LEGISLATIVE COUNCIL

Thursday, 23 June 2016

The PRESIDENT (Hon. R.P. Wortley) took the chair at 14:15 and read prayers.

Bills

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) AMENDMENT BILL

Conference

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:16): By leave, I move:

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

Motion carried.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the Minister for Employment, on behalf of the Minister for Environment and Conservation (Hon. I.K. Hunter)—

Reports, 2014-15—
- Adelaide Hills Wine Industry Fund
- Apiary Industry Fund
- Barossa Wine Industry Fund
- Cattle Industry Fund
- Citrus Growers Fund
- Clare Valley Wine Industry Fund
- Deer Industry Fund
- Eyre Peninsula Grain Growers Rail Fund
- Grain Industry Fund
- Grain Industry Research and Development Fund
- Langhorne Creek Wine Industry Fund
- McLaren Vale Wine Industry Fund
- Pig Industry Fund
- Riverland Wine Industry Fund
- SA Rock Lobster Fishing Industry Fund
- Sheep Industry Fund
- South Australian Grape Growers Wine Industry Fund
- Windmill Theatre

Ministerial Statement

SOUTH EAST FORESTRY PARTNERSHIPS PROGRAM

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:18): I table a copy of a ministerial statement relating to the South East Forestry Partnerships Program made earlier today in another place by my colleague the Minister for Forests.

The Hon. R.L. Brokenshire: You sold that; you sold the South-East forests.

The PRESIDENT: Order!

Question Time

AUSTRALIAN CENTRE FOR PLANT FUNCTIONAL GENOMICS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:18): I seek leave to make a brief explanation before asking the Leader of the Government a question regarding the Australian Centre for Plant Functional Genomics.

Leave granted.

The Hon. D.W. RIDGWAY: It has come to light that the state government will be discontinuing its funding for the Australian Centre for Plant Functional Genomics in the budget to be handed down on 7 July. In fact, minister Bignell confirmed that in an article in *The Advertiser* today. This institute is a world leader in innovative research and development with respect to grain, in particular wheat and barley. This institute develops IP around agronomically valuable crop plant traits that can be utilised by plant breeders and industry to develop commercial crop varieties that exhibit tolerance to abiotic stresses, such as drought, heat and salinity.

Therefore, this research and development is crucial in supporting South Australia's wheat industry. The wheat industry contributes over $2 billion to our economy and has consistently been South Australia's biggest export. In fact, last year South Australia's $1.3 billion of exported wheat accounted for 11.5 per cent of our state's total exports. By cutting this funding, the director Dr David Mitchell says that the state government is putting at risk some 80 jobs. These jobs are high-level research scientist jobs and supporting staff.

The Weatherill government's seven strategic priorities and 10 economic priorities both claim that premium food and wine, exports and growth through innovation are key priorities of this government. It is interesting that one of the statements often made by the Premier is:

> World leading food, wine and agricultural research will provide the platform from which we will export our ideas, intellectual capital, products and services.

The decision to discontinue funding the Australian Centre for Plant Functional Genomics fundamentally contradicts the objectives outlined by this government. My question to the Leader of the Government is: how can the state government and you, as the third most senior member of that government, justify withdrawing all the funding for the Australian Centre for Plant Functional Genomics?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:20): I thank the honourable member for his question, his interest and his lack of understanding of ministerial responsibility which, as we have talked about in this place before, is not surprising seeing that he has never been close to being a minister himself. This matter does not fall within my portfolio areas. I will be happy to refer those questions to the minister responsible, as is the proper way to do it, and bring back a reply for the honourable member.

AUSTRALIAN CENTRE FOR PLANT FUNCTIONAL GENOMICS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:21): A supplementary.

Members interjecting:

The PRESIDENT: The Hon. Mr Ridgway, have your supplementary but I would like to be able to hear it, so if all others could be quiet while you do it, go for it.

The Hon. D.W. RIDGWAY: My question was to the minister as the Leader of the Government and every now and then Acting Premier. Do you support the withdrawal of this funding by your government from the Australian Centre for Plant Functional Genomics?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:21): I have already answered the question. I am not going to make any comments on things that he quotes that we often find out the Liberals misquote in any event.

AUSTRALIAN CENTRE FOR PLANT FUNCTIONAL GENOMICS

The Hon. T.J. STEPHENS (14:21): A supplementary: will the Leader of the Government resign when it is proven that this is actually the case?

The PRESIDENT: Minister, you are not going to answer that? No.

DOMESTIC VIOLENCE DISCLOSURE SCHEME

The Hon. J.M.A. LENSINK (14:22): I seek leave to make a brief explanation before directing a question to the Minister for Police on the subject of a domestic violence discussion paper.

Leave granted.

The Hon. J.M.A. LENSINK: In the last sitting week in relation to an amendment moved by my colleague the venerable the Hon. Andrew McLachlan, the minister responded by advising the chamber as follows:

> The government is currently drafting a discussion paper to seek community views on the Domestic Violence Disclosure Scheme and other potential areas of law reform. A discussion paper has yet to be released because information is being collated from multiple government agencies in order to develop a paper that not only seeks community views on law reform but also paints an accurate and comprehensive picture of domestic violence in South Australia. This discussion paper needs to be done right, not quickly.

The Premier made an announcement at the White Ribbon breakfast in November last year in relation to the Domestic Violence Disclosure Scheme and discussion paper. My questions to the minister are:

1. Is this the same discussion paper that the Premier was talking about that the minister referred to?

2. Why are we still waiting six months later?

3. Why is it appropriate that the Coroner, the Social Development Committee's inquiry into domestic violence and any other interested stakeholders who might find the data useful continue to wait for that information?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:24): I thank the honourable member for her important question regarding what is an incredibly important subject within Australian society generally at the moment. We are all increasingly aware of the size of the challenge that we have in dealing with domestic violence as a community, if we are going to achieve what I think is a legitimate objective of eradicating domestic violence from South Australian society.

I referred last week to the fact that the Attorney-General has taken upon himself the substantial responsibility of dealing with our domestic violence policy generally. He himself as Attorney-General is principally responsible for the domestic violence discussion paper to which I referred last week and to which the Hon. Ms Lensink also refers. I am happy to take her question on notice in respect of the specific nature of the timing, chronologically, around the domestic violence discussion paper that I referred to. What I would say, what I can share with the honourable member and the chamber more generally, of course, is that we want to make sure that any discussion paper is well thought through, evidence based, and has the accurate statistics that we need and necessitates accurate, well thought-through policy development.

The discussion paper is comprehensive, it takes time, but in regard to a specific time line, in terms of when it will be released more publicly, I am able to seek further information and bring that back to the honourable member as soon as possible.

DOMESTIC VIOLENCE DISCLOSURE SCHEME

The Hon. J.M.A. LENSINK (14:25): Supplementary question: from the minister's experience, how long does it take the police to verify their statistics, and would it normally be in the order of six months?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:25): That question is specifically

regarding SAPOL's contribution to that exercise. What I am happy to share with the honourable member and, again, the chamber more generally, is the fact that SAPOL has already passed on statistics to the Attorney-General regarding that discussion paper.

So SAPOL has made a contribution to that effort. In regard to all of its contents, there are some that SAPOL has already shared publicly, and I am happy to refer to some of those statistics, and I already have, but I am happy to continue to reiterate those, if that helps. SAPOL has provided a set of detailed statistics to the discussion paper and the exercise. That is currently subject to cabinet in-confidence, but I am sure, in due course, as that discussion paper is finalised and released, more information will become public, as it is appropriate to do so.

DOMESTIC VIOLENCE DISCLOSURE SCHEME

The Hon. J.M.A. LENSINK (14:25): Supplementary question: bearing in mind that the minister may be relying on his memory, can he give a ballpark figure of roughly when those statistics were passed onto the Attorney-General? Was it weeks, months?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:27): I would be relying upon memory for a precise date; what am happy to do is find out what that date is and, if it is appropriate to do so, gladly pass it on to the honourable member.

Parliamentary Procedure

VISITORS

The PRESIDENT: I would like to acknowledge Mr Ivan Venning from the other place, the member for Schubert, the emeritus. Good to see you.

Question Time

ABORIGINAL HERITAGE ACT

The Hon. S.G. WADE (14:28): I seek leave to make a brief explanation before asking questions of the Minister for Aboriginal Affairs and Reconciliation in relation to the Aboriginal Heritage Act.

Leave granted.

The Hon. S.G. WADE: In March 2016, earlier this year, parliament passed a bill to amend the Aboriginal Heritage Act. The day after final passage, on 23 March, I asked the minister a question on the impact of those amendments. My questions focused on one of a number of concerns that the President of the Law Society, Mr David Caruso, had raised in a letter to the minister specifically relating to the impact of the amendments on the order of mandamus directed to the minister in the decision of the Full Court of the Supreme Court in Starkey & Ors v State of South Australia. In reply to my question, the minister said:

> In terms of the absolute specific effect on a particular place, I do not want to give an answer that is not as complete as it should be. I will take that on notice, but if I come back even before we meet again I undertake to inform the honourable member of the answer to that question. It is one that I suspect I know what the answer might be; however, in a matter that has a very specific legal answer I do not want to give an answer that may be incorrect. As soon as I am able I will come back either to this chamber or to the honourable member with an answer to that.

Three months have passed since the minister made those remarks. He has not provided the council with an answer to my question, nor has he provided an answer to me directly. My questions to the minister are:

1. When will you answer my question in relation to the impact of the amendments to the Aboriginal Heritage Act under the government's obligations arising from the 2011 decision of the Full Court of the Supreme Court of South Australia in the case of Starkey & Ors v State of South Australia?

2. Has the minister written back to the President of the Law Society to provide the clarification that he sought on this and other matters and, if so, will he provide the council with a copy of that correspondence?

3. Given that the amendments to the act came into operation more than three months ago, when will the associated guidelines and regulations be published?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:29): I thank the honourable member for his question and I am in a position to be able to inform him today of the answers. We have sought advice. I think it was within the last few days that I wrote back to the President of the Law Society. I will not provide a copy of the correspondence with him to the chamber, but I am sure if the honourable member asks him, the President of the Law Society may provide a copy, if he wishes to, of that correspondence to him.

But I think I am able in my answer to indicate what that letter back to the President of the Law Society said, either earlier this week or late last week, now that we have legal advice. The legal advice is, as I suspected when this question was asked some time ago, but I wanted to make absolutely sure, that any matters on foot in relation to section 6(2) are now null and void. So the very specific question in relation to the particular order in the Starkey case requiring a decision to be made now has no effect as that section is removed from the act.

ABORIGINAL HERITAGE ACT

The Hon. T.A. FRANKS (14:30): Supplementary: why won't the minister provide a copy of that correspondence to the President of the Law Society, and will the minister actually provide a copy of that correspondence to the Law Society for this chamber?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:30): I won't. In relation to a letter that was written from the President of the Law Society to me as Minister for Aboriginal Affairs, I have now, in the last few days, written back to him. It is not my habit, when people send letters to me asking me to clarify issues for them, to supply those to third parties.

I have no problem if the President of the Law Society wishes to supply individual members with what I wrote back to him, but I think there is an expectation when people write to me and I write back to them, that I am writing back to them. But the substance of the question was, as I have outlined in the answer to the honourable member, that any section 6(2) application that was alive at the time, or issues arising from that, now fall away.

ABORIGINAL HERITAGE ACT

The Hon. T.A. FRANKS (14:31): Supplementary: I also raised these issues during the debate on this bill. Can the minister provide correspondence giving a full answer in line with what he has provided to the President of the Law Society, given I also asked, in the debate on this bill, for a response from the minister to these particular concerns at the time of the bill? We need something for the chamber.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:32): I am more than happy to do that, to come back and in a written form provide the answer that I have given verbally that any 6(2) currently on foot is now null and void.

ABORIGINAL HERITAGE ACT

The Hon. S.G. WADE (14:32): Is the minister able to advise the council of when the guidelines and regulations will be published?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:32): Certainly. I know that there is consultation currently on foot that the department is having with prescribed body corporates under the Native Title Act and with other Aboriginal heritage groups. I know that is ongoing and it is

something I regularly talk to my department about. In terms of time lines, I will find out exactly when it is intended that they will be finished and provide an answer to the honourable member on that.

Parliamentary Procedure

VISITORS

The PRESIDENT: I would like to acknowledge the Hon. Mr Ralph Clarke, from the other place. Good to see you here.

Question Time

BUSINESS TRANSFORMATION VOUCHER PROGRAM

The Hon. J.M. GAZZOLA (14:33): My question is to the Minister for Manufacturing and Innovation. Can the minister update the chamber on how the government's business transformation vouchers are helping South Australian companies to grow?

The Hon. D.W. Ridgway interjecting:

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:33): I thank the honourable member for his question and his ongoing interest in matters that are within my portfolio responsibility. It is not always usual that I get questions that relate to my portfolio—

Members interjecting:

The Hon. K.J. MAHER: It is not always the case in this chamber that honourable members are well-versed enough to know what falls within ministers' portfolio responsibilities, so I am very glad that the Hon. John Gazzola—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Sit down. I've got a little stereo here, you on one side, and the Hon. Mr Gazzola on the other side.

The Hon. D.W. Ridgway: That's because his leader is incompetent.

The PRESIDENT: I think it is pretty improper to be calling out while the honourable minister is giving an answer. Let him give his answer without any interruption.

The Hon. K.J. MAHER: Thank you for your protection, Mr President. The honourable Leader of the Opposition is very testy because of the performances the Hon. Andrew McLachlan has been putting in over the last few days.

The Hon. D.W. Ridgway interjecting:

The Hon. K.J. MAHER: He is well known as a future leader of this chamber. As I said, I thank the honourable member for his question about industry diversifying and taking advantage of emerging growth opportunities. The state government's Business Transformation Voucher Program has had applications ongoing for a number of years. This program is designed to provide up to $50,000 to help companies improve their productivity and competitiveness through our specialist expertise with things like business planning and business modelling development, manufacturing process improvements, marketing and brand strategies, leadership and management development and export development.

Since this program was established, there have been in excess of 50 grants announced to assist companies to transform their operations to take advantage of new and emerging opportunities in their industries. Successful companies enter into a funding agreement, which includes reporting obligations to ensure the grant is used according to the purpose of the program.

I am happy to be able to inform the council that a recent round of Business Transformation Voucher Program grants included three businesses that will each receive $50,000 to help them grow their operations. Enzo's at Home is a ready-to-eat gourmet food supplier, which was founded in 2004 by the owners of Enzo's Restaurant, now located in Hindmarsh. The company received $50,000 for

a project with Colby Industries to improve the company's production processes. I had the opportunity to meet with Michael Fazzari from the company today to discuss Enzo's growth opportunities. The company has grown by around 30 per cent in the last year, and he is looking to expand into new markets across Australia.

The range of products currently available are in South Australian supermarkets—Foodland in South Australia—and hopefully will soon be available in Queensland supermarkets. I also understand that the company is looking at other opportunities around Australia and internationally. This particular project will enable the company to capitalise on this success and enable the company to allocate resources to further develop new market opportunities in the future.

A honey collection and packaging business located at Gepps Cross, Panda Honey, has also been identified as a company which has opportunity to expand, particularly into the very large Chinese market. I understand that the rapid growth experienced by this company has increased pressure on the company's production systems and control of production costs. The $50,000 business transformation grant for Panda Honey will enable the project to analyse production methods, identify issues and improve efficiencies in the business.

This project will also identify new plant and machinery to replace existing systems to meet the increasing demand, while reducing the cost for the business. The government will support the company to increase its capacity through enabling the development of new products for both local and export markets and enhance the business potential for future growth opportunities both here and overseas.

The third company that received funding support through the Business Transformation Voucher Program was Stair Lock Pty Ltd. Stair Lock is a third-generation, family-owned business that has been in operation since 1982, and specialises in the manufacture, supply and installation of stair systems. I understand that this company has experienced strong growth in recent years, which has resulted in the business operating from three different sites—two manufacturing and one administration—which is now restricting the businesses efficiency and increasing its costs.

The $50,000 business transformation voucher for Stair Lock will work on a project to provide validation for a cost-effective solution to consolidating all the companies at one site. This project is expected to assist this South Australian business to achieve greater profitability and transition to higher value products in the building and construction sector.

Transforming areas of our economy will rely on the ability of our manufacturers to adopt a new way of doing things and develop high value products and services using advanced technologies. The Business Transformation Voucher Program is helping local manufacturers and other businesses to achieve this through teaming up with expert consultants to identify areas of businesses that can improve so they can grow their business, grow their revenues and create new jobs. I congratulate these companies on their success in this program.

BUSINESS TRANSFORMATION VOUCHER PROGRAM

The Hon. A.L. McLACHLAN (14:39): Supplementary question arising out of the answer of the minister: how is the projected growth of these companies that the minister has referred to measured—top line revenue or EBIAT (earnings before interest after taxes) in making the grant?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:39): I thank the honourable member for his supplementary question, his incisiveness and the pressure he is putting on his own frontbench colleagues; I thank him very much for this. For the honourable member's information, because I know he is very interested in these things, I might be able to outline some of the processes that are gone through with the Business Transformation Voucher Program. There are eligibility requirements for assistance under this program. The business must:

- be a financially viable Australian business with the majority of business in South Australia;
- must have been in operation for longer than 12 months;

- be able to enter into a legally-binding funding agreement with the South Australian government;
- be willing to provide information and data including financial information as required;
- be prepared to commit to senior executive or board level engagement; and
- submit a proposal that has been developed and co-endorsed both by the applicant and an eligible service provider.

Members interjecting:

The Hon. K.J. MAHER: I am making sure that I am providing enough information to satisfy the member's questions and future supplementary questions. They have to contribute a minimum of 50 per cent of eligible expenditure from non-government funding. A project under the Business Transformation Voucher scheme could include—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: —undertaking business improvement reviews, development of plans and recommendations for improving profitability, productivity and the employment of businesses, and the implementation of recommendations by a consultant.

Members interjecting:

The PRESIDENT: Minister, sit down. I am finding this very informative and I cannot hear through the interjections, if you don't mind. Please allow the minister to finish without interjection.

The Hon. K.J. MAHER: Thank you, Mr President. The sort of expenditure that businesses who are applying for and successfully receive a business transformation voucher may expend it on things like payment to advisers, consultants, training organisations, research providers and other services for business improvement, capability development, business development, mentoring and research and development work undertaken; purchase of capital equipment consistent with recommendations of a review; project management costs provided by external parties; and other costs associated with preparing relevant materials, training and other guidance and activities in support of the objectives of the Business Transformation Voucher Program.

Applications for the grant will be assessed against a number of criteria—which the honourable member will be very pleased about—which are the impact of the project on improving profitability; the extent of new capabilities, new markets and new products or services being developed through the project; projected increase in exports; the capacity of the nominated service provider to deliver the project; the capacity, including management capability of the applicant to successfully undertake the project and to drive sustainable growth; the methodology proposed to undertake the project; and the projected benefits to the South Australian economy including the contribution of the proposed activities to the diversification of the South Australian economy.

I am able to inform the chamber that applicants for the Business Transformation Voucher Program are selected on the merits of their particular application based on all of these criteria which I do not assess as minister and I do not think would be proper for me to assess as minister.

I receive the recommendations from the selection panel which includes Chris Stathy OAM, company director and consultant; Alistair Taylor, Acting Director, Manufacturing and Small Business, DSD; David Rush, Manufacturing Manager, DSD; Lou Jansen, Principal Commercial Advisor, Industry and Information, DSD; and Mr Mark Ledson, Principal Industry Development Officer from the Department of State Development. There is no remuneration paid to the panel. They make their decisions and I am happy to receive the advice of the panel on the criteria that I have outlined.

BUSINESS TRANSFORMATION VOUCHER PROGRAM

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:43): I have a further supplementary question. The minister mentioned legally-binding contracts that they must enter into. Are the companies required to display state government information on their packaging, invoices and stationery as a result of these particular arrangements?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:44): I am not aware that that is a condition of anything they enter into.

BUSINESS TRANSFORMATION VOUCHER PROGRAM

The Hon. A.L. McLACHLAN (14:44): I have a supplementary question. I thank the minister for his comprehensive and verbose answer. Does the assessment panel have a minimum profit margin that it applies to these companies that have made application for the voucher?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:44): I thank the honourable member for his question. I will refer those to my department to ask this particular committee that question and bring back an answer for him.

The PRESIDENT: Supplementary Hon. Mr Ridgway.

BUSINESS TRANSFORMATION VOUCHER PROGRAM

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:44): Minister, I am aware that other government loans require packaging and invoices and stationery to carry some recognition of the support the state government has given that particular business. Can you please check with your department and bring back a reply?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:44): I am more than happy to check for the Leader of the Opposition on that particular question and bring back a reply for him.

