity, but she was not actually one of the 10 personalities. I just want to put that on the record as a correction.

I would like to acknowledge that it was great to listen to the Hon. Tammy Franks' experience as she shared her personal journey with the United Nations. I also endorse her comment calling for women to take the leadership. I think that is something that we all should endorse those comments for. Of course, to the Hon. Kelly Vincent: tomorrow is the International Day of Persons with Disabilities, and I concur with her views of the fact that we need to fulfil more obligations and more work needs to be done in those areas advocating for human rights for people with disabilities. With those comments, thank you again to the members who have endorsed the motion. I commend the motion to the house.

Motion carried.

SOCIETY OF SAINT HILARION

Adjourned debate on motion of Hon. J.S. Lee:

That this council—

1. Congratulates the Society of Saint Hilarion on their significant milestone, celebrating their 60th anniversary in 2015;

2. Pays tribute to the Society of Saint Hilarion's service to Italian migrants and the wider community, especially through their aged care facilities which improves the lives of older people by providing high quality aged care facilities within a culturally diverse community; and

3. Acknowledges the importance of their establishment and the work they have done over the last 60 years in the promotion and preservation of Italian heritage and, in doing so, their contribution to enrich the multicultural landscape of South Australia.

(Continued from 18 November 2015.)

The Hon. J.M. GAZZOLA (17:48): I rise to speak in support of this motion. This year, the Society of Saint Hilarion marks the 60th anniversary of celebrating the feast of Saint Hilarion in South Australia. For six decades, generations of migrants from Caulonia, Calabria and other Italians and their families have celebrated this important feast in our state.

The place of the Cauloniesi in the proud story of South Australia's Italian community is well recognised. Indeed, it has been the subject of detailed research. *Connections with the homeland: community and individual bonds between South Australian Italian migrants from Caulonia (Calabria) and their hometown* by Daniela Cosmini-Rose states that 'the Cauloniesi in Adelaide are a visible and enterprising Italian community, well known for their devotion to their patron saint, Saint Hilarion, as well as for their contribution and commitment to aged care'.

The Society of Saint Hilarion has played a pivotal role in the life of the Cauloniesi in South Australia. Of course, the traditions on which the society have been built go back many centuries. Each year the Cauloniesi in Adelaide celebrate the miracle of rain worked by Hilarion at Afroditon at around 330 AD and which, most notably for the Cauloniesi, was repeated at Caulonia more than 1,500 years later.

In May 1855, due to an exceptional drought, the people of Caulonia pleaded for rain from their Patron Saint Hilarion by carrying the relics in a procession. The procession took place on 13 May and it is said that on the 14th rain miraculously arrived. From that year onwards, therefore, Saint Hilarion's Day, which occurs on 21 October, is also repeated on 13 May among the Cauloniesi.

The afternoon is always a continuous feast of activities and entertainment, sometimes with a fun filled spaghetti-eating competition. Here in South Australia, the Society of Saint Hilarion has a well-earned reputation for its special role in providing aged care services.

In 1987, the Society of Saint Hilarion had the foresight to recognise the growing need for aged care services for the large South Australian Calabrese community. It was then that the society resolved to take action to provide much-needed aged care services. They determined that they would provide culturally specific aged care in Adelaide which would provide for the residents' cultural and spiritual needs. Saint Hilarion aged care would not have been possible without the time and effort of the many volunteers involved in the feasts of Saint Hilarion.

Here in South Australia the Society of Saint Hilarion continues the tradition and celebrates the Feast of Saint Hilarion. This festa plays an important role in maintaining many of the religious, social and cultural traditions of the Italian community. It is an occasion when the Cauloniesi and other Italians meet together, enjoy each other's company, share cultural and culinary traditions and, of course, pay homage to Saint Hilarion.

The festa has traditionally commenced with a procession through the surrounding streets of Seaton, commencing from the Mater Christi Parish, followed by Mass celebrated with the Scalabrini Fathers and the Mater Christi Choir. By midday the volunteers are cooking up everyone's favourites: barbecued pork and chicken, pasta, trippa and everyone's special favourite, the traditional zeppole.

In 2010, Saint Hilarion's most recent aged care facility, the House of Saint Hilarion at Seaton, was completed and formally opened. This marvellous multimillion dollar state-of-the-art facility complements Saint Hilarion's aged care villas at Fulham. Congratulations are due to the presidents and members of the society who have driven its many achievements over the past six decades.

I also congratulate the society's current president, Jassmine Wood, and members of the executive committee, volunteers and all devoted parishioners of Mater Christi Parish for their

involvement in this year's diamond anniversary celebration. The Society of Saint Hilarion certainly has made a significant contribution to the lives of South Australian Cauloniesi and other Calabrese and Italians over several generations. The government supports the motion.

The Hon. J.S. LEE (17:53): I would like to thank the Hon. John Gazzola for his wonderful contribution. I thank him and other honourable members in this council for paying tribute to the Society of Saint Hilarion for their outstanding service to Italian migrants and the wider South Australian community.

I also want to thank and acknowledge all the wonderful people who have contributed to the legacy of the society. This 60th anniversary is indeed a great milestone of celebration. It is also a celebration of leadership in multiculturalism in South Australia. I commend the motion to the council.

Motion carried.

RECLINK AUSTRALIA

Adjourned debate on motion of Hon. T.A. Franks:

That this council—

1. Recognises that Reclink Australia has been outstanding in delivering sport, recreation and arts participation opportunities to some of the community's most vulnerable and isolated people, at risk youth and those experiencing disadvantage, including mental illness, disability, homelessness, alcohol and other drug issues and social and economic hardship; and

2. Applauds the inaugural Adelaide Reclink Community Cup fundraising football match between players from community and mainstream media (the Adelaide Anchors) and local musicians (the Rockatoos) held on 16 August 2015.

(Continued from 14 October 2015.)

The Hon. T.J. STEPHENS (17:54): I rise on behalf of the opposition to briefly comment on the motion moved by the Hon. Ms Franks on 14 October, namely that this council recognises that Reclink Australia has been outstanding in delivering sport, recreation and arts participation opportunities to some of the community's most vulnerable and isolated people, at risk youth and those experiencing disadvantage, including mental illness, disability, homelessness, alcohol and other drug issues and social and economic hardship; and applauds the inaugural Adelaide Reclink Community Cup fundraising football match between players from community and mainstream media (that team is called the Adelaide Anchors) and local musicians (the Rockatoos) held on 16 August 2015.

I indicate that, of course, the opposition will be supporting this motion and proudly so. As mentioned by previous contributors, Reclink Australia is a non-profit which enhances the lives of society's most vulnerable and marginalised people through sports and the arts. It was founded in Victoria in 1990 and now operates nationally. I, for one, will always champion the use of sport to bring people together and this is what this organisation does. It seeks to pull people out of the cycle of disadvantage through sport, and that I wholeheartedly support. It is a cause that I believe in. This is the power of community sport.

The Community Cup that the motion refers to was a football match between a community and media team, the Adelaide Anchors, and a side of local musicians, the Rockatoos. My understanding is that the Hon. Mr Maher played in the Rockatoos side. I congratulate all involved, although I am a little disappointed that someone did not take the opportunity to run through the Hon. Mr Maher. It looked like a great event with over 1,100 people in attendance. This was the first time it had been conducted in Adelaide. Similar events have been held in Melbourne and Sydney over the years.

I will not repeat the words of the Hon. Ms Franks and the Hon. Mr Maher, but I will mention something that I learnt from the Hon. Ms Franks' contribution, that the Choir of Hard Knocks was a Reclink initiative. It is a program that I remember with fondness. I am very happy to support the great work of Reclink. I congratulate the Hon. Ms Franks for the motion and I commend it to the council.

The Hon. K.L. VINCENT (17:56): The opportunity to engage with others through recreation and play is something that evidence supports for physical and mental health, and yet it is something

which is out of reach for too many people in our community due to particular circumstances. Reclink is out and about actively taking action on this issue and closing that gap, working with people who are disengaged and isolated through a broad range of enjoyable activities. Seeing people, whatever their experience or circumstances, as people first is a way of decreasing stigma, increasing confidence and giving the sense of connection to community that is a deep human need.

I know that people with disabilities are, I suppose you could argue, over-represented in the client base of Reclink and the opportunities that are available include artistic pursuits, drumming, circus skills and perhaps one of my closest own interests, I should note, tours of the Haigh's factory. As noted in this motion, there are also sporting opportunities, in particular the Adelaide Reclink Community Cup which the Hon. Ms Franks and the Hon. Mr Maher talked about at length in their contributions.

It certainly sounds like a fantastic involvement. I think it is well known and well accepted that I am not a particularly sporty person myself but you never know, that might change. I will flag with the Hon. Ms Franks that I know where to get some sports wheelchairs, some racing wheelchairs, if required for a future cup. I would love to see if we could get that happening.

I add Dignity for Disability's congratulations for all involved in that tournament. I would love to see what we could do in the future maybe to get even more participants which may or may not include me. I certainly do not want to go on the record as promising anything until I know a bit more as to what I am up for. I might need to go to the gym a few more times before I am ready for that. With those few words, Dignity for Disability thanks the Hon. Ms Franks for bringing this organisation to the attention of the council and also acknowledges the impassioned involvement of the Hon. Mr Maher, if his contribution was anything to go by. I certainly indicate our strong support for the motion.

The Hon. T.A. FRANKS (14:59): I would like to thank those who made a contribution to this motion: the Hon. Kyam Maher, the Hon. Terry Stephens, and the Hon. Kelly Vincent. There is a cross-party consensus of support for this wonderful organisation which brings together sports and arts and addresses issues of social disadvantage.

I look forward to our parliament being more actively engaged as Reclink and their Community Cup continues to work. I do hear that there may be a cricket rematch come the summer months, so I will keep members informed of those developments as they occur. With those few words, I welcome support for the motion.

Motion carried.

Sitting suspended from 18:00 to 19:47.

ARTS FUNDING

Adjourned debate on motion of Hon. K.L. Vincent:

That this council—

1. Notes the widespread concern in the Australian arts community about the new National Programme for Excellence in the Arts recently announced by the federal government, expressed through the "#FreeTheArts" social media campaign;

2. Recognises the importance of supporting creativity and expressing a diversity of views and experiences in the arts;

3. Recognises the vital role played by new and emerging artists and small to medium-sized arts enterprises in ensuring the future of the arts industry in South Australia; and

4. Recognises the economic and social contribution of the arts industry and festivals to the South Australian economy.

(Continued from 29 July 2015.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (19:48): I move to amend the motion, as follows:

Paragraph 1—Leave out paragraph 1 and insert new paragraph—

1. Welcomes the federal government move from the proposed National Program for Excellence in the Arts to Catalyst and urges the federal government to be sensitive to and supportive of the arts and festival sectors in smaller states and territories which are rich in small to medium enterprises and emerging artists;

The Australia Council is the federal government's principal arts funding body and uses an arm's length, peer-reviewed grants model. The scheme proposed by minister Brandis as the National Program for Excellence in the Arts (NPEA) was not going to be peer reviewed and was to focus on large arts companies.

Arts organisations complained that funding decisions could be subject to political interference and said that wealthy organisations would be likely to benefit at the expense of smaller, emerging organisations. That is why we have moved this amendment—to make sure that the federal government is sensitive to and supportive of the arts in all sectors of the nation, especially here in the smaller states and territories.

Under the NPEA scheme, South Australian arts stakeholders would be significantly disadvantaged in terms of their access to federal funding. The model would favour the larger arts companies that are predominantly based in the Eastern States. The shadow minister for the arts (Hon. Stephen Wade) wrote to Senator Fifield in October to express concern about the National Program for Excellence in the Arts and, in part, the letter read:

Whilst I appreciate that the program is still under development, I wanted to be in contact with you to highlight the potential impacts in South Australia.

South Australia is a state which has a strong arts and festival culture. In both arts and the wider economy, South Australia is particularly strong in small to medium enterprises. These enterprises are often the training ground for emerging artists, who go on to larger venues.

There is widespread concern in the arts sector in South Australia that the Commonwealth proposal will, in particular, hit small to medium enterprises.

I ask that in any changes to the Commonwealth approach to arts funding you avoid adverse effects on the impacts in South Australia.

In a recent announcement, minister Fifield renamed NPEA to Catalyst. He said there will be approximately $70 million worth of funding redirected from the Australia Council to Catalyst. As is to be expected, the relocation of funding was very controversial and met with much backlash from the arts community nationally, but in particular in South Australia. The new Catalyst fund will be open to small, medium and large arts organisations at a national, regional and community level. It has been stressed that the fund will recognise the essential role of small to medium organisations.

Applications for funding under Catalyst will be assessed with the input of the independent expert assessors. That is why I have moved this amendment. We have seen the state government here attack the federal government mercilessly over the last couple of years, with millions of dollars of advertising campaigns. I am not sure that in the end it has actually had any impact, though they might say they claimed the scalp of a prime minister, but at the end of the day I do not believe—

The Hon. G.A. Kandelaars interjecting:

The Hon. D.W. RIDGWAY: Gerry Kandelaars laughs at that, but in the end I expect that you will see the federal government make some sensible decisions about the future of South Australia in relation to a whole range of programs the federal government funds. The government has been prepared to bloody the nose of the federal government, and really all they have done is damage relationships between South Australia and the federal government. Why I have moved the amendment is that we should be a bit more respectful, but then ask the government to be sensitive in this new program. I repeat:

…to be sensitive to and supportive of the arts and festival sectors in smaller states and territories, which are rich in small to medium enterprises and emerging artists;

I would urge all members to support my amendment.

The PRESIDENT: The Leader of the Opposition wants to be respectful. That is good to see. The Hon. Ms Franks.

The Hon. T.A. FRANKS (19:53): I rise on behalf of the Greens to support the motion of the Hon. Kelly Vincent, and indeed to amend it to reflect the current state. I move:

Leave out paragraph 1 and insert new paragraph—

1. Recognises that the federal government has moved from the National Program for Excellence in the Arts to its Catalyst program and notes that there is still significant concern among people in the arts industry about this program, and recognises that the widespread preference among arts workers is that the federal government restore all lost funding to the Australia Council for the Arts;

The motion that the Hon. Kelly Vincent put before us was indeed to raise awareness of this council and this parliament of the vicious federal government attacks on the arts. Minister Brandis may have moved on, but minister Fifield has not remedied the errors left for him to sort out. He has attempted to make amends, and there has been general alarm in the arts community. A Senate inquiry into the arts budget as a result of these changes attracted 2,260-plus submissions.

There were so many that even a week before the inquiry was due to table its report, they were still not all uploaded to the Senate inquiry's site. Overwhelmingly, these submissions argued against the NPEA. Submission after submission called for evidence-based policy. The previous attorney-general was intransigent on this issue, so I will commend minister Fifield for at least attempting to make amends, but as arts ABC reporter and blogger Alison Croggon wrote:

The announcement followed months of unprecedented lobbying and protest from a galvanised arts community, and in some quarters was hailed as a victory. But reports of the death of the NPEA are greatly exaggerated.

We may have something slightly better, but it is still not what the people of Australia deserve and certainly the arts community of our state deserve. This motion is most important because it focuses on the small to medium sector and, in fact, South Australia has the most to lose from attacks on that part of the arts industry. The media release from #FreeTheArts on 20 November this year notes that '$8m/year goes back for individual artists,' under the Fifield changes, 'but small to medium companies are at major risk.' This is hardly a victory for the small to medium sector of this industry. It continues:

Arts Minister Mitch Fifield has missed the perfect opportunity to repair the damage done by his infamous predecessor. The government has decided to ignore the overwhelming advice in thousands of submissions to the Senate Inquiry to return the NPEA funding to the Australia Council in full. The return of $8m per year over four years for individual artists is welcomed, and will hopefully alleviate some of the extraordinary pressure on project funding rounds, where success rates have reportedly fallen below 10 per cent. It is a significant win for the sector and the Free the Arts campaign. However, despite being named a priority for Catalyst project funding, the big losers look to be small to medium arts companies.

