LEGISLATIVE COUNCIL

Tuesday, 18 October 2016

The PRESIDENT (Hon. R.P. Wortley) took the chair at 14:17 and read prayers.

The PRESIDENT: We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia, and their connection to the land and the community. We pay our respects to them and their cultures, and to the elders both past and present.

Bills

ANANGU PITJANTJATJARA YANKUNYTJATJARA LAND RIGHTS (MISCELLANEOUS) AMENDMENT BILL

Assent

His Excellency the Governor's Deputy assented to the bill.

SUMMARY OFFENCES (FILMING AND SEXTING OFFENCES) AMENDMENT BILL

Assent

His Excellency the Governor's Deputy assented to the bill.

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

Assent

His Excellency the Governor's Deputy assented to the bill.

JUSTICES OF THE PEACE (MISCELLANEOUS) AMENDMENT BILL

Assent

His Excellency the Governor's Deputy assented to the bill.

NOTARIES PUBLIC BILL

Assent

His Excellency the Governor's Deputy assented to the bill.

SUMMARY PROCEDURE (ABOLITION OF COMPLAINTS) AMENDMENT BILL

Assent

His Excellency the Governor's Deputy assented to the bill.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

Assent

His Excellency the Governor's Deputy assented to the bill.

RESIDENTIAL TENANCIES (MISCELLANEOUS) AMENDMENT BILL

Assent

His Excellency the Governor's Deputy assented to the bill.

JUDICIAL ADMINISTRATION (AUXILIARY APPOINTMENTS AND POWERS) (QUALIFICATION FOR APPOINTMENT) AMENDMENT BILL

Assent

His Excellency the Governor's Deputy assented to the bill.

APPROPRIATION BILL 2016

Assent

His Excellency the Governor's Deputy assented to the bill.

Parliament House Matters

MEDIA CHAMBER ACCESS

The PRESIDENT (14:20): Before we start, I advise that I have been contacted by the media with regard to the events in the Senate, which has supported a bill introduced by Senator Hinch allowing for the unlimited access of photographers into the chamber. The media would like to know our position. Anyone who has any views on that, please let me know before I speak to them.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

Auditor-General and Treasurer's Financial Statements, Parts A, B and Appendix to Annual Report, Volumes 1-5 —Report 2015-16
Auditor-General—Supplementary Report of State Finances and Related Matters, 2015-16
Independent Commissioner Against Corruption and the Office for Public Integrity 2015-16

By the Minister for Employment (Hon. K.J. Maher)—

Auditor-General's Department Report 2015-16
Department of the Premier and Cabinet Report 2015-16
Regulations under the following Acts—
- Electricity Act 1997—Provision of limited advice
- Local Government Finance Authority Act 1983—Regulations—General
- Public Corporations Act 1993—Education Adelaide

Municipal Council By-laws—
- Roxby Downs—
  - No. 1—Permits and Penalties
  - No. 2—Dogs
  - No. 3—Cats
  - No. 4—Local Government Land
  - No. 5—Moveable Signs.
  - No. 6—Roads
  - No. 7—Waste

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

Animal Welfare Advisory Committee Report 2015-16
Dog and Cat Management Board Report 2015-16
Wilderness Protection Act 1992 Report 2015-16
Regulations under the following Acts—
- Fisheries Management Act 2007—
  - Charter Boat Fishery—General
  - Charter Boat Fishery Definition
  - Demerit Points No. 2
  - Prescribed Fishery Regulations Definition
- Major Events Act 2013—
  - Australia v Pakistan One Day International Cricket Match
  - Australia v Sri Lanka Twenty 20 Cricket Match 2016

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter) on behalf of the Minister for Police (Hon. P.B. Malinauskas)—

Australian Crime Commission—Criminal Investigation (Covert Operations) Act 2009 2015-16
Club One—Gaming Machine Act 1992 Special Club License 2015-16
Liquor and Gambling Commissioner 2015-16
Office of the Commissioner for Kangaroo Island 2015-16
Return to Work SA 2015-16
Rules of Court—
District Court Act 1991—Civil—
Erratum to Amendment No. 34
Supplementary—Amendment No. 6
Regulations under the following Acts—
Harbours and Navigation Act 1997—Restricted Area Henley Beach

Ministerial Statement

POWER OUTAGES

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) (14:23): I table a copy of a ministerial statement made today by the Treasurer in another place on the topic of the power outage update.