STOLEN GENERATIONS REPARATIONS SCHEME

The Hon. T.A. FRANKS (14:45): My question is to the Minister for Aboriginal Affairs and Reconciliation, and I ask that he provide this chamber with an update on the Stolen Generation's Reparations Scheme, both the individual reparations and the community reparations.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:45): I thank the honourable member for her question and her ongoing interest in this area. Certainly this issue is a multipartisan issue. I know the honourable member has had a very long association and advocacy in this area, and others, including the member for Morphett, the Hon. Terry Stephens and also the Hon. Tung Ngo in particular have been very consistent in recent times pushing for these issues.

Certainly the forced removal of Aboriginal children from their families, which occurred in every state and territory in this country over many, many decades, was a shameful part of our collective history. It broke apart families. It broke apart history. It broke apart culture in Australia. As a government in South Australia we have acknowledged that. I think the former premier at the time, rather than Aboriginal affairs minister, Dean Brown, at the end of May 1997, when the Bringing Them Home report was tabled, became the first person to acknowledge that. I saw Dean Brown only last week I think and talked to him about how the scheme is now going.

In 2008, the prime minister at the time, on behalf of the federal parliament of the Australian people, similarly said 'Sorry' and last year we in South Australia took those next steps on from saying 'Sorry'. We became the second jurisdiction in Australia to have a Stolen Generations Reparations Scheme. Tasmania was the first and I congratulate them for doing that. I am very proud that South Australia became the second state in the nation to put in place an $11 million reparation fund for members of the stolen generations.

The scheme officially opened for applications on 31 March 2016, and will remain open for 12 months. I know the independent assessor under the scheme has held 15 meetings with Aboriginal community groups since the scheme began. I know the Department for Aboriginal Affairs and

Reconciliation, I am not sure of the exact number, has written to dozens and dozens of individuals, groups, community councils, right across South Australia. I have had a number of meetings with groups, including the Circle of Hope and the South Australian Stolen Generations Alliance, as well as the ALRM and others, who have been strong advocates in this area and represent many members of the stolen generations in South Australia.

There have been some dozens of applications lodged already and more phone calls and inquiries about lodging applications. I am happy to inform the honourable member in the chamber of one slight change we have made in the scheme in the last week as a result of feedback. The scheme, as it was announced, provided individual reparation payments of up to $50,000 based on an individual's experience, so the reparation payments would be different for different individuals, depending on the effect it had had on the rest of their lives. The very strong feedback from individuals and groups representing members of the stolen generations was that they preferred a flat rate rather than differing payments.

Some of the reasons given were that, if people are to receive different payments, you are necessarily creating an incentive for people to put forward just how damaged their lives were and opening that all up can provide extra trauma, and unnecessary trauma, rather than just meeting the criteria of being a member of the stolen generations. Another significant reason was that there might be members of the same family who, from the same set of circumstances, were removed as Aboriginal children from their parents but had different experiences in growing up, who might receive very, very different sums, and that could lead to very significant conflict, not just within families but within communities.

Based on a lot of feedback and my discussions with the Circle of Hope, the Stolen Generations Alliance and other groups, we have taken the decision to change that one aspect of the scheme, so it is no longer a variable rate up to $50,000. It will be a flat rate for everyone who qualifies for payments under the Stolen Generations Reparations Scheme.

I think that change was outlined on the weekend to the healing camp that was held at Wirrina. I think there were 40 to 50 members of the stolen generations there who, as a group, warmly welcomed the change we had made in relation to that particular aspect of the scheme. The scheme is open for 12 months, so on 31 March next year all applications will close. There will be assessments made as we go along up to that time and payments made as efficiently as possible.

One of the other things that has become apparent as we have developed this scheme is that there are some members of our stolen generations who are getting old. There has been a concern that there are some members of our stolen generations who, by the time the scheme closes and assessments are made, may not still be around. So, there is a triaging process now for those who have medical and other conditions to make sure they can be assessed quickly and some sort of part payment made while they are still alive as a recognition for these past wrongs. That's part of the individual payments.

An equally as important part and, certainly in my consultations, in some cases an even more important part is community reparations. These are not payments for individuals but a recognition that it wasn't just individuals, it was whole families and, in large cases, whole communities who suffered from the forced removal of Aboriginal children in the past. Consultation has now started about what form whole-of-community reparations might take. Some of the initial ideas that have come up are things like healing places, educational scholarships, further counselling and other services to be provided to members of not just first-generation members but the consequent effects to family members of the stolen generations, and some sort of public way for remembering—exhibitions or telling the stories of members of the stolen generations.

STOLEN GENERATIONS REPARATIONS SCHEME

The Hon. T.J. STEPHENS (14:52): Supplementary question: we talked about a flat rate; how is that going to be determined? Is there a flat rate determined already? What is the formula?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (14:52): I thank the honourable member for his question. There is not a flat rate determined already. It will depend on the number of

applications that are received. We don't know yet how many applications will be received. I know that the ALRM had an estimate that there might be 300 applications received. The total pool for both individual and community reparations is $11 million. It will be determined once all applications are received, once they are assessed, what that rate will be. We don't know yet what that rate will be, but it will be the same rate as everyone gets rather than a variable rate, lower or higher than whatever it is that people get.

EMERGENCY SERVICES

The Hon. A.L. McLACHLAN (14:53): I seek leave to make a brief explanation before asking the Minister for Emergency Services a question.

Leave granted.

The Hon. A.L. McLACHLAN: On 24 May 2016, the minister wrote an open letter to members of the South Australian State Emergency Service. In this letter the minister detailed a series of programs and equipment upgrades over the next four years which will be funded by a 1.5 percentage increase in the emergency services levy. Can the minister provide a breakdown of the budgeted amount to be spent for each respective financial year and the budgeted amount allocated to each service for each financial year?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:54): I am more than happy to provide a fair bit of information that hopefully satisfies the honourable member in respect of the detail that they are asking for. We are really proud, as a government, of the fact that we are doing everything we can as a government to ensure that our front-line volunteers in the emergency services are getting the resources that they need.

Over four years, $2.6 million has been allocated to fire truck safety assistance. The sorts of things we are talking about with fire truck safety systems particularly refer to the burn-over technology. I have referred to burn-over technology in this place before. In fact, I think I can recall questions being asked by the honourable member in respect of that.

An amount of $1.5 million is being spent on increased training and support for both CFS and SES volunteers. We have a very good representation of volunteers in the state of South Australia in emergency services, and in fact in some areas volunteer numbers are growing, so we have to make sure that we are investing in the training those volunteers get in order to make sure they remain safe when they perform the function of operating within our emergency services. An amount of $1 million has been allocated to enhance SES flood response and incident management, and that equates to $5.5 million over four years. This principally goes to looking at the way we deal with flood as a hazard in South Australia, which is important because flood remains a very real risk in the state of South Australia, particularly in some parts of metropolitan Adelaide.

An amount of $5,000, or $2 million over four years, has been allocated to the SERM project, and $160,000 has been allocated to fund the Government Radio Network training. It is really important to ensure that we get the most out of the Government Radio Network, that we invest in the training of volunteers to make sure they know how to use the GRN, particularly in situations of substantial crisis. An additional $1.4 million per annum has been allocated to SAFECOM, so that equates to $4.6 million over four years. I am advised that $3.5 million has been allocated to DEWNR, although that is not necessarily specifically funded from the ESL. The member asked, I think, about a breakdown by agency, and I have been advised of some figures in respect of the basic allocation or breakdown of funds from the ESL to each agency:

- $136.4 million has been allocated to the MFS;
- $82.4 million has been allocated to the CFS;
- $21.8 million to SAPOL;
- $17.6 million to the SES;
- $12.4 million to SAFECOM;

- $3.5 million to DEWNR;
- $2.8 million to Surf Lifesaving; and
- $1.2 million in respect of the Volunteer Marine Rescue service.

I think that covers the basic elements of my portfolio. As you can see, Mr President, all the effort that goes into the ESL is principally, or essentially entirely focused on delivering the best possible equipment and service that we can to our front-line first responders, whether they be volunteers or paid professionals. We need to make sure that as a state, when we ask people to put themselves in harm's way in the service of others, they have the training, the equipment and the support they deserve to ensure that the South Australian community remains safe.

VINNIES CEO SLEEPOUT

The Hon. G.E. GAGO (14:57): My question is for the Minister for Correctional Services. Can the minister inform the council about the recent CEO sleepout and the importance of homelessness services in helping to reduce reoffending?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (14:58): Last Thursday evening, it might be a stretch to say that I enjoyed, but I was actively involved in Vinnies CEO Sleepout. It is a great event which is all designed to raise funds.

The Hon. D.W. Ridgway: How much did you raise?

The Hon. P. MALINAUSKAS: I am advised it was $6,500; thanks for asking.

The Hon. T.J. Stephens interjecting:

The Hon. P. MALINAUSKAS: No; I am very pleased to report that I had over 90 individual donors—as the Hon. Mr Stephens walks out—to my fundraising effort for the CEO sleepout. However, the real purpose of me standing up is not to congratulate myself on my substantial efforts, rather to acknowledge the contribution across my portfolio area. The police commissioner himself raised an extraordinary amount of money towards the CEO sleepout, the CEO of Corrections was present at the CEO sleepout, along with most of his executive management team, raising funds. The MFS chief, Mr Greg Crossman, was there and the deputy MFS chief, Michael Morgan, was also in attendance. I am advised that across those agencies for which I have a substantial amount of involvement, more than $34,000 was raised from 390 different contributors.

It was fantastic to see emergency services and SAPOL well represented at the CEO sleepout. But really the CEO sleepout is more than just about raising money for services to do with the homeless. It is also about raising awareness of the challenge of homelessness and what it means to our community. Clearly, there is an immediate impact upon those people who find themselves homeless, and I have to say, when you sleep out at night at this time of the year it is hardly a pleasant experience.

There is also a broader community impact of homelessness, and the event is very much orientated around raising awareness amongst leaders within our community about how perverse the impact of homelessness can be, because, of course, there are many social consequences. We know from experience and research that when someone is homeless, they instantly go into a higher risk category with respect to being vulnerable to offending in our community. Those people who exit prison, who do not have access to rentable and safe accommodation and thus find themselves homeless, are at an even higher risk of reoffending.

There is very much a link between what we see in the criminal justice system and the corrections system more generally and the impact that homelessness can have in terms of putting those individuals into a higher risk category of offending, which means that our whole community is at risk of being a victim of someone who finds themselves becoming homeless and then doing desperate acts which sometimes can be criminal in nature.

As a community, we all have to invest all the effort and resources that we can to try to reduce the level of homelessness within the state of South Australia, in order to ensure that those individuals

don't become at risk of doing other things which may put themselves in harm's way and also other members of the public more generally.

Vinnies do amazing work, along with a whole range of other organisations and not-for-profits in our state, in trying to take on and tackle homelessness. We have come a long way as a state, I think, in looking at the issue of homelessness, but more needs to be done. There are too many people who sleep rough in South Australian streets, week in, week out, and that is particularly hard at this time of the year. I think Vinnies do an amazing job of increasing awareness and also raising money to address this important cause. I just want to commend the efforts of the Department for Corrections, SAPOL and emergency services for their contribution towards addressing this important issue.

PRISONER SUPPORT AND TREATMENT

The Hon. K.L. VINCENT (15:02): I seek leave to make a brief explanation before asking the Minister for Correctional Services questions regarding the use of medication in the prison population.

Leave granted.

The Hon. K.L. VINCENT: A fortnight ago, the Australian Institute of Health and Welfare released a report entitled 'Medication use by Australia's prisoners 2015'. This report notes that about half of all prisoners are taking medication of some sort, 'with many prisoners having complex health conditions, at times complicated by histories of trauma combined with underlying chronic and mental health conditions'. The report records that prisoners are nine times as likely as the general community to take antipsychotics, four times as likely to take medications used to treat addictive disorders, and more than twice as likely to take antidepressants or mood stabilisers of some sort.

The report also shows that prisoners begin taking medications for chronic illnesses at earlier ages, when compared with the general population. My questions to the minister are:

1. Is the minister aware of the Australian Institute of Health and Welfare's June 2016 report 'Medication use by Australia's prisoners 2015', and has he read the report?

2. If the minister has read it, does he agree that it demonstrates the critical need for adequate support programs and positive mental health support services in our prison system, given people with mental health conditions and substance abuse issues are overrepresented compared to the general population?

3. What general health and education programs and services are available in SA prisons to ensure prisoners have the opportunity to prevent chronic health conditions?

4. Is the minister concerned that people with mental illness and substance abuse issues are overrepresented in our corrections system and what does he intend to do to address this imbalance?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:04): Thank you very much to the honourable member for her important questions. I will try to deal with each of the honourable member's questions. The first question was am I aware of the report? The answer to that question is yes. The second question was have I read that report? No, I have not read that report line by line, so unfortunately I cannot speak to some of the specific things that the honourable member referred to.

Generally speaking, the tenet of the question refers to the challenges that face us in the correctional system considering there is an overrepresentation of people within Corrections who suffer from mental health problems, and this is something I think is well known in the community and presents an ongoing challenge for the department generally and us as a government.

Mental health is becoming an issue that we are becoming more aware of as a community. The challenge before Corrections is substantial, and as a government and department we are constantly trying to review its efforts to ensure that, where it is in appropriate to do so, we are making sure that there are programs in place specifically to deal with the needs of those people who suffer mental health problems.

I think it is already commonly known that sometimes prison is not the best place to accommodate individual people's needs. Prison is not always the best place to educate someone for instance, it is not always the best place to administer health care, nevertheless individuals find themselves in prison for a reason, so we have to be able to deal with the situation as best as we possibly can under difficult circumstances.

The government has been making investments along these lines. Earlier this year, I opened a new health facility at Yatala prison that is equipped and designed in many respects to be able to deal with mental health issues. This is something that we want to continue to observe to see how this facility operates. We will continue to monitor how these facilities operate but the demand is growing, and I think the honourable member would be aware of that. I am happy to take the other points in her question on notice in regard to the specifics of the report, but the honourable member can rest assured that mental health within Corrections is something that we are very cognisant of as a challenge that needs to be taken on. It is being dealt with in the full knowledge that it is an incredibly difficult issue in a complex environment.

PRISONER SUPPORT AND TREATMENT

The Hon. K.L. VINCENT (15:07): A supplementary: on the issue of administering health care, can the minister outline the process, if there is one, for reviewing medications which prisoners are taking while in prison? I am interested in the process for the review of medications, so where a prisoner is on medications is there a process for reviewing it to see whether they are on the correct dose or if they should be on that particular medication at the time?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:07): I thank the honourable member for her supplementary question. Unfortunately, I will have to take that on notice but I will try to make sure we get an expedited response to the honourable member.

PRISONER SUPPORT AND TREATMENT

The Hon. S.G. WADE (15:08): A supplementary question: in relation to the new facility at Yatala, is it intended that the enhanced facilities would reduce the need for transfers of prisoners to health facilities beyond the secure facilities? If so, has that been quantified?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:08): The first part of the answer to that question is yes. There is enormous benefit and value to be gained by treating prisoners on site rather than going through the rather expensive and inefficient process of transferring them from particularly Yatala as a high security environment to hospitals. There are a range of benefits in treating a patient on site. There are challenges attached to treating a prisoner or a patient on site as well, but certainly one of the benefits is a substantial cost of relocation.

Of course, there are always risks associated with transferring a prisoner, there are also risks of having a prisoner in a hospital environment which is not designed to have people in custody specifically, although there are facilities being looked at in that context. But the answer to that question is yes, that is one of the objectives of the new facility. In respect to benefits that have already been realised as a result of that, presumably in a cost context, I am happy to see if I can get that information from the department and share it with the honourable member.

PRISONER SUPPORT AND TREATMENT

The Hon. S.G. WADE (15:09): I thank the honourable minister for his undertaking, and I was particularly interested in either achieved or projected reductions in transfers of prisoners for external treatments.

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:09): I am happy to take that question on notice and get that answer. I do believe it would be projections that the department would have, and I am more than happy to disclose them.

SALISBURY POLICE STATION

The Hon. J.S.L. DAWKINS (15:10): I seek leave to make a brief explanation before asking the Minister for Police a question regarding the reduction in operating hours of the Salisbury Police Station.

Leave granted.

The Hon. J.S.L. DAWKINS: In response to a submission made by the City of Salisbury regarding SAPOL's organisational review, Assistant Commissioner Noel Bamford provided a brief letter to the council, which was accompanied by some interesting data regarding the operations of the Salisbury, Golden Grove and Holden Hill police stations. The current proposal for Salisbury Police Station is as follows, and I quote directly from the response:

> Current business hours: 8.30am to 9.30pm, seven days a week.
>
> Proposed business hours: 9am to 5pm, Monday to Friday.
>
> Reasons for change:
>
> - The station is located 7.3 kilometres from Elizabeth Police Station…and 8.6 kilometres from Golden Grove Police Station.
> - Peak reporting times for this station start around lunchtime, with greater spikes apparent after school at 3pm to 4pm. A steady decrease in activity is evident after 6pm.

The letter even includes a helpful graph to show the levels of demand and where they compare to current operating hours and proposed operating hours. What becomes obvious from this document and the graph is that the period between 5pm—the proposed new closure time—and 7pm, according to SAPOL's own data, is one of the peak time periods for members of the public making reports at the Salisbury Police Station. It appears now that, if these reforms take place, the public during these times, will be turned away. Given this, my question is: does the minister consider it safe and reasonable to close Salisbury Police Station during periods of the day when the public need it and utilise it most?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:12): I thank the honourable member for his question and note his ongoing interest in the Salisbury Police Station. The first thing, is this: the police commissioner is in the process of reviewing police station hours. No final decision has been made and no decision to adjust hours as a result of this review, at any police station, has been implemented. So let's wait and see the way this review unfolds. The second thing is that the police commissioner very recently opened up, to the whole of the South Australian public, the opportunity to be able to contribute to the police station hours review. The first step in the process was to engage active, interested policy leaders within the community, not least of which every member of the state parliament, including local government, to be able to make a contribution to that hours review, and a number have.

The second step is to engage the whole South Australian public. There was an advertisement in *The Advertiser* recently, asking any member of the South Australian public to make a contribution to the police station hours review. That process remains in train, but nothing yet has been implemented in respect to police station hours in the state of South Australia.

What is important to remember is that there is a distinction between administrative operating hours within police stations and active police stations in regard to normal police functions, the sort of ones that I think the South Australian public hold most dear. So, for instance, there is distinction between walking in through the front of a police station and registering a firearm, there is a distinction between that function at a police station versus the fact that there might be an active patrol base, where if someone calls 000 to get assistance in an emergency, a patrol is still dispatched from that station. I am advised that, under the review, in respect to the Salisbury Police Station there is no suggestion that it will stop becoming a 24 hours a day, seven days a week active patrol base. That means that it will still remain an active, 24 hours a day, seven days a week police station.

There is a separate question though about whether or not someone will be able to walk through the front door and register a firearm or report a collision or something of that nature. The

question that one has to ask themselves if they are going to start asking venom-laden questions of me, vis-a-vis the police commissioner, is: does that honourable member think it would be a good idea to have a person sitting in a police station at 3 o'clock in the morning just in case someone comes in to do an administrative function like report a collision that occurred earlier that day or register a firearm? Would they prefer that person sitting in there twiddling their thumbs just in case someone walks in, or would they prefer that police officer out on the front line responding to issues as they arise?

I am not too sure if I have heard any suggestion from any member opposite that that is a good idea. I have not heard that yet. If they think that is a good idea, they should start putting it in the submissions that the police commissioner has called for. If they would prefer police officers sitting around at 3 o'clock in the morning performing administrative duties, they should come out and say it. If however they do not think that is a good idea, I suggest that they let the police commissioner get on with the job.

I think we should be thinking about whether or not, as a community, we want to back our police commissioner to make the appropriate judgement calls about what is the best utilisation of taxpayer-funded resources within SAPOL. I think the police commissioner has the interests of the South Australian public at heart when he makes decisions about his workforce and when they work. I back him in the effort to review it. He has not made any decisions yet. It is open for consultation. We look forward to people's contribution to the consultation.

I am not aware of whether or not the Hon. Mr Dawkins has made a submission in respect of the Salisbury Police Station. Maybe he can inform me across the chamber now. Has he made a written submission?

The Hon. J.S.L. Dawkins: I have an opportunity to ask you questions.

The Hon. P. MALINAUSKAS: It sounds as though the Hon. Mr Dawkins has not made a submission to the police station hours review. Have you made a submission to the police station?

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

The PRESIDENT: Order!

The Hon. P. MALINAUSKAS: The Hon. Mr Dawkins has not even taken the time to make a contribution to the police commissioner's own police station hours review. Instead he just wants to ask questions in the vain hope that it might undermine the police commissioner's effort.

The Hon. D.W. Ridgway: I thought the arrogant responses would be gone today, but they are here, same as always.

The Hon. P. MALINAUSKAS: What I can say is that as a government, we support the police commissioner.

Members interjecting:

The PRESIDENT: Sit down.