Free the Arts spokesperson Norm Horton said:

'On balance we have to say this looks to be a bad deal for the arts sector, and small to mediums in particular…'

Free the Arts spokesperson Sara Moynihan said:

Although the new Minister has taken time to meet and consult with the sector unfortunately it seems he hasn't listened to some key messages. The fact that this major decision has again been taken without an evidence-based national arts policy in place means that this is another example of policy on the run. The Minister should really have gone back to drawing board and worked with the sector to fix the problems together.

My party's spokesperson on this issue, Senator Scott Ludlam, supported a Labor motion condemning this move on 23 November in the Senate. Senator Ludlam was an active member of that Senate inquiry, which was chaired by Senator Lazarus, and also actively attended by Senator Bilyk. Senator Scott Ludlam says his statement in the parliament:

Senator George Brandis broke something that did not need fixing. The alternative plan is to have not established this $100 million vanity project which has been condemned from one end of the country to another.

He continues:

I have been to a lot of Senate inquiries in my brief time in this place, and I have never seen this degree of unanimity of representation from one end of this country to another. Senator Bilyk and I have been chasing the inquiry that Senator Lazarus has been chairing for a couple of months now. I have never seen such a diversity of witnesses with such a unanimity of point of view. The NPEA, which has now been renamed, rebranded, as Catalyst, is uniformly despised. I should say that it is almost universally despised. We did find one witness, who gave evidence on a rainy

afternoon in Parramatta a couple of weeks back, who had been knocked back for Australia Council funding a couple of years ago, who had a gripe and who thought this new thing could be good.

I note that that witness was a former Family First candidate, and certainly finding one voice among the many thousands to support former minister Brandis' vanity project, as my colleague quite rightly called it. Senator Ludlam goes on to say:

Apart from that, we heard from contemporary performing arts companies, dance companies, theatre companies, the local music industry, visual artists and designers, writers, digital artists, community and regional arts centres, practitioners and those who support them, arts lawyers, community arts centres, regional arts centres, peak representative bodies, publishers and teachers the length and breadth of the country and of Australia's extraordinarily diverse and powerful arts sector who thought this should never have happened in the first place. In fact, they thought that they should not have been brought into the Senate inquiry, into this format where they had to defend something that had been broken when simply it did not need fixing—by Senator George Brandis or by anybody else.

This was an announcement that happened in May and that the Australia Council found out about on budget day, when Senator Brandis condescended to give the head of the Australia Council a phone call to let him know the government had ripped this money out of the Australia Council's peer-reviewed process, which allows all comers to put forward their creative proposals, and put it into this isolated slush fund. There were a couple of draft guidelines that followed a few weeks later that simply made the problem worse, and made the apprehension and the misgivings even worse.

We saw 2,260 submissions made to that inquiry...if you comb through them [as Senator Smith in the Senate has said] you will find a very small handful, you will find one or two; you will find not more than a dozen of those 2,500 submissions that supported the idea, for various reasons—that is fine; they have the right to submit to these inquiries as well—and an avalanche of dissent to this proposal. We have held 10 hearings across the country, and 218 organisations have presented, with this extraordinary opposition. We saw something last week from minister Fifield—and give him his due; there was a selective sigh of relief around the country when Senator Brandis lost that portfolio; go out and concentrate on other staff and leave the arts the hell alone. There was a bit of a sigh of relief, but you could not miss the intent. The intent, laid on Senator Fifield's broad shoulders is: 'Fix this mess. Make this go away.

So now, instead of a $20 million Senator Brandis slush fund, we have a $12 million Senator Fifield slush fund.

Not good enough! New leader, same old policies; new arts minister, same attitude. It is not good enough for our arts sector in South Australia, and those members of the opposition in this house should be standing up for our arts sector.

The Hon. T.T. NGO (20:03): I rise on behalf of the government to support the Hon. Kelly Vincent's motion. I am happy to support the Hon. Tammy Franks' amendments that she just moved. I thank both the Hon. Kelly Vincent for moving this motion and the Hon. Tammy Franks for moving the amendments subsequently.

Back in May the federal government announced that $104.8 million over four years would be cut from the Australia Council for the Arts to establish the National Program of Excellence in the Arts (NPEA). This announcement was made with no consultation with the arts community, and with no clarification about what it would mean for the future of our small and medium arts sector.

In South Australia our independent artists in our small and medium arts community are the lifeblood of our creative sector and rely on a mix of state and commonwealth funding as well as private sponsorship to thrive.

The reduction of funding to the Australia Council, while requiring it to continue to deliver government-directed programs at current levels, including the Major Performing Arts Framework and the Visual Arts and Crafts Strategy, will affect its ability to support smaller arts organisations and independent artists.

When the changes to funding were made, the Australia Council had to suspend its Six-Year Funding for Organisations program to which many of South Australia's arts organisations had applied. This funding would have seen organisations, such as Windmill Theatre and Slingsby, secure long-term funding, ensuring their future and removing the red tape of having to apply for funding on an annual basis. These changes created so much anxiety in our community as some of our brilliant small and medium organisations, after pouring their heart and soul into these funding applications, were left in limbo.

Following the announcement of the NPEA, the Australian arts community expressed its concern through the social media campaign #Freethearts, amongst other avenues. Locally, our Arts Industry Council led the way, and I was pleased to see all sections of our arts community coming together and presenting a united front to oppose the changes.

The Minister for the Arts, the Hon. Jack Snelling MP, led the opposition through these changes on a national front. After many unanswered letters and meeting requests, in October this year minister Snelling participated in the meeting of cultural ministers with representatives of all Australian states and territories. Minister Snelling expressed in no uncertain terms the views of the arts community and the dire consequences of the changes to our vibrant arts sector.

While minister Snelling fought against the changes, the state opposition was nowhere to be seen. As with the submarines, when it came to standing up for the community, they went into hiding. I note that today the Hon. David Ridgway moved on behalf of the shadow minister, the Hon. Stephen Wade, an amended version of this motion. I must say, it is rich for him to now try to commend the government for the compromised Catalyst program when, while the Labor government and the federal Greens Party were fighting against these changes, they were denying there would even be an impact.

I refer the house to the comments in the other place by the member for Dunstan, who interjected while minister Snelling was responding to a question around changes on 22 September, dismissing the concerns of the arts community as rubbish. Now that the changes have been made, they want to jump on board. They want to acknowledge that the NPEA was a bad idea and give themselves a pat on the back.

While over there they are patting themselves on the back, the government will continue its fight against the new Catalyst program. You can put lipstick on a pig, but it's still a pig. This program will still see cuts to the Australia Council. It continues to ignore the importance of our individual makers and presenters. It still creates a double-up of bureaucracy in the arts ministry.

The state government welcomes the federal government performing a partial backflip, restoring some of the funding through this compromised Catalyst program, but ultimately we support the amendment, and obviously the motion, because we acknowledge that these changes have not alleviated the concerns of the arts community. We call upon the federal government to listen to the arts sector and restore the full funding to the Australia Council.

The Hon. J.A. DARLEY (20:10): I indicate that I will be supporting the Hon. Kelly Vincent's motion.

The Hon. K.L. VINCENT (20:10): Can I thank all the speakers to the motion: the Hon. Tung Ngo, the Hon. David Ridgway, the Hon. Tammy Franks and the Hon. Mr Darley. I do not think I have forgotten anyone. I also thank Ms Franks for moving the amendment to my motion, as I was not able to move it myself as the motion was in my name, but I did think that having that amendment in place was far better and far more respectful of the concern in the arts community than the Liberal opposition's amendment.

I do appreciate what the Liberal opposition is trying to achieve. I think, to put it bluntly, they are trying to straddle two worlds—that is, show support for the arts community but not upset their Liberal brethren at the federal level too much. I am here moving this motion to support the arts community point blank and, quite frankly, I do not really care who I have to upset to do that.

Can I also say in regard to the Hon. Mr Ngo's motion that I thank the government for their response and very much look forward to seeing his Fringe show where he attempts to put lipstick on a pig. I think it will be a great one-man show and I am sure that all of us will come to see that.

Members interjecting:

The Hon. K.L. VINCENT: Yes, English is weird. It is clear that artists currently working in the industry see this move to the Catalyst program, away from the National Program for Excellence in the Arts, as not much of a move at all but rather as an attempt at a quick fix to stop artists speaking out against the government rather than actually supporting artists and adequately recognising the social and economic impact they make to our state and our nation.

It seems clear, too, that the preference is still to return the funding to the Australia Council and for this reason I do not support the Liberal amendment to the motion. Furthermore, I note with some dismay that the opposition amendment asks the federal government to be 'sensitive' to the needs of artists, particularly emerging artists and artists of diverse background. I respectfully suggest that one can actually be sensitive to a need, or a feeling or a concern, without necessarily acting on that. As an example, when I take my cat to the vet and she has to be poked and prodded in all kinds of horrible ways, I am extremely sensitive to the fact that she does not enjoy that at all, but I still do it.

The Hon. G.E. Gago interjecting:

The Hon. K.L. VINCENT: I am sure the vet could put lipstick on a pig. Next time I take Daisy to the vet I will be sure to ask her. Furthermore, moving right along, call me bitter and twisted and cynical, but given that the government has already, under its move to the National Program for Excellence in the Arts, thrown the funding cycle of many artists and organisations—and therefore their livelihood—into uncertainty earlier this year, I do not actually have a lot of confidence in the ability of government to be sensitive to the needs of arts workers, given that it threw their livelihoods and their futures into disarray and into uncertainty without so much as a peep of consultation earlier in the year. Therefore, I am very pleased to see the amendment (which I drafted but was moved by the Hon. Ms Franks) passed with the support of the council.

To surmise why the arts industry does not see the move to the Catalyst program as much of a shift at all, I want to quote from an article which was published in *Daily Review* just the other day, written by Richard Letts, who I understand is the chair of The Music Trust. He says:

> The new Federal Arts Minister, Senator Mitch Fifield, visited a very political meeting of arts industry leaders a few weeks ago. It was called by #Freethearts to continue opposition to recently ousted Arts Minister Senator George Brandis's transfer of $105 million of Australia Council funds to his own Arts ministry.
>
> Senator Fifield was warm, conciliatory, and—for a few moments—frank in his criticism of Brandis's management.
>
> By way of introducing himself to his audience, Senator Fifield said that he was often asked whether he attends arts performances.
>
> And yes, he does. He reeled off a list of events in which the artists were disabled people.
>
> At a guess, this was meant to surprise. But I recall meeting him years ago when he was supporting music education programs in disadvantaged schools because, among other things, they were so broadly beneficial to the kids. There was no apparent political advantage in this. His interest in the disadvantaged and disabled seems quite genuine.
>
> The music education program is an example of the 'instrumental use' of the arts. Senator Brandis proclaimed that he was an art-for-art's-sake man. He was critical of Labor's Simon Crean who as arts minister created an arts policy that 'joined the dots'—the dots being all the places in which the arts could bring public benefit. This could include using the arts to rehabilitate prisoners, give stroke victims back their voice, or children the desire to be at school.
>
> I would assert that the arts do all of these things best when the arts are at their best. Arts for art's sake and arts for people's sake.
>
> For Brandis, art for art's sake meant support for high 'heritage arts' and that tends to be the world view of conservative parliamentarians. But not, apparently, of Mitch Fifield.
>
> The very strong opinion of the #Freethearts meeting was that Senator Fifield should return all of the funds Senator Brandis hijacked from the Australia Council.
>
> He was asked at the meeting to explain what was the benefit of putting the Australia Council funds under the control of the arts ministry. He had no answer. You can add him to a very long list of people who have been unable to describe any benefit.
>
> So would he return the funds to the Australia Council then?
>
> His answer was he would decide within the next two weeks, because 'people needed certainty'.
>
> Senator Fifield has made his decision. As was announced last week, about a third of the purloined funds will be returned to the Australia Council ($8 million).
>
> He is retaining the rest and putting it into a fund, no longer under Brandis' 'National Program for Excellence in the Arts', but now called 'Catalyst'.

Catalyst will in particular support innovation. The guidelines do not mention 'excellence' though it surely will be a criterion.

In *Daily Review* recently I suggested the new minister could bring something positive out of this debacle by supporting innovation in the arts—following new PM Malcolm Turnbull's declaration that Australia should be an innovative nation. And so Senator Fifield has.

But I also made the suggestion that he return the funds to the Australia Council and not keep them in the Arts ministry.

Can there be any advantage in his ministry running a program in support of innovation in the arts (or indeed any other arts grants program)?

Perhaps one. Arts assessments are inevitably partly subjective. Different panels may make different choices among applicants. The Ministry and the Australia Council will use different panels.

But then there is a question about the expertise of assessors. Will the best projects be funded?

At the Australia Council, applications are assessed by panels of arts peers whose expertise is, as far as possible, matched to the art of the applicants. It seems that in the Arts ministry there will be panels of three assessors of whom one may be an artist peer and the others are arts bureaucrats.

I will leave that quote there for now, but I will briefly quote from another article, just to make the point, which recently appeared in ABC Arts by Alison Croggon, as the Hon. Ms Franks mentioned, titled, 'Catalyst: New arts policy name, same old story':

Last week, Attorney-General George Brandis's highly criticised National Program for Excellence in the Arts (NPEA) finally bit the dust.

Senator Mitch Fifield, appointed the Minister for Communications and the Arts by Prime Minister Malcolm Turnbull in September, announced its replacement by the much more artspeak-friendly initiative, Catalyst.

The announcement followed months of unprecedented lobbying—

As the Hon. Ms Franks pointed out, some 2,260-plus submissions—

and protest from a galvanised arts community, and in some quarters was hailed as a victory. But reports of the death of NPEA are greatly exaggerated.

Although one third of the money taken from the Australia Council, $8 million a year, has been handed back, and every mention of 'excellence' in the NPEA's guidelines has been assiduously replaced by 'innovation', even 21st century buzzwords cannot disguise the fact that in their essential aspects there are few differences between policies.

It continues:

For those unfamiliar with the arcane world of Australian arts funding, it may be difficult to understand why there has been so much fuss.

As Senator Brandis pointed out, the NPEA was still funding art, it just widened the choices for those shopping around for funding.

But many within the arts saw the creation of the NPEA as the beginning of the end of the Australia Council, and perhaps a step towards ending arts funding altogether.

It has certainly been a convulsive couple of years in the Australian arts world. In 2013, with much fanfare, the doomed Gillard government launched Creative Australia, an ambitious, upbeat policy that was the long-awaited result of years of consultation with the arts community.

Within weeks, Creative Australia was as dead as the government.

After months of speculation, Senator Brandis launched the Abbott government's new arts policy in a lavish event at the Sydney Opera House in September 2014.

The Australia Council's restructure, a key part of Creative Australia, was also announced, although the whole policy was disturbingly light on detail.

Less than six months later, Senator Brandis announced the NPEA, blindsiding the Australia council, which was still adjusting to the restructure.

New programs such as proposed six-year funding terms were cut before they had even been implemented.

Hundreds of companies had spent thousands of hours applying for programs that no longer existed, and instead of seeing the beginning of new stability, were facing the prospect of closing altogether.