BUSHFIRE PREPAREDNESS

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:23): I seek leave to make a ministerial statement.

Leave granted.

The Hon. I.K. HUNTER: Recent heavy rainfalls delayed the start of the prescribed burning season throughout some parts of the state. Given the extended wet spring season, the Department of Environment, Water and Natural Resources has put in place a number of alternative prevention strategies to help mitigate the risk of bushfire on public land this coming summer. Strategies like slashing and fire track maintenance will continue to be carried out whilst seasonal conditions, hopefully, improve.

The benefits of this five-year rolling burns program that we have is that burns that cannot take place this spring will be moved to autumn or to later years when the weather is more favourable. Prescribed burning is an important part of the work that DEWNR does to help eliminate the threat of bushfire on public land, and allows us to be proactive and implement a program of prevention and preparedness across the landscape. This reduces dangerous fire behaviours and provides our firefighters with a tactical advantage when fighting fires.

Prescribed burns can only take place, of course, when weather conditions are suitable for the planned activity to be conducted safely and effectively. This means that whilst the burning is mostly carried out during the spring and autumn seasons when conditions are likely to be favourable, the number of burns actually completed is dependent on seasonal conditions. In 2016-17, the prescribed burn program may change throughout the year as some burns are postponed and others brought forward, according to the seasonal outlook and other conditions like short-term weather, local weather and fuel dryness.

To respond to the significant challenges that South Australia faces in managing the state's risk of catastrophic bushfire due to a warming climate, the government is committed to implementing strategically located fuel reduction burns in high-risk areas. This is why we have recently committed an additional $16.2 million over the next four years to increase the state's capacity to prepare for bushfire and to carry out a tenure-blind, risk-based fire management planning approach to bushfire preparedness. The additional firefighters employed with this funding can undertake burning, along

with bushfire prevention work such as slashing, fire track and trail maintenance, and preparatory works for planned burns.

Parliamentary Procedure

ANSWERS TABLED

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

Ministerial Statement

DISABILITY SA

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 table a ministerial statement made in the other place by the member for Taylor and Minister for Disabilities on the topic of the termination of a master agreement with a non-government organisation.

EXTREME WEATHER CONDITIONS

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:33): I table a ministerial statement made by the Minister for Communities and Social Inclusion on the extreme weather events of September and October 2016.

FLOOD RELIEF OPERATIONS

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:33): I also table a ministerial statement made by the Minister for Agriculture, Food and Fisheries on the topic of flood recovery efforts.

Question Time

GAWLER RIVER FLOODING

The PRESIDENT: I now call on questions without notice. The Hon. Mr Ridgway.

The Hon. K.J. Maher interjecting:

The Hon. D.W. RIDGWAY: I thought after weeks off you would have come to your senses instead of peddling that rubbish—

The PRESIDENT: Order! Just ask your question.

The Hon. D.W. RIDGWAY: —and you shouldn't listen to Kevin Norton. That's my advice, you shouldn't listen to Kevin Norton.

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:33): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray questions regarding flooding in Virginia.

Leave granted.

The Hon. D.W. RIDGWAY: On 4 October, the Minister for Agriculture was interviewed on ABC 891 radio advising that flood and water infrastructure was responsible for the Gawler River breaking its banks in November 2005. The minister continued to confirm on radio that the Gawler River broke its banks in a completely different location in the 2016 floods. Yet the residents of the local region advise that the Gawler River broke its banks at the same location in 2005 and 2016, and that the infrastructure of the river needs to be reviewed for safety and the protection of residents and businesses as the region has already accumulated over $30 million worth of damage. My questions to the minister are:

1. Can the minister advise where the Gawler River broke its banks in 2016 and was it the same location as the 2005 Gawler River floods?