The Hon. J.S.L. Dawkins: I have a supplementary question.

The PRESIDENT: Before you ask a supplementary question, have you finished your answer?

The Hon. P. MALINAUSKAS: No.

An honourable member interjecting:

The PRESIDENT: I think the arrogance is on all those people interjecting while he is trying to give his answer. Allow him to finish his answer. It is a very important issue we have here and a lot of views on it.

The Hon. K.J. Maher interjecting:

The PRESIDENT: The Leader of the Government will desist. Allow the minister to finish his answer without interjection. Minister.

The Hon. D.W. Ridgway: All he is trying to do is blow out the two minutes.

The Hon. P. MALINAUSKAS: I am more than happy to sit down within the next two minutes to ensure that the Hon. Mr Dawkins can ask his supplementary question, but I will acknowledge the contribution of the Hon. Tung Ngo, who has taken the time to actually write to the police commissioner's police station hours review, so I applaud the Hon. Mr Tung Ngo for that effort.

Of course, we want to make sure that the police commissioner has all the information available to him to be able to make informed decisions. We do not want these decisions to be influenced by politics. We want the police commissioner to be able to make the decisions that he thinks are appropriate to ensure that South Australian police force resources are best utilised to protect the South Australian public.

SALISBURY POLICE STATION

The Hon. J.S.L. DAWKINS (15:19): Will the minister concede that the current hours of the Salisbury Police Station are 8.30am to 9.30pm, and there has never been any suggestion by me or anybody else that the station be open at 3 o'clock in the morning?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:19): Mr President—

The PRESIDENT: It is more of a comment. The Hon. Mr Darley has a supplementary, if you want to just—

The Hon. P. MALINAUSKAS: I will answer the Hon. Mr Dawkins question first. I acknowledge that, just as the Hon. Mr Dawkins said, the police station hours at Salisbury are not a revelation; I do not think he is sharing anything new with the chamber. The Salisbury hours are currently from 8.30am to 9.30pm. I can share with the honourable member, despite his raising his voice, that the proposed hours are from 9am to 5 pm, but of course that is subject to review, which is a review—

The Hon. J.S.L. Dawkins: No, no, no, it's 8.30; sorry, you're wrong.

The PRESIDENT: The minister is answering the question.

The Hon. K.J. Maher interjecting:

The PRESIDENT: You behave yourself, the Hon. Mr Maher. The Hon. Mr Darley.

Members interjecting:

The PRESIDENT: Order!

SALISBURY POLICE STATION

The Hon. J.A. DARLEY (15:20): With respect, I thank the commissioner for inviting me to make a submission, but has not the commissioner put the cart before the horse? Should he not ask the community first and then ask us second, because I would think that members of parliament would have less to say about the whole thing than would the community?

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (15:20): I thank the honourable member for his question. The police commissioner can choose which order he thinks is best suited. I suspect part of the police commissioner's logic is that people who are leaders within the community, like the Hon. Mr John Dawkins, would be keen to be able to make a written submission at the first available opportunity, but rather—

Members interjecting:

The PRESIDENT: Order!

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

The PRESIDENT: Order! Let the minister—

The Hon. K.J. Maher: Shameful!

The PRESIDENT: The Hon. Leader of the Government: I have said this before, there is more of an onus on you to act responsibly because of your position.

The Hon. J.S.L. Dawkins: Hear, hear!

The PRESIDENT: And the Hon. Mr Dawkins, the Whip, you have a certain responsibility as well. Allow the minister to finish his answer. Minister.

The Hon. P. MALINAUSKAS: So, I suspect that the police commissioner wanted to give the opportunity to those leaders within the community at the state government level and the local government level to be able to make a contribution. The Hon. Tung Ngo took time to make a submission, unlike yourself, and now the option of course is available to the public.

An advertisement, as I mentioned, was in *The Advertiser* that makes the opportunity available to the entire South Australian public. I look forward to the outcome of the review, as I am sure you do, the Hon. Mr Darley. Let us just take the temperature out of this. The critical thing is that we want to make sure the police commissioner has all the information he needs to be able to make sure that questions of the allocation of resources of his own staff are able to be answered in a way that ensures that the community remains safe and continues to become safer.

We all, I think, acknowledge that, sometimes, it is better to have police officers out on the front line rather than sitting in a police station. It might not just be at 3 o'clock in the morning; it might also be at 9 o'clock at night. So, we need to make sure that the police commissioner can ask that question in the context of—that is a very good example. I did say '3 o'clock', and it was in the context of an example—I am sure that is something the honourable member can get his head around.

The Hon. J.S.L. Dawkins: You might learn that the shorter answers get you into less trouble.

The Hon. K.J. Maher: The opposition Whip is determined to destroy the order of this chamber, but I will press on nonetheless.

Bills

SUMMARY OFFENCES (FILMING AND SEXTING OFFENCES) AMENDMENT BILL

Committee Stage

In committee.

Clause 1.

The Hon. T.A. FRANKS: I still have some questions with regard to the definition of 'bare' and 'breasts' that I was awaiting a response from the government on given that it was going to be discussed between the houses. Then I have further questions about the implementation of this bill.

The Hon. P. MALINAUSKAS: Did you ask some questions?

The Hon. T.A. FRANKS: I raised these questions in the second reading so I was expecting answers to them as we proceeded to the committee stage; similar questions to those raised by the member for Bragg and also the Hon. Andrew McLachlan in this place. They are: why has the government defined 'bare genitals' as one definition used but not 'bare breasts'? Why have they simply referred to 'breasts'? What is the reasoning behind that? What was the legal advice? We were told in the other place by the Attorney that we would receive some clarification around that before it came to this place.

The Hon. P. MALINAUSKAS: I am advised that the government's position regarding this issue about 'breasts' was dealt with in our opposition to the Hon. Mr McLachlan's first amendment. I am happy to discuss that and go into a bit of detail then if that suffices for the honourable member or would she prefer that I seek to address that now?

The Hon. T.A. FRANKS: I would prefer that addressed now.

The Hon. P. MALINAUSKAS: What I am able to do then is share the information that I have in front of me that I have been advised of regarding the Hon. Mr McLachlan's amendment No. 1, which the government opposes. The government believes that it is unnecessary and unhelpful to

include the word 'bare' before 'breasts' in the definition of an invasive image. The definition already provides that the person must be in a state of undress in the image and so would not capture an image of a fully-clothed female as suggested by the opposition, other than if such an image met the other criteria of an invasive image.

The definition is deliberately broad. It is intended to cover any image involving female breasts which may be considered to be invasive but applying the community standard in subsection (3) will protect against the capture of generally-accepted images even where breasts may be visible in an appropriate context. The context of the image is critical and therefore the determination of whether the image of breasts that are not entirely bare is invasive should be left to the prosecuting authorities and the courts to decide.

The inclusion of the word 'bare' would mean that an image of the breasts of an underwear-clad female would not be captured. I would think it is entirely appropriate that a person could be charged with a section 26C offence of distribution of an invasive image if distributing an image of a 14-year-old female in a bra in an embarrassing situation. A teenage girl or, indeed, an adult woman might distribute such an explicit image to her boyfriend who later, after they break up, distributes such an image on the internet without her consent. This clearly should be capable of amounting to an invasive image depending upon the particular case.

The Hon. T.A. FRANKS: Are those provisions not covered by the previous legislation debated in this place about demeaning and degrading imagery?

The Hon. P. MALINAUSKAS: I am advised that in the first set of amendments the word 'breast' was not originally included. I am not too sure as to why that is the case, but nevertheless it was not included, which is what is seeking to be addressed in this bill.

The Hon. T.A. FRANKS: Why does this bill, in its amendment to section 26A, in the particular section that we are now discussing with regard to the definition of breasts being visible, not simply say genitals or anal region, rather than the 'bare' genital or anal region. What was the drafting advice around that?

The Hon. P. MALINAUSKAS: I am advised that that question was never raised in the context of the drafting of the bill.

The Hon. T.A. FRANKS: With respect, it was raised in the parliament in the other place and in second reading speeches here. We never received a response in any form, despite assurances from the Attorney, in the other place, that there would be some advice from government on this. Is it simply a process issue that we have not had answers as to why the drafting has defined the bare genital or anal region, but, with breasts, has not defined that they be bare? This is our question. It will obviously come up in relation to a particular amendment that we will debate, but we were actually told in the other place, as members of parliament, that we would receive some greater information than we are currently able to receive from you in your place as representing the appropriate minister on this.

We are simply looking for more clarification as to this lack of consistency between the definition around breasts and that definition about genitals and anal region. I would have thought that given things like breastfeeding, given the ability for people to be in a public place, indeed, in a state of toplessness, that perhaps that might not be the appropriate definition to have for the breasts, and given that the genitals, you would think, would actually be a far more sensitive part of the anatomy, in terms of those practices. This is why I am asking these questions.

I am not sure what you can do because, I think, as the minister representing the minister, you have not been given the appropriate information and certainly, as a member debating this bill, I do not feel that we have been given the information that we were promised in the debate in the other place. So, with that, I might drop this line of questioning, and I am simply going to indicate that the Greens will be supporting the Liberal amendment, until the government has some further information that can assuage our concerns that there are drafting errors here.

The Hon. P. MALINAUSKAS: Hopefully I understand the tenor of your question. I will try to clarify what I understand your question to be and then I think I have an answer for you,

Hon. Ms Franks. Is the tenor of your question: why has the government not inserted the word 'bare' in front of 'breasts' but has in regard to genitals or the anus region?

The Hon. T.A. FRANKS: Yes.

The Hon. P. MALINAUSKAS: The answer to that, I am advised, is that 'bare' was always in the original definition in respect of genitals and the anus region, but it was not the case in respect of breasts, and the continuation of the existing definition in respect of genitals and the anus region has just simply continued from what it was originally. That may not necessarily answer a subsequent question of yours around why the inconsistency, but I think the question of why the inconsistency is dealt with in the context of the Hon. Mr McLachlan's amendment.

The Hon. K.L. VINCENT: At this stage, Dignity for Disability is inclined quite strongly to oppose the Hon. Mr McLachlan's amendment, not because we do not appreciate what he is seeking to achieve with it but because we are convinced by the arguments similar to those that the minister has shared this afternoon, in particular around the fact that a person's breasts not being bared might still be distressing to share. For example, if it is a young woman in a bra or another piece of clothing, it may still have the same impact on that young person, so we are inclined to support the definition as it is currently.

I have a couple of questions to seek some clarification because I want to make sure that we, as members of this chamber, understand this very important bill that we are debating. Some of my questions might be a bit unnecessary in seeking this level of clarification, but I just want to be sure. First, could I seek from the minister some level of definition for the record around the phrase 'state of undress'? Does it include a young woman in a bra or a swimsuit, for example? Can the minister elaborate on the definition of 'state of undress', for a start?

The Hon. P. MALINAUSKAS: The answer to that question is that it depends on the context of the environment. So, where the individual would be located would very much be a variable that the courts or the prosecutors would take into consideration when determining whether there is a matter to be looked at. For instance, as I understand it and as I am advised, the bill or the act specifically exclude different environments. For instance, if someone is on a beach and they are in a bikini, that would not necessarily constitute a state of undress.

The Hon. K.L. Vincent: Because that's a public place.

The Hon. P. MALINAUSKAS: Because that's a public place. However, in a different, private environment that may well be the case, but that is a decision that would be left to prosecuting authorities and the courts to determine.

The Hon. T.A. FRANKS: An example I will give is Maslin Beach; a person is topless, they are female. Is that a public place or is that a private place, given that nudity is allowed in that public place but expected to be respected and images taken not shared?

The Hon. P. MALINAUSKAS: An interesting question. I am advised that, again, it depends on the context. One would be forgiven for assuming that Maslin Beach is a public place, but the nature of the location, the context of the photography, the person taking the photo's intent and the intent of the person being photographed would all have to be looked at in context, and decisions made by the prosecuting authority and the courts accordingly.

The CHAIR: We are talking about an issue in clause 5 that we have not even got to yet. Shouldn't these questions be asked at clause 5?

The Hon. T.A. FRANKS: Interesting point, Mr Chair. Shouldn't these questions all have been answered, as they were promised to be, after the second reading debate? They are not all relevant to clause 5 but, in particular, we have an amendment at clause 5 that will address one of the issues. I have a final question; the minister will be happy to hear that it is the final one, but had the government actually provided answers to these questions as they promised in the other place we would not be having this debate in the committee stage now. Thank you for your support.

My final question on this is the practice, usually engaged in harassment, and particularly of younger women online, where they are sent pictures, usually of male genitalia. Women have taken to posting these online as a way of retaliation for this harassment. What position would a woman be

in who posts one of these pictures of genitalia, or indeed several pictures of genitalia, that she has received unsolicited, unwanted and in a harassing manner? What would be the treatment of that woman should she post these pictures online?

The Hon. P. MALINAUSKAS: I am advised that in the context of the example just provided, if you publish material of the nature described then the act captures that. However, different circumstances around each event, each instance, would be taken into account by police, prosecuting authorities and the courts accordingly.

The Hon. T.A. FRANKS: My supplementary question, because this is the final line of query that I have about this, is: do we have an assurance that such ways of harassment—which are increasingly common, particularly for young women online—will be taken more seriously by authorities into the future, when women are sent pictures of male genitalia unwanted, unsolicited and as harassment? They receive them when they go on Facebook, they receive them when they go on online dating. They are unwanted and unsolicited and they are increasing.

The Hon. P. MALINAUSKAS: I cannot speak for those authorities. What I would say is that the government takes this issue rather seriously, hence the reason why we are discussing the bill and the amendments accordingly. It would be the expectation of the government that all authorities seek to administer and enforce the law as it is appropriate to do so.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

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

Amendment No 1 [McLachlan–1]—

Page 3, line 22 [clause 5(7), inserted subsection (2)(b)(i)]—Before 'breasts' insert 'bare'

I have listened intently to the debate, which revolved largely around the definition being inserted into section 26A of the Summary Offences Act. I do not find personally the proposition put forward by the government sufficiently convincing to withdraw the amendment. The opposition does not insert this amendment to undermine the intent of the bill. It strongly supports the amendment before the committee at the moment.

If you take the government's argument to its logical conclusion, then you would be seeking to remove the definition of 'bare' as it relates to genitals or the anal region, because you are either focusing on images that are invasive, which do not have something less than bare and are distressing to the individual, but as it says in clause 3, except those images that fall within the standards of morality, decency and propriety generally accepted by reasonable adults. You either consistently have 'bare' in both subparagraph (b)(i) and subparagraph (b)(ii) or you do not.

In our view, out of an abundance of caution and to be absolutely clear to those many people who are going to be interpreting this, as the minister has indicated—the police, prosecuting authorities and the judiciary—and to the people of South Australia that we are indicating bare breasts, because we consider that breasts, genitals and anal regions are of equal weight in being protected. I thank the Hon. Tammy Franks for teasing out these issues at clause 1. The opposition will move its amendment and continue to insist on the insertion of 'bare' before the word 'breasts'.

The Hon. P. MALINAUSKAS: I refer to my remarks earlier regarding the government's position on amendment No. 1 by the Hon. Mr McLachlan.

The Hon. R.L. BROKENSHIRE: I just put on the public record for all colleagues that Family First does see merit in what the Hon. Andrew McLachlan has moved when it comes to the issues around 'breasts' and 'bare' and 'visible' and so on, as he has highlighted. We do see some real problems if this amendment is not supported. Arguably, someone could be down at the beach taking a photo of their children playing happily with a bucket and spade and there happens to be a woman, as an example, in the background in a very brief bikini. Is that then an offence if that happens to be sent to family members or friends?

We believe from the interpretation of the government's legislation that it could be, and we do not believe that that would be the intent. We will be supporting the Hon. Andrew McLachlan's amendment No. 1, but I also, to save time, advise the committee that we will not be supporting amendment No. 2. I advise the minister that whilst we will be supporting the opposition amendment No. 1, we will not be supporting amendment No. 2. We will be supporting the government as per the bill on amendment No. 2 because we happen to agree with what the Attorney has argued against that particular amendment.

We commend the general principles of the bill to the house. We face a different situation to what we have faced before with technology. We have seen what has happened over recent years and we have been involved in comments on it in the media quite often. Take after school, for example, where there might be a brawl at the railway station or something like that, a lot of the students stand around and video that and glorify it and then send that everywhere. We have said that there are concerns about that.

There are clearly concerns about sexting and other issues regarding modern technology. When some of these people who are doing this get a little older and find that their image that they would not want the general public seeing has been right around the world and that they have no control over it, they will be very disappointed if it was with their consent (or even more disappointed if it was without consent), so we think the government is trying to do the right thing here on principle and tighten up the protection laws around what we now face with modern technology and, for that, we generally support the bill.

The Hon. J.A. DARLEY: I indicate that I will be supporting both of the opposition's amendments.

The Hon. T.A. FRANKS: The Greens will be supporting this and the other opposition amendment.

The Hon. K.L. VINCENT: As I have outlined, Dignity for Disability will not at this stage support the opposition amendments for the reasons I have already outlined around the problematic definition of bare breasts. Certainly, I personally can see the inconsistency with the definition of the genital and anus region as well and would like to see some more discussion and consistency around that. At this stage, we do not think this is adequate reason to support the amendment as it currently stands.

Can I just clarify something on the back of the Hon. Mr Brokenshire's amendment? I think he made mention of a situation where, for example, a person takes a picture of their partner on the beach and in the background is another woman who is in, as I think the honourable member put it, a very brief bikini—I am not aware of any long bikinis, but never mind. I think this is probably covered by the question I asked earlier where it depends on the context because it appears on the beach, but also it is my understanding, and I hope the minister can confirm this or provide from some further clarification, that my taking a picture of my partner on the beach and accidentally capturing someone else would not automatically trigger these measures because you would have to have the intent to cause harm with the image of that person by distributing it.

So, if it was a complete stranger that I had accidentally captured in my photograph, firstly the stranger would have to find out that they were in the photograph and I would have had to distribute it either to a friendship circle or *Women's Weekly* or something, and they would have to prove that I had the intent of defaming them by distributing that particular image. In the circumstances that the Hon. Mr Brokenshire has outlined, I do not think these measures would apply because there is a lack of intent to cause harm to that particular woman in the background—the hypothetical woman in the background—by taking that photograph. Is that correct, minister?

The Hon. P. MALINAUSKAS: I thank the Hon. Ms Vincent for her remarks. In respect of what the Hon. Mr Brokenshire said in regard to the incidence at the beach, as the Hon. Ms Vincent said, that would be in the context of a public place and the act specifically deals with the fact that in a public place it is treated differently. Furthermore, I refer the Hon. Mr Brokenshire and the chamber generally to section 26A(7)(3) which provides 'however an image of a person that falls within the standards of morality, decency and propriety generally accepted by reasonable adults in the

community will not be taken to be an invasive image of the person.' I think the example you referred to might be such an example which someone would consider as falling in that category.

The Hon. R.L. BROKENSHIRE: To me, there is still a grey area there that will potentially end up in the courts, unless we actually support the amendment of the Hon. Andrew McLachlan. That is the worrying factor. This just clarifies, makes it absolute, as I see it.

Amendment carried; clause as amended passed.

Clause 6.

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

Amendment No 2 [McLachlan–1]—

Page 3, after line 31—Insert:

(2) Section 26B(9), definitions of *broadcasting*, *media organisation* and *publish*—delete the definitions 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;

The amendment seeks to make consistent the definition of 'media organisation' in the Summary Offences Act, that is why it deletes the definition of 'broadcasting', 'media organisation' and 'publish', which are three definitions, 'broadcasting' and 'publish' being definitions arising out of the definition that currently exists in the act of media organisation.

The honourable members may recall that in the debate in relation to the surveillance devices, this chamber had consideration of the definition of 'media'. The amendment which I am moving and which I am asking the chamber to accept today—and I thank honourable members for their indications of support—is identical to that definition, and that definition was taken from the commonwealth Privacy Act. It is the view of the opposition that this bill brings to our attention and opens up other parts of the Summary Offences Act for consideration. This is a modest but important amendment for the chamber to consider.

I draw members' attention to the fact that this definition uses the word 'organisation'. It does not extend as far as bloggers or free-ranging discussion on the internet. This debate has been had by this chamber and the chamber endorsed this current definition of media organisation, which I table before them and seek the support of the committee to amend the government's bill. In our view, the amendment strikes the right balance of this definition between public interest and free press, and the public interest and the administration of justice. I was minded in my research in preparing for this debate I came across a speech by the Hon. Mark Dreyfus to the Sydney Free Speech Symposium, and whilst it is not directly related, he was making commentary in relation to anti-terrorism legislation. He had made an important quote, and I am referring to the Labor Party:

> We will not tolerate legislation which exposes journalists to criminal sanction for doing their important work. Work that is vital in upholding the public's right to know.