It was not long before protests began to gather momentum. Campaigners against the NPEA saw it as a political attack on free speech in the arts—the campaign against it was called 'Free the Arts'.

I will end that quote there. I think I am painting quite a picture of why this move is so shocking, not least of which because it removes peer assessment for arts grants by peers who are actually practising the same discipline as applicants, as well as experts, toward focusing on the opinions of bureaucrats. It was done without consultation and pulled the rug out from under many individual practising artists, many of whom practice on low incomes, with scant funding, and many small to medium organisations which are making a great impact on not only the economy in South Australia and Australia but the society as well.

One example of this that I gave in my speech introducing this motion was the example of True North Youth Theatre, which works with young people to create theatre about their lives and their experiences as young people in the northern suburbs. Two years ago there was no theatre company in the northern suburbs of Adelaide, much less a theatre company that was actually responsive to the needs of some very disengaged and disadvantaged, isolated young people. Two years later I understand that True North has over 60 participants in a variety of workshops, and has just this year been specifically invited to perform its show *A Kid like Me*, that very important piece of theatre that talks about social pressures on young people today in modern-day Australia—issues like peer pressure, weight loss, bullying, anxiety and so on—on the world stage at the World Festival of Children's Theatre in Canada.

So I certainly refute, in the strongest terms, this idea that art is simply for art's sake. It is most definitely for people's sake. They were, perhaps, not so few words as it turned out, but I think it is important to get these issues on the radar and also to quote the people who are actually currently practising in the arts, because they are, of course, the experts on how this move has affected them and will continue to affect them under the catalyst—I hasten to say perhaps the catalyst, not shake up—of the renaming of Catalyst. With those few brief words—

The Hon. T.A. Franks interjecting:

The Hon. K.L. VINCENT: Catalyst the pig, the Hon. Ms Franks interjects. Perhaps that would be a good name for a pig, perhaps we could get a parliamentary mascot. I can see quite a campaign coming together, perhaps we could all send a letter to George Brandis with a picture of Catalyst the pig. I have some lovely new shades of lipstick that he or she could borrow.

With those words, I again commend this motion to the chamber, and thank all those members who have indicated support, particularly for the motion in its amended form. I hope that we as a parliament will continue to work together to truly, holistically and permanently free the arts.

Hon. D.W. Ridgway's amendment negatived; Hon. T.A. Franks' amendment carried; motion as amended carried.

Bills

RIGHT TO FARM BILL

Introduction and First Reading

The Hon. R.L. BROKENSHIRE (20:29): Obtained leave and introduced a bill for an act to ensure that properly conducted farming activities are adequately dealt with under planning and development laws and are given protection from certain liability; and to make related amendments to the Development Act 1993, the Environment Protection Act 1993, the Land and Business (Sale and Conveyancing) Act 1994 and the Natural Resources Management Act 2004. Read a first time.

Second Reading

The Hon. R.L. BROKENSHIRE (20:29): I move:

That this bill be now read a second time.

This bill integrates with a previous bill that I spoke to in the house this afternoon regarding an ombudsman, to do with mining exploration, licensing and extraction. This bill is the Right to Farm bill. I can say from the outset that in America all but two American states have right to farm: one has it enshrined in constitutional law and another one is looking at enshrining it in constitutional law. When

you look at the situation in Australia—where Australia is so dependent upon farming—no state has had the vigour and the fortitude to have right to farm legislation.

To be fair, the former Victorian government, under a Liberal government, was about to do that but they got rolled and Labor won and nothing has happened, but here we have a chance to have multipartisan support for this where Labor, Liberal and crossbenchers (including Family First and myself on behalf of Family First as the mover of the bill) break new ground for Australia when it comes to food production. It does not work against—and I want to reinforce that it does not work against—other economic opportunities for the state.

I am sure that even the honourable minister, Mr Leon Bignell, would admit that we have had compounded growth in food production in this state at 7 per cent a year, year after year, for several years. I absolutely know that the very passionate shadow minister for agriculture, a former farmer himself, got a bit soft and moved to the city but, notwithstanding that, he still knows where his roots are—and that is country South Australia.

The Hon. D.W. Ridgway: Hear! Hear!

The Hon. R.L. BROKENSHIRE: The fact of the matter is that I am sure he will work hard to support this bill. I call on my colleague, the honourable Minister for Agriculture, to support me in this. The Minister for Agriculture and I have an interesting argy-bargy but on some things we must agree. We need to agree, not for any personal accolades, but for the state's interests we need to agree on right to farm for the state's sake.

The next challenge after right to farm is to ask: how do you grow from paddock to plate job opportunities, economic opportunities and a future for the state? You do it by starting with a statement in legislation about right to farm. This bill clarifies immunity for liability and prosecution. Farmers are immune from liability and prosecution if they are engaged in what I and parliamentary counsel and the intent of this bill describe as—and I want to emphasise this—normal farming activities, and requires right to farm principles to be enshrined in development plans through a consultation process.

We are exempting farmers from nuisance complaints and other prosecutions when their behaviour is part of normal farming activity. Whilst he is not here tonight, because he is going over to Paris to save the climate, the fact is that the minister for environment, I am sure, will be very frustrated when the Hon. Tom Koutsantonis is demanding a net profit line bottom return to Treasury from the EPA, and he is trying to balance looking after the environment with delivering a revenue stream to the Treasury.

I am sure that if he was here he would agree with me—especially if he had his green tie on, when he is not so agitated; the orange tie is a problem when he is in here, but if he had his green tie on, the minister for the environment and climate change and the EPA and everything else would agree with me that frivolous claims by people who actually just want to make it tough for farmers have to be stopped.

At the moment, the reality is that, whilst the executive officer of the EPA is about profit return for government, for environment protection, the fact is that he and his officers know, and the Leader of Government Business in this house knows—and I hope that the Leader of Government Business will actually continue to be the Leader of Government Business for the next two years; I hope so, because I actually like the Leader of Government Business.

To get back to it before you rule me out of order, Mr President, the fact of the matter is that the EPA is running around because someone comes into the country and buys a house and loves the environment—but they went to the open inspection on a Sunday. Even farmers have a couple of hours off on Sunday, but on Monday they actually work, and also they actually work Tuesday, Wednesday, Thursday, Friday and Saturday, and part of Sunday, and there is noise. These people ring the EPA and out come these officers. These are frivolous complaints and they need to be stopped. We need to grow an economy and we need to grow some jobs.

What therefore this Right to Farm Bill does is exempt farmers from nuisance complaints and other prosecutions when their behaviour is part of normal farming activity. I note that the member for Mount Gambier, Mr Troy Bell—a very good member of parliament, dedicated and committed to the wellbeing of the South-East in our state and particularly the Mount Gambier electorate—is in here

listening to this. I congratulate him for this, because he does believe in the farmers. Sitting next to him is our Leader of the Opposition and shadow minister for agriculture, who also believes in farmers. He made a massive amount of wealth out of exporting horticulture, floriculture and agriculture from this state and showed just what you can do.

Here they are, listening to this debate. They are listening to the debate because they know the importance of agriculture. What this does also require is land purchasers to accept that they are actually buying where normal farming activities occur. I embrace them to come and live in the country. I embrace them, especially now when the state is in turmoil. The more people who can move into the country and vote for a non-Labor government the better: vote Greens, Dignity for Disability, Xenophon Team, Family First, whatever, but not Labor, because they are stuffing the state.

The Hon. G.E. Gago: Get on with it!

The Hon. R.L. BROKENSHIRE: No, we're going to be here next week, Leader, so no rush, because your colleague, John Rau, has made a very bad mess of planning. I will get on with it, because we will talk about that later; everyone wants to talk about that later.

The Hon. J.S.L. Dawkins: He is still making a mess of it, because the amendments keep coming.

The Hon. R.L. BROKENSHIRE: I know—100 more amendments from the minister.

The PRESIDENT: Order! Get on with it. Will the honourable member get on with his speech.

The Hon. R.L. BROKENSHIRE: Okay, thank you. I thank you for your guidance. The intent of the planning elements is to ensure that right to farm principles are developed and then become model laws in all development plans, not something that is forced upon councils, but rather a product of consultation. Essentially, this is the same bill as I introduced in 2012, Mr President—you would remember that—except when we have excluded civil and criminal activities from a protect farming act that may offend the NRM Act.

The Hon. John Darley knows that we have to deal with the NRM Act on another day. Parliamentary counsel advised that it was possible to draft the Right to Farm Bill so that it superseded any NRM requirements such as the requirement of meters on dams, fitting of low-flow bypasses and the prevention of building dams. By specifically placing this in clause 5, we have excluded the operation of the NRM Act and given farmers protections that they have told me they want in this bill.

We will need to move consequential amendments to this bill should the Planning, Development and Infrastructure Bill pass parliament, but we will have to wait and see. If I had my way I would wait until February because that bill is a dog's breakfast. We will need to move consequential amendments and we will watch and wait, but I want to introduce it and get it in there as part of the debate.

I want to touch on a few reasons why I have moved this Right to Farm Bill on behalf of Family First. One, the Right to Farm Bill makes sure the existing use of prime agricultural land is not trampled by mining interests. A person I have respect for, the Leader of the Government in this house, the Hon. Gail Gago, was heavily involved and still is, indirectly to be fair, in prime agricultural land and export through the value-adding of food with her husband who is probably the best winemaker in this state, if not this nation. He is one of the best in the world actually, but we will not go into that.

Family First is not opposed to mining. Family First is not opposed to mining, but we believe no go zones are needed to protect sensitive farming areas across the state. In all of the dog's breakfasts, this bill is a dog's breakfast—and I think most colleagues would agree that the Hon. John Rau, Deputy Premier, is actually putting in some no go zones. Former valuer-general the Hon. John Darley may not agree with where that should be drawn and, if he gets time he will draw the proper boundary for the future of this state, but the fact is that even the Hon. John Rau has no go zones to protect sensitive farming areas across the state.

I believe that very highly productive land should be zoned out of any mining. It is about balancing mining and agricultural interests. The use of farming land is clearly jeopardised by the Mining Act and unlike any other planning area you are not able to protect your farming land if you

get a mining licence coming over the top, because guess what? You cannot grow food when an excavator comes in.

South Australia only has around 4.6 per cent of sustainable agricultural land outside of the pastoral areas, so we are not looking at stopping mining. We are not anti-mining. I will not accept that. This is not about being anti-mining in the state as a whole because you have the Gawler Ranges and lots of other areas. We are about looking at food security for the future because you cannot mine if you have not had a feed. Farmers need to be given better protection when they are confronted by miners and exploration. Legislation is way too far in favour of mining and the two main parties need to indicate their willingness to correct that, and I am sure that the Leader of the Opposition and the shadow minister will realise that. If not, his wife will remind him.

The mining sector is out lobbying the agricultural sector in the overall debate. As a farmer—and I declare my interest on behalf of my family—I now call on the farming sector to get some fortitude and take the mining sector on board. Don't be passive. I see passiveness every day with Business SA. Please, to the agricultural sector, don't be passive. The key point I want to continue to argue on behalf of farmers is that agriculture is the most sustainable industry in the state. The Hon. Gerry Kandelaars, a good member, his wife comes from the country, and I am sure she would agree with me, and she would be talking to the Hon. Gerry Kandelaars about that. Then we see Ron Kandelaars, with a higher profile than even the Hon. Gerry Kandelaars, where does he get his profile from? Country South Australia. I have not seen him doing a lot of stories about the Rundle Mall. Well, maybe now and again.

The government continues to hope for another Roxby Downs to get out of budget difficulties. Well, I would say to forget that. Instead, sit down with farmers and assist them with sustainable farming. The mining sector seems to be able to intimidate parties and the regulators and cannot do their job probably when they are being told by the government, especially by the Treasurer, to grow the mining industry in this state. That is why I am also calling for a mining ombudsman, which I have already highlighted.

I want to highlight this: manufacturing contributes $100 billion nationally, mining contributes around $80 billion, and agriculture contributes $155 billion. That is not even on a reasonably level playing field. On 22 August 2013, the ABS said that in 22 years we have lost 8 per cent of the whole land mass for agriculture in Australia, which is why Family First pushed for the protection of the McLaren Vale basin. Fifty-nine million hectares have been lost from agriculture in 22 years. That is actually the size of the whole of Ukraine.

Despite that, we have actually seen a very significant turnover from agriculture. In fact, we have gone over basically the same period of time, from $19 billion in agricultural turnover to $41.8 billion last year. One in four jobs is derived from a farm across Australia, which is 25 per cent all up. I can tell you, if you then value-add on that, one in seven jobs across the whole of Australia is directly attributable to agriculture.

I have worked with farmers across the state, and I love it; they are great people. As Leon Byner often says on FIVEaa, they are salt-of-the-earth people, and I agree with him. They are all subjected to unprecedented exploration and possible mining ventures, and the Mining Act does not produce fair legislation for farmers. Farmers have to go through a minefield themselves to find out what their rights are, and I think that if we are going to grow mining and also grow farming, we should allow farmers and other people the right to access an independent mining ombudsman.

I would not want to be the member for Mount Gambier at the moment. He is being very articulate in the way he is supporting his constituents, but had the cabinet gone down there and listened to Mr Troy Bell (member for Mount Gambier) and his community, they would realise—especially Leon Bignell. It is not about the Minister for Environment talking about Auntie Jo, or Jill, or—

The Hon. T.A. Franks: Auntie Joan.

The Hon. R.L. BROKENSHIRE: Joan—I knew it started with a J—and having scones and cream; it is not about that nonsense. It is about listening to Troy Bell and the community, looking at

what is happening in the NRC with the fracking report, and listening to the people about what is most sustainable.

The Hon. T.A. Franks interjecting:

The Hon. R.L. BROKENSHIRE: The Hon. Mark Parnell got that committee inquiry going, and the Hon. Tammy Franks supports it, as does the Hon. Kelly Vincent. They want to see sustainable opportunities, so let us actually listen to the farmers.

We have to double food production in the next 40 years—not to feed the starving, and not to feed the population of the Third World, which sadly has not had proper support in the 58 years that I have been here. Anyone is disillusioned if they think that we can help them to the extent that we would like to, because we are not even keeping up with food production as we know it now.

Primary production here needs to be paramount. Unfortunately, at the moment, I do not believe the government or the industry sectors have articulated and done the work so that the two can work as best as possible in harmony. In my opinion, we also need to have an act that is fair to farming and includes a proper right to farm.

I want to just finish with a couple of key points. One is that there is a real differential at the moment that can be corrected between the Weatherill state government, the Shorten federal opposition and rural and regional Australia (particularly South Australia). They ought to take a lesson out of President Barak Obama's book. In America, whether you are a Republican or a Democrat, you actually listen to your farmers.

Whilst I do not like some of the negative impacts that they have, whether the president is a Democrat or a Republican they will move to look after their farmers. Sadly, at the moment—there is a challenge here, and I hope it is corrected soon—Labor seems to screw farmers. I cannot understand why they do not look at what is happening.

In England it is the same thing, Labor or Liberal. If farmers want to knock on Prime Minister David Cameron's door, he is available. Yet I get people telling me all the time that they want to see Leon Bignell and it takes six months. Why is it six months?

The Hon. J.A. Darley: If you're lucky.

The Hon. R.L. BROKENSHIRE: If you're lucky says the Hon. John Darley, and he is probably right. Mate, get out of the jet, forget all of the razzmatazz and realise where you are actually at, and that is trying to help build an economy. Whilst he needs to be rewarded, I hope that the Premier actually finds a real minister for primary industries when he brings Peter Malinauskas into a senior cabinet position in January. Leon, just be the Minister for Tourism, because you are very good at flying. You should get a pilot's licence.