2. Will the minister confirm that his colleague the Minister for Agriculture was wrong about this statement on radio?

3. What investment strategy will the government implement to protect the residents and businesses affected by floods in the Gawler and Virginia regions?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:35): I thank the honourable member for his most important questions. In effect, what he is doing in asking those questions is asking us to congratulate the Minister for Agriculture in another place for his swift response in relation to these issues. He was quite right, of course, on radio. I think I can refer to the Local Government Act section 7(d) and section 7(f) which state:

> (d) to take measures to protect its area from natural and other hazards and to mitigate the effects of such hazard;

Section 7(f) states:

> (f) to provide infrastructure for its community and for development within its area (including infrastructure that helps—

The Hon. D.W. Ridgway: The old punt, the handpass again.

The Hon. I.K. HUNTER: It's legislation that presumably you voted on and passed, the Hon. Mr Ridgway. You might want to say that parliament has handpassed it but I think it is more appropriate to say that parliament has given appropriate powers to the appropriate authority. But let me just continue at 7(f):

> (f) to provide infrastructure for its community and for development within its area (including infrastructure that helps to protect any part of the local or broader community from any hazard or other event, or that assists in the management of any area);

It is pretty clear, I think, what the intent of parliament was in formulating that piece of legislation. Again, I congratulate the Hon. Mr Ridgway on correctly getting the facts right by reporting the comments by the Minister for Agriculture in the other place, who is usually more on the ball than the Hon. Mr Ridgway usually is. In fact, that would not be very difficult; the Hon. Mr Ridgway is hardly ever on the ball.

With regard to the Gawler River floodplain management zone, I understand that six councils have formed the Gawler River Floodplain Management Authority. I understand—and read in the media today, I think it was, in fact in *The Advertiser* at page 15—that they have brought their group back together again to consider what further measures they need to take, with, of course, support from funding from the state government and the NRM board and through the Stormwater Management Authority and of course local councils. They did build the infrastructure named the Bruce Eastick flood mitigation dam.

They have invested in quite a considerable amount of research on the floodplain, mapping the plain, and doing the historical research in terms of flooding, and the next step of course is for them to put together proposals of appropriately engineered infrastructure that will be approved in due course by the SMA should it be sufficient to deal with the issues on the Gawler River floodplain, and that they are matters that the councils have sought to pursue together as a collective, and that is exactly what they should be doing and I congratulate them for that.

They now need to get on and make an approach to the Stormwater Management Authority for the funding that state government makes available matching funding from the local government to build that infrastructure. Part of it is done, part of the background research is done and now we need to see them get on and do the rest that is required.

GAWLER RIVER FLOODING

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:38): I have a supplementary question. Can the minister actually answer the question and confirm that the Gawler River broke its

banks in exactly the same place in 2005 and 2016? It was an important part of the question that I asked and he failed to answer it.

The PRESIDENT: Is that a statement or a question?

The Hon. D.W. RIDGWAY: A question.

Members interjecting:

The Hon. D.W. RIDGWAY: Part of the original question.

The PRESIDENT: I just wanted to know. Minister.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:38): Thank you, Mr President, thank you for seeking that clarification. It seldom is very clear what the Hon. Mr Ridgway is actually asking in this place; it is usually to do a bit of grandstanding and I think it is appropriate that you pulled him up and asked him for that clarity.

The Hon. D.W. Ridgway: Just answer the question.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: I will undertake to seek advice and find out whether in fact the Hon. Mr Ridgway is correct. More often than not, as I said before, he is not. I will go out and ask the people who have the collective wisdom to answer the question. I would not be relying on the Hon. David Ridgway for any factual advice on any subject.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Lensink has the floor.

Members interjecting:

The PRESIDENT: No, the Hon. Ms Lensink has the floor.

GAWLER RIVER FLOODING

The Hon. J.M.A. LENSINK (14:39): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray questions regarding flooding in Virginia.

Leave granted.

The Hon. J.M.A. LENSINK: In the Stormwater Management Authority's priorities for stormwater management planning in South Australia 2016-20 it states under 'High Priorities':

> Although the GRFMA (Gawler River Floodplain Management Authority) is currently investigating further flood mitigation works on the Gawler River System which may include levee works in the vicinity of Virginia as a growth area in the 30-year plan for metropolitan Adelaide it is now appropriate that a separate SMP be developed for the Virginia township to cover flood threats from the Gawler River, flooding from other catchments and flooding from internal drainage in the town.