And that is a similar sentiment to what is behind this amendment. The importance of the definition of 'media organisation' in the Summary Offences Act relates to indecent filming. Section 26B(7) states:

> If, any proceedings for an offence against this section, the defendant establishes that the conduct allegedly constituting the offence was engaged in by or on behalf of a media organisation, the conduct will, for the purposes of this section, be taken to have been engaged in for a legitimate public purpose unless the court determining the charge finds that, having regard to the matters that are outlined in subsection (6), the conduct was not for a legitimate public purpose.

In effect, by inserting this definition, it makes no difference to the public interest or public purpose, in this case, defence for the media. Basically, the provision provides a presumption that the media are

doing the right things, but one which can be overridden by the courts if in fact it is not for a legitimate public purpose and the media have overstepped the line.

So my submission, in effect, is that this amendment is not radical. It aims for consistency across a legislative framework about what is media and what is not. I will finish with a quote: 'A free press can of course be good or bad, but, most certainly, without freedom the press will never be anything but bad.' That is from Albert Camus, a philosopher. I will just leave my comments there.

The Hon. P. MALINAUSKAS: The government opposes this amendment. The act currently provides that in proceedings for an offence against section 26B, the humiliating or degrading filming offences, if the defendant establishes that the conduct was engaged in by a media organisation, as defined, the conduct will be taken to have been engaged in for a legitimate purpose and thus be a defence to the charge unless the court finds otherwise.

The government has strictly defined 'media organisation' for these purposes so as to limit the types of media organisations that receive the benefit of this provision to those licensed under the commonwealth's Broadcasting Services Act 1992 and those that are members of the Australian Press Council or authorised under a law of the commonwealth. The original bill inserting this offence was the result of careful consideration and consultation, including with media outlets, and covers organisations that are regulated, licensed or otherwise formally recognised as professional media organisations.

Nothing has changed since 2012 to support altering this definition in the present context. The definition proposed by the honourable member is based on the definition in the recently debated surveillance devices legislation. This legislation is entirely different to the surveillance devices legislation. The Surveillance Devices Act contains a broad definition of 'media organisation' as it contemplates video or images being in the public interest and therefore being publicly distributed. It is designed to protect people who expose things that are in the public interest.

Section 26B of the Summary Offences Act, however, seeks to protect victims from having humiliating or degrading images widely distributed. The government did not, and does not, intend to define what a media organisation is in contemporary society for all purposes with this definition. Rather, it defines what is a media organisation for the purposes of being considered to be broadcasting for a legitimate public purpose and thus having a defence to a charge of distributing an image obtained by humiliating and degrading filming.

The amendment proposed by the honourable member is unhelpfully broad and could allow any person to set up a YouTube or even *Jackass*-type quasi-news channel or website to broadcast humiliating and degrading films while receiving the benefit of being considered to be a media organisation and their conduct being taken to be for a legitimate public purpose. While a court can find otherwise, as a matter of policy we must be clear which types of media organisations should be deemed by the legislation to have engaged in actions for a legitimate public purpose and have a defence to such a charge.

A person seeking to victimise a person through the broadcasting of a humiliating or degrading image would in fact be assisted by this amendment as it unwisely expands the net of potential broadcasters who may seek to claim that they are broadcasting for a legitimate public purpose. The government has confidence in the editorial discretion of the mainstream media outlets that such images would be appropriately referred to the police. It does not have the same confidence in certain forms of alternative media. This should not be extended as far as proposed by the opposition.

The Hon. R.L. BROKENSHIRE: I ask the mover of the amendment a simple question for the record: does the Hon. Andrew McLachlan, the mover of this amendment, agree that he is significantly broadening the definition by having this amendment, and does he agree that it will include quasi-news outlets, such as bloggers or online news, that would not necessarily even be licensed?

The Hon. A.L. McLACHLAN: I thank the honourable member for his question. I draw the honourable member's attention to my earlier comments in relation to the definition of 'organisation', which came up in the debate on surveillance devices. The use of the word 'organisation' means, in effect, it has to be a structured organisation, and the interpretation that we believe would be applied to this is that it would not be an unreasonable expansion and would be confined to media outlets that

members would naturally believe are not otherwise covered by the definitions currently in the bill. There were various online organisations, such as *The Age* or others—

The Hon. T.A. Franks: InDaily.

The Hon. A.L. McLACHLAN: InDaily and others, that we would naturally in this chamber, I think, believe to be reputable media outlets. We believe the amendment is measured and we believe that the debate is about what is a media organisation and that it is a spurious argument to say that it is relevant in the context of which bill it is being inserted. You are either a media organisation or you are not, and we need to take into account modern media, but not to the extent of private conversations, which was subject to the debate on surveillance devices.

So, if you put it in context, in essence again the government is arguing against itself, because it is saying that it is devaluing certain principles of the Surveillance Devices Act, saying that it can be broad, but in this bill it is different because the context is different. The debate should be confined to what is a media organisation in this state. It is, in effect, a false argument to be asserting that, in this context, media organisations are this big, but in another bill are smaller or larger. I do not think that has validity and I ask honourable members not to place any weight upon it.

We have considered the matters that have been raised by the government, and we considered them at the time of the surveillance devices debate, which is why the word 'organisation' was specifically inserted, and other parts of the definition, so that it is measured, not unreasonable and does not undermine the intent of the act that it is seeking to amend.

The Hon. R.L. BROKENSHIRE: First, in response to the mover's answer I would have thought that InDaily was a licensed media. He is saying that it is not. I do want to ask the mover of this amendment: if some people are interested in soliciting pornographic or sex-related material around a network that they have, and they are just basically a blogger, are you guaranteeing that they would not be protected by your amendment?

The Hon. A.L. McLACHLAN: I appreciate the Hon. Robert Brokenshire puts me on the same status as a Supreme Court judge—

The Hon. R.L. Brokenshire interjecting:

The Hon. A.L. McLACHLAN: One step at a time, Mr Brokenshire. As I said, in response to the Hon. Mr Brokenshire's question, we have sought advice, we have inserted this amendment in a previous bill, which has become law, and the chamber found favour with that. It is not our belief or our understanding that this definition would allow the circumstances that you assert. Of course, the honourable member unfairly asks me for a guarantee. We have drafted this with those circumstances in mind, and I hope that that response provides the honourable member with the comfort that he so desperately seeks.

The Hon. T.A. FRANKS: I indicate again that the Greens will be supporting this amendment. I note that in previous debates it has been identified that formerly InDaily was not falling under the definition of the current media definition as being defended here by the government. That may have changed but certainly *The Guardian* online and *The Age* online at that stage of the debate of the Surveillances Devices Bill similarly did not fall within the current state government preferred definition.

I do not think it extraordinary or indeed adventurous to go with the federal Privacy Act's definition. I think that is quite a conservative approach to take. Given that we are talking about a new media environment, a privacy provision here, protection of people's privacy, that perhaps the federal Privacy Act is not such a leap of faith to take. The Greens are certainly comfortable with following and supporting the definition put forward by the opposition, but do ask for clarification: does *The Guardian* online, *The Age* online and InDaily fall within the state government's current preferred definition of media?

The Hon. P. MALINAUSKAS: The government is not aware if particular media organisations like InDaily fit into the categories to which you referred. However, the government can advise that should InDaily not be registered and find themselves in this position they would be able to argue that they were broadcasting for a legitimate public purpose and thus have a defence.

However, if you are a media organisation that is not licensed or regulated, for instance, then the government is of the view that you should not automatically have the presumption that would otherwise be afforded to you; rather, you would have to demonstrate that you are broadcasting for a legitimate public purpose.

The Hon. T.A. FRANKS: Is the minister embarrassed by having to provide that answer? I indicate that previously when we debated the Surveillance Devices Act amendments it was pointed out to the government then that InDaily was not covered by the state government's preferred definition of media organisation, as well as several other organisations. Is the government intending to lobby their federal colleagues to change the federal Privacy Act definition or will they simply continue to go it alone with an archaic definition of media?

The Hon. P. MALINAUSKAS: No, I am not embarrassed.

The Hon. A.L. McLACHLAN: Whilst the Hon. Tammy Franks was seeking some clarification I had a further thought to allay the concerns of the Hon. Robert Brokenshire. In essence, we are arguing over a definition that gives right to a presumption but it does not override the court's ability, as I indicated earlier in this debate, to determine that in fact it was not for a public purpose and therefore that organisation, whether a registered media organisation or other, should be subject to criminal sanction.

It is not, as some members may be under the misapprehension, an exemption which refers to the definition of media organisation; it is simply an adjustment of the burden of proof and, therefore, if any member is concerned they should take faith, as I know the minister has expressed in relation to other bills, in the discretion of the courts, on the ability of the courts and the competency of our courts to exercise the discretion appropriately.

The Hon. K.L. VINCENT: Can I ask a question which applies both to the minister and the mover of the amendment before us, because I wonder if they can elaborate on whether their different definitions, in the minister's case, in the current definition, and in the Hon. Mr McLachlan's, in the pros amended definition, would cover media outlets such as BuzzFeed, the Huffington Post, Junkie, Jezebel and other more online fora?

The Hon. P. MALINAUSKAS: The entitlement of a media organisation to a presumption depends on whether or not it meets the definition within the act, which, for the sake of clarity, is an organisation that engages in broadcasting, pursuant to a licence under the Broadcasting Services Act 1992 of the commonwealth, or that is otherwise authorised under a law of the commonwealth to engage in broadcasting, or is an organisation that is a constituent body of the Australian Press Council, or is authorised under a law of the commonwealth to engage in broadcasting.

If they do not fall under that definition, then of course the question would then become whether or not they were broadcasting, for the purpose of this act, for a legitimate public purpose, in which case, if they were, that would be a defence that they would be able to argue.

The Hon. K.L. VINCENT: Could I ask the same question of the mover of the amendment?

The CHAIR: Yes, of course.

The Hon. A.L. McLACHLAN: I do not have an intimate knowledge of those organisations, but they would have to be organisations, and I know that Huffington Post is an organisation. It would have to have material which is a character of news and current affairs. It could not be a porn organisation or a blogging organisation, as indicated by the Hon. Robert Brokenshire. In essence, the definition requires legitimacy and legitimacy which is over a period of time. A judge or a judicial officer looking at this would say 'Are they structured? Are they accountable to the community? Are they observant? They are not ethereal. Do they collect and disseminate material for the purposes of making available to the public?', which is the character of news and current affairs, not for titillation.

This definition really does exclude, in many ways, raw entertainment. I am not familiar with those websites, as I have not seen them, but I think the Huffington Post is an international news organisation of some substance. It would not necessarily be registered here in Australia. If its primary focus, in my view, is serious commentary and opinion and analysis of news, then it would fit within the definition. If it is purely a site of pornography, with a small amount of news that would reflect upon something similar to a gossip magazine, then it would be questionable.

The Hon. K.L. VINCENT: Could I ask the mover—and I do not want to put too fine a point on this, but again I am just trying to make sure that we are clear—using his definition, I think he used the word 'titillation', just to be absolutely clear, and I appreciate he does not have intimate knowledge of all these sites, but where would sites such as BuzzFeed, for example, fit into that definition, given that they are known to be a current affairs site, but they, I guess you could arguably say, usually portray stories in a relatively entertaining kind of manner? I would not say it was strict news.

The Hon. A.L. McLACHLAN: I have not seen the site, but I understand they are a member of the Canberra Press Gallery. It would be a question of degree. I come back though to organisations. They have to be structured and known. You cannot be, as I said, on the dark net. In essence, organisation infers accountability and the ability to litigate, fine and summons, and that is why the word was inserted. In essence, a criminal action can be taken against the corporate as a whole or against a collection of individuals. It really is a question of degree. It can be entertaining. You could say that news is entertaining, but that is why the words news, current affairs, information and documentary, as well as commentary and opinion have been inserted.

So, where pornography finishes and titillation starts and entertainment begins, the interpretation has to be futureproofed, to take a term used by the Hon. Mr Wade, otherwise this definition is so narrow that we are going to have to come back and amend it in the future if we do not amend it now because there will be legitimate news organisations—and I can see the context—warning young children about these invasive images, or there will be certain circumstances. I also think that the defence they have—well, they do not really have a defence, they have actually a presumption that prima facie they are doing the right thing, but if they are clearly not then a court could easily regard it in the presumption. I rely on both the provisions relating to the burden of proof and the presumption, as well as our definition, to give myself comfort in moving this amendment.

The CHAIR: Do you want to make any further contribution, minister?

The Hon. P. MALINAUSKAS: At the expense of repetition, to be clear, if an organisation is a media outlet that falls within the definition that currently exists within the act, which would encapsulate, I would have thought, the overwhelming majority of mainstream media, if it does not fall immediately within that definition then of course an organisation that does not fall under that category would be able to argue very coherently that they are a legitimate broadcasting organisation and they are exercising that function in the public interest. We think that is a legitimate position to have. Notwithstanding the Hon. Mr McLachlan's contribution, I think it is important to understand what the object of the bill is. We do not want to be changing definitions in such a way that will undermine the capacity for the bill to operate.

The committee divided on the amendment:

Ayes 10
Noes 9
Majority 1

AYES

Darley, J.A.	Dawkins, J.S.L.	Franks, T.A.
Lee, J.S.	Lucas, R.I.	McLachlan, A.L. (teller)
Parnell, M.C.	Ridgway, D.W.	Stephens, T.J.
Wade, S.G.		

NOES

Brokenshire, R.L.	Gago, G.E.	Gazzola, J.M.
Hood, D.G.E.	Kandelaars, G.A.	Maher, K.J.
Malinauskas, P. (teller)	Ngo, T.T.	Vincent, K.L.

PAIRS

Lensink, J.M.A.	Hunter, I.K.

Amendment thus carried; clause as amended passed.

Clause 7.

The Hon. P. MALINAUSKAS: I move:

Amendment No 1 [Police–1]—

Page 3, line 35—Delete 'minor' and substitute 'person under the age of 17 years'

This amends the penalty provision to be inserted into section 26C by the bill, which is the distribution of an invasive image offence, so that if an invasive image is of a person under the age of 17 years a greater penalty applies to the offence. The government's amendments Nos 1 to 5 deal with the same subject matter, so I will address the rationale for these amendments here.

These amendments are of a technical nature to make plain that it is the intention of the government that higher penalties will apply where images are of younger victims. These amendments do not make substantive changes to the bill presented here to the parliament. The penalty provision in section 26C as amended by the bill refers to the image being of a minor as the point at which the higher penalty applies. To provide further clarity to the intention of this change, the government's amendment No. 1 specifies that images of a victim under 17 is the point at which the higher penalty will apply. Significant penalties will still apply in any other case, such as where the victim depicted in the image is 17 or older.

The amendments provide consistency for all part 5A offences with the Criminal Law Consolidation Act 1935 offence of unlawful sexual intercourse, which effectively provides that 17 is the age of consent. It is also consistent with the linked child exploitation material offences in the Criminal Law Consolidation Act where such offences apply where the material depicts a child under the age of 17.

The relevant age for the child exploitation material offences was increased from 16 to 17 years a number of years ago, also to achieve consistency with the age of consent. It is appropriate and sensible that we maintain consistency between these types of offences, and this bill provides a useful vehicle in order to do so.

The Hon. T.A. FRANKS: I simply note that the Greens will be supporting the government amendment and note that they have needed to fix their own bill.

The Hon. P. Malinauskas: Noted!

The Hon. A.L. McLACHLAN: I indicate on behalf of the opposition that we will not be opposing these amendments.

The Hon. J.A. DARLEY: For the record, I will be supporting this amendment.

Amendment carried; clause as amended passed.

Clause 8.

The ACTING CHAIR (Hon. J.S.L. Dawkins): The minister has two amendments which he can move at the same time. I understand they are consequential.

The Hon. P. MALINAUSKAS: I move:

Amendment No 2 [Police–1]—

Page 4, after line 1—Before subclause (1) insert:

(a1) Section 26D(1), penalty provision, (a)—delete 'a minor' and substitute:

under the age of 17 years

Amendment No 3 [Police–1]—

Page 4, after line 3—After subclause (1) insert:

(1a) Section 26D(3), penalty provision, (a)—delete 'a minor' and substitute:

under the age of 17 years

These amendments are proposed for the reasons outlined in amendment No. 1.

Amendments carried; clause as amended passed.

Clause 9.

The ACTING CHAIR (Hon. J.S.L. Dawkins): I call the minister to move both of his amendments, and they are, I am advised, consequential.

The Hon. P. MALINAUSKAS: I move:

Amendment No 4 [Police–1]—

Page 4, line 16 [clause 9, inserted section 26DA(1), penalty provision, (a)]—

Delete 'minor' and substitute 'person under the age of 17 years'

Amendment No 5 [Police–1]—

Page 4, line 27 [clause 9, inserted section 26DA(2), penalty provision, (a)]—

Delete 'a minor' and substitute 'under the age of 17 years'

The amendments are proposed for the reasons outlined previously in amendment No. 1.

Amendments carried; clause as amended passed.

Remaining clause (10) and title passed.

Bill reported with amendment.

Third Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (16:33): I move:

That this bill be now read a third time.

Bill read a third time and passed.

MENTAL HEALTH (REVIEW) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 21 June 2016.)

The Hon. T.T. NGO (16:33): I rise to speak on the Mental Health (Review) Amendment Bill. This bill seeks to amend the Mental Health Act, which was only established six years ago. The object of the act is to ensure that people with serious mental illnesses receive a comprehensive range of services for their treatment, care and rehabilitation. Furthermore, provisions within the act aim to ensure that these services are provided whilst patients retain their freedom, rights, dignity and self-respect, as long as it is consistent with their protection and that of others.

The act also confers limited powers to make orders for community treatments or inpatient treatment. I will discuss some of the important changes in this area later in my contribution. The bill arises from a mandatory review of the act, which was conducted by the Office of the Chief Psychiatrist. On this note, I would like to acknowledge the hard work of Dr Aaron Groves, the South Australian Chief Psychiatrist, and Mr Ben Sunstrom from his office, on this very comprehensive review.

The Chief Psychiatrist is an independent statutory officer appointed by the Governor on recommendation of the cabinet. The broad functions of the position are to promote the continuous improvement of mental health services; monitor the treatment of patients and the use of restraint and

seclusion; monitor the administration of the act and the standard of care; and advise the minister on psychiatry and report matters of concern.

The Chief Psychiatrist also has a number of specific administrative functions within the act, including the determination of authorised officers and the presentation of an annual report to the minister to be laid before each house of parliament. The Office of the Chief Psychiatrist established the review in 2014. It considered a register of issues from the first four years of the act's operation. The review made 72 recommendations with 65 being progressed by the government. The other seven are being deferred for the next review of the act, likely to be in 2020 or 2021.

On the role of the Office of the Chief Psychiatrist itself, there are some important changes that have been drafted. The bill proposes to amend the act to transfer six existing administrative functions from the minister to the Chief Psychiatrist. These include the ability to approve forms and statements of rights, determine authorised health professionals, authorise medical practitioners, and approve treatment centres and limited treatment centres.

This change will make the act consistent with the majority of legislation and practice in other states. Where the statutory officer responsible for the administration of the act holds all administrative functions, the minister holds high level functions relating to service development and provision, as well as intersectorial collaboration and community awareness and promotion. These changes will further strengthen the independence of the Office of the Chief Psychiatrist.

It is important to note that the office sits within the Department for Health and Ageing for administrative purposes, but more importantly there are no provisions making the Chief Psychiatrist subject to the direction of the chief executive, therefore he or she will not be influenced by the government of the day.

Moving on, there are some important changes proposed to definitions and language within the act which, having reviewed them individually, seem entirely appropriate to me. This bill also seeks to establish broad ranging principles to guide access to service delivery for both consumers and carers. Without spending too much time going through some of the administrative and service delivery changes to the act in this bill, there are a couple of particularly significant changes which are being made.

Firstly, there is chronic underuse of level 1 community treatment orders in our mental health system. These orders are the least obstructive to a mental health patient. In the last financial year, only 283 of these community treatment orders were issued, compared to 1,260 Level 2 community treatment orders and 5,373 level 1 inpatient orders. To facilitate more level 1 community treatment orders to be issued, a structural impediment currently in the act will be removed. The duration of days that is allowed for certain types of therapy to take effect will be relaxed from 28 to 42 days. It is also my understanding that currently there is no avenue for review of a decision made by one health professional by another health professional when it comes to the confirmation or revocation of a level 1 community treatment order. This will now be addressed through this bill.

The final reform in this area, which I am also extremely supportive of, is the removal of an automatic review of all level 1 community treatment orders that are triggered, regardless of whether a patient or advocate requests one. These reviews are dealt with through the South Australian Civil and Administrative Tribunal. This automatic review is inefficient, as these orders can be reviewed upon request by a patient or advocate. I support some of our community's most vulnerable people receiving treatment and care under the least restrictive setting possible, whenever possible.