Just to finish here, there are additional reasons for right to farm. When we do not have right to farm we get situations like we saw in the Barossa. I will give credit to Leon here because he opposed my McLaren Vale, Willunga protection bill. He did over his own electorate when he took over from me—yes, he won, fair and aboveboard, and good on him for that. Look where he is now. He did me over; well done there, Leon. But I fought for the McLaren Vale area when he was doing them over. Then he went to the Barossa and said, 'Well, I'll help you' at the same time. Leon, you should have helped your own electorate first: the wine is better in McLaren Vale than in the Barossa.

The Hon. T.A. Franks: And Argentinian.

The Hon. R.L. BROKENSHIRE: And stop drinking Argentinian wine also; you are right there, the Hon. Tammy Franks. But to come back to this, the fact is that we saw in the Barossa that broadacre farmers got angry about the character preservation legislation. The Hon. John Dawkins knows a fair bit about this because of his connections up there. Have we got it absolutely right yet? I don't think so, but here is a chance. They would have no reason to be concerned if we have right to farm legislation.

I want to finish with one page. Mr Geoff Kernick was quoted in *The Leader* newspaper on 27 June 2012. I know Geoff Kernick. He is a fellow jersey breeder. He has a beautiful family and he value-adds. He said, 'Carcoola jerseys: beautiful cows, good top lines, nice heads, very strong suspensory ligaments, good placement and good body capacity.'

The Hon. G.A. Kandelaars: Alright, get on with it.

The Hon. R.L. BROKENSHIRE: No, this is important because this guy has been doing the right thing for generations and his beautiful children are taking over. He has Jersey Fresh at Greenock. What he said and what I am saying is that the preservation bill prevented him from upgrading his dairy because he did not have right to farm protections. So what I want to say to my honourable colleagues is this: it has to fit like a glove, and at the moment we haven't quite got the fit.

I will finish with this: the Greater Hume Shire council New South Wales local government policy on right to farm says that they will not support action to interfere with legitimate agricultural use of land, including: logging and milling of timber—well, we sold our forests so that fixed that—livestock feed lots; piggeries; dairies; dogs, barking even, because they might be barking at the cattle or the sheep going into the yard—noise from cattle or other livestock is like humans, cattle actually make noise—intensive livestock; waste; and burning stubble. The list goes on.

Newspoll's first ever rural poll survey released on 15 May 2013 shows that the number one farmers' concern—76 per cent of all farmers—was government regulations and farmers' concerns about right to farm.

I want to finish with the Treasurer, the Hon. Tom Koutsantonis. He is the man who would have been premier but, as one of his former Labor members said to me this week: he was at the bus stop but he missed the bus. Because who came in? The Hon. Peter Malinauskas came in, and poor old Tom did not even understand what a bus stop was all about. But I say to him—and I beg to differ when he says that laws are more generous than anywhere else in South Australia. There is a lot more I will have to say in summing up, but I simply say to my colleagues: thank you for listening to me. I ask you to be diligent on this because it is important. This state is a great state. We are treading water and we have to stop treading water.

We cannot have an economy without an environment and we cannot have an environment without an economy. But one thing is for sure: people need to live in an environment and they need to eat, and they need the right to farm to provide that food and look after the environment. If the net bottom line is food production and a reasonably healthy profit, then the environment will be saved as well and we will grow our way to a future in South Australia that we have not seen in the last 15 to 16 years but we have seen over the last 175 years. It can happen again.

I call on my colleagues to seriously look at this when they have recharged their hardworking batteries over the Christmas-new year period and support this bill. I advise the house as I finish my remarks tonight, and I will say the rest when I sum up, that I intend to put this very important piece of legislation to a vote in February.

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

CRIMINAL LAW CONSOLIDATION (PROVOCATION) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 13 May 2015.)

The Hon. G.A. KANDELAARS (20:56): The bill before us was introduced into this council on 13 May 2015. It proposes to amend the Criminal Law Consolidation Act 1935 by way of inserting new section 11A to limit the partial defence of provocation (the provocation defence). To be clear, the provocation defence, if established, allows for a court to reduce a charge of murder to the offence of manslaughter. It is referred to as the 'partial defence' because it only lessens the charge and potential consequences.

By way of comparison, self-defence can provide a complete defence to a charge of murder, entitling the accused to a full acquittal without further penalty. The bill seeks to address the possibility that a nonviolent homosexual advance could be pursued to establish a provocation defence, or what has often been termed the 'gay panic defence'. The proposed new section put by the Hon. Tammy Franks seeks to limit the provocation defence. The proposed section 11A—Limitation on defence of provocation states:

For the purposes of proceedings in which the defence of provocation may be raised, conduct of a sexual nature by a person does not constitute provocation merely because the person was the same sex as the defendant.

Because of the amendment structure, that is, by using the term 'merely because', this amendment effectively has no effect at law. This is because, invariably, in court, defence lawyers use a matrix of different points to argue the defence of provocation. The limitation of 'merely because' invariably does not come into play.

On the same day the Hon. Tammy Franks moved this bill, I moved a motion that requested the Legislative Review Committee to review its report into the partial defence of provocation in light of the High Court decision in Lindsay v The Queen. The Legislative Review Committee is still in the process of undertaking this review. The events of the Lindsay case concerned the killing of a Caucasian man by an Aboriginal man, and I do not propose to detail the case as it is shortly due to be tried in the Supreme Court after a mistrial. I understand the retrial is due in March 2016.

In its review of the provocation defence, the Legislative Review Committee has received a request from the Aboriginal Legal Rights Movement to defer action on this issue until the judicial process has been completed. In my view, this is not an unreasonable request, particularly as it would be improper, in my view, that the parliament potentially could influence the outcome of a jury trial.

I remind the chamber that the Legislative Review Committee has previously indicated that it strongly agrees with the honourable member's desire to ensure homophobic violence is not tolerated. The committee condemns all forms of unlawful violence and considers it to be an obligation of the law to effectively deter such behaviour.

The task faced by the committee has been to determine whether the bill or other options to reform the defence of provocation will assist the law to achieve that end without incurring unintended consequences. One particular unintended consequence could be in the area of domestic violence. To bring this bill to a vote would therefore be an unnecessary attempt to pre-empt the Legislative Review Committee's deliberation.

I acknowledge that the Legislative Review Committee has received varying views on the need for change from various groups, with the likes of the Law Society of South Australia and the Bar Association of South Australia expressing the view that the common law adequately deals with the situation and, equally, other organisations, such as the South Australian Law Reform Institute, the Human Rights Commission, the EO commissioner and the Commissioner for Victims' Rights, arguing a need for change. To pre-empt to Lindsay retrial would, in my view, be improper. For these reasons, the government opposes this bill.

The Hon. A.L. McLACHLAN (21:01): The Liberal Party holds similar views to those expressed by the Hon. Gerry Kandelaars on behalf of the government. We commend the Hon. Tammy Franks for bringing this matter to the attention of the chamber and to the Legislative Review Committee. The Liberal Party holds the view that the work of the Legislative Review Committee and its inquiry into the partial defence of provocation should be allowed to be completed.

As I said, the opposition holds similar views to those of the government in relation to this bill and will not be supporting it in its current form. This should not be interpreted as the Liberal Party holding the view that in any way it supports individuals escaping criminal sanction where they hold antiquated attitudes. The Liberal Party agrees with the sentiments of the Hon. Tammy Franks that have caused her to table this bill. Nevertheless, the law of provocation is complex and we await the finalisation of the work of the committee, which at this point is holding and considering its position whilst a significant trial will be undertaken early in the new year.

The Hon. K.L. VINCENT (21:03): I wish to thank the Hon. Ms Franks for her tenacious commitment to ensuring that the provocation defence, known as the 'gay panic', is forever struck out of our statutes. In this most auspicious year, when we mark the 40th anniversary of the decriminalisation of homosexuality in the state of South Australia, its remnant laws and attitudes such as this will drag us down and hold us back from achieving further and full equality. South Australia was once proudly at the helm of social law reform, yet there remains work to do. Human rights are often hard-fought and hard-won battles, if not always hard-fought and hard-won battles.

The gay panic defence has, I understand, been removed in most other states. I understand the Legislative Review Committee has been looking at the issues around it here. I understand that there are some complexities around the legal uses of provocation defences in different situations. Let me say categorically that a person making a nonviolent approach to another person of the same gender does not equate to giving that person the right to hurt or end the life of that person in any way, shape or form.

I have spoken about this before in this place, supporting previous iterations of the bill presented by the Hon. Ms Franks and I do not want to rehash all of that. I will try to make the point again if I can recall what it was, but I think what I said last time went something like this: as a vegetarian I do not eat meat and I do not particularly agree with people who do eat meat. However, if I am at a dinner party and somebody offers me a meat lovers pizza, can I then harm that person claiming 'pepperoni panic'? I think not. As long as the approach is nonviolent, I have no right to violently assert my beliefs toward that person just because I do not appreciate the approach.

So, the law around gay panic specifically as it stands is at best homophobic and at worst negligent of human rights and the right to freedom from harm. It is homophobic in that it applies only to a gay man who makes a nonviolent romantic or sexual advance toward another man who then murders the gay man. The nature of someone being able to rely on the law to condone an act of violence, particularly an act resulting in the death of another, is abhorrent to me and to Dignity for Disability, as it should be to all members in this chamber, to all members of South Australian society and all human beings.

On that note, I do not want to go too far away from the issue at hand but, since we are talking about people being able to rely on the law, or at least the attitudes of society, to face a lesser charge for a violent act, then I feel it would be negligent of me not to mention that people with disabilities are also far too frequently killed—of course, one would be too many—with a lesser conviction or at the very least a lesser reaction from society. For example, in a situation where the person who committed the murder was the family carer or family supporter of that person with a disability, that family carer was under significant strain and should be shown compassion on those grounds.

Dignity for Disability in the past moved a motion after the case of the Eitzen family in the Adelaide Hills, where a mother ended the life of her son due to the strain of being his family carer, because of the lack of disability support that he received. We came out calling for mental health checks for family carers and supporters of people with disabilities, but let me say that we also came out, and continue to come out, saying that the solution is to adequately support people with disabilities to live as independently and in as dignified and autonomous a manner as possible, so that family carers do not go through that strain which leads to them making that unconscionable decision.

Members may also recall another case from interstate, I think a couple of years ago now—I forget the specifics of it. Basically, a man in a rural town interstate shot his wife, who had an acquired brain injury, and their three children. Much of the media coverage of that case talked about what an upstanding member of the community this man had been, tirelessly caring for his wife post her brain injury, which she, I understand, acquired in a car accident.

Well, let me just say, Mr President, that that man had the option to leave that marriage, he had the option to leave that relationship if the strain was too great and, even if you accept that he was forced to kill his wife because of the brain injury—which I do not think any of us here should or would—he certainly was in no way forced to kill their children, who of course bore no responsibility for his wife's injury and the strain that the resulting lack of support that had caused him.

In a similar vein to this motion I am also very concerned about society's attitudes to the violence, harm and murder that people with disabilities can face, and I will continue to strike a balance where people with disabilities are supported to live autonomous, dignified, supported lives, ordinary lives of their choosing, so that the strain and perceived burden that they place on society as a result of that support does not lead to this abhorrent situation occurring, and certainly does not lead to a lesser reaction in the community than we would accept for the violent treatment of any other being. With those few words, I certainly support the Hon. Ms Franks' motion.

The Hon. T.A. FRANKS (21:10): I would like to thank those members—

The Hon. G.E. Gago: I thought we weren't going to adjourn this and not take it to a second vote.

The Hon. T.A. FRANKS: That's what I'm doing, but I am making a summary response before I seek leave to conclude my comments at a later date. So, moving right along. I thank those members who have made a contribution to this bill in this incarnation of the debate: the Hon. Gerry Kandelaars, who of course chairs the Legislative Review Committee that is looking at this issue, the Hon. Andrew McLachlan and the Hon. Kelly Vincent.

I take on board the government's concerns about the words 'merely because', which currently exist in this one page private member's bill, which seeks to remove the ability and the existence in this state for the partial defence of provocation, known colloquially as gay panic or the homosexual advancement test. I note that it is usual practice, where there are concerns about a particular form of wording, that amendments be moved to address that. I encourage the government, if it has suggestions, to table those in future sitting weeks so that that may at least show the government's commitment to progressing this matter.

I have some hesitation in accepting that the government has taken this seriously, because I would point out that I first wrote to Attorney-General Rau in August 2012 about this issue. At that time I also wrote to the Premier, I wrote to the Leader of the Opposition and I wrote to the then shadow attorney-general. I thank the opposition for their response and engagement on the issue. I am still yet to receive any response to my correspondence of August 2012 from the government.

I then, in my frustration with the lack of cooperation and willingness to engage on this issue from the government, presented a private member's bill in May 2013—not the bill we have before us tonight but a bill that was then, some months later, referred to the Legislative Review Committee and was subject to a report back that recommended, with the exception of the Hon. John Darley's recommendation, that in fact the bill not be supported. This of course was hurriedly revised when, as the Hon. Gerry Kandelaars indicates, he moved to reopen that review with regards to the Lindsay case. It also was the same sitting week that I reintroduced this bill before us tonight.

When I first wrote to the Attorney-General in August 2012 we were one of a few jurisdictions that had not acted in this area of removing the gay panic defence. I note that currently in South Australia we are now the only state or territory that has not acted in some way to remove the gay panic defence. This month Queensland has announced that it will have made movements to eradicate it there, having had the Palaszczuk government come to power and restoring the previous intentions of the Bligh government, which of course lapsed under the Campbell government in that state.

New South Wales has also moved in the time that we have been sitting on our hands in this state. This will probably be the only time I say this, but I commend the work in New South Wales of Christian Democrats upper house MP, Fred Nile, who not only chaired the inquiry into the provocation defence there, but moved the private member's bill that saw it removed in New South Wales in 2014. I think if something can be agreed on by a Greens South Australian MP and Fred Nile, perhaps the Labor South Australian government should have taken it more seriously and acted more swiftly.

As I say, it has left us out of step with every other state and territory in this country. It has left us out of step with most developed jurisdictions across the planet. It is disappointing that, had the Attorney-General perhaps responded to my original correspondence in 2012, we would not have been in the situation of seeing the Lindsay case unfold from a murder that occurred in 2011, which, of course, proceeded to the courts much later than that. We are now left in a situation where we are being asked not to legislate because of the impact on a particular case.

I would note that originally the Attorney-General's position was that this would have no impact on any laws and court cases in this state. You cannot have it both ways. Clearly, the original judgement of the Attorney-General here was wrong. It was a political error and it was an error in law. It is the political will, I hope, of the Weatherill government to come good and to support—

The Hon. G.E. Gago interjecting:

The Hon. T.A. FRANKS: Yes, as minister Gago indicates, it is shocking. I do not think she is, in fact, referring to the shocking dereliction of duty of her colleague. I think she is referring to the fact that I have the gall to actually raise this matter in parliament and yet—

The Hon. G.E. Gago interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The Hon. Tammy Franks has the call. The minister is out of order.

The Hon. G.E. Gago interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The minister is out of order. The minister had the opportunity to come in and contribute to the debate.

The Hon. T.A. FRANKS: If the minister does not want me to take this to a vote, as she believes I should not, then she should possibly remain silent or I will take it to a vote and show the Labor government's colours for what they are.

The Hon. G.E. Gago interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order!

The Hon. G.E. Gago: Okay, let's take it to a vote.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Minister, you are out of order.