My questions for the minister are:

1. What advice has the minister received from the SMA in relation to flood mitigation in this region?

2. Does the current Stormwater Management Plan comply with the SMA guidelines, as required under recent amendments to the Local Government Act?

3. Has the minister received any advice that new coercive powers under the act will be required to prevent future flooding?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:40): I thank the honourable member for her most important, and might I say, very sensible questions, compared to the previous one. I am advised that major flood flows occur in the Gawler—

The Hon. D.W. Ridgway: She would be a good leader.

The Hon. I.K. HUNTER: I don't want to tarnish any promise that she might have in terms of the leadership stakes, Mr President. Any endorsement from me might not do her well. But I would just say that she comes into this place well prepared, well researched and asks sensible questions, unlike her leader.

The Hon. G.E. Gago: And she doesn't make things up.

The Hon. I.K. HUNTER: And she certainly doesn't make things up, that's correct. I am advised that major flood flows occur in the Gawler River every 10 to 15 years on average. Prior to the recent flood in September 2016, the previous major flow occurred in November 2005, is my advice. This 2005 event resulted in significant flooding in and around the Virginia township, which I am also advised was due to the failure of a riverbank levee.

I am also advised that a one in 100-year flood would be likely to have substantial impacts on the Gawler, Virginia and Two Wells townships, as well as horticultural and rural living land near Virginia and north of the river towards Two Wells.

The Gawler River Floodplain Management Authority was formed in 2002, I am advised, as the key mechanism to address flooding concerns in the region. The authority is a regional subsidiary under the Local Government Act 1999, with six constituent councils: the Adelaide Hills Council, the Barossa Council, the Town of Gawler, the Light Regional Council, the District Council of Mallala and the City of Playford. The authority's main purpose is to deliver and maintain flood mitigation infrastructure on the North and South Para Rivers. Both of these rivers join at Gawler to form the Gawler River. The authority has overseen major flood mitigation works over recent years.

Construction of the Bruce Eastick North Para Flood Control Dam was completed in 2007. Modification of the South Para Reservoir spillway to improve the flood mitigation effect of the South Para Reservoir was completed in 2012. Both the state government (through the previous Catchment Management Subsidy Scheme and then through the Stormwater Management Authority) and the commonwealth government (largely through a special funding allocation) each contributed 38.75 per cent of the cost of these works. The six constituent councils, I am advised, contributed the remaining 22.5 per cent.

I am also advised that the flood protection standard provided by the Bruce Eastick Dam and the South Para spillway works are not providing the level of protection that was originally planned for. This is in part due to levees around Virginia not being originally constructed due to cost and also in part due to recent changes in our understanding of the hydrology of the catchment.

The authority commissioned a further study to investigate what options, if any, are available to raise the flood protection standard to the desired one in 100-year level. This study has recommended either enlargement of the Bruce Eastick Flood Control Dam, at an estimated cost of $40 million, or the construction of strategic levees at Gawler, Two Wells and Virginia, at an estimated cost of about $19 million. I am further advised that while the levee option is less costly, it is also likely to be less effective in mitigating future flood impacts.

However, in view of the most recent flooding at Virginia, it is clear that further work is likely to be required on other levee options in the Virginia area before the study can be finalised. I am also advised that the Stormwater Management Authority is working with the Gawler River Floodplain Management Authority on future flood mitigation options. With regard to the particular questions that the honourable member asked, I will seek responses to those and bring them back.

GAWLER RIVER FLOODING

The Hon. J.S.L. DAWKINS (14:44): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray questions regarding flooding on the Gawler River, particularly in the Virginia area.

Leave granted.

The Hon. J.S.L. DAWKINS: The Bureau of Meteorology is forecasting a likely chance of a La Niña event, which will see above average rainfall between now and December, increasing the

risk of future flooding. As the minister would be well aware, the former federal member for Wakefield, Mr David Fawcett, now a senator for South Australia, successfully brought together the representatives from all three levels of government through the Gawler River Floodplain Management Authority to once and for all ensure the construction of the Bruce Eastick North Para Flood Mitigation Dam in 2007, without which the localised flooding right along the Gawler River would be much greater.