The second area of service delivery that I also want to speak about is the proposed changes to allow for patient assistance requests. Currently, if a person on a community treatment order refuses treatment when a community mental health team visits their home, they are escorted by an ambulance or police to a hospital, where they are medicated involuntarily. There is evidence that shows this is quite traumatic for the person and their family.

Section 47 of this bill inserts section 54A into the act, which allows for the issuing of patient assistance requests. This allows an ambulance or police officer to deliver a person's medication to their home, so that it can still be administered involuntarily, but in what I would hope would be a less traumatic way. It would also be more efficient from a public resource and service perspective.

In this very difficult area of public policy, it is good to see that the government is continually looking at ways of improving our mental health system for both consumers and their carers. I therefore commend this bill to the house.

The Hon. J.S.L. DAWKINS (16:43): I am pleased to rise to speak on the Mental Health Review Amendment Bill 2015. This legislation has come to the parliament as a result of a lengthy review and consultation period by the Office of the Chief Psychiatrist, going back as far as 2013. This was required by section 111 of the Mental Health Act 2009, and I was happy to participate in that process with the Office of the Chief Psychiatrist late in 2013. The review itself made 72 recommendations and the government has endorsed 65 of them. It was also interesting to note that the review found that the act only required amendment and updating, rather than a major overhaul.

I note and support the comments of my colleague the shadow minister for health, the Hon. Mr Wade, particularly when he stated that there is broad sector support for this bill and that this has stemmed from a thorough consultation process. I do commend the Office of the Chief Psychiatrist, firstly, under the leadership of Dr Peter Tyllis, and more recently Dr Aaron Groves, and the small but dedicated staff who undertook the review of the Mental Health Act 2009, as I indicated earlier. Certainly, it is a small and dedicated group. I will refer to them a little bit more later.

I am grateful to my colleague the Hon. Tung Ngo for putting down some explanation about the role of the position of Chief Psychiatrist and his office. I would be grateful if perhaps more members of the government supported the Hon. Tung Ngo in getting to know more about that role and that body. I will demonstrate later the need for more resources to be provided to it. I would also like to put on the record that I am pleased that this bill has finally been brought before the parliament under the stewardship of the now Minister for Mental Health and Substance Abuse, the Hon. Leesa Vlahos, the member for Taylor in another place. Rather starkly, it never appeared under her predecessor.

The member for Taylor's genuine interest in and care about the field of mental health has been apparent to those involved in the sector for some time. This stands in stark contrast to the lethargy and disinterest in the needs of mental health services consumers and those who care about them whilst this important portfolio was under the watch of the member for Playford. I have particularly noted the concerns raised by the Aboriginal Health Council of South Australia regarding the lack of references to Aboriginal health in the guiding principles. I hope the minister will heed the suggestion of my colleague the Hon. Mr Wade to amend this bill to enable that inclusion. I understand that further conversations on that matter and others will be happening before this bill concludes in this place.

The government has recently and finally established the long-touted Mental Health Commission. This was an election promise made by the Labor government in the last days of the 2014 state election campaign, but it has taken until now, not much more than a year and a half before the next election, to actually see the commitment properly fulfilled. We had an acting commissioner for a while. I think the Hon. Mr Wade outlined the limitations on the amount of money provided and the number of staff who have been appointed compared to what the promise was, and I refer people to the Hon. Mr Wade's details on that fact.

Significantly, what has been delivered has been quite different to what was promised in February-March 2014. I think this reflects again the disregard which the government, and particularly the previous minister, showed towards the mental health sector. I do hope that the new body, with the leadership from the new minister, will place a greater emphasis on the importance of services to South Australian mental health services consumers. While this bill and the commission are a step in the right direction, the reality is that the organisations which service the ever growing number of mental health services consumers day in and day out need more support and more services, not necessarily legislative change.

As the Hon. Mr Wade has stated in this place, the delays experienced by mental health consumers in obtaining an adequate mental health bed when presenting at an emergency department is appalling, and funding must be allocated by the government in a way that will have a meaningful and positive impact on wait times and on the level of mental health services to

consumers. One of the vital pieces of work that requires support is the compilation of the state's next suicide prevention strategy, noting that the current 2012-16 strategy expires at the end of this year. I note that we only have a 2012-16 strategy because of the motions that both the member for Adelaide in another place and I put through the parliament in 2011.

I do not wish to be accused of self congratulation, but my early work in suicide prevention brought a stony silence from the government at that stage, particularly the then minister, John Hill, who refused to put any state government money into suicide prevention work. We have seen some improvement, but I assure the government that we need to do far more. I am assured that the process for developing the 2017-20 suicide prevention strategy is underway. I do, however, remain to be convinced that adequate resources have been provided to the Office of the Chief Psychiatrist to ensure that there is no gap between the conclusion of the current strategy and the commencement of the next.

It is important that we do not rely too much on that dedicated and small team who I described in the Office of the Chief Psychiatrist, who are doing sterling work in rolling out the suicide prevention networks around this state, but to think that they can do all that work sufficiently to meet the needs of the community, and to also develop this next strategy, without extra resources, is expecting far too much from a very small entity within government. So, I will be watching the development and keeping a very close eye on when we are going to get that, and will continue to urge the government to provide adequate resourcing to do this important task.

I say that in the sense that, as a result, I suppose, of my advocacy and agitation, the previous minister for mental health announced at the estimates process in mid-2014 that there would be a new position added to the Office of the Chief Psychiatrist to roll out the suicide prevention strategy, and in particular the networks. It took 15 months for that position to actually come to fruition—15 months! That was the sort of interest the previous minister had in suicide prevention or mental health at all.

So, I say to the government: let's not drop the ball. I am pretty keen and confident that the new minister will not do that, but she also needs to be backed up from within the great resources of the health department. She does not have a budget of her own; it all goes back to the health minister, who previously failed in this area. I do not want to delay the chamber greatly but one of the things, as well as obviously the legislative changes that have been supported by the mental health sector, that I see when moving around this state—particularly there is a greater movement in metropolitan areas—is community awareness about mental health generally but also the threat of suicide to our communities.

With that there is an extraordinary willingness from unlikely sources within the community, whether they be sporting clubs, service clubs, church groups or a range of organisations that have not necessarily had as their core focus anything to do with health or mental health, or particularly suicide, who are now saying, 'We actually want to be involved in combating this in the community.' A lot of the work that they do does not cost anything—it costs in voluntary time but it does not cost the coffers of the government and the health department anything. What they do require is a bit of moral support on the ground for the work they do. I have given a lot of that moral support to particularly the suicide prevention networks and I have given it to other organisations in the general mental health field and also particularly to those who assist the families of people bereaved by suicide.

However, I have not yet seen a great deal of effort on her behalf in that field, and I trust that we will because she has had some other matters to deal with. What I have not seen from any member of the government, the cabinet particularly, is that effort to go out and support on the ground those people who are doing that voluntary work. They are looking for it; they are looking for confirmation, some affirmation of the effort they are making. They get it from me, but I humbly say to the government that they are looking for someone from government to give them that support as well, and it has been extraordinarily absent.

I must qualify that by saying that some of my greatest supporters in the work I do in suicide prevention have been from the Labor Party. I must say that I get great support in that area right across the parliament, but I am still just a bit gobsmacked that there is not more of that effort on the ground. I get emails every week, sometimes more than once a week, from the groups that are having

activities in this field right around the state. We need more of them, and we will get more of them as the Office of the Chief Psychiatrist gets the time and effort to help get them established, but every week I get that. I cannot go to them all. I keep in contact with them and I go to them when I can, but I do not see any of that physical attendance or support from senior levels of government, so I urge government members to continue to put pressure on the government to make sure that that is changed.

In conclusion, I thought I might just leave honourable members with some statistics from the National Mental Health Commission which highlight just how vital the delivery of effective mental health services is to all South Australians. That is, 45 per cent of Australians aged 16 to 85, which equates to approximately 7.3 million people, experience some kind of mental disorder during their life. In 2013-14, one in five Australians experienced symptoms of mental health issues. The need for more support, more resources and more effective policy, and as I have just said, more demonstration by feet on the ground, by physical presence at events from all levels of government, from all parties. It cannot be clearer. I am certainly happy to support the second reading.

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (17:00): We thank everyone for their contribution and look forward to dealing with the bill further at the committee stage.

Bill read a second time.

SUMMARY OFFENCES (BIOMETRIC IDENTIFICATION) AMENDMENT BILL

Committee Stage

In committee.

Clause 1.

The Hon. R.L. BROKENSHIRE: I rise on clause 1 of the committee stage of the Summary Offences (Biometric Identification) Amendment Bill, and I note that in the lead-up to the 2014 state election the government announced that it would be introducing laws to expand the powers of police to more effectively use mobile fingerprint scanners. Mobile fingerprint scanners used by the police can scan and capture biometric data, an electric picture of a fingerprint, electronically access the relevant database, known as the National Automated Fingerprint Identification System (NAFIS) and receive responses to enable quick identification of individuals and allows the officer to retrieve information of an individual's criminal history.

Whilst it was a long time ago now, back when I was with the Liberals as their police minister, it was a standing item on the ministerial council meetings, as we developed nationally the Automated Fingerprint Identification System (NAFIS), and as then Liberal police minister I was very proactive in supporting NAFIS, the reasons being that we have to be able to capitalise on technology proactively for police and for the justice system around Australia. We have to ensure that, in order to keep a safe community, we use every possible modern technological piece of equipment to assist our law-enforcement officers to do their jobs.

I have always been very strongly supportive of this and I believe that this is a simple extension of the intent nationally of NAFIS, when it was developed, and it takes a long time, it takes a very long time, to develop these pieces of legislation nationally, but once you get it developed you start to see good outcomes. Family First therefore advises that we will be supporting the government with respect to this bill. We also believe that they have a mandate for this because they went out in the public arena with it as a policy at the last election, as I said.

I have always been a strong advocate of DNA and national fingerprinting and fingerprinting generally. I have never personally been worried about an Australia card; that is not a Family First party position. I have never been worried about that. Frankly, if you do any work regarding crime and law and order, there is a pretty solid argument, I believe, for the relevant authorities, with the proper checks and balances, having information on you that can actually prevent you from being charged with an offence that you are not guilty of. So, there is a very strong argument. Personally, I would not have a problem if the relevant authorities, with the right checks and balances in the legislation, had

my DNA from the time of my birth because I want to be protected. I also want to know that I can be identified as quickly and as easily as possible.

The police have obviously now been given the opportunity to get these mobile fingerprint scanners. This is for identification purposes only. Captured biometric data is only used to compare the fingerprints scanned to known individuals on the NAFIS database. I believe that both the government and the police are confident that it will, first, improve identification rates; secondly, reduce the incidence of people avoiding being identified; and, thirdly, allow for identification while police officers remain in the field.

I know there has been some counterargument put forward from those who want to amend or even possibly oppose the third reading of this bill. Part of that counterargument says that we are giving the police too many powers. Part of that counterargument says, and I quote:

> This bill potentially signals the Orwellian future that awaits us. I fear, although I hope it is unjustified, that this bill may originate from the desire of the police to ultimately have the ability to invade our privacy at will. I hope that is not the case but, with some of the legislation coming before this chamber, it appears that they have a continued desire and drive to adopt practices that suit them rather than the community that they are supposed to serve.

When I am out in the community, I find that people want to see every possible effort made to protect them and their families. They want to see a reduction in crime and they want to see a safe environment.

When it comes to economic development, businesses that look to invest in a state like South Australia will, as one of the considerations for that investment, want to see what the parliament and the government of the day have done to ensure that the safest possible environment for their investment and their workforce is provided. Family First happens to support and understand those principles.

We do have to have trust in our police officers (I certainly do have that trust) and we do have to have checks and balances in the law. One of the other arguments was in relation to someone getting picked up for a basic traffic offence and—scary, surprise, surprise—the officer actually having a piece of equipment in his car and, having some reasonable suspicions, he therefore thinks he may want to exercise his rights as a sworn officer and look at the fingerprints of that individual. That individual may have been involved in a murder or a rape or an armed robbery or in paedophilia. That officer would have quick identification of that offender simply because the officer, firstly, picked up the offender for speeding or a minor traffic offence and, secondly, because we are so committed to protecting our community that we have given (if this legislation is passed) the officer the opportunity to stop another rape, another case of paedophilia, another armed robbery or another murder.

These are the things that can happen, because it is often the little things that police officers pick someone up for that lead to the bigger picture, the missing link. It may be a Beaumont case or a Bell case, one of those cases; they are the sorts of things that can actually be tied in at times. It is often just a small chance that gives the police that opportunity, and that is what happens when you give them the right tools and the right equipment. In summary, Family First is very pleased to support this. The police want it and the technology is available, and in this instance I understand that not only is it available but the budgetary requirements for it are there.

I would argue that the absolute majority of South Australians—I repeat: I believe the absolute majority of South Australians—would want us to pass this piece of legislation. Yes, there will be a minority of people who do not trust the police and who do not want any checks and balances at all, but I believe the absolute majority of people would be very supportive of this.

It is just like the absolute majority of people are very supportive of the police helicopter when it is flying over their homes in the middle of the night. I pointed this out to an individual who happened to ring me in the middle of the night—he got my home number when I was police minister—and who started to abuse me because the helicopter was above the roof of his home and was disturbing his wife and children. When I rang him back and woke him up at 6 o'clock in the morning I said, 'Well, sir, if you were away and there was a murderer running around in the middle of the night, and it was in the Prospect area (where the helicopter was), wouldn't you want the police helicopter up above your home protecting your wife and children?'

I put the same argument in this case with this piece of technology. I would want every piece of technology possible, first, to prevent a crime against my family and community and, secondly, if a crime has been committed to give the police every opportunity possible to be able to catch that offender.

I will leave you with this. The Birmingham police facility, which is a marvellous police facility out of London in country England, has been leading the world when it comes to how they have gone about DNA and policing opportunities with DNA. If you ever go over there for a briefing they will take you through a murder case in the snow, and do you know what? That case would never, ever have been resolved and the murderer of the woman would still have been running around free in England had it not been for DNA, had it not been for the advancement of those trained police officers in the science behind that and the scientific people and the police forensic services.

They did actually apprehend that person, and I would argue that while this is nowhere near as sophisticated as that, this is a tool that is for the benefit and the protection of the community, and I have confidence that the police will use it according to law. Therefore, as I said earlier on in my remarks, Family First will strongly support the government with this legislation.

The Hon. M.C. PARNELL: Just to assist the committee I would like to put a few remarks on the record. I will start by acknowledging the Family First contribution, and also the honourable member's referencing of George Orwell. I know he is a great student of modern literature. My recollection is that the book *1984* was actually written in 1948, which I learned at school. I guess the difference between the Greens' approach and that of Family First is that we want to make sure that body of work remains a work of fiction: we do not want it to become a documentary.

Whilst people say, 'Well, you doth protest too much,' I remind people that this bill does not refer just to particular identified fingerprint identification equipment: it actually refers to all biometric data and, as we know, biometric data is advancing at a rapid pace. We now have facial recognition technology. I do not know if this is true—maybe it is a good question for the minister to take on notice—but I even had someone tell me that the point-to-point cameras are good enough for facial recognition of drivers. I see the minister shaking his head. That was my first reaction, too. I did not think that was likely, but I tell you what, talking to the Hon. Andrew McLachlan about some of the technology that he has dealt with or become familiar with, it is not that far off the mark.

The point that is at the heart of the Greens' position is that we are supporting the use of new technologies, but we want to make sure that the technology tail does not wag the legislative dog. As these new technologies are developed they will all have different consequences, both intended and unintended. Each time one of these new devices is developed and is ready for use by our police, we want them to come back to parliament. The Greens are not happy with just passing a single piece of legislation that effectively covers all of these new biometric identification techniques.

The consequence of that approach is that we will be supporting the Liberal amendments. We will be supporting the amendments that have been put forward because they add additional checks and balances to what is pretty much a bill that effectively opens the door for all manner of technology to be used without it coming back to parliament. We think the Liberal amendments make a worrisome piece of legislation less worrisome. I just wanted to put that on the record, that when it comes to divisions, if there are any, the Greens will be supporting the Liberal amendments to this bill.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

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

Amendment No 1 [McLachlan–1]—

Page 2, after line 25—After line 25 insert:

(2a) Section 74A—after subsection (2) insert:

(2a) Despite subsection (1), a police officer may only require a person to submit to a biometric identification procedure under subsection (1)(d) if—

(a) the person has refused or failed to comply with a requirement under subsection (1)(c) to state all or any of the person's personal details; or

(b) after requiring the production of evidence by the person under subsection (2), the officer is not reasonably satisfied as to the identity of the person.

(2b) Before a biometric identification procedure is carried out in respect of a person, a police officer must inform the person of the following matters:

(a) that the police officer is exercising a power under this section;

(b) the grounds on which the person is required to submit to the biometric identification procedure;

(c) the manner in which the procedure will be conducted and what directions may be given to the person for the purposes of the procedure;

(d) that any biometric data obtained from the person may only be retained for the purposes of conducting the procedure;

(e) the right of the person under this section to request confirmation from the Commissioner relating to the non-retention of the biometric data under subsection (4c).

I have spoken to this amendment both in the second reading and at the beginning of the committee stage. I would just take the opportunity to respond to some of the more verbose and interesting comments by the Hon. Robert Brokenshire. I appreciate his attempts to read the minds of all South Australians. If he had that amount of clarity, maybe more Family First members would be gracing the red benches.

The Hon. R.L. Brokenshire: I said the majority of South Australians, not all South Australians.

The Hon. A.L. McLACHLAN: The vast majority of South Australians. Family First, the Hon. Mr Brokenshire, as honourable members of this chamber would know, is on vastly different philosophical planes and pages in relation to how we view our democracy and the liberties that uphold us.

The Hon. K.L. VINCENT: Point of order.

The CHAIR: Point of order. The Hon. Ms Vincent.

The Hon. K.L. VINCENT: I appreciate that ministers Maher and Malinauskas, and to some extent the Hon. Mr Brokenshire, are in a mood, but I think they have had their fun, and now I would actually like to listen to the contributions of other members.

The CHAIR: I actually do not appreciate their attitude. I think they are showing a lot of disrespect for the Hon. Mr McLachlan, and I expect them now to listen to the Hon. Mr McLachlan finish his contribution and we will get on with this clause. The Hon. Mr McLachlan.

The Hon. A.L. McLACHLAN: Thank you, Mr Chair, for your support and your protection from the government benches. We are not seeking in our amendment to restrict the use of biometric testing. I use the term biometric testing, and not like the Hon. Mr Brokenshire completely default to fingerprinting, which is the device which the police intend to use. We have modified the test. We have kept in place the existing arrangements in relation to identification, where police officers can ask for ID, ask for a name and address and then follow up with ID in certain circumstances. We have confidence in the South Australian police officers, because they are very well trained, to then, if they are not reasonably satisfied with the identity of the person, use biometric testing.

In our view, it in no way restricts their ability to use it. We understand that they have some reservations they expressed to us, but we did not find those sufficiently convincing as we balanced them against the submissions of the Bar Association and the Law Society. We have listened carefully to all the voices in the community that have made submissions to us and we believe we have crafted amendments which balance the liberties of the individual where they should be able to go about their business without interference by the state as against the need for the police to seek identity in certain circumstances.

I would like to build on the comments of the Hon. Mark Parnell in relation to this bill. This bill does not restrict any type of testing. Our amendments put in that parliament will decide what future tests and devices will be used by the police going forward. It is difficult to believe that this bill be presented to this chamber and then the police in the far distant future can use whatever testing they so feel, regardless of community input, which is really what we are doing here. We are putting the input of the community and forming views for their benefit.

I came across materials when preparing for this debate and, again, found an interesting contribution from the Hon. Mark Dreyfus, which I would sincerely suggest my honourable friend the minister read, because he is a Labor member who still commits to traditional Labor values of freedom. He has not swung to the hard right which infects the modern Labor Party in South Australia today. The paper he posted on 30 October 2014 is entitled 'Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014'. This bill has very different provisions but deals with biometric data and in the context of collecting biometric data or testing people, he says:

> Labor voiced its objection during the Committee process. It is not acceptable that such an expansion of power with serious consequences for the privacy of the ordinary citizens could be achieved without new legislation. Indeed, it is worrying that this aspect of the Bill only became apparent during Committee scrutiny—and it is a vindication of that scrutiny process that it did.
>
> We welcome the Committee's recommendation to remove the ability of the Government to prescribe further biometric collection by regulation.

If the honourable member does not find persuasive one of the leading law officers in the Labor Party, I probably cannot convince him myself. In my view, this bill represents an attitude to the executive that places too much weight on the administrative needs of the police over the rights of its citizens and, therefore, our amendments are crafted as I have expressed to the chamber not to restrict the police but to value the ability on the ground to make judgements and to also provide a provision of reporting of biometric testing. If the reports come in and over time we consider the reports that there is need for further amendment, I am sure the Liberal Party will take due consideration of that.