The Hon. T.A. FRANKS: Alright, let's take it to a vote. Thank you, minister Gago, I now actually indicate I will be progressing this to a vote. I understand the concerns of some members of this chamber that it is not the right time to move. I would note that any private member's bill that actually gets through this council takes at least another six months, sometimes two years, to get through the other place, so I think we are in no danger of coming up against a court case in March next year.

What I would also point out to the Labor members here is that they have failed to act since 2012 when this issue was first brought to their attention and that they are going into this vote contrary to their own ALP state conference of just a few months ago which finally moved unanimously to eradicate the gay panic defence.

The Hon. G.E. Gago: What a load of garbage! It's garbage and you know it's garbage.

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): The minister is out of order.

The Hon. T.A. FRANKS: The Hon. Gail Gago shows her true colours here saying that this is garbage. She is the one who was encouraging a vote on this issue. It will show up the Labor members of this council for their hypocrisy on this issue. They have had the ability to fix this problem. This is a problem of their own causing.

Rather than seeking to conclude my comments and continuing to try and work with a recalcitrant government, I indicate that I commend this bill to the house and look forward to the committee stage when the government can bring forward its amendments, should it have wording changes that it seeks to indicate. I note that the government could stop at second reading and indicate their support for this bill to continue to be debated, but it is on their heads if they choose to oppose it tonight.

The council divided on the second reading:

Ayes 4
Noes 11
Majority 7

AYES

Darley, J.A.	Franks, T.A. (teller)	Parnell, M.C.
Vincent, K.L.		

NOES

Dawkins, J.S.L.	Gago, G.E. (teller)	Gazzola, J.M.
Kandelaars, G.A.	Lee, J.S.	Lucas, R.I.
Malinauskas, P.	McLachlan, A.L.	Ngo, T.T.
Ridgway, D.W.	Stephens, T.J.	

Second reading thus negatived.

Motions

THE NATIONAL INDIGENOUS TIMES

Adjourned debate on motion of Hon. T.A. Franks:

That this council notes—

1. The immense contribution of *The National Indigenous Times* as a powerful voice for Australia's First Peoples;

2. The investment made by the founders of *The National Indigenous Times*, John and Beverley Rowsthorne;

3. The *National Indigenous Times'* record as Australia's most awarded Indigenous publication, including a Walkley Award for Indigenous coverage in 2005; and

4. The sad departure of the newspaper from the media landscape following an announcement that its parent company, Destiny Publications, had gone into voluntary administration in January and the subsequent closure of the newspaper in February 2015.

(Continued from 18 March 2015.)

The Hon. T.T. NGO (21:25): I rise on behalf of the government to support this motion. *The National Indigenous Times* first hit the street on 27 February 2002 as the first weekly national newspaper that focused specifically on Indigenous issues. The paper was staffed and owned by Indigenous and non-Indigenous Australians and hosted a dedicated team of predominantly Indigenous Australian writers and columnists.

Their primary goals were to bridge the knowledge gap for mainstream Australians of the aspirations of Indigenous Australians. They wanted to inform all Australians of the social and political issues affecting Indigenous Australians, and to promote to them the many positive achievements in business, academia, sport and community life of Indigenous Australians.

The National Indigenous Times for many years succeeded in this and more. By publishing the news and opinions, both good and bad, that they did, and by doing it in a way that was straightforward and frank, they inspired others to speak up and to speak out with similar frankness. I believe that it is crucial that we all employ this same frankness when talking about social and political issues affecting Aboriginal people.

We do ourselves no favours in Australia by not speaking frankly about issues impacting the Aboriginal community. This is something that I am particularly passionate about, given my role as the Presiding Member of the Aboriginal Lands Parliamentary Standing Committee. I thank *The National Indigenous Times* for their contribution to serving the voice of the Aboriginal community, and I also thank the newspaper's staff and sponsors for their dedication over many years.

The Hon. T.J. STEPHENS (21:27): The Hon. Tammy Franks, on 18 March, introduced a private member's motion:

That this council notes—

1. The immense contribution of *The National Indigenous Times* as a powerful voice for Australia's First Peoples;

2. The investment made by the founders of *The National Indigenous Times*, John and Beverley Rowsthorne;

3. The *National Indigenous Times'* record as Australia's most awarded Indigenous publication, including a Walkley Award for Indigenous coverage in 2005; and

4. The sad departure of the newspaper from the media landscape following an announcement that its parent company, Destiny Publications, had gone into voluntary administration in January and the subsequent closure of the newspaper in February 2015.

Earlier this year, it had been reported in the media that *The National Indigenous Times* had been put into administration and placed for sale. The ABC reported that the paper went into administration because of increasing legal bills as a result of actions brought against it, unpaid creditors and other legal matters, including a long-running unfair dismissal case and an undisclosed defamation matter.

Although the future of the paper at this stage remains sort of unclear, it is one of the main publications comprehensively covering Indigenous affairs issues throughout the nation. It certainly was a voice that I am sure championed the rights of Indigenous people. It will certainly be sorely missed, but, sadly, it is not an isolated case.

Just recently, a number of excellent publications that serviced rural and regional South Australia have bitten the dust or heavily reduced their local content and frequency of publication, so I am not sure that this is just particular to an Indigenous newspaper. I think it is a bit of a sign of the times with regard to hard copy publications which, sadly, I miss because it might be all right for the younger generation, but I still like my hard copy publication.

Members interjecting:

The Hon. T.J. STEPHENS: Thanks, the Hon. Kelly Vincent, you are very kind to me. With those few words, I note the Hon. Tammy Franks's motion and on behalf of the Liberal Party we support the motion and notice, sadly, the demise of *The National Indigenous Times*.

The Hon. K.L. VINCENT (21:29): Dignity for Disability, like other members, is sad to hear of the end of *The National Indigenous Times*. *The National Indigenous Times* first hit the streets in 2002, with Indigenous and non-Indigenous owners and predominantly Indigenous Australian writers and columnists. The act of reconciliation takes an ongoing and concerted effort. It is about everybody taking small steps to learn about, understand and repair the damage of the past and the present, to work towards a future where we have a greater understanding of Aboriginal Australians.

When it comes to representing Aboriginal Australians, our mainstream media in particular too often focuses on the bad, stereotypical representations of Aboriginal people, as with many other minority groups, that do not help to heal, and that is what we need to do. So, we certainly have a long way to go and I will miss *The National Indigenous Times* as a voice in that path to healing. With those few brief words, on behalf of Dignity for Disability I thank the Hon. Ms Franks for bringing this important motion forward and commend it to the chamber.

The Hon. T.A. FRANKS (21:31): I would like to thank the Hon. Tung Ngo, the Hon. Terry Stephens and the Hon. Kelly Vincent for making a contribution on this motion. I note it is a sad time to see the passing of *The National Indigenous Times*, but it was also a publication worthy of celebration and I know that many people who were involved in this newspaper will be interested to see the support of the council tonight and I note that they conveyed to me at the time that they were touched that we put a motion to this council noting the importance of that newspaper, particularly to the First Peoples of this nation, but indeed to this nation.

Motion carried.

DEFENCE RESERVES SUPPORT COUNCIL (SA)

Adjourned debate on motion of Hon. A.L. McLachlan:

That the council acknowledges the contribution of the Defence Reserves Support Council (SA), Air Force, Army and Navy Reservists and employers of reservists, and in particular:

1. Acknowledges the contribution of Dr Pamela Schulz OAM as the recently retired chair of the council;

2. Congratulates Dr Andrew Cannon AM as the new chair of the council;

3. Recognises the contribution of reservists in war and peace, locally, nationally and internationally, and including the Sampson Flat bushfire; and

4. Appreciates the support of the employers of reservists to facilitate their contribution.

(Continued from 25 February 2015.)

The Hon. T.T. NGO (21:32): I rise to support this motion to acknowledge the contribution of the Defence Reserves Support Council (SA), Air Force, Army and Navy reservists and employers of reservists. I would like to acknowledge Dr Pamela Schulz OAM on a very successful career. Recently retired, she was the first female to be appointed chair of the Defence Reserves Support Council. Dr Schulz spent 20 years of her career in specialist communications management and public relations as a senior practitioner within the South Australian Public Service. She was a very passionate worker and although now semi-retired, she teaches at the University of South Australia.

Dr Schulz conducted a major government campaign from mid-2002 to December 2003 in the lead-up to the South Australian Constitutional Convention to involve people in parliamentary and constitutional reform. She won a gold award from the Public Relations Institute of Australia for this campaign. I would like to pass on my best wishes to her, as well as to Dr Andrew Cannon, the newly elected chair of the Defence Reserves Support Council. Dr Cannon recently served as the deputy chief magistrate. He has a PhD from the University of Wollongong on court policy, is a professor at Flinders Law School and is also an adjunct professor at the Munster University in Germany.

Reservists are an important part of Australia's defence force. They help safeguard the security of our country and can be used for security duties, disaster relief and support with regular military forces. Reservists give their time to provide assistance in the event of natural disasters such as tsunamis, earthquakes, floods, droughts and fires. They also give their assistance with peacekeeping and emergency rescues, both locally and internationally.

Since the Federation of Australia in 1901, reservists have been known by many names, including the Citizens Forces, the Citizen Military Forces and, unofficially, the Australian Military Forces. In 1980 the current name, the Australian Army Reserve, was adopted.

On the outbreak of World War II in 1939, Citizen Military Forces members who wanted to serve overseas in the 2nd Australian Imperial Force had to resign from the Citizen Military Forces (CMF). Around 200,000 CMF members transferred to the 2nd Australian Imperial Force during the war, and the CMF was retained for home defence, which included New Guinea and was later to include the South West Pacific area. A few CMF formations served overseas, including the 8th and 11th Brigades, which served in the New Guinea and Pacific areas towards the end of the war.

Reservists are a large part of the defence force industry. There are approximately 45,000 Australian reservists both in service and on standby, making up 45 per cent of the total defence force. They volunteer for part-time service in the Navy, Army and Air Force and perform a range of roles. Many are nurses, doctors, firefighters, ambulance officers, IT professionals, plumbers and electricians. These are good people who are committed to the service of our great nation.

Reservists undertake tasks such as maintaining high military discipline amongst Army personnel and carrying out military base activities and internal security. They take care of important depots, prisoner of war camps, and air and sea bases. This means freeing up regular troops for the front.

Reservists also dedicate their own time to travel overseas to offer their help in wars, risking their own lives. Australian Army reservists have served in many theatres of war, and currently serve in the Solomon Islands and East Timor on peacekeeping duties and for humanitarian relief to communities in Pakistan, Thailand, Rwanda and Somalia.

It would be remiss of me not to mention the large number of reservists who travelled to assist with fighting the Sampson Flat bushfire. This began on 2 January 2015 during a day of extreme heat and lasted until 9 January. There were over 350 reservists who devoted their time and commitment to making sure that there was the best possible outcome for those involved. They volunteered to help those who had lost their land, their animals and all their belongings.

Reservists contribute to the community both locally and internationally in so many ways. This contribution would not be possible without the support of their employers, who generously release reservists from their duties to participate in exercises and training. We are most grateful for this support.

I offer my unconditional support for this motion. I would also like to thank the Hon. Andrew McLachlan for bringing this motion to the council.

The Hon. A.L. McLACHLAN (21:39): I thank the Hon. Tung Ngo for his contribution to the debate. Australia's Defence Force continually seeks the skills and experience of reservists to help maintain its capability. Receiving the support of employers means reservists are available to undertake their duties when called for service.

I would like to again acknowledge and thank those employers of reservists who have facilitated their contribution, for without the ongoing support of employers such as these it would not be possible for reservists to successfully synchronise their civilian and service roles. I commend the motion to the council.

Motion carried.

Bills

LOCAL NUISANCE AND LITTER CONTROL BILL

Introduction and First Reading

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) (21:42): Obtained leave and introduced a bill for an act to regulate local nuisance and littering; to make related amendments to the Local Government Act 1999, the Motor Vehicles Act 1959 and the Summary Offences 1953; and for other purposes. Read a first time.

Second Reading

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) (21:43): I move:

That this bill be now read a second time.

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

Leave granted.

Littering and activities that cause nuisance such as noise, smoke and dust can impact on our enjoyment of local areas. The Local Nuisance and Litter Control Bill (the Bill) is innovative and necessary legislation that will considerably improve local nuisance and litter management services to the community. The Bill will result in improved amenity for communities, in particular reduced litter and illegal dumping in towns, regions and cities throughout the State.

Background

Communities currently experience considerable confusion about the delineation between state and local government roles and responsibilities related to local nuisance issues. Councils are better placed to respond quickly and effectively to most local nuisance issues as they have a local presence. Further, community expectation of local government with regard to policing environment protection matters is very high. A community survey undertaken by the Local Government Association (LGA) in 2006 indicated 66% of respondents considered councils are best placed to manage nuisance issues. South Australia is currently the only state in which local government responsibility in this area is not legislated to some extent.

State Government, through the EPA, has been negotiating with local government for more than 20 years to find better solutions for dealing with local nuisance issues. In 2012, the Statutory Authorities Review Committee, having enquired into the operation of the EPA, recommended in its 56th report that legislative reform be considered to clearly define the responsibilities of the EPA and other authorities including local councils with regard to dealing with these issues.

In 2013, the LGA established a Local Excellence Expert Panel consisting of the Honourable Greg Crafter AO, retired Judge Christine Trenorden and Professor Graham Sansom to establish a vision for the 'Council of the Future'. A recommendation of this Panel was that 'the responsibility for investigating and resolving matters of local environmental nuisance be accepted as part of the function of a regional Council on condition that the EPA provide support in the form of expertise and equipment'. This Bill will deliver on both of these recommendations.

Objectives

The objective of the Bill is to improve the management of nuisances and littering across the State. The Bill will protect individuals and communities from local nuisance and will reduce the prevalence of litter across South

Australia, particularly along roadsides and in tourist and shopping precincts. In doing so, the Bill will improve the amenity value of local areas and promote the creation and maintenance of a clean and healthy environment.

The Bill will clearly delineate responsibility for managing nuisance in the community to local government; reinforcing the responsibilities of the EPA to manage nuisance on EPA licensed sites under the Environment Protection Act 1993. The Bill will limit the responsibility of local government to nuisance issues. More serious offences will continue to be referred to the EPA. The Bill will provide consistency of service to the community across council boundaries, better regulatory tools for enforcement, and will deal more effectively with vexatious complaints.

The Bill proposes a modern legislative scheme for litter control in South Australia that will provide:

- considerable deterrence including higher penalties for more serious offences;
- improvements in the usability of surveillance for evidence gathering in the case of illegal dumping (by linking an offence to the registered owner of a vehicle);
- non-government organisations to undertake compliance activities subject to approval; and
- establishment of a public litter reporting scheme in South Australia.

Benefits to the community

The benefits to the community will be significant. In relation to nuisance the Bill establishes consistency in the management of nuisance across South Australia and provides the community with a more effective local service for the management of nuisance complaints. The litter elements of the Bill will benefit the community through providing modern tools for policing litter and illegal dumping, providing heightened deterrence, and will ultimately result in a cleaner environment, particularly in peri-urban and regional areas where illegal dumping is a considerable problem. This benefit will have flow on positive effects to councils by improving amenity and reducing ongoing litter management and illegal dumping clean-up costs.

Consultation

Consultation to develop the Bill has been extensive. A discussion paper was released in March 2013 to commence consultation directly with local government. Five regional meetings, across the State, were held with local councils to support consultation on the discussion paper.