I think the minister glossed over the work that has been done there, but the reality is that it was a very long time to get all those councils to agree on those works. Certainly, those works have, in many senses, been successful in some form of control of the North Para River, particularly at a time when the South Para is full of water as well. Will the minister indicate what measures are currently being undertaken by the state government to minimise further flooding in the next three to four months in the Virginia area, particularly given the likelihood of a La Niña weather event?

Given that the Gawler River Floodplain Management Authority and associated councils and landholders have long worked on potential additional measures along the catchment, will the minister provide more information about the government's status on those potential works? He indicated that he was aware of some of them, but I would appreciate more information. Thirdly, to what extent is it the experience of people who have lived along the various stages of the catchment—both North and South Paras and the areas of the Gawler River near the confluence and also at different stages of the river where, certainly, I have greater knowledge—of it being much deeper and wider than it was at Virginia?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:47): I would like to thank the honourable member for his most important question. At the outset, I should refer back to the answer I gave to the Hon. Mr Ridgway about who was responsible for the management of this area. It is the council and the Gawler River Floodplain Management Authority who are the responsible agencies.

Of course, the honourable member in his very polite and gentlemanly way did say that it had taken an awful long time to get agreement from these local government authorities. That reminds me of a similar situation with another collective of councils, in another creek system not too far from here. I have to say, dealing with councils to come to an agreement over taking their legislative responsibilities—legislative responsibilities given to them by this house and the other place—is, I have to say, absolutely fraught. I am only too pleased—

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: The Hon. David Ridgway talks about passing the buck. It was legislation that you introduced through this chamber and you voted on that actually sets up the responsibilities for local government in these measures, Hon. Mr David Ridgway. You should know better.

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: You should know better. All you do is get up in here—

The PRESIDENT: Order! The minister has the floor.

The Hon. I.K. HUNTER: Thank you, Mr President.

The Hon. J.S.L. DAWKINS: Point of order, sir: the minister is accusing 'you' of lots of things, and I think he should be directing his comments through the chair.

The PRESIDENT: Minister, please just follow the protocols and answer the question.

The Hon. I.K. HUNTER: Mr President, I was following protocols by identifying the Hon. David Ridgway before I embarked into the plural 'you'. It should have been, of course, the singular. Of course, I will always excuse you from my derogatory comments about the Leader of the Opposition. That would never apply to you, sir.

The Leader of the Opposition comes into this place pretending he does not know what the legislative authority for certain events is and tries to throw it off, passing the buck himself onto the

state government and absolutely never admitting that the legislative responsibility lies with either local government or, as is more often the case, the federal government, which the mob over there does not even have the backbone to get up and attack on behalf of our state.

I have to say that the Hon. John Dawkins, in his very pleasant way, was referring to the difficulties in getting local government—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: —to actually come to the table and adopt a plan. However, now we have seen that—and I did note, in my response to the Hon. Michelle Lensink, that it is good to see a brief article in the paper (although you can never trust the paper, of course; I would want to go to talk to the management authority themselves about this)—and I assume, on the basis of that report in the paper, that they have actually self organised to do this next stage of work, as is proper.

STOLEN GENERATIONS REPARATIONS SCHEME

The Hon. T.T. NGO (14:50): My question is to the Minister for Aboriginal Affairs and Reconciliation. Can the minister advise the chamber on the progress of the Stolen Generations Reparations Scheme?

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) (14:51): I thank the honourable member for his question and for his interest, along with many others in this chamber, in this matter. Since the scheme for individuals' reparations was announced at the end of March this year I am advised that there have been more than 100 applications received at the halfway point in the 12 months that the scheme will be open, with the expectation that many more will likely be received before the application period ends on 31 March 2017.

As we have discussed before in this chamber, the suffering caused by forced removals over many decades in South Australia, and right around the country, was not just limited to individuals who were directly affected; whole families, and indeed whole communities, were affected by the policies of the past. The suffering inflicted on many Aboriginal people and communities manifests itself in many ways, some that can be easily seen and demonstrated but many in ways that cannot. It has affected individuals and communities in many different ways.

If we are to continue to make progress toward reconciliation in this state, and indeed across the nation, our whole community needs to be on the journey of acknowledging and recognising the immense and long-lasting damage that the past practices have caused. The Stolen Generations Reparations Scheme is, in part, an effort by the government to continue to recognise these harms and to lead others in the recognition of them as well.