The Hon. P. MALINAUSKAS: Notwithstanding my temptation to draw the chamber's attention to the irony or the political analysis that can be conducted in the context of the fact that the Greens and the Liberal Party are both supporting the amendment, notwithstanding my temptation to do that, I will attempt to address the questions and avoid base politics with accusations of being soft on crime and the like. So, let's just try to deal with it methodically.

This amendment is opposed because the proposed new subclause (2a) completely restricts the ability to utilise technology to enable rapid verification on the spot, and the use of the word 'rapid' is important, and I will come back to that. If a person refuses or fails to provide his or her details upon request, police could simply arrest them and convey them to the nearest police station for charging and fingerprinting. So, let's understand that important context.

Paragraph (a) of subclause (2a) places an unnecessary precondition on the use of the power. It would defeat a key purpose of the bill to enable our police officers to quickly identify people in the field in circumstances that are often challenging and hazardous without having to resort to an arrest. Paragraph (b) of subclause (2a) also places an unnecessary precondition on the use of the power. False identification is difficult to detect and an officer may only have a hunch that a person's verbal identification is false. This is the key point. That hunch would likely not satisfy the test of being reasonably satisfied and, as a result, these amendments would render the bill and the devices useless for police officers in the context of being able to achieve the rapid assessment.

Proposed new subclause (2b) is opposed on similar grounds. Requiring police officers to undergo a lengthy information session with every person who a police officer wishes to identify, using a biometric device, would again conflict with the purpose of the device to rapidly identify persons in the field. The requirements under subclause (2b) are onerous and lengthy. The government has consulted with the opposition extensively on this bill. It is disappointing that, despite repeated attempts to engage constructively to allow police officers to continue to use these incredibly useful devices, and repeated offers on a compromise position, the opposition continues to hinder the government to the detriment of the South Australia Police and community safety.

I think it is important that, in the pursuit of what might be legitimate concerns, we do not end up throwing the baby out with the bathwater. This technology is useful. The trial has demonstrated how effective a tool these devices can be for police in capturing people and, indeed, preventing crime, going into the future. Despite the legitimate concerns that drive the position of the opposition, the Greens and others, I would actively encourage them—I would implore them—to consider the actual function that a police officer serves and the context in which they often have to perform that function. It is not always reasonable or practical to impose upon a police officer, who is in the active line of duty in very difficult circumstances, the sort of preconditions that the opposition is proposing in these amendments.

I acknowledge that all in this chamber are forever trying to pursue a balance between providing police with the tools that they need in order to be able to perform their key function and also ensuring that we do not realise the concerns that the Hon. Mr Parnell and the Hon. Mr McLachlan have referred to in terms of an Orwellian state.

The question is about where that balance fits, if we are honest about it. The pursuit of that balance is legitimate, but we assert within the government that to accept the opposition's amendments would compromise the ability for police to be able to use that technology. We do not think that represents the balance that all of us reasonably desire, in terms of allowing the police to be able to exercise their functions in the ordinary course of their duties.

The Hon. M.C. PARNELL: I thank the minister for his response. I just want to make an observation about the point he made in relation to the proposed new subclause (2b). The minister's main objection was the comprehensiveness of the information that needs to be provided to the person before they are fingerprinted. As part of that, the problem is the length of time it would take. My way of looking at it was to look at the five things which the police officer must inform the person of. I compare that with what I expect the police would currently want to be doing and I do not find a whole lot of difference in it. My guess is that paragraphs (a) to (e) could certainly be delivered in under a minute.

You can imagine the police officer saying: 'I am exercising power under section—whatever it is. I am going to ask you for your fingerprint because I believe you might be able to help me with my enquiries. Once the fingerprint has been taken, it will be used to see if there is a match on the database. The test will require you to put your thumb on this device.

The information will not be retained, and you have the ability to request confirmation from the commissioner.' I probably did that in 30 seconds. Maybe the script might be slightly more elaborate than that, but it seems to me that that is the scenario the minister says is unrealistic. But let's put it into context. Without this, the police are still going to be approaching people in the street, and they are still going to be giving most of that information, I would have thought.

They are going to say, 'I believe you might be able to assist me in my inquiries.' They will ask for their name and address. They will then explain to them that they are about to be fingerprinted. To be honest, apart from paragraph (e), perhaps, the right of the person to go to the commissioner and get an assurance that the information has not been retained, I would imagine this is the sort of information the police are going to be giving anyway. I do not see this as an incredibly onerous thing.

Even if we accept that it is more onerous than what the police want to do, let's think about it. We are having law enforcement officers fingerprinting people in the street, and we are worried that it might take 45 seconds rather than 30 seconds? I think that the minister is protesting too much about this level of inconvenience.

The law in the past has tended to distinguish between invasive procedures and non-invasive procedures. We distinguish between asking someone their name and address and sticking something into their mouth to get a sample of DNA. These new technologies, and especially ones that could be developed under this legislation, may not actually involve touching you at all. It might just involve 'look at this device', the new facial recognition device that is potentially allowed by this bill. It will not involve fingerprinting.

There are going to have to be procedures developed for advising people about what you are doing, why you are doing it, what your rights are and whether the record is going to be kept or not. I

just do not see this as too onerous at all and I would be very amazed if the police protocols that are developed around fingerprinting do not involve giving most of this information to people in any event.

The Hon. A.L. McLACHLAN: Likewise, I do not find the government's arguments convincing. I take it from two perspectives. One is legal and the other is personal, having had experience in complying with legal requirements not too dissimilar to this in another context, but probably a bit more aggressive.

Effectively, the police officer today has to make a decision, when they ask for a name and address, whether they have a reasonable cause to suspect that the personal details that they have received are correct. They are making an assessment. The government's argument simply says that the police officer can make that assessment, but they cannot make a similar assessment 10 seconds later as to whether the ID has not been produced (they can use biometric identification), or if it is produced, looks dodgy. It is virtually the same decision-making process.

I would put to you that the government is actually arguing against itself. We have thought very clearly about this. We have thought about how it would role-play and I have used my personal experience as a legal adviser in another context.

I am not convinced that these mechanisms for using biometric identification are unreasonable or provide an unnecessary encumbrance. I have shown goodwill to the South Australian police, who I hold in high regard, and listened carefully to their submissions. I have also paid particular attention to the draft of this bill.

It is drafted and supplied with goodwill. It tries to get the balance right for using new technologies, which have not been restrained by this bill. In making this debate to honourable members I have tried to make clear that we have placed great weight on community safety, but also balance that against the submissions with the Law Society, which also places great weight on community safety. We are sure we have the balance right, that is the essence of the debate. We remain unpersuaded by the government submissions.

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

The Hon. P. MALINAUSKAS: In response to the Hon. Mr McLachlan's remarks, the distinction between drawing a conclusion about a false name and address versus a false ID is very different. Just remember the context in which it is being used. It will not be in the civility of an environment like we have now, we are talking about on the front line in a difficult situation. Many of us cannot begin to imagine the rather difficult circumstances under which police would be exercising these powers.

If a police officer is presented with a fake name and address which is given verbally, the police have the capacity to be able to make that assessment relatively quickly. However, when presented with a fake ID, the suggestion that somehow it is easy for a police officer with the naked eye, in the elements, under pressure and with a lot going on around them to assess whether or not that ID is fake is simply delusional.

It is a very different proposition to be able to contemplate making an assessment about someone giving a fake name and address, which is reasonable for a police officer to question, versus being given a fake ID, which I have been advised can be of incredibly high quality these days. A fake ID of high quality is very hard for a police officer to reasonably question, particularly in the context of that question occurring in the front line. I would simply say that I understand the legitimate pursuit and the intent behind the Hon. Mr McLachlan's amendment in this context, but it really is disconnected from what is happening on the front line in the real world.

The Hon. A.L. McLACHLAN: I do not wish to prolong the debate, but I would just refute that I am delusional. Indeed, I think I have considerable more experience in this than the minister.

The committee divided on the amendment:

Ayes 10
Noes 7
Majority 3

AYES

Darley, J.A.	Dawkins, J.S.L.	Franks, T.A.
Lucas, R.I.	McLachlan, A.L. (teller)	Parnell, M.C.
Ridgway, D.W.	Stephens, T.J.	Vincent, K.L.
Wade, S.G.		

NOES

Gago, G.E.	Gazzola, J.M.	Hood, D.G.E.
Kandelaars, G.A.	Maher, K.J.	Malinauskas, P. (teller)
Ngo, T.T.		

PAIRS

Lee, J.S.	Hunter, I.K.	Lensink, J.M.A.
Brokenshire, R.L.		

Majority of 3 for the ayes.

Amendment thus carried.

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

Amendment No 2 [McLachlan–1]—

Page 3, after line 10 [clause 4(5)]—After inserted subsection (4a) insert:

(4b) The Commissioner must—

(a) establish guidelines for the conduct of biometric identification procedures under this section including the operation of prescribed devices and the handling of biometric data derived from biometric identification procedures; and

(b) ensure that a prescribed device used for the purposes of a biometric identification procedure under this section is properly maintained and operated in accordance with the manufacturer's operating instructions and any guidelines issued under paragraph (a).

(4c) The Commissioner must, on application in a manner and form approved by the Commissioner made by a person who submitted to a biometric identification procedure, confirm in writing that the biometric data relating to the person derived from the biometric identification procedure has been deleted within the time required.

(4d) The Commissioner must, as soon as practicable after each 30 June, cause a report to be prepared about the operation of this section in respect of biometric identification procedures during the year ended on that 30 June.

(4e) Without limiting subsection (4d), a report relating to a year must include the following matters occurring under this section in that year:

(a) the number of biometric identification procedures undertaken;

(b) the number of positive identifications made using biometric identification procedures;

(c) the number of false identifications (if any) made using biometric identification procedures;

(d) details of prescribed devices used for the purposes of conducting biometric identification procedures (including operating procedures and the manner in which, and for how long, the devices retain biometric information obtained under this section);

(e) the number of arrests resulting from the identification of a person as a result of a biometric identification procedure;

(f) the number of prosecutions commenced for offences against—

(i) subsection (3)(a) involving a refusal or failure to comply with a requirement to submit to a biometric identification procedure under subsection (1); and

(ii) subsection (4a).

(4f) The Commissioner must submit the report to the Minister who must, as soon as reasonably practicable after receiving the report, cause copies of the report to be laid before each House of the Parliament.

This amendment is in relation to information to be collected and provided in an annual report.

The Hon. P. MALINAUSKAS: This amendment is opposed. Requiring separate reports to be prepared will impose additional administrative red tape and costs on SAPOL. In addition, the government sees little benefit in requiring the commission to confirm in writing that the data derived from the use of a biometric identification procedure has been deleted, when the legislation already makes this clear via the proposed offence provision that the data is not to be retained.

Amendment carried.

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

Amendment No 3 [McLachlan–1]—

Page 3, line 16 [clause 4(6), inserted definition of *biometric identification procedure*]—Delete 'by means of photograph or scan' insert 'using a prescribed device'

Amendment No 4 [McLachlan–1]—

Page 3, after line 18—After line 18 insert:

(7) Section 74A(5)—after the definition of *personal details* insert:

prescribed device means a device, or a device of a kind, prescribed by the regulations for the purposes of this section.

This amendment ensures that the device that is used is prescribed by regulation, and amendment No. 4, which is consequential, is a definition of the device.

The Hon. P. MALINAUSKAS: The amendments are opposed. The prescription of biometric devices imposes onerous and unnecessary red tape upon government. The protections that the bill already provides for are sufficient. Like most forms of technology, biometric devices, such as fingerprint scanners, can become outdated, and both hardware and software are replaced on a regular basis. To require a fresh regulation every time a new device comes into operation serves little purpose, and will only deter South Australian police from acquiring and using the devices they need to enable rapid identification in the field.

The Hon. M.C. PARNELL: I just make the point, in response to what the minister said, that we are not just talking about an upgrade from thumb master 2.1 to thumb master 2.2: we are talking about all manner of new biometric devices, including facial recognition devices—whole manner of things. For the minister to suggest that it is too onerous for the parliament to have a disallowance power in relation to entirely new technology, some of which we have not even imagined yet, I think is really protesting too much.

The idea that, basically, they will all be just new versions of new fingerprinting devices I just do not think stacks up. We are not talking about every change to every operating system that is in the computer back end. Really, the value, I think, of this amendment is it gives the parliament, even if only through the disallowance power, the ability to in this place say, 'No, we have gone too far,' with a certain type of technology.

Once we start getting into drones with cameras flying around and a robocall, they could use the technology they are using for the elections with the information being broadcast from the drone to the person: 'Attention, you are about to have facial recognition applied to you. Here are your rights.' Snap, the shot is taken and sent off into the ether.

As I said before, we want *1984* to remain a work of fiction. We do not want it to become a documentary. This technology is not that far-fetched. It is actually almost upon us. For the government to suggest that this is the one time the parliament is going to look at biometric

identification, and all the new devices and tools that are developed from here on will not have to come back for parliamentary scrutiny, I think is selling this parliament short and the South Australian people short.

The Hon. A.L. McLACHLAN: I endorse those comments from the Hon. Mark Parnell. The parliament currently produces regulations in relation to speed cameras, speed detectors and breathalysers, so we are not imposing any form of—

The Hon. P. Malinauskas interjecting:

The Hon. A.L. McLACHLAN: It is certainly not different, as the minister protests from his seat. These devices can be sophisticated in the future. It is appropriate that it comes back to parliament to be considered, particularly because the parliament then can ask questions about whether there is data storage. The protections in this bill are actually largely criminal sanctions, and they are not clear, as I expressed earlier in the second reading.

It is unclear as to who would ever be prosecuted for storing data or how they would ever be detected, so this is a protection for the people of South Australia. I believe in the professionalism of the South Australian police force, and I do not believe they would be deterred by red tape. They are well-versed in assisting the government in producing regulations that assist them with devices in other contexts.

Amendments carried; clause as amended passed.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (17:48): I move:

That this bill be now read a third time.

I add that the government is only supporting the bill so that it returns to the House of Assembly for further consideration and amendment.

Bill read a third time and passed.

JUSTICES OF THE PEACE (MISCELLANEOUS) AMENDMENT BILL

Introduction and First Reading

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

SUMMARY PROCEDURE (ABOLITION OF COMPLAINTS) AMENDMENT BILL

Introduction and First Reading

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

ASER (RESTRUCTURE) (FACILITATION OF RIVERBANK DEVELOPMENT) AMENDMENT BILL

Second Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (17:50): I move:

That this bill be now read a second time.

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

Leave granted.

The new Riverbank is already becoming an Adelaide success story and is changing the way our State is seen interstate and overseas.

The redeveloped oval has been a triumph, with visitor numbers not seen since the 'Bodyline' over half a century ago—in times of economic change it has galvanised South Australians around a common view of what makes our State great. It has showcased all that is good about our State to the world.

Now, we have the opportunity to extend this project's success to the Festival Plaza.

When the Festival Centre turned 40 it was described as 'so Adelaide'—its origami-like silhouette represented an early, but tentative, engagement with the Torrens Lake and reinforced the role of Elder Park as a place of public gathering at the tail end of Adelaide's 'kilometre of culture' stretching along North Terrace.

When completed in 1973, the centre was the nation's leading multi-purpose arts centre and it quickly became the heart of successive festivals. Now, along with neighbouring rotunda and gently sloping banks of the Torrens, it is the natural home and congregational point for the arts, leisure and cultural activities—including multiple international standard festivals and performing arts companies. It continues to be a national icon for South Australia.

Last year the government embraced an opportunity to extend the successful outcomes of the Adelaide Oval redevelopment to the Festival Plaza—in a proposal developed with Walker Group Holdings Pty Ltd which had previously been granted rights as the government's preferred partner for the integrated redevelopment of the plaza site.

In March 2015, the government approved the Walker proposal and committed to a $180 million budget to realise this ambitious and exciting project. Concept visuals were released to positive public feedback at this time, and the Riverbank Authority was tasked with further detailing the design, engaging with stakeholders and taking oversight of the project.

In short, the project envisages a complete redevelopment of the Festival Plaza and Station Road precinct as a world-class space featuring:

- a sweeping multi-purpose plaza uniting the footbridge, the theatres, casino, railway station, North Terrace and through to Elder Park
- a public realm constructed from the highest quality materials and including public artwork, water features and natural plantings, plug-and-play facilities and interactive spaces for young and old alike
- restaurants, cafés and bars, active ground-floor retail and a Kaurna cultural space that will bring life to the plaza day and night
- a major redevelopment of the Elder Park frontage of the Festival Centre that will underpin its connections to the Riverbank
- a premium office building of up to 24 stories, built to be highly energy efficient and offering floor-plates with the potential to attract major national and global anchor tenants to the State
- a new parliamentary garden and a >1,500 space underground carpark with electric car charging facilities that will support the casino rebuild and the growth of the Festival Centre, and
- seamless connections between the footbridge and the railway station through an at-grade walkway beneath the proposed casino expansion.

The new plaza will be a place of discovery and encounter, a veritable Wunderkammer of curios and quirks, delights and diversions—showcasing the best that South Australia has to offer day and night.

The concept designs have been subjected to consultation and further development by architects Ashton Raggatt McDougall and landscape consultants Taylor Cullity Lethlean in collaboration with the Adelaide Festival Centre's architectural consultants Hassell.

One of the more interesting ideas that emerged from this dialogue that has been incorporated in the finalised design is a 'Walk of Fame' to commemorate major artists who have performed or associated with, the Festival Centre.

We are now approaching the final stages of the detailed design process, which is being auspiced by the Riverbank Authority, and will be moving to rapidly conclude final legal arrangements with Walker to commence major construction works at the site.

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To do that, it is critical that the enabling legislation I present to parliament in this bill is passed expeditiously.

This bill, which makes minor amendments to the *ASER (Restructure) Act 1997*, represents the quickest and simplest way to provide the authorisations necessary for construction to commence.

By way of reminder, the Adelaide Station and Environs Redevelopment (ASER) was a significant redevelopment in and around the railway station undertaken in the 1980s involving the integrated development of land around the railway station, including the casino and the convention centre.

The ASER Act was put in place by the former government to create specific arrangements for the ongoing management of the mature development site. The Act allows for individual leases to commercial interests on the site and shared management of common facilities and services.

Of particular importance, the Act governs a number of areas of public realm relevant to the Festival Plaza upgrade including Festival Drive and Station Road.

The bill will amend the ASER Act to enable the plaza upgrade to proceed by:

- enlarging the development site to allow for the casino expansion and plaza upgrade
- providing for the temporary suspension of ancillary property rights, such as rights of way, to allow works to proceed
- providing for restructuring of leases and ancillary property rights in the area following completion of the project, and
- renaming the Act as the Riverbank Act.

Supporting the legislation is a detailed map, already lodged with the General Registry Office and available to members on request, which illustrates the subject land to which these special powers will apply.

It is important to note that the ancillary property rights which this bill will allow to be subject to temporary suspension during construction, are 'non-occupation' rights and there will be no derogation from a party's rights of occupation or rights to conduct its business.

The legislation is essential to allow for the redevelopment project to proceed on time and for the government to fulfil its contractual commitments to Walker Group Holdings Pty Ltd for the upgrade. In addition, the legislative changes will also support the mooted casino expansion by SkyCity Entertainment Group Ltd should it proceed.

Subject to the passage of this bill, the estimate for the total build time is 24 months, with the new car park to open in the second half of 2017.

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To provide members with a fuller context, I would now like to explain some details about this exciting project, how it came into being, what consultation has occurred to date and what will occur next.

Firstly, it is important to point out that Walker became the government's preferred partner for this project through an open and transparent procurement process. This was conducted by the government in the term of the last parliament in accordance with statutory procurement requirements, and, following the outcome of the election (when this was a publicly known fact), was carried over to a proposal which the government agreed to in March of last year.

Walker is a highly suitable partner for a project of this nature. Its business model includes a focus on flagship properties in premium locations which it offers to major funds as part of a packaged investment opportunity. This allows it to amortise return on investment across a portfolio of prime assets. This business model means that Walker is highly engaged around the quality of the asset as a driver of its potential and is prepared to make outlays that few other Australian property developers would commit to.

The negotiated arrangements will see Walker make a substantial contribution to the public realm, and invest in a larger overall development, in return for exclusive development rights over the subject land. Importantly, the commercial terms include an incentive for Walker to secure a national or global anchor tenant by allowing for a 10,000 sqm increase in the net lettable floor area of the office tower.

It is important to note that, while Walker will have exclusive development rights, the company is not guaranteed a development approval unless its designs meet the high standards set by the State's independent Development Assessment Commission, which will assess the development. As with all major developments in the city, the commission's decision will be informed by the Government Architect's robust and widely lauded design review panel process. Walker, just like any other development proponent, will have to run the gauntlet of the assessment system at arms' length from the government.