A Ministerial Working Group was established to guide the drafting of legislation and provide governance for the project. The Working Group consisted of representatives from the EPA, LGA, Department of Health and Ageing, SA Police, KESAB and the Office for Local Government.

The LGA also established a reference group to assist with development and review of the detail of the drafting instructions. The reference group consists of local government officers from the City of Charles Sturt, City of Salisbury, Rural City of Murray Bridge, and Alexandrina Council as well as representatives from Eastern Health Authority, LGA and the EPA. The reference group met regularly over an 18 month period.

In July, 2015, the Bill was released for public consultation for a six-week period. The consultation process included direct communication with local councils, the LGA of South Australia, regional local government associations, Members of Parliament, industry groups, fast food businesses, government agencies, and other relevant stakeholders. Six public meetings were held across the State; in Adelaide, Karoonda, Naracoorte, Wudinna, Victor Harbor, and Port Pirie. The consultation has shaped the Bill into legislation that is innovative in its structure and tools, and limits the resource intensiveness of regulatory practice to local government.

Key elements

The Bill provides a straightforward definition of local nuisance that is designed to evolve with the needs of local government over time through the ability to prescribe nuisances under Schedule 1. The Bill also establishes three distinct classes of litter to differentiate between the seriousness of different types of offending. There is general litter that is of a benign nature, class B hazardous litter (that includes litter types that may cause an immediate danger or hazard), and class A hazardous litter (initially limited to asbestos). Each class of litter is also structured so that it may evolve over time with the needs of local government to manage new forms of litter as necessary.

Liability of vehicle owners

It is commonplace to see cigarette butts and other litter thrown from vehicles, and illegally dumped waste has typically been transported by vehicle to its destination, particularly where large quantities are involved. Currently, it is not sufficient to identify the license plate details and a description of the vehicle to prove a vehicle-related littering or illegal dumping offence.

To improve enforcement ability, the Bill seeks to apply an onus on the owner of the vehicle for an offence committed in association with or from that vehicle, which would bring South Australian laws into line with all other Australian jurisdictions. This function operates similar to speed camera and red-light camera infringements, where the owner of a vehicle has the option to declare a third party was responsible for the vehicle at the time of the offence.

This provision will also be critical to establish enforceable public litter reporting as it will allow for an expiation to be issued to the owner of a vehicle identified via licence plate and other identifying attributes under such a programme.

Public litter reporting

While it is possible to report littering in South Australia to Police, there is currently no dedicated public litter reporting programme in place. This is in part because it is difficult to determine the offender under current South Australian laws. The Bill, in addition to applying responsibility to the owner of a vehicle, contains a provision to allow for improved public reporting of litter by formalising a citizen's notification of littering. This provision stipulates that the contents of the notification may constitute evidence of the offence, which will allow expiations to be issued as a result of public litter reports, as is the case in all other Australian jurisdictions.

Significant provision for civil remedy by affected parties

The Bill allows for courts to order civil remedies. This allows councils, administering bodies, individuals or other body corporates who have been impacted by a contravention or a potential contravention to apply to the courts for a civil remedy.

The inclusion of civil remedies provisions will provide an alternative route for complaint resolution that may be exercised separately from the council or administering body. This will be particularly useful in circumstances where a council or administering body has been unable to determine a contravention through its own investigation and is unable to progress a complaint to the satisfaction of the complainant.

Ability to negotiate a civil penalty

This provision will allow councils or administering bodies to enter into negotiation, or apply to the relevant court, for a civil penalty. The EPA has used civil penalties successfully in administering the Environment Protection Act 1993.

The Bill contains an option for the Minister, councils or administering bodies to negotiate a civil penalty with an alleged offender rather than applying to the court for a criminal penalty. This will provide a lower cost alternative to prosecution that benefits the regulator as well as the alleged offender. Negotiations are voluntary and if an alleged offender chooses not to negotiate; the Minister, council or administering body has the opportunity to apply to the court for a penalty.

The Bill contains another option for the Minister, councils or administering bodies to apply to the Environment Resources and Development Court for a civil penalty as an alternative to criminal prosecution. Civil penalties may only be used for offences that do not require proof of intention or recklessness.

Compliance standards set via regulation

The Minister will be able to establish, via regulation, standards to further guide the implementation of the Bill. There will be provision for standards to be constructed to guide evidentiary provisions that would prove an offence. This provision will not limit the ability to prove an offence where a standard is not in place but be used as an improved determination where it is possible to define such standards. Councils will also be able to permit activities to occur outside of the standards where appropriate. The Minister will be required to consult with councils, administering bodies, the LGA, and the community in developing a standard.

Councils may work together to address nuisances

The Local Government Act 1999 allows for councils to establish regional subsidiaries. The Bill will support such arrangements by allowing for sharing of authorised officers between councils, and for other administering bodies to act on behalf of one or more councils.

Regional arrangements will allow smaller councils in particular to administer the Act by agreements with adjoining councils. These provisions will allow for one authorised officer to undertake duties across multiple council areas. However, such arrangements may also benefit larger metropolitan councils given their proximity to each other.

Other organisations may undertake compliance

The Minister may prescribe other organisations or public authorities as administering bodies through regulation for all or part of the legislation. Administration of the legislation by such agencies may be limited by the Minister, including the limitation of powers for authorised officers. Administration of this legislation in state waters will need to be performed by a state government agency or administering body, noting that councils do not necessarily have jurisdiction within navigable waters of the State.

This provision allows broader access than local government and enables greater enforcement. For example, KESAB, who has advocated litter prevention for over 40 years, has shown interest in taking on an enforcement role. Such a provision would allow this to occur, subject to approval from the Minister. It would also allow other organisations to contract to local government to provide this service. There is precedence in this approach with the Royal Society for the Prevention of Cruelty to Animals (RSPCA) administering the *Animal Welfare Act 1985*.

Where an organisation seeks to be an administering body (i.e. not a council) the Minister must consult with the LGA. The Minister may approve an administering body with conditions. For example, a condition may be applied that, in order to operate in the area of a council there must be an agreement in place with that council to do so.

The Minister may also allow administering bodies that are not councils to regulate all or some council generated nuisance or littering as part of the prescription/authorisation process. This would allow KESAB, as an example, to regulate litter from council activities.

This Bill will provide significant benefits to local communities across the State through the implementation of best practice litter regulation resulting in cleaner streets, towns, cities and regions through. The Bill creates flexibility in the regulatory options available to councils to manage local nuisances and innovative regulatory tools that will reduce the incidence of littering.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause contains definitions of terms used in the Bill.

Part 2—Objects and application of Act

4—Objects of Act

This clause sets out the objects of the Bill to which the Minister, councils and other persons or bodies involved in the administration of the Bill must have regard and seek to further. The objects are—

- to protect individuals and communities from local nuisance;
- to prevent littering;
- to improve the amenity value of local areas;
- to promote the creation and maintenance of a clean and healthy environment.

5—Interaction with other Acts

Subclause (1) provides that the Bill is in addition to, and does not limit, the provisions of any other law of the State.

Subclause (2) provides that the Bill is not intended to be construed so as to prevent any person from being prosecuted under any other enactment for an offence that is also punishable by the Bill, or from being liable under any other law of the State to any penalty or punishment that is higher than a penalty or punishment provided by the Bill.

Subclause (3) provides that nothing in the Bill affects or limits a right or remedy that exists apart from the Bill and compliance with the Bill does not necessarily indicate that a common law duty of care has been satisfied.

Subclause (4) provides that the Bill does not apply in relation to an activity authorised by an environmental authorisation within the meaning of the *Environment Protection Act 1993*.

However, under subclause (5), the Bill will apply in relation to the travelling by road of a vehicle used in connection with the following prescribed activities of environmental significance as specified in Schedule 1 of the *Environment Protection Act 1993*:

- a waste transport business (category A);
- a waste transport business (category B);
- dredging;
- earthworks drainage.

6—Territorial and extra-territorial application of Act

This clause provides for extra-territorial application of the Bill if conduct engaged in outside of the State results in local nuisance within the State and that conduct would, if engaged in within the State, constitute a contravention of the Bill.

Subclause (2) clarifies that the conduct could include a failure to act.

Part 3—Administration

Division 1—Councils

7—Functions of councils

This clause provides that councils are the principal authority for dealing with local nuisance and littering in their respective areas.

The functions of a council are—

- to take action to manage local nuisance and littering within its area;
- to cooperate with any other person or body involved in the administration of the Bill;
- to provide, or support the provision of, educational information within its area to help detect, prevent and manage local nuisance and littering;
- such other functions as are assigned to the council by the Bill.

Councils must, in performing their functions, have regard to—

- the guidelines adopted or prescribed by regulation for managing unreasonable complainant conduct;
- any other guidelines adopted or prescribed by regulation to assist councils in performing their functions.

8—Annual reports by councils

This clause requires councils to include details of the performance of its functions under the Bill in its annual report.

Division 2—Administering bodies

9—Administering bodies

This clause enables the Governor to declare a body to be an administering body for the purposes of the administration or enforcement of the Act and to confer certain functions conferred on councils (under the Act) on the body and its officers or employees. This is to enable bodies like KESAB to be involved in the administration or enforcement of the Act.

10—Delegation

This clause enables an administering body to delegate a function conferred on it to a committee of the body, an officer or employee of the body or an officer or employee of the body for the time being occupying a particular office or position.

11—Periodic reports by administering bodies

This clause requires an administering body to report to the Minister at such intervals as the Minister requires on the performance of its functions. The report must be laid before both Houses of Parliament.

Division 3—Authorised officers

12—Authorised officers

This clause provides that all police officers are authorised officers for the purposes of the Act, and enables the appointment of officers by the Minister or councils.

13—Identity cards

This clause provides for the issuing of identity cards to authorised officers. An authorised officer must produce the identity card for inspection by a person in relation to whom the officer intends to exercise powers under the Act.

14—Powers of authorised officers

This clause sets out the powers of authorised officers in connection with the administration or enforcement of the Act. Under this clause, an authorised officer may—

- at any reasonable time, enter or inspect any premises or vehicle;
- during the course of the inspection of any premises or vehicle—
    - ask questions of any person found in or on the premises or vehicle;
    - open a part of, or thing in or on, the premises or vehicle;
    - inspect any substance, material or thing found in or on the premises or vehicle;

- take and remove samples of any substance, material or thing found in or on the premises or vehicle;
- require any person to produce any plans, specifications, books, papers or documents;
- examine, copy and take extracts from any plans, specifications, books, papers or documents;
- take photographs, films or video recordings;
- take measurements, make notes and carry out tests;
- remove, or seize and retain, any substance, material or thing that has or may have been used in, or may constitute evidence of, a contravention of the Act;
- require a person who the authorised officer reasonably suspects has committed, is committing or is about to commit, an offence against the Act, to state the person's full name and usual place of residence and to produce evidence of the person's identity;
- require any person to answer any question that may be relevant to the administration or enforcement of the Act;
- give directions as to the stopping or movement of a vehicle;
- give any other directions reasonably required in connection with the exercise of a power conferred by any of the paragraphs above or otherwise in connection with the administration or enforcement of the Act.

The remaining subclauses provide safeguards around the reasonable use of force and other potential abuses of power by authorised officers, and prohibits the hindrance or obstruction of authorised officers.

15—Limit of area of authorised officers appointed by councils

This clause enables authorised officers appointed by council to exercise their powers outside the council area including within the area of another council or outside the State if they believe on reasonable grounds that an offence has been committed under the Act within the council area that requires the exercise of powers outside the council area.

16—Provisions relating to seizure

This clause deals with seized items and sets out procedures for their forfeiture or return to their owners and entitlement of owners to compensation. It also enables the Minister or a relevant council to dispose of forfeited items in such manner as the Minister or council may direct, including by sale, from which the proceeds are to go to the Minister or council as the case may be.

Subclause (2) clarifies that the section does not apply in relation to items removed or disposed of under clause 31 following non-compliance with the requirements of a nuisance abatement notice or litter abatement notice, or items collected, removed or disposed of by a council under the *Local Government Act 1999*.

Part 4—Offences

Division 1—Local nuisance

17—Meaning of local nuisance

This clause is definitional in nature and specifies what constitutes and what does not constitute a local nuisance. A local nuisance is—

- any adverse effect on an amenity value of an area that—
  - is caused by—
    - noise, odour, smoke, fumes, aerosols or dust;
    - animals (including insects), whether dead or alive;
    - any other agent or class of agent declared by Schedule 1;
    - unreasonably interferes with or is likely to interfere unreasonably with the enjoyment of the area by persons occupying a place within, or lawfully resorting to, the area;
- insanitary conditions on premises that unreasonably interfere with or are likely to interfere unreasonably with the enjoyment of premises occupied by persons in the vicinity;
- unsightly conditions, of a kind declared by Schedule 1, on premises caused by human activity or a failure to act;

- a contravention of, or failure to comply with a provision of an environment protection policy, or of any other Act or law, declared by Schedule 1;
- anything declared by Schedule 1 to constitute a local nuisance.

However, a local nuisance does not include anything declared by Schedule 1 not to constitute a local nuisance. See Schedule 1 for a list of these things.

The clause further clarifies when conditions on premises will be taken to be insanitary, namely if an authorised officer reasonably believes that—

- the premises are so filthy or neglected that there is a risk of infestation by rodents or other pests; or
- offensive material or odours are emitted from the premises.

18—Causing local nuisance

This clause contains the two offences relating to local nuisance.

The first is the offence of carrying on an activity intentionally or recklessly and with the knowledge that local nuisance will result. The maximum penalty for this offence is $60,000 for a body corporate or $30,000 for a natural person.

The second is the offence of carrying on an activity that results in local nuisance. Intention does not form an element of this offence. The maximum penalty for this offence is $20,000 for a body corporate or $10,000 for a natural person.

Liability for causing local nuisance rests prima facie with the occupier or person in charge of the place where the local nuisance-causing activity was carried on.

The clause also clarifies that the term 'carrying on an activity' includes a failure to act.

19—Exemptions from application of section 18

This clause enables councils to exempt persons in respect of certain potentially local nuisance-causing activities from the application of clause 18, for example, construction or demolition works, concerts or events or activities using amplified sound. Before granting an exemption, a council will need to be satisfied as to the adequacy of an applicant's site nuisance management plan to prevent, minimise or address any adverse effects on the amenity value of the area and also that exceptional circumstances exist that justify the granting of the exemption. An exemption must be published on a council's website.

20—Person must cease local nuisance if asked

A person must, on request by an authorised officer, cease an activity, or remove from premises owned or occupied by the person any substance, material or thing that, in the opinion of the authorised officer, is causing local nuisance. The maximum penalty for this offence is $5,000 or an expiation fee of $210.

21—Regulations for purposes of Division

This clause enables regulations to be made for the purposes of the Division including regulations that—

- prohibit, restrict or regulate an activity, or the use or sale of a substance, material or thing, or the use or installation of equipment or infrastructure relevant to the prevention or management of local nuisance; and
- prohibit, restrict or regulate the manufacture, possession, transport, storage, use or disposal of a substance, material, equipment or thing that causes local nuisance; and
- provide for the removal or destruction of a substance, material, equipment or thing that causes local nuisance; and
- provide for compliance standards, and testing or monitoring standards, procedures or techniques (including sensory techniques), to be applied or used by authorised officers in detecting or identifying local nuisance; and
- provide for the taking, analysis or testing of samples relevant to detecting, identifying or monitoring local nuisance including—
    - the persons who may take, analyse or test those samples;
    - the places where those samples may be analysed or tested;
    - the reporting of the results of the analysis or testing of those samples.