Individual reparations are only part of the whole picture. Many members of the stolen generations have made it clear to me that while individual reparations are important, that is not the only, or in many cases the most important, element of our next steps. Community reparations can provide important opportunities for public recognition of the grief, the loss and the pain that whole communities have endured.

What is most important is that the Aboriginal community is deeply involved in how the second part of the scheme on from the individual reparations, the community reparations, will unfold. There is up to $6 million in the individual reparations part of the scheme and up to $5 million in the community reparations part of the scheme.

The ability to submit ideas through the Department of State Development's Aboriginal Affairs and Reconciliation Division officially commenced last week, although there have been many discussions in the lead up to this, and not just since the scheme was announced, about what forms some of these community reparations might take. It is up to whole communities, not just individuals, to determine how the funds can be best used to promote healing, recognition, commemoration, and education. Any number of uses will be possible, it will not be limited to just those.

What is best for one community may not be appropriate for another. That is only natural, because every community's experience has been different. Some of the possibilities that have arisen so far during informal discussions include things like memorials, counselling and support services, oral history initiatives, arts and cultural activities, community education and research programs, educational scholarships, and a number of others as well.

We welcome any ideas being raised. As I said earlier, we will be looking to our Aboriginal communities to gain a sense of the direction they may choose to go, and I know that the department will be visiting areas right across South Australia over the coming months to discuss those next steps in the whole-of-community reparations scheme.

I want to thank the many members of parliament who have floated ideas in the past and got this scheme to the stage it is at, but I especially want to thank the many members of the South Australian stolen generations who have patiently shared their stories, hopes and visions with so many of us over such a long period. I look forward to updating the chamber as this scheme rolls out and as we continue the journey on reconciliation and the progress on the Stolen Generations Reparations Scheme.

VALUATION PROGRAM

The Hon. J.A. DARLEY (14:55): I seek leave to make a brief explanation before asking the Minister for Employment, representing the Treasurer, questions regarding the budget.

Leave granted.

The Hon. J.A. DARLEY: Between 1971 and 1979, a rolling five-year revaluation program existed in South Australia. This was replaced by a valuation equalisation system that was subsequently replaced in 1982 by an annual valuation system using computer-assisted calculations of valuations. This system still exists today and is a leader in Australia, if not the world. The 2016-17 state budget outlines that the Valuer-General will commence a five-year rolling revaluation program in conjunction with transparency and accountability initiatives. Can the minister provide further detailed information on this program and what it entails and what impact this will have on the Valuer-General's budget?

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) (14:56): I thank the honourable member for his question. On the subject of valuations, I would not even dare try to answer the question on behalf of the Treasurer, but I will pass that on to the Treasurer and bring back a reply.

The Hon. R.L. Brokenshire: Have a go!

The Hon. K.J. MAHER: I thank the honourable senator elect for his challenge to try to answer it, but I will not do that. I will bring back an answer from the Treasurer.

ASSET RECYCLING FUND

The Hon. R.I. LUCAS (14:57): My question is directed to the minister representing the Treasurer. Has the government been advised that the commonwealth government will make payments of $42 million to South Australia as part of the Asset Recycling Fund? If so, when will that funding be paid? Secondly, given that the estimated receipts for the MAC privatisation are now estimated to be $2.1 billion, did the guidelines for the Asset Recycling Fund allow for payments of up to 15 per cent of the $2.1 billion (or about $350 million) if eligible infrastructure projects had been approved to that level of about $2.1 billion?

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) (14:57): I thank the honourable member for his question. Once again, I am happy to refer that to the minister the question was asked of—the Treasurer—and bring back a reply as soon as I possibly can.

WATER PORTFOLIO REFORMS

The Hon. J.M. GAZZOLA (14:58): My question is to the Minister for Water and the River Murray. Will the minister update the chamber about how the Premier's commitment to reforms in the minister's portfolio areas has been instrumental in South Australia becoming a cleaner, greener and more vibrant place to live?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:58): It is very pleasing to have such an excellent question from such an excellent member. South Australia has a proud legacy of leading the nation when it comes to preserving the state's environmental resources for future generations. I have to say that I think we are facing a very significant anniversary this week. I think this week marks five years since the member for Cheltenham (Hon. Jay Weatherill) became South Australia's 45th premier and it has been a fantastic five years indeed.