Government investment in the precinct of $180 million (already committed) will be far exceeded by private sector investment of an estimated $810 million, assuming commitment to the casino expansion is able to be secured (this is the subject of ongoing discussions). There is also a significant jobs dividend, both during construction and ongoing, in the order of 500–1000 ongoing roles in the redeveloped precinct.

Walker's contribution will be in the order of $460 million, subject to a final decision on the floor space for the office tower. Economic analysis by Renewal SA indicates that for every $1 of taxpayer spend; private investment in redevelopment of the precinct will be approximately $5 if the casino expansion also goes ahead. This is a win-win scenario for the State.

Further analysis of the proposal is detailed in the government's submission to the Public Works Committee and the report no 544 of the committee handed down on 22 March this year.

The integrity of the process by which Walker became the government's preferred partner and the value-for-money proposition that this project offers cannot be seriously questioned.

While this project does not contemplate full redevelopment of the Festival Centre, it represents a significant proportion of this and will provide a platform for further upgrades in time.

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Secondly, it is important to outline the extensive consultation process that has led to this point.

With the approval of Walker's initial proposal and concept designs, Cabinet tasked the Riverbank Authority to undertake consultation with key stakeholders and the public with a view to settling a final design for the site.

The Riverbank Authority developed a set of 'place principles' for the site that will see seamless integration with the wider Riverbank master plan. These then informed engagement with key stakeholders.

Extensive consultation has been undertaken including with the Adelaide City Council, the Adelaide Festival Centre Trust, the InterContinental Hotel, SkyCity Entertainment Group Holdings Pty Ltd, staff of the State Heritage Council, the Kaurna Nation Cultural Heritage Association and other Kaurna community groups and elders, the Joint Parliamentary Services Committee, creative and arts communities and members of the public.

Public forums were held on 13 August and 2–3 September 2015, helping to inform the place principles developed by the Riverbank Authority and critique and improve iterations of the concept design.

Interest groups represented at these invite-based sessions included members of the arts and creative sectors, city-based entrepreneurs, city residents and university students—helping to gain a holistic appreciation of how the space would work for people of all ages and a better understanding of how arts and cultural activities can be 'threaded' through the space.

In addition, dedicated consultation has been undertaken—complying with section 23 of the *Aboriginal Heritage Act 1988*—with Aboriginal community bodies and also in accordance with the *Heritage Places Act 1993* with staff of the State Heritage Council (both of which will inform the formal development assessment process). Liaison with Kaurna elders continues to be close as site works proceed with particular attention on the removal and relocation of the Indigenous public art pieces impacted by the construction works.

Throughout this process Arts SA and the Festival Centre Trust have been key partners in influencing the design and manifold project details. For example, Arts SA has conducted a comprehensive audit of public artworks and, through the Minister for the Arts, will be assisting in liaising with artists (and the estates of artists) in relation to their moral rights under the federal Copyright Act as works are progressively de-accessioned, relocated or recommissioned.

Both organisations will continue to participate in the proposed project governance arrangements as works unfold—ensuring that matters of particular interest, such as venue spaces and services, can also be identified and addressed.

In addition, Renewal SA and the Department of Planning, Transport and Infrastructure have undertaken consultation with various parties specifically in relation to this legislation, including those parties who occupy ASER buildings being:

- SkyCity Entertainment Group Limited
- the Adelaide Convention Centre
- the Adelaide Railway Station
- the InterContinental Hotel, and
- the Riverside Building.

An extraordinary meeting of the ASER Management Committee (which comprises the facilities managers for each building) was briefed on details of the proposed bill on 23 September 2015 and ongoing liaison will be maintained by Renewal SA with this group on the progress of the redevelopment as it proceeds through its regular monthly meetings.

Liaison with all affected parties will be ongoing as construction and staging plans are settled. In short, all stakeholders are supportive of this legislation proceeding.

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Thirdly, it is important to address arguments put by some that this represents an alienation of park lands to commercial interests. Nothing about this project represents anything extraordinary in terms of the institutional zone in the park lands.

All along North Terrace, what was once open park lands has been developed to support a range of public and private interests. All of this is entirely consistent with the park lands legislation and with the long-term patterns of use of this part of the park lands.

Two universities, a hospital and new health care precinct, an office building, a convention centre, a gym, a zoo, a cemetery, two railway stations, a school and soon to be another, two major sporting arenas, a wine centre complex, an organic nursery and plant recycling depot, an aquatic centre, golf, bowling and cricket clubs, boating houses, several kiosks, a road safety school, an art gallery, museum and library, two restaurant complexes as well as restaurants featured in other facilities, and, of course, the Festival Centre itself all operate on former park lands on a wholly or partly commercial basis and with a mix of public and private ownership.

And that is not to mention the many private festivals and sporting events, operating on a wholly or partly commercial basis, that also use the park lands on temporarily during the year.

All of these have been developed in the park lands by governments of varying political persuasions as well as the city council itself.

Indeed, the institutional and like zones are acknowledged in the development plan, park lands strategy and the Adelaide Park Lands Act itself as suitable for development of this kind. The real reason for this zone being classified as park lands is so that if and when built structures are decommissioned without replacement, the land itself cannot be sold off and should therefore be restored to open park lands absent any other more intensive use.

This government, in decommissioning the 5.5 ha former Thebarton water depot in the west park lands, chose to invest in restoring these to open park landscapes with an urban forest of 23,000 trees growing to create a welcoming space for residents of the inner west. Similarly, the decommissioning of the former bus depot on Hackney Road has been returned to park-like uses under the custody of the Botanic Gardens.

This project, which will see office space available for parliament, ground-floor retail and exhibition spaces and a major private investment in our premiere public space is a no brainer and will ensure that neighbouring areas of open park lands abutting the Torrens riverfront are vibrant, well-used and attractive.

Indeed, we in the government would argue it is entirely consistent with the values expressed in the national heritage listing for the park lands which reflects Colonel Light's original vision for this uniquely Adelaide asset.

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Lastly, it is important to outline the project governance arrangements and work underway for the long-term management of the redeveloped site.

This is a complex redevelopment, with many stakeholders, commercial and non-commercial interests and legal issues at play.

Actual construction for each component of the redevelopment is likely to be practically and technically difficult given their scale and complexity, the location of the development sites and the nature and importance of surrounding buildings. This is further complicated because the tenants of the surrounding buildings enjoy rights which will be affected.

An experienced project manager (Mott MacDonald) has already been appointed to manage construction.

Separate development agreements are in the process of being finalised with Walker Group Pty Ltd. At the same time, the government continues discussions with SkyCity regarding the potential casino expansion—and we are hopeful these discussions will result in a positive outcome that can be announced in due course.

Importantly, passage of this enabling legislation is crucial to enable the government to finalise the legal arrangements with Walker that will ensure major works can commence.

Development approvals are being progressively secured for the redevelopment. SkyCity received their development approval in February 2016 with development assessment of State components of the redevelopment scheduled for April and Walker's components for May. The final concept designs will form the basis of the formal development assessment for the major works required to deliver the project.

Preparatory works have commenced on the site in anticipation of these important formalities.

Ongoing oversight of the project will be provided by the Riverbank Authority, with project management services provided through the Department of Planning, Transport and Infrastructure. A steering group including representatives of the Festival Centre and other key stakeholders will provide a vehicle to manage the intimate details of the construction process and ensure tight control of the budget outlays for the project.

For example, while the proposal has been costed based upon high quality finishes, similar to the quality of Adelaide Oval's public realm and North Terrace, as construction proceeds the project steering group will be charged with considering any changes to material selection and plantings that could help to contain overall costs.

There will be ongoing liaison with all parties, but particularly with the ASER-affected parties whose ancillary rights may need to be suspended at various points during construction. This liaison will be managed through ASER Management Committee.

In addition to facilitating this extraordinary project, the bill will rename the ASER Act as the Riverbank Act. This will set the seal on the government's vision for the precinct and foreshadows later work that will settle a finalised management structure under the oversight of the Riverbank Authority.

The government expects to revisit these matters, following discussions with the Riverbank Authority about the optimal structure for management of the precinct into the future—and the legislation needed to support this.

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This is a pivotal opportunity for parliament to give the green light to what will become one of this State's iconic assets in years to come—a compelling destination of choice for our citizens and visitors alike and the centrepiece of a revitalised arts, cultural and leisure precinct embracing the riverbank at the heart of our city.

What's so exciting about this project is how it ties together more than 40 years of history at the Festival Centre—a legacy the final concept designs showcase and build upon. The new plaza will be a distinctive place that renders a unique account of the people, cultural life and character of Adelaide—a place that will stay in the memories of all who visit it.

Adelaide has established a world-class reputation as a festival city, and it is right that as 'Mad March' continues to grow each year the question of what cultural 'vibe' we want to project becomes a matter of public debate—as it has in the aftermath of this year's festival season.

That's why the decision we take now, to pass this legislation and put this project into its production-stage, is so important. It will be a milestone for our State.

This event-ready space will be the platform for the many more successful festivals to come, a place with a broad canvas able to host the grandest extravaganzas, but also with nooks and crannies that can provide developing artists with audiences and opportunities all year round.

The design is bold, innovative and will do us proud—and can be delivered within budget, on time and alongside major private sector investment all South Australians can welcome with open arms.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *ASER (Restructure) Act 1997*

4—Amendment of section 1—Short title

This clause proposes to amend the short title of the Act to the *Riverbank Act 1997*.

5—Amendment of section 6—Enlargement of Site

It will be possible to enlarge the Site under a proposed amendment to section 7.

6—Amendment of section 7—The casino site

The Governor will be able to extend the area of the casino site by notice in the Gazette. An indication of what may constitute this area is indicated by a deposited plan. The Governor will, despite any other provision, be able to make variations to any regulation under the Act that defines any boundary under the Act.

7—Insertion of Schedule 1

Amendments are to be made to the *ASER (Restructure) Act 1997*. These amendments will be effected by the insertion of a new schedule to the Act. A detailed explanation of the provisions contained in the schedule is as follows.

Clause 1 sets out 2 definitions that are relevant to the operation of the schedule. The *designated area* will be the whole of the Site together with 2 areas adjacent to this Site that are identified by a plan deposited in the General Registry Office. A *designated project* is a project, scheme, undertaking or works, to be undertaken within the designated area, declared by the Governor, by notice in the Gazette, to constitute a designated project.

Clause 2 sets out a scheme that will allow the Governor, on the recommendation of the Minister, by notice in the Gazette, to suspend or modify specified classes of rights or interests that exist in, or in relation to, any part of the designated area. However, the Minister will only be able to recommend the suspension or modification of a right or interest if the Minister is satisfied that this action is reasonably necessary in order to facilitate or support the undertaking of a designated project. A notice that suspends a right or interest, should (insofar as is reasonably practicable and subject to avoiding an adverse impact on any aspect of a designated project) endeavour to grant a substitute right or interest. The Minister will be also required to revoke a suspension or modification if or when it is no longer reasonably necessary in connection with a designated project, subject to some specified qualifications.

Clause 3 will authorise the Minister, or a person authorised by the Minister, to exercise various powers for the purposes of, or in connection with, a designated project. However, a person exercising a power under this clause must, insofar as is reasonably practicable, minimise the extent of damage to any building, structure or other built form and minimise disturbance to any other person who is lawfully occupying any part of the designated area.

Clause 4 sets out a scheme that will allow the Minister to create or grant 1 or more rights or interests in relation to any part of the designated area for any purpose associated with a designated project. These will be permanent rights and interests and the Minister will be able to modify permanently a right or interest of a kind referred to in clause 2(1). The Minister will be required to take reasonable steps to ensure that a right or interest under this clause does not adversely affect to a material degree the viability of any business conducted on the designated area by a person lawfully occupying any part of the designated area at the time that the Minister takes action under this clause.

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

STATUTES AMENDMENT (ELECTRICITY AND GAS) BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (17:51): I move:

That this bill be now read a second time.

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

Leave granted.

The Bill that I am introducing today is an 'omnibus' Bill designed to address a wide range of safety, administrative and legal issues that have become apparent over time, to enable more effective administration and enforcement of the *Electricity Act 1996* and *Gas Act 1997* (the Acts).

The objects of both of the Acts are expanded to clarify that safety and technical standards for electrical and gas installations include standards relating to the design of electrical and gas installations. The Bill provides that electrical and gas installations must be designed in accordance with technical and safety requirements under the regulations.

The Bill enables, but does not require, electricity entities to prune or remove 'hazard trees' which are outside the currently prescribed clearance and buffer zones around powerlines in the bushfire risk area, but could nevertheless fall onto powerlines, thereby creating the risk of bushfire, electric shock or interruption of the electricity supply. This follows from recommendations of the Victorian Royal Commission into Bushfires. Such pruning will require a report from an arborist on the extent of clearance necessary to prevent the tree from falling onto the powerline. The Bill also enables an electricity entity or council and landowner to agree on a period less than the prescribed 30 days written notice for entry onto land for vegetation clearance purposes.

The Bill strengthens bushfire prevention measures by enabling electricity officers (appointed by an electricity entity) to enter land that is not public land in the bushfire risk area at any reasonable time and without prior notice for the purpose of inspecting infrastructure. This will assist in the identification of hazards, including hazard trees.

In any other case, the electricity officer may only enter the land after giving reasonable written notice to the owner or occupier of the land stating the reason, the date and, if practicable, the time, of the proposed entry. A similar provision applies with respect to gas infrastructure.

Authorised officers are granted further powers under the Acts, including power to stop and inspect vehicles, to require infrastructure, installations or equipment to be tested for safety, to require persons to identify themselves and to require persons to attend for interview and answer questions. These powers, and existing powers, may only be exercised as reasonably required for the administration or enforcement of the Acts. The further powers have been identified as necessary, as electricians and gas fitters have been suspected of hiding evidence of offences against the Acts in their vans, and authorised officers have found unidentified persons working on infrastructure, but have not had power to ask them to identify themselves or to present evidence of their authorisation to perform such work. This will contribute to the safety and security of electricity and gas infrastructure and installations.

Authorised officers will also be granted power to issue enforcement notices for the purpose of securing compliance with the Acts. These notices enable authorised officers to require persons to take specified action, comply with standards, undertake specified tests or monitoring, provide reports or stop faulty work from proceeding.

The Bill provides for an increased expiation fee of $1,000 for the offence of reconnecting the electricity or gas supply, or a cathodic protection system, without the written approval of an authorised officer after the supply has been disconnected by an authorised officer or the Technical Regulator for safety reasons. This addresses the serious risks associated with unauthorised reconnections, including those that follow police drug raids on properties.

The Bill aligns the maximum penalty for maintaining an electrical or gas installation with that for performing work that might make the installation unsafe, and sets different maximum penalties for bodies corporate and natural persons. At present the maximum penalty for maintaining a dangerous electrical or gas installation or infrastructure is $250,000 while that for performing unsafe work that could have the effect of making an installation unsafe is $10,000 for electrical and $5,000 for gas installations. A consistent maximum penalty of $50,000 for bodies corporate and $10,000 for natural persons, is set for both offences. The present maximum penalty of $250,000, is retained, but applied only to infrastructure owned by bodies corporate that act intentionally or recklessly.

The Bill streamlines accident reporting and enables more thorough investigation of accidents. It clarifies the circumstances in which accidents must be reported to the Technical Regulator. It also enables the Technical Regulator to restrict access to infrastructure, installation or equipment involved in an accident during investigations, and prohibits interference with such infrastructure, installations or equipment except with the approval of the Technical Regulator or where this is necessary to maintain the integrity of the network or avert an immediate and serious danger, or also, in the case of an accident involving gas, to maintain the gas supply.

The Bill modifies the privilege against self-incrimination for natural persons by requiring them to provide information relating to safety. Such information will, however, not be admissible in evidence in proceedings against the person. This will, for example, require electricians who have performed faulty work in installing downlights, which increases the risk of fire, to disclose where else they have installed downlights. This is consistent with other legislation recently passed by Parliament.

The Bill enables better protection of electricity and gas infrastructure and installations. It increases penalties for persons who, without proper authority, enter enclosures where electrical or gas infrastructure is situated. This will apply in particular to persons who steal copper wire from electrical substations, as such theft can lead to major disruptions of the electricity supply. The Bill also prohibits the burning of materials in proximity to electricity and gas infrastructure without the written authorisation of the owner or operator.

The Bill streamlines administrative processes by transferring responsibility for approving safety, reliability, maintenance and technical management plans (SRMTMPs) under the Acts and the electricity switching manual, from the Essential Services Commission of South Australia (ESCOSA) to the Technical Regulator. This transfer is appropriate as the Technical Regulator has the technical expertise required to assess SRMTMPs and switching manuals, while ESCOSA's expertise is in economic regulation. At present ESCOSA approves SRMTMPs on the recommendation of the Technical Regulator. The Technical Regulator may require a person exempted from the requirement to hold a licence under the Acts to prepare and periodically revise a SRMTMP. The Bill also clarifies that a SRMTMP must be approved prior to the operation of the relevant transmission or distribution system.

The Bill establishes a revised regime for assurances and enforcement orders, similar to that in the *Fair Trading Act 1987*, to enable more effective and flexible enforcement of the Acts. Under the regime ESCOSA or the Technical Regulator may accept an assurance given by a person regarding matters in relation to which they have a power or function under the Acts. Once an assurance has been accepted, ESCOSA or the Technical Regulator must not proceed against the person in respect of the conduct specified in the assurance, unless the person fails to comply with the assurance. In the event of proceedings for a breach of the assurance, the District Court, if satisfied, on the balance of probabilities, that the person has failed to comply with the assurance may make any or all of a range of orders, including prohibition of specified conduct, compensating persons who have suffered loss or other orders that it considers appropriate.

At present a direction to rectify defective electrical or gas installations or equipment may only be given to the person in charge of the installation, or the occupier of the place in which the installation is situated. The Bill enables the Technical Regulator or an authorised officer to give such a direction directly to the electrician or gas fitter who performed the work if the work was carried out within the last 2 years, and the person in charge of the installation agrees.

The Bill enables prosecutions for non-compliant work on electrical or gas installations to be brought within 3 years (in place of the current 2 years) after the date on which the offence is alleged to have been committed. This is required because non-compliant work is often not identified within 2 years.

Provisions concerning bodies corporate that have become standard in recent legislation have been incorporated into the Bill. One specifies the internal reporting procedures that a body corporate will need to prove if it seeks to establish the general defence available under the Acts by proving the establishment of proper workplace systems and procedures designed to prevent a contravention of the Act. Another is that the conduct and state of mind of persons such as employees acting for bodies corporate within the scope of their usual or ostensible authority, will be imputed to the body corporate.

The Bill will assist the Minister in making more informed decisions on directions to be issued during periods of gas rationing by enabling the Minister to require information to be provided (usually by gas entities and large users) at specified times, for example daily, rather than, as at present, only each time in response to a specific notice.

The Bill clarifies that metering providers are authorised to temporarily disconnect the electricity supply while installing or replacing a meter, and reconnect the supply after the meter has been installed or replaced.

The Bill clarifies that if the Technical Regulator considers that urgent action to issue a public warning statement about unsafe electrical or gas equipment or installation practices is required, the Technical Regulator is not required to conduct a hearing or invite submissions. As a result of this, urgent public warnings which might, for example, be based on information received from regulators in other States, will not be delayed by hearings and the evaluation of submissions. The Bill also applies the existing immunity of the Technical Regulator and the Crown to outside the State to the full extent of the extra-territorial legislative capacity of the Parliament.

Some changes based on provisions of the *Water Industry Act 2012* have been incorporated in the Bill. The maximum penalty for breach of a regulation is increased to $10,000, and authorised officers or electricity or gas officers authorised in writing by the Technical Regulator are enabled to give expiation notices for alleged offences against the Acts.

The Bill enables documents required or authorised to be given to a person to be transmitted by email, thereby modernising the day to day administration of the Acts.

The Department of State Development has consulted with the electricity and gas industries and relevant Government Departments and agencies Those which have commented on the proposals have indicated their support.

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 *Electricity Act 1996*

4—Amendment of section 3—Objects

This amendment is consequential on the insertion of proposed section 61B relating to design of electrical installations.

5—Amendment of section 4—Interpretation

Definitions are inserted for the purposes of the measure.

6—Amendment of section 10—Technical Regulator's power to require information

The Technical Regulator's power to require information is amended.

7—Amendment of section 22—Licences authorising generation of electricity

1 amendment relates to the transfer of regulatory functions relating to the internal switching manual from the Commission to the Technical Regulator. The other amendments relate to the approval of safety, reliability, maintenance and technical management plans.

8—Amendment of section 23—Licences authorising operation of transmission or distribution network

1 amendment relates to the transfer of regulatory functions relating to the internal switching manual from the Commission to the Technical Regulator. The other amendments relate to the approval of safety, reliability, maintenance and technical management plans.

9—Amendment of section 24A—Licences authorising system control

This amendment relates to the approval of safety, reliability, maintenance and technical management plans.