Division 2—Litter control

22—Disposing of litter

Subclause (1) sets out the principal offence of littering, namely, a person must not dispose of litter onto any land or into any waters. The tiered penalty structure means that there are higher penalties for disposing of larger amounts of litter or different classes of litter, ranging from class A hazardous litter which is the most toxic to general litter which is the least toxic.

Subclauses (2) and (3) clarify which activities will or will not fall within the principal offence.

Subclause (4) sets out the defences to the offence, namely, disposal on one's own property or on some other person's property with their consent, or accidental disposal, provided all reasonable steps are taken to retrieve the litter.

Class A hazardous litter is defined as domestic or commercial waste comprised of—

- asbestos;
- material containing asbestos;
- any substance, material or thing of a kind prescribed by regulation;
- a combination of litter referred to in a preceding paragraph of this definition and any other litter.

Class B hazardous litter is defined as—

- when disposed of onto land or into waters—
    - live cigarettes or cigarette butts;
    - used syringes;
    - waste glass (whether or not broken);
    - any substance, material or thing of a kind prescribed by regulation;
    - a combination of litter referred to in a preceding paragraph of this definition and general litter;
- when disposed of into waters—any disused or decommissioned vehicle, appliance or device or part of such a vehicle, appliance or device or any other structure or thing that an authorised officer reasonably suspects is being used, or is intended for use, in the waters as an artificial reef.

General litter is defined as any solid or liquid domestic or commercial waste (other than hazardous litter), including—

- cigarettes or cigarette butts;
- chewing gum;
- food or food scraps;
- beverage containers;
- packaging;
- clothing, footwear or other personal accessories or personal items;
- furniture;
- garden cuttings or clippings or other plant matter;
- garden landscaping material;
- dead or diseased animals;
- vehicles or vehicle parts;
- machinery or equipment used in farming or agriculture;
- demolition material (including, but not limited to, clay, concrete, rock, sand, soil or other inert mineralogical matter);
- building or construction material or equipment;
- any material or thing used or generated in the course of carrying on a prescribed activity of environmental significance;
- any substance, material or thing of a kind prescribed by regulation.

Further key terms used in section 22 are defined in subclause (5).

23—Bill posting

A person must not post a bill on property without the consent of the owner or occupier. The maximum penalty for this offence is $10,000 or an expiation fee of $315. Subclause (2) additionally makes a person who distributed or authorised the distribution of such a bill guilty of an offence with a maximum penalty of $20,000 for a body corporate or $10,000 for a natural person. The clause further sets out a defence to the second offence, namely lack of foreseeability, and enables a court to order compensation for loss or damage to the property caused by the commission of either offence.

24—Litterer must remove litter if asked

This clause requires a person, if requested by an authorised officer, to remove any bills or other litter posted or disposed of in contravention of the Division and to dispose of it as directed. Failure to do so attracts a maximum penalty of $5,000 or a $210 expiation fee.

25—Citizen's notification

This clause enables evidence of the commission of an offence to be provided by way of a citizen's notification. It will enable the making of regulations allowing a member of the public to forward a citizen's notification (which could include a photograph) of suspected littering or bill posting activity which constitutes evidence of the matters in the notification.

Division 3—Miscellaneous

26—Liability of vehicle owners

This clause presumes an owner of a vehicle to have committed an offence if an activity is carried on in, at, from, or in connection with the use of the vehicle, resulting in an offence against section 18, 22 or 23 (a principal offence).

The clause provides further safeguards for owners and alleged principal offenders and evidentiary provisions to maximise a successful enforcement regime under the Act whilst ensuring that the risk of convicting the wrong person is avoided. Precedents for this clause are to be found in the *Road Traffic Act 1961*.

The clause does not apply if—

- the principal offence is an offence against section 22 (disposing of litter); and
- the vehicle from which the litter was disposed of is—
    - a taxi; or
    - a train, tram, bus, ferry, passenger ship, or other public transport vehicle that was being used for a public purpose at the time; and
- the litter was disposed of by a passenger of the vehicle.

27—Defence of due diligence

This clause allows for a defence of taking all reasonable precautions and exercising due diligence to avoid the commission of an offence under section 18 (causing local nuisance) or 22 (disposing of litter).

The defence, as applied in relation to an offence committed in the course of undertaking a prescribed activity of environmental significance (to the extent referred to in section 5(5)), requires proof that the person—

- had taken reasonable steps to prevent or avoid the circumstances that gave rise to the offence including by putting in place any systems or safeguards that might reasonably be expected to be in place; and
- complied with the requirements of any notice under this Act that related to preventing or managing the circumstances that gave rise to the offence; and
- as soon as becoming aware of the circumstances that gave rise to the offence—
    - reported those circumstances to the Minister or the relevant council; and
    - took all reasonable steps necessary to prevent or reduce those circumstances.

A person may, despite availing themselves of a defence under this clause, be considered to have contravened section 18 or 22 for the purposes of—

- any proceedings under section 33 in respect of the contravention;
- the issuing or enforcement of a nuisance abatement notice or litter abatement notice in respect of the contravention;
- the making by a court of an order under section 45 in proceedings for an offence in respect of the contravention.

The clause does not apply in relation to a person who is charged with an offence under section 46.

28—Alternative finding

If, in proceedings for an offence against the Part, the court is not satisfied that the defendant is guilty of the offence charged but is satisfied that the defendant is guilty of an offence against the Part that carries a lower maximum penalty (determined according to relative maximum monetary penalties), the court may find the defendant guilty of the latter offence.

29—Notification to EPA of serious or material environmental harm

This clause requires a council that has reason to believe that an offence committed under section 18 or section 22 has, or may have, resulted in material environmental harm, or serious environmental harm, within the meaning of the *Environment Protection Act 1993*, to notify the Environment Protection Authority of that belief.

Part 5—Nuisance abatement notices and litter abatement notices

30—Nuisance and litter abatement notices

This clause provides for the issuing by the Minister or a council of nuisance abatement notices or litter abatement notices and is a mechanism for securing compliance with Part 4 of the Act. Such a notice enables the Minister or council to require a person to undertake a range of measures to achieve compliance. If urgent action is required, the person may be issued with an emergency notice which may, at least initially, bypass some of the procedural requirements of a written notice. The person may appeal against a notice to the ERD Court. Failure to comply with a notice is an offence attracting a maximum penalty of $60,000 for a body corporate and $30,000 for a natural person or an expiation fee of $500. It will also be an offence, attracting a maximum penalty of $25,000, to hinder or obstruct a person complying with a notice.

31—Action on non-compliance with notice

This clause provides the Minister or a council with the option of taking action required by a notice if the notice is not complied with by the person to whom it was issued. The action itself may be taken by an authorised officer or some other person authorised by the Minister or council. The clause further provides for cost recovery options available to the Minister or council as against the person in default, including debt recovery, interest, and having a charge imposed on land in favour of the Minister or council in accordance with a scheme prescribed by the regulations.

32—Appeals

This clause sets out procedures relating to an appeal to the ERD Court against a nuisance abatement notice or litter abatement notice.

Part 6—Civil remedies and penalties

33—Civil remedies

This clause provides that applications for orders of an injunctive nature may be made to the ERD Court. The Court may also make orders for damages (including exemplary damages). Subclauses (4) and (5) limit the Court's power to make awards of exemplary damages. The clause further provides for procedural matters around who has standing to make an application and the right to make an application in a representative capacity. The Court may make interim orders including orders made *ex parte* pending the final determination of a matter. Under subclause (18), if, on an application under the clause alleging a contravention of the Act, the Court is satisfied that the respondent has not contravened the Act and has suffered loss or damage as a result of the actions of the applicant, the Court may require the applicant to pay the respondent an amount in compensation.

34—Minister or council may recover civil penalty in respect of contravention

This clause provides for civil penalties. The Minister or a relevant council may, if satisfied that a person has contravened the Act, recover (by negotiation or in civil proceedings in the Environment, Resources and Development Court) an amount as a civil penalty in respect of the contravention instead of prosecuting the person for the relevant offence. Other features of the scheme are:

- a civil penalty can only be pursued if the relevant offence does not require proof of intent or some other state of mind and the factors to be considered in deciding whether to use the provision or prosecute in the ordinary way, are the seriousness of the contravention, the previous record of the offender and any other relevant factors;
- the notice must be served on the person (at least 21 days before any application to the court is made under the provision) advising the person that he or she may elect to be prosecuted in relation to the contravention, and if the person does so elect, civil proceedings cannot be commenced under the provision;
- civil penalties negotiated by the Minister or council are capped at the maximum penalty specified under the Act for the relevant offence and the amount of any economic benefit acquired by the person or accruing to the person as a result of the contravention however the court can order, as a civil penalty in

respect of a contravention, payment of an amount not exceeding the criminal penalty for the relevant offence and the amount of economic benefit as referred to above;

- civil penalty proceedings are stayed if criminal proceedings are commenced in respect of the same contravention and can only be resumed if the person is not found to be guilty of the offence (note that the wording of subsection (1) would preclude the commencement of criminal proceedings in respect of the contravention if a civil penalty has already been recovered from the person in respect of the contravention, so this provision is only relevant where civil proceedings have not yet been finalised);
- the time limit for bringing civil penalty proceedings is three years or, with the authorisation of the Attorney-General, up to 10 years;
- the court can, in an application for a civil penalty, make an order for the payment of costs as the court thinks just and reasonable.

Part 7—Miscellaneous

35—Constitution of the Environment, Resources and Development Court

The Environment, Resources and Development Court is, when exercising jurisdiction under this Act, to be constituted in the same way as it is when exercising jurisdiction under the *Environment Protection Act 1993*.

36—Delegation by Minister

This clause sets out the powers of the Minister to delegate functions and powers conferred on the Minister under the Act.

37—Service of notices or other documents

This clause sets out a range of optional methods of effecting service where the Act requires or authorises a notice or other document to be given or served on a person. Companies may be served in accordance with the provisions of the Corporations Law.

38—Immunity

This clause relieves the Minister or an authorised officer or any other person engaged in the administration of this Act from personal liability for an honest act or omission in the performance, exercise or discharge, or purported performance, exercise or discharge, of a function, power or duty under the Act. Subject to subclause (3), a liability that would, but for subclause (1), lie against a person lies instead against the Crown. A liability that would, but for subclause (1), lie against an officer, employee, agent or contractor of a council lies instead against the council.

39—Protection from liability

A failure by the Minister or a council to perform a function under this Act, does not give rise to any civil liability.

40—Statutory declarations

If a person is required by or under this Act to provide information to the Minister or a council, the Minister or council may require that the information be verified by statutory declaration and, in that event, the person will not be taken to have provided the information as required unless it has been so verified.

41—False or misleading information

This clause creates an offence of making a false or misleading statement in furnishing information or keeping a record under the Act. The offence attracts a maximum penalty of $50,000 for a body corporate and $20,000 for a natural person.

42—Confidentiality

This clause prevents a person from divulging any information gained in the administration of the Act relating to trade practices or financial matters except as authorised under the Act, by consent of the person from whom the information was obtained, for administration or enforcement purposes or for the purpose of legal proceedings arising out of the administration or the enforcement of the Act. The offence attracts a maximum penalty of $25,000.

43—Offences

This provides that proceedings for an offence under the Act may be commenced by—

- the Director of Public Prosecutions;
- the Minister;
- an authorised officer;
- a relevant council;
- the chief executive officer of a relevant council;

- a police officer;
- a person acting on the written authority of the Minister.

44—Offences and Environment, Resources and Development Court

Offences constituted by the Act lie within the criminal jurisdiction of the Environment, Resources and Development Court.

45—Orders in respect of contraventions

Under this clause, a court may, incidental to criminal proceedings under the Act, order a person who, in contravening the Act, has caused injury to a person or loss or damage to property, to take specified action to make good any damage or prevent further damage and publicise their contravention of the Act and its consequences and any other orders made against the person and reimburse the Minister or council for costs incurred by it or to pay a person damages for injury, loss or damage suffered by any person as a result of the contravention. The court may also order the person to pay the Minister or council the value of any economic benefit acquired by the person as a result of the contravention. Any value of economic benefit paid to the Minister must be paid into the Environment Protection Fund.

46—Offences by bodies corporate

This clause is a standard clause operating across the statute book that attributes liability for offences committed by bodies corporate to directors of the body corporate or members of the governing body of the body corporate, subject to certain qualifications. This is so that directors and members cannot, in carrying on their activities as a body corporate, hide behind the corporate veil.

47—Continuing offences

This clause provides for continuing offences and allows a further penalty for each day on which the offence continues, of not more than one fifth of the maximum penalty applicable and, where a person has already been found guilty of an offence, allows for the conviction of the person for a further offence against the relevant provision and an additional penalty of not more than one fifth of the maximum applicable penalty for each further day on which the offence continues.

48—Recovery of administrative and technical costs associated with contraventions

Where the Minister or a council successfully prosecutes a person, the Minister or council may recover from the person costs and expenses incurred in relation to technical procedures undertaken for the purposes of the prosecution.

49—Assessment of reasonable costs and expenses

Where it is necessary to calculate the reasonable costs or expenses incurred by the Minister, a council or some other person or body, those costs and expenses are to be assessed by reference to the reasonable costs and expenses that would have been incurred in having the action taken by independent contractors engaged for that purpose.

50—Evidentiary provisions

This clause sets out a number of evidentiary provisions in relation to matters required to be proved by the Minister or a council in proceedings under the Act.

51—Regulations

This clause sets out the general regulation making powers under the Act.

Schedule 1—Meaning of local nuisance (section 17)

1—Things that are not local nuisance

This clause sets out, for the purposes of section 17, things that do not constitute local nuisance. They are:

- noise or other nuisance from blasting operations carried out as part of a mining operation within the meaning of the *Mines and Works Inspection Act 1920* or *Mining Act 1971*;
- noise or other nuisance from any activity carried on in accordance with a program for environment protection and rehabilitation that is in force for mining operations under Part 10A of the *Mining Act 1971*;
- noise or other nuisance from the keeping of animals in accordance with a development authorisation within the meaning of the *Development Act 1993*;
- noise or other nuisance from any other activity carried on in accordance with an approval, consent, licence, permit, exemption or other authorisation or entitlement granted under any other Act (other than this Act);
- noise or other nuisance from fireworks displays;

- noise or other nuisance from sporting venues;
- noise or other nuisance from community events run by or on behalf of a council (subject to any conditions imposed by the council);
- noise or other nuisance from public infrastructure works;
- noise or other nuisance from vehicles (other than vehicles operating within, or entering or leaving, business premises);
- noise or other nuisance that may be the subject of proceedings under—
  - the *Community Titles Act 1996*; or
  - the *Strata Titles Act 1988*; or
  - the *Residential Tenancies Act 1995*;
- an activity on, or noise emanating from, licensed premises within the meaning of the *Liquor Licensing Act 1997* in respect of which a complaint may be lodged with the Liquor Licensing Commissioner under section 106 of that Act;
- behaviour in respect of which a complaint may be lodged with the Liquor Licensing Commissioner under section 106 of the *Liquor Licensing Act 1997*;
- noise principally consisting of unamplified music or voices, or both, resulting from an activity at domestic premises;
- noise from activities carried on in the normal course of a school, kindergarten, child care centre or place of worship;
- noise created by a dog barking or otherwise that may be the subject of an offence under section 45A(5) of the *Dog and Cat Management Act 1995*;
- aircraft or railway noise;
- noise caused by emergency vehicle sirens;
- noise outside of the human audible range.

Schedule 2—Related amendments, repeal and transitional provisions

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *Local Government Act 1999*

2—Repeal of section 235

This clause repeals section 235 (Deposit of rubbish etc) as this will now be dealt with under Part 4 of the measure.