10—Insertion of Part 4 Division 1A

This amendment inserts new Division 1A into Part 4:

Division 1A—General investigative powers of electricity officers

44A—General investigative powers of electricity officers

Electricity officers are authorised to take photographs, films or audio, video or other recordings as reasonably required in connection with the exercise of their powers under Part 4.

11—Amendment of section 48—Entry for purposes related to infrastructure

The power of electricity officers to enter land for inspection purposes or under statutory easement rights is amended to provide for different notice requirements for land in the bushfire risk area and other land.

12—Amendment of heading to Part 5 Division 1

This amendment is consequential on the amendments to Part 5.

13—Insertion of section 55AA

This amendment inserts new section 55AA:

55AA—Powers of electricity entity in relation to vegetation clearance

An electricity entity with a duty under Part 5 to keep vegetation clear of powerlines is authorised to clear vegetation within the bushfire risk area in certain circumstances.

14—Amendment of section 57—Power to enter for vegetation clearance purposes

This amendment allows an occupier to consent to a reduced notice period for entry to land.

15—Amendment of section 59—Requirements relating to electrical installation connection and meter installation

The penalty provision in section 59(1d) is amended.

The definition of *the work of installing or replacing a meter* is amended to include the temporary disconnection of the electricity supply while the work is carried out.

16—Amendment of section 60—Responsibility of owner or operator of infrastructure or installation

This amendment provides for a hierarchy of penalties for owners and operators of electricity infrastructure and electrical installations.

17—Insertion of section 60B

This amendment inserts new section 60B:

60B—Safety, reliability, maintenance and technical management plans

The requirements for certain persons in relation to safety, reliability, maintenance and technical management plans, currently in the *Electricity (General) Regulations 2012*, are elevated to the Act so that a higher penalty for contravention may be prescribed.

18—Amendment of section 61—Electrical installation work

The first amendment increases the penalty for a contravention of section 61(1). Another amendment increases the period within which a prosecution for an offence against section 61(1) may be brought from 2 years to 3 years.

The other amendments are technical.

19—Insertion of section 61B

This amendment inserts new section 61B:

61B—Design of electrical installations

New section 61B provides that an electrical installation must be designed in accordance with technical and safety requirements under the regulations.

20—Amendment of section 62—Power to require rectification etc in relation to infrastructure, installations or equipment

This clause makes various amendments relating to the Technical Regulator's power to require rectification in relation to infrastructure, installations or equipment.

21—Amendment of section 62A—Public warning statements

This amendment clarifies the circumstances in which the Technical Regulator is not obliged to conduct a hearing or invite submissions in connection with the exercise of certain powers under the section.

22—Amendment of section 62B—Immunity from liability

New subsection (3) provides that it is the intention of the Parliament that the immunity from liability provided for in section 62B apply within the State and outside the State to the full extent of the extra-territorial legislative capacity of the Parliament.

23—Substitution of section 63

This amendment substitutes section 63:

63—Reporting of accidents

Substituted section 63 involves a range of amendments to existing section 63 in relation to the reporting of accidents.

24—Substitution of section 63A

Existing section 63A, relating to warning notices and assurances, is substituted with 2 new sections, sections 63A and 63B:

63A—Warning notices

The existing provisions of section 63A in relation to warning notices are prescribed in the substituted section. Matters relating to assurances are omitted from the section (as new section 63B deals with assurances).

63B—Assurances

New section 63B provides for the Commission and Technical Regulator to accept assurances (currently, assurances are provided for in existing section 63A of the Act).

25—Redesignation of section 63B

Section 63B is redesignated as section 63BA (this redesignation is for numbering purposes).

26—Insertion of sections 63BB and 63BC

This amendment inserts new sections 63BB and 63BC:

63BB—Offence to act contrary to assurance

New section 63BB makes it an offence to act contrary to an assurance.

63BC—Enforcement orders in relation to assurances

The District Court is authorised to make certain orders if satisfied that a person has acted contrary to, or failed to comply with, an assurance.

27—Insertion of Part 7 Division A3

This amendment inserts new Division A3 into Part 7:

Division A3—Enforcement notices

63D—Enforcement notices

An authorised officer may issue an enforcement notice for the purpose of securing compliance with a requirement imposed by or under the Act. The scheme is equivalent to that for enforcement notices under the *Water Industry Act 2012*.

28—Amendment of section 68—Power of entry

This amendment provides for authorised officers to exercise their power of entry (currently applicable to 'places') in a vehicle.

29—Substitution of section 69

This amendment substitutes section 69:

69—General investigative powers of authorised officers

Substituted section 69 involves various amendments to the existing provision concerning general investigative powers of authorised officers. In particular, powers in relation to examination and testing of infrastructure, installations or equipment are amended, along with provision relating to seizure of objects that may be evidence of an offence.

30—Amendment of section 70—Disconnection of electricity supply

Section 70(3) is amended to require the written consent of an authorised officer before the reconnection of supply after disconnection under section 70. An expiation fee for a breach of the provision is fixed at $1,000.

31—Amendment of section 71—Power to require disconnection of cathodic protection system

The offence provision in section 71(3) is amended to specify that a person to whom a direction is given under the section must not reconnect or permit the reconnection of supply without the written approval of an authorised officer.

32—Amendment of section 72—Power to make infrastructure, installation or equipment safe

A range of amendments related to the administration of section 72 by the Technical Regulator are made.

33—Amendment of section 73—Power to require information or documents

This amendment is consequential on the insertion of Part 7 Division 3.

34—Insertion of Part 7 Division 3

This amendment inserts new Division 3 into Part 7:

Division 3—Related matters

74—Self-incrimination

The privilege against self-incrimination is relocated (from section 73) to section 74 and the privilege is extended so that a natural person is not required to give information or produce a document pursuant to a requirement under Part 7 if the answer to the question or the contents of the document would tend to incriminate the person of an offence.

The privilege is modified to enable authorised officers to obtain information or documents relating to the administration or enforcement of Part 6 relating to the safety of electricity infrastructure, an electrical installation or electrical equipment (but the information or document given or produced is not admissible in evidence against the person in proceedings for an offence).

35—Amendment of section 75—Review of decisions by Commission or Technical Regulator

The insertion of section 75(1a) is consistent with the review provisions relating to enforcement notices in the *Water Industry Act 2012*.

36—Substitution of section 76

This amendment substitutes section 76:

76—Appeals

Section 76 is substituted so that the section allows for an appeal to the District Court by a person to whom an enforcement notice has been issued (in addition to the appeals already provided for under section 76).

37—Amendment of section 80—Power of exemption

This amendment is consequential on the transfer of regulatory functions relating to the internal switching manual from the Commission to the Technical Regulator.

38—Amendment of section 84—Unlawful interference with electricity infrastructure or electrical installation

The first amendment increases the penalty for an offence against subsection (2). The other amendment increases the penalty for an offence against subsection (3), includes the word 'substance' in the provision and elevates to the Act (in subsection (4)) an offence provision currently located in the *Electricity (General) Regulations 2012*.

39—Insertion of section 91B

This amendment inserts new section 91B:

91B—Offences

Authorised officers are empowered to issue expiation notices.

40—Amendment of section 92—General defence

New subsection (2a) makes provision related to the establishment of the defence provided for by the section.

41—Insertion of section 93A

This amendment inserts new section 93A:

93A—Imputing conduct to bodies corporate

New section 93A is necessary in connection with the introduction of a mental element into certain 'aggravated' offence provisions by other amendments in the Bill (see, for example, the amendments to section 60).

42—Amendment of section 97—Service

Service by email is provided for.

43—Amendment of section 98—Regulations

The limit on the maximum penalty for a breach of a regulation is raised to $10,000 (from $5,000).

44—Transitional provisions

This clause provides for transitional provisions for the purposes of the measure.

Part 3—Amendment of *Gas Act 1997*

45—Amendment of section 3—Objects

This amendment is consequential on the insertion of proposed section 56A relating to design of gas installations.

46—Amendment of section 8—Functions of Technical Regulator

An additional paragraph is included in section 8(1) to allow functions to be conferred on the Technical Regulator by the regulations or by or under the Act or any other Act. An equivalent paragraph exists in the equivalent provision in the *Electricity Act 1996*.

47—Amendment of section 10—Technical Regulator's power to require information

The Technical Regulator's power to require information is amended.

48—Amendment of section 26—Licences authorising operation of distribution system

This amendment relates to the approval of safety, reliability, maintenance and technical management plans.

49—Amendment of section 37A—Minister's power to require information or documents

The Minister's power to require information or documents is amended.

50—Insertion of Part 4 Division 1A

This amendment inserts new Division 1A into Part 4:

Division 1A—General investigative powers of gas officers

45A—General investigative powers of gas officers

Gas officers are authorised to take photographs, films or audio, video or other recordings as reasonably required in connection with the exercise of their powers under Part 4.

51—Amendment of section 48—Power to enter for purposes related to gas entity's infrastructure

Gas officer's power to enter for purposes related to a gas entity's infrastructure is amended.

52—Amendment of section 55—Responsibility of owner or operator of infrastructure or installation

This amendment provides for a hierarchy of penalties for owners and operators of gas infrastructure and installations.

53—Insertion of section 55A

This amendment inserts new section 55A:

55A—Safety, reliability, maintenance and technical management plans

The requirements for certain persons in relation to safety, reliability, maintenance and technical management plans, currently in the regulations, are elevated to the Act so that a higher penalty for contravention may be prescribed.

54—Amendment of section 56—Certain gas fitting work

The first amendment increases the penalty for a contravention of section 56(1). Another amendment increases the period within which a prosecution for an offence against section 56(1) may be brought from 2 years to 3 years.

The other amendments are technical.

55—Insertion of section 56A

This amendment inserts new section 56A:

56A—Design of gas installations

New section 56A provides that a gas installation must be designed in accordance with technical and safety requirements under the regulations.

56—Amendment of section 57—Power to require rectification etc in relation to infrastructure or installations

This clause makes various amendments relating to the Technical Regulator's power to require rectification in relation to infrastructure, installations or appliances.

57—Amendment of section 57B—Public warning statements about unsafe gas installations, components, practices etc

This amendment clarifies the circumstances in which the Technical Regulator is not obliged to conduct a hearing or invite submissions in connection with the exercise of certain powers under the section.

58—Amendment of section 57C—Immunity from liability

New subsection (3) provides that it is the intention of the Parliament that the immunity from liability provided for in section 57B apply within the State and outside the State to the full extent of the extra-territorial legislative capacity of the Parliament.

59—Substitution of section 58

This amendment substitutes section 58:

58—Reporting of accidents

Substituted section 58 involves a range of amendments to existing section 58 in relation to the reporting of accidents.

60—Substitution of section 61A

Existing section 61A, relating to warning notices and assurances, is substituted with 2 new sections, sections 61A and 61AB

61A—Warning notices

The existing provisions of section 61A in relation to warning notices are prescribed in the substituted section. Matters relating to assurances are omitted from the section (as new section 61AB deals with assurances).

61AB—Assurances

New section 61AB provides for the Commission and Technical Regulator to accept assurances (currently, assurances are provided for in existing section 61A of the Act).

61—Insertion of sections 61BA and 61BB

This amendment inserts new sections 61BA and 61BB:

61BA—Offence to act contrary to assurance

New section 61BA makes it an offence to act contrary to an assurance.

61BB—Enforcement orders in relation to assurances

The District Court is authorised to make certain orders if satisfied that a person has acted contrary to, or failed to comply with, an assurance.

62—Insertion of Part 6 Division A3

This amendment inserts new Division A3 into Part 6:

Division A3—Enforcement notices

61D—Enforcement notices

An authorised officer may issue an enforcement notice for the purpose of securing compliance with a requirement imposed by or under the Act. The scheme is equivalent to that for enforcement notices under the *Water Industry Act 2012*.

63—Amendment of section 66—Power of entry

This amendment provides for authorised officers to exercise their power of entry (currently applicable to 'places') in a vehicle.

64—Substitution of section 67

This amendment substitutes section 67:

67—General investigative powers of authorised officers

Substituted section 67 involves various amendments to the existing provision concerning general investigative powers of authorised officers. In particular, powers in relation to examination and testing of infrastructure, installations or appliances are amended, along with provision relating to seizure of objects that may be evidence of an offence.

65—Amendment of section 68—Disconnection of gas supply

Section 68(3) is amended to require the written consent of an authorised officer before the reconnection of supply after disconnection under section 68. An expiation fee for a breach of the provision is fixed at $1,000.

66—Amendment of section 69—Power to make infrastructure or installation safe

A range of amendments related to the administration of section 69 by the Technical Regulator are made.

67—Amendment of section 70—Power to require information or documents

This amendment is consequential on the insertion of Part 6 Division 3.

68—Insertion of Part 6 Division 3

This amendment inserts new Division 3 into Part 6:

Division 3—Related matters

70A—Self-incrimination

The privilege against self-incrimination is relocated (from section 70) to section 70A and the privilege is extended so that a natural person is not required to give information or produce a document pursuant to a requirement under Part 6 if the answer to the question or the contents of the document would tend to incriminate the person of an offence.

The privilege is modified to enable authorised officers to obtain information or documents relating to the administration or enforcement of Part 5 relating to the safety of gas infrastructure, installations or appliances or for the enforcement of Part 3 Division 5 (but the information or document given or produced is not admissible in evidence against the person in proceedings for an offence).

69—Amendment of section 71—Review of decisions by Commission or Technical Regulator

The insertion of section 71(1a) is consistent with the review provisions relating to enforcement notices in the *Water Industry Act 2012*.

70—Substitution of section 72

This amendment substitutes section 72:

72—Appeals

Section 72 is substituted so that the section allows for an appeal to the District Court by a person to whom an enforcement notice has been issued (in addition to the appeals already provided for under section 72).

71—Amendment of section 81—Unlawful interference with distribution system or gas installation

New subsections (2), (3) and (4) will result in consistency with the equivalent provision relating to electricity infrastructure and electrical installations (as amended by the Bill).

72—Insertion of section 87A

This amendment inserts new section 87A:

87A—Offences

Authorised officers are empowered to issue expiation notices.

73—Amendment of section 88—General defence

New subsection (2a) makes provision related to the establishment of the defence provided for by the section.

74—Amendment of section 89—Offences by bodies corporate

This amendment removes the reference to section 34D (which was repealed by the *Statutes Amendment (National Energy Retail Law Implementation) Act 2012*).

75—Insertion of section 89A

This amendment inserts new section 89A:

89A—Imputing conduct to bodies corporate

New section 89A is necessary in connection with the introduction of a mental element into certain 'aggravated' offence provisions by other amendments in the Bill (see, for example, the amendments to section 55).

76—Amendment of section 94—Service

Service by email is provided for.

77—Amendment of section 95—Regulations

The limit on the maximum penalty for a breach of a regulation is raised to $10,000 (from $5,000).

78—Transitional provisions

This clause provides for transitional provisions for the purposes of the measure.

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

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

Second Reading

The Hon. P. MALINAUSKAS (Minister for Police, Minister for Correctional Services, Minister for Emergency Services, Minister for Road Safety) (17:51): I move:

That this bill be now read a second time.

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

Leave granted.

The Residential Tenancies (Miscellaneous) Amendment Bill 2016 amends the *Residential Tenancies Act 1995* (the Act) to clarify or provide solutions to several administrative issues that have been brought to my attention. The Bill aims to support an informed tenancy sector where parties understand their rights and obligations.

The Parliament considered a comprehensive range of reforms to the Act with the *Residential Tenancies (Miscellaneous) Amendment Act 2013*, which was assented to on 9 May 2013. These reforms (referred to as the 2013 Reforms) were the result of extensive public consultation to reflect changes that had occurred over the previous 15 years. The majority of the reforms commenced on 1 March 2014, with all remaining provisions commencing on 9 May 2015.

The 2013 Reforms increased protection for both tenants and landlords, whilst achieving a fair balance of rights and responsibilities for all parties to tenancy agreements. The amendments do not propose to overturn the underlying policy of the 2013 Reforms, but rather tidy-up and clarify a few provisions that industry have said could be clearer.

The Bill proposes a few minor changes to the landlord's right to entry. The 2013 Reforms recast these provisions to remove what was commonly referred to as the 'tenant consent provisions'. These provisions meant that the landlord could attend the premises without any notice and that the tenant could consent to access at or immediately before the time of entry. This raised concerns that when unexpectedly confronted with the landlord at their premises, the tenant could be intimidated to provide access to the landlord.

Presently, the landlord must provide a minimum period of notice to the tenant to attend the premises. This is 48 hours' notice for non-urgent maintenance and repairs, and a minimum of 7 days' notice for garden maintenance. However, with the removal of the 'tenant consent provisions', the landlord is currently prohibited from attending the premises in these circumstances prior to the notice period – even with the tenant's consent. The Bill proposes that at the request of the tenant, the landlord may attend the premises for these purposes prior to giving the required notice.

A landlord is also prohibited from showing the property to prospective tenants prior to 28 days preceding the termination of the tenancy. Within 28 days preceding termination, the landlord may only enter the premises for this purpose on a reasonable number of occasions and within normal hours where the tenant has been given reasonable notice. The difficulty is that if the tenant intends to break the lease, the termination date may be contingent on the finding of another tenant to reduce reletting fees.

The Bill proposes that at the request of the tenant, the landlord may attend the premises for this purpose prior to 28 days preceding the termination of the tenancy. Unless otherwise requested by the tenant, the landlord may only enter the premises for this purpose on a reasonable number of occasions within normal hours where the tenant has been given reasonable notice.

It is not proposed to revert back to the 'tenant consent provisions'. The Bill seeks to empower the tenant to permit the landlord (or their agent, including a contractor) to attend the premises at their request. Requiring the tenant to make such a request, rather than provide consent, continues to provide the tenant a level of protection from being intimidated by the landlord to provide access to the premises.

The Bill proposes to specify a period of time that a tenant may terminate a tenancy in certain circumstances where the landlord fails to disclose information relating to the sale of the property.

Presently, if a landlord enters into a contract for sale of the property within two months of a tenancy commencing and failed to disclose to the tenant (prior to entering into the tenancy) the property had been (or was intended to be) advertised or there was an existing sales agency agreement, the tenant has the right to terminate the tenancy. The period of time the tenant has to terminate the tenancy is unspecified and therefore applies for the life of the tenancy. Pursuant to s71A(2) of the Act, the landlord must advise the tenant in writing of the sale of the premises at least 14 days before settlement or as soon as possible after the contract is entered into.

The Bill specifies that the tenant has the right to terminate the tenancy on these grounds within two months of receiving written notice of the sale of the premises. If the tenant does not receive written notice, whether at the time of sale or later, the period of time the tenant may terminate the tenancy on these grounds remains unspecified.

The Bill seeks to address an imbalance of power between the tenant and landlord. At present, the failure of a former landlord to disclose the sale or intended sale of the property disadvantages the new landlord, as there is no certainty as to the length of the tenancy. Specifying a period of time the tenant has to terminate the tenancy only after receiving written notice of the sale of the premises ensures the tenant is informed and may exercise their right to terminate the tenancy if they wish. This amendment would only apply to new tenancy agreements entered into after the commencement of this provision.

Lastly, the Bill will clarify an existing practice and interpretation of the South Australian Civil and Administrative Tribunal with respect to abandoned property. Presently, the landlord must not remove a tenant's possessions until at least two days have passed since recovering possession of the premises. However, the tenant may never be given the opportunity to recover these items, as the landlord may not provide access to the tenant during this period. The Bill makes it clear that the landlord must allow the tenant access to the premises to reclaim any abandoned property during this time.

The Bill has the support of both industry and tenant advocacy groups as it seeks to provide common sense approaches to these issues while maintaining a fair balance of rights and responsibilities for all parties to tenancy agreements.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Residential Tenancies Act 1995*

4—Amendment of section 72—Right of entry

The clause amends section 72 to make it a term of a residential tenancy agreement that the landlord (or an agent of the landlord) may, at the request of the tenant, enter the residential premises to carry out maintenance (including gardening maintenance) and to show the premises to prospective tenants.

5—Amendment of section 85A—Termination by tenant if residential premises for sale

The clause inserts a new subsection (2) into section 85A providing that a notice of termination referred to in subsection (1) must, if the landlord has given written notice advising the tenant of the contract for the sale of the residential premises (whether in accordance with section 71A(2) or otherwise), be given to the landlord within 2 months after the day on which that notice of advice is given to the tenant.

6—Amendment of section 97B—Action to deal with abandoned property other than personal documents

The clause amends section 97B inserting a new subsection (2a) to provide that a landlord must, within the period of 2 days after recovering possession of the premises, allow a tenant access to the premises to reclaim abandoned property.

7—Insertion of Schedule 2

This clause inserts a new Schedule as follows:

Schedule 2—Transitional provisions—*Residential Tenancies (Miscellaneous) Amendment Act 2016*

The Schedule contains transitional provisions consequential on provisions in the measure.

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

At 17:53 the council adjourned until Tuesday 5 July 2016 at 14:15.