3—Amendment of section 236—Abandonment of vehicles

This clause removes the term 'or farm implement' from section 236 as abandonment of farm implements will now be dealt with under Part 4 of the measure.

4—Repeal of section 240

This clause deletes bill posting provisions from the *Local Government Act 1999* as it is now to be dealt with under Part 4 of the measure.

5—Amendment of section 254—Power to make orders

This clause deletes items 1 (Unsightly condition of land) and 3 (Animals that may cause a nuisance or hazard) as these matters will now be dealt with under Part 4 of the measure.

Part 3—Amendment of *Motor Vehicles Act 1959*

6—Amendment of section 139D—Confidentiality

This clause makes a consequential amendment to the *Motor Vehicles Act 1959* in relation to accessing information relating to registered vehicles for the purposes of Part 4 of the measure.

Part 4—Amendment of *Summary Offences Act 1953*

7—Repeal of section 48

This clause deletes bill posting provisions from the *Summary Offences Act 1953* as it is now to be dealt with under Part 4 of the measure.

Part 5—Transitional provisions

8—Continuation of by-laws under section 240 of the *Local Government Act 1999* relating to bill-posting

This clause continues council by-laws dealing with bill posting, and section 240 of the *Local Government Act 1999* which enables those by-laws to be made, until such time as the by-law is revoked or expires (whichever is sooner).

9—Continuation of orders made under section 254 of the *Local Government Act 1999*

This clause continues the operation of certain orders under section 254 and section 254 itself until the order is complied with or for such longer period as may allow the person or council to exercise any rights or powers in relation to the order under Chapter 12 Part 2 of the *Local Government Act 1999*.

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

STATUTES AMENDMENT (HOME DETENTION) BILL

Introduction and First Reading

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

MOTOR VEHICLES (TRIALS OF AUTOMOTIVE TECHNOLOGIES) AMENDMENT BILL

Introduction and First Reading

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

At 21:45 the council adjourned until Thursday 3 December 2015 at 10:15.

Answers to Questions

SKILLS FOR ALL

In reply to **the Hon. T.A. FRANKS** (3 June 2014). (First Session)

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): I have been advised the following—

The National Centre for Vocational Education Research (NCVER) reports that in 2013 there were 64,000 qualifications completed in South Australia, an increase of 45.6 percent (or 20,000 completions) on 2012. This compares to a fall nationally of 3.6 per cent.

The increased completions for South Australia, which had the highest increase of all jurisdictions, came at a time where South Australia had invested heavily in training and so it should be no surprise that there was a high level of completions.

According to NCVER, it is estimated that South Australia's completion rate for VET programs commenced in 2013 (at certificate I and above) was 38.0 per cent. This was 4.0 percentage points above the national rate of 34.0 per cent.

South Australia had the second highest completion rate, 2.8 percentage points below the Australian Capital Territory at 40.8 per cent.

According to internal DSD data, between 1 July 2012 and 30 September 2015, around 199,500 students participated in Skills for All funded activity. Of these around:

- 81,000 have completed a qualification
- 43,900 are still enrolled and continuing their studies
- 74,600 have not completed, and are not currently studying their Skills for All course. It should be noted that these students may well chose to return to training, as VET provides the opportunity for students to continue studying in the future.

SKILLS FOR ALL

In reply to **the Hon. R.L. BROKENSHIRE** (24 February 2015).

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): I have been advised—

This information can be found in the Legislative Council *Hansard*, on Tuesday 24 February 2015, on page 150.

The SASP target to increase by 10 per cent the number of people with disability employed by 2020 is complemented by government VET policy aimed at increasing the participation in VET by people who have not previously participated or who are underrepresented. In 2013 the participation of people with disability in VET increased by 58 per cent, or 3,200 additional enrolments, when compared to 2012.

In the higher education sector the commonwealth government has established a program of higher education support which includes a Disability Support Programme and a National Disability Coordination Officer Programme. Both programs are aimed at removing barriers to participation in higher education for students with disability.

Since 2012, potential VET students who struggle to meet the minimum entry requirements for a course have been able to access fee free foundation skills courses which support students to gain the skills they need to undertake and meet competency standards in vocational courses.

Current students who have learning needs gaps can also access fee free foundation skills bridging units to support them to succeed in their vocational course. Learner Support Services provide one-on-one support to students with complex support needs to address life, learning and transition issues to enable students to focus on and succeed in their studies. Students with disability have priority access to Learner Support Services.

HILLSIDE MINE

In reply to **the Hon. M.C. PARNELL** (6 August 2014). (First Session)

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change):

1. While there was no statutory requirement to refer this proposal to the Minister for Water and the River Murray, the mining lease proposal was circulated to the Department of Environment, Water and Natural Resources and to SA Water during the statutory consultation period.

2. The mining lease granted on 16 September 2014 does not contain conditions relating to the use of water from the River Murray.

3. Any supply agreement between SA Water and Rex Minerals will be in line with SA Water's standard water supply contract.

4. The government's longstanding policy is to manage water to maximise economic, environmental and social outcomes.

NATIONAL PARKS

In reply to **the Hon. J.M.A. LENSINK** (17 March 2015).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change):

1. Browns Beach was closed in 1994 whilst an extensive clean-up of accumulated rubbish was undertaken. The sign in question was erected after this clean-up and has been in place for many years. Over the past several years, DEWNR staff have been working to better educate beach fishers using the park on the importance of removing their waste and I understand the situation has improved significantly. DEWNR has received feedback from fishers of Browns Beach which suggests the sign is achieving its purpose.

2. The DEWNR National Parks Code was adopted nearly 20 years ago, and outlines the government policy of educating park visitors to manage and be responsible for their own rubbish.

3. Individual rubbish bins were removed from Innes National Parks in 2008, with a single rubbish collection point retained at Stenhouse Bay. There has been a noticeable reduction in litter accumulating in day visitor areas, campgrounds and roadsides since bins were removed.

4. The removal of individual rubbish bins from parks has been government policy for many years, and the majority of rubbish bins have been progressively removed from parks over this time.

HOMELESS WOMEN

In reply to **the Hon. J.S. LEE** (7 May 2015).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change):

1. The National Affordable Housing Agreement (NAHA) and the National Partnership Agreement on Homelessness (NPAH) fund a range of specialist homelessness services, including services for women. Approximately 23 per cent of this funding is for domestic and Aboriginal family violence services.

The NPAH agreement was due to expire on 30 June 2015 and the state government has recently announced it is matching the commonwealth's commitment to continue funding for another two years from 1 July 2015 to 30 June 2017. Priorities for this expenditure include services responding to domestic and family violence and services for young people.

2. The state government is seeking to deliver improved outcomes from its investment in social services, including through social impact bonds and outcome-based contracting.

The objective of any social impact investment in homelessness is to increase the effectiveness of homelessness interventions, particularly early interventions, on the premise that, over the long term, this may reduce government expenditure in other areas.

Particular outcomes for homeless people may include an increase in the sustainability of tenancies, a reduction in episodes of repeat homelessness, a reduction in hospital admissions and presentations and a reduction in justice services. These desired outcomes are positive and do not have any reference to gender.

It is important to note that, in the initial social impact bond discussion paper released in December 2013, the then Minister for Health and Ageing wrote:

'Any trials of social impact bonds in these areas would not replace or outsource existing government programs. The intended focus is new or expanded programs designed to tackle costly social problems in more innovative and effective ways.'

The government is currently assessing proposals that were submitted in response to the recent Expression of Interest and the outcome of this process will be announced in due course.

3. There are 40 government and non-government organisations providing 75 programs over 97 outlets across the state to address homelessness; 21 of these programs are specifically responding to domestic and Aboriginal family violence.

Women are able to access assistance via any of the specialist homelessness services or the 24 hour homelessness gateway telephone services. All of these services provide access to emergency and other accommodation options, referral, case management and advocacy services.

VOCATIONAL EDUCATION AND TRAINING

In reply to **the Hon. S.G. WADE** (3 June 2015).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change):

Year 11 students studying Certificate I or II vocational programs as part of their SACE will have access to subsidised TGSS Certificate III programs as SACE Year 12 students. The TGSS courses students can choose from are listed on the Subsidised Training List v1.0 and students will continue to have a choice of provider from those with TGSS courses on their approved scope.

GREYWATER COMPLIANCE

In reply to **the Hon. J.M.A. LENSINK** (18 June 2015).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change):

1. The Environment Protection Authority (EPA) is using audits of privately owned vessels to assess and encourage compliance with the 'Code of Practice for vessel and facility management (marine and inland waters)' (Code of Practice). The latest audit was at Renmark in May 2015 and involved five EPA officers, who were assisted by an authorised officer from the Renmark-Paringa Council. An officer from Goulburn-Murray Water, involved with managing houseboats on Lake Eildon in Victoria, was also present to learn from the audit procedures that the South Australian (SA) EPA is using.

The EPA currently has one full time officer allocated to its non-licensed compliance work in the 'Murraylands' region, which includes the work on vessel greywater. This officer is supported, at need, by officers from the investigations, legal, science and management areas of the EPA.

2. Of the privately owned vessels audited at Renmark on 27 and 28 May 2015, 16% were found to be non-compliant, with others assessed as having a 'pending' status.

ENTERTAINMENT CENTRE AND CONVENTION CENTRE BOARDS

In reply to **the Hon. D.W. RIDGWAY (Leader of the Opposition)** (29 July 2015).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change):

On 1 August 2015, the Adelaide Convention Centre Corporation and Adelaide Entertainments Corporation merged to establish a single entity, Adelaide Venue Management Corporation, to manage and operate the Adelaide Entertainment Centre, Adelaide Convention Centre and Coopers Stadium venues.

Mr Anthony Kirchner is Chief Executive of the Adelaide Venue Management Corporation with direct responsibility to the board. Mr Alec Gilbert is Chief Executive of the Adelaide Convention Centre, and Ms Sally Arch is responsible for the day to day management of the Adelaide Entertainment Centre and Coopers Stadium as General Manager.

The Adelaide Venue Management Board will consist of not less than seven and no more than ten directors. The board classification is still to be determined and directors will be remunerated accordingly.

The following directors have been appointed to the Adelaide Venue Management Corporation Board:

Mr Bill Spurr AO, Chair

Ms Gay Wallace, Deputy Chair

Mr Robert Debelle

Ms Joanne Denley

Ms Fiona Hele

Mr Jim Kouts

Ms Leah Manuel

Mr Geoffrey Pitt.

COST OF LIVING CONCESSION

In reply to **the Hon. K.L. VINCENT** (30 July 2015).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change):

1. As part of the implementation of the Cost of Living Concession (COLC), an extensive communication strategy has been developed that specifically targets potential COLC customers. This strategy includes a number of direct mail activities to existing concession customers which will help ensure the expected 205,000 COLC customers are well informed about the new concession. Specifically, 38,000 tenant households have received a letter, application form and reply paid envelope. These letters informed potential customers of the COLC, how to apply for the concession and also included information about other concessions provided by the state government.

The South Australian government website and all relevant concession webpages were updated with COLC information when it was announced and the 'Are you Eligible for a Concession?' brochure has been updated to include details about the COLC. These are important resources for those who are interested in the concession.

2. No.

COLIN (Cost of Living Information) is the name of the new data system for the administration of the COLC. The COLIN system will be a hybrid solution utilising commercial off-the-shelf systems and 'Software-as-a-Service' options. The department will purchase these components through standard procurement processes and will manage the project as a whole. This is a standard approach across government and will utilise IT systems that have a proven record.

3. The hard-copy downloadable application form for the COLC is in PDF format to ensure the integrity of the form remains as absolute as possible, which is common practice in government and business. The Department for Communities and Social Inclusion (DCSI) is aware that PDFs can be difficult to read for some users and so the Cost of Living website invites readers to email DCSI to request a copy in an alternative format.

Since 1 July 2015, a web-based online application form has been available that can easily be read by assistive technology including screen readers. Where this is not possible, the Concessions Hotline Customer Service Officers are able to assist applicants with their application (1800 307 758).

4. No, however Concessions Hotline staff are able to assist customers through their application process over the telephone.

5. Eligibility criteria and application timelines are outlined in legislation for the Cost of Living Concession. This states that applications for this payment must be made between 1 July and 31 October in the year for which the concession is sought.

6. The Cost of Living Concession is a new state government concession that replaces the former council rates concession for homeowner-occupiers and is also available to an estimated 45,000 eligible tenants, for whom it is a completely new source of state government assistance. As this is a new concession, the systems and processes required to implement the Cost of Living Concession are being developed concurrently with the assessment of applications and collection of new customer data, such as banking details for electronic funds transfer payments.

Unlike the other concessions administered by the state government, the COLC is paid directly to customers as opposed to featuring as a credit on a bill. This is a significant shift in practice and a number of different administration procedures, systems and processes must be implemented in order to achieve this.

Following assessment of applications, eligible tenants' payments will be completed by early 2016.

7. Following announcement of the new Cost of Living Concession, the Concessions Hotline experienced an unprecedented demand of calls from potential customers seeking information about the new concession. From 1 July 2015 to 7 August 2015, the Concessions Hotline received 25,309 phone calls.

The Concessions Hotline allows all Customer Service Officers to be engaged on a call and a further ten calls to be queued waiting for answer. When the maximum number for the telephone system is reached, an automated message is activated that reads as follows:

'Thank you for calling the South Australian Concessions Hotline. We are currently experiencing an extremely high volume of calls and are unable to take your call or offer a call back. Information about concessions can be obtained by visiting the concessions finder website at www.sa.gov.au/concessions. If you would like to speak with a Hotline Customer Service Operator, please call back later. We apologise for this inconvenience and thank you for your patience.'

DCSI has responded to the unprecedented demands on the hotline by increasing the Concession Hotline phone capacity to 28 lines, from 21. Additional staff and work practice changes implemented since 11 August 2015 have resulted in improved capacity to answer calls. The difficulties previously associated with the sustained high volume of calls to the Concessions Hotline have been significantly improved.

8. Although the concessions section does not offer a shop-front service, DCSI has implemented a number of strategies to ensure those South Australians who think they may be eligible for this concession apply. It is common practice for staff of the Concessions Hotline to assist customers with their application over the phone. While people having difficulty completing the application form may get assistance from family, friends or a source of community support (such as community organisations in their location), the staff of the Concessions Hotline are trained to identify if callers may be eligible for other concessions.

NATIONAL PARKS AND WILDLIFE

In reply to **the Hon. J.M.A. LENSINK** (8 September 2015).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change):

1. Notices are placed in *The Advertiser* on a daily basis.

2. Since 1999, *The Advertiser* has provided this service at no cost.

3. The advertisements only appear in *The Advertiser*.

4. This is a free service provided by *The Advertiser*.

5. *The Advertiser* has been publishing these notices since 1999 as a means to educate the community about the appropriateness of fauna sales. It is unlikely that alternative sources will be as effective because this service captures a large audience and is provided at no cost to the taxpayer.

HIVE 12-TWENTY FIVE

In reply to **the Hon. K.L. VINCENT** (24 September 2015).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change):

The Hive Youth Centre at Modbury is an initiative of the City of Tea Tree Gully. Any decision to discontinue the centre is a decision of council and does not involve the state government.

The Department for Communities and Social Inclusion (DCSI) has provided more than $1.5 million, to support community organisations to provide a range of youth support services across the north-eastern suburbs of Adelaide in 2014-15.

Any request for funding through the Office for Youth will be considered against the strategy's objectives and within the current budgetary context.