Whether it is our actions to address climate change, protecting native flora and fauna or locking in the national Murray-Darling Basin Plan, there has been no greater advocate for these reforms than our Premier. The Premier has shown his commitment to reforms both large scale and small throughout the past five years and has been instrumental to South Australia becoming a cleaner, greener and more vibrant place to live.

South Australia has enjoyed record investment in renewable energy through the Premier's leadership. In 2009, we announced that we would increase the state's renewable energy production target to 33 per cent by 2020. We easily exceeded the target and now have a goal of 50 per cent renewable energy by 2025. This goal is coupled with a target of $10 billion worth of investment in the sector by 2025. Currently, $6.6 billion, I am advised, has been invested to date, with almost 40 per cent of that investment occurring in the regions.

Under the Premier's leadership, we released a new climate change strategy. The strategy sets an emissions target of zero net emissions by 2050—what the science tells us is necessary if global warming is to be less than 2° and what the federal government has signed up to in the Paris COP21 accord. This also makes us the first jurisdiction in the country to set such a target.

There is also the Premier's commitment to make Adelaide the world's first carbon neutral city—a showcase for renewables and clean technology. These initiatives are gaining us world attention. I am told that, during an event at this year's Climate Week in New York, a senior executive from Siemens told a room full of business and climate leaders about Adelaide's ambitions and steps that have already been taken here. That has been brought to the awareness of a whole host of people from around the world in New York, and it is just fantastic for him to put our state on the international map as he has done.

The Premier has also helped to create record investment in nature-based tourism in South Australia. South Australia is incredibly lucky to have some of the world's most beautiful natural environments. We have funded and opened the Adelaide International Bird Sanctuary adjacent to the Upper Gulf St Vincent marine park. This means, of course, into the future, more jobs as tourists flock to visit the international migratory bird sanctuary but, importantly, it will provide threatened species with a safe haven for the future. Just last week, I joined the Premier to open the Kangaroo Island walking trail—a 61-kilometre walking and camping trail that links tourists and locals to some of KI's best locations.

These multimillion-dollar investments have come about from the Premier's economic priority to make South Australia a destination of choice for international and domestic travellers. Underpinning this principle is the goal to boost the industry to $8 billion a year and 41,000 jobs by 2020. With our nature-based tourism strategy Nature Like Nowhere Else, we hope to inject $350 million per annum into the state's economy and create 1,000 new jobs by 2020.

Under the Premier's leadership, South Australia has led the nation in successfully establishing a network of marine parks—one of the most significant conservation programs ever undertaken in this state. The Premier and I launched the 19 marine parks and 84 sanctuary zones in October 2014 to protect the significant biodiversity of South Australian waters, including the

southern right whale, bottlenose dolphin, leafy sea dragon, great white shark, the Australian pelican, the little penguin, the Australian sea lion and giant cuttlefish.

Sanctuary zones only take up 6 per cent of our waters, which gives marine animals a safe place to retreat to and breed without fishing or other disruptive activity, which will result in stronger, healthier fish and marine environments and populations into the longer term. Marine parks have been carefully designed to avoid popular recreational fishing areas. The government is investing $3.25 million over three years, starting in 2014-15, to encourage community use of marine parks and to support recreational fishing in and around our marine parks.

The Premier was also instrumental in getting a great deal for South Australia in the negotiations for the Murray-Darling Basin Plan. We had many of those opposite, joined by the usual suspects—those commentators in the media—saying that we should essentially give up on returning serious water flows to the Murray, which all of the experts and scientists told us were essential for the future health of the river, but the Premier never stopped fighting for our state. We knew that, without the national plan and without adequate water flows returning to the Murray, South Australia, our economy and our local communities would suffer, and the Coorong—truly one of the most amazing coastlines in the world—would also suffer irreparable damage.

Farmers and irrigators in South Australia would suffer with reduced access to water without the Premier's championing of South Australia and what we desired out of that plan, and residents in Adelaide, as well as those in our major regional towns, would keep living with significant water restrictions if we didn't turn around what was on offer from the federal government and the Eastern States. But the Premier stuck to his guns and, against all the odds, delivered an incredible outcome for our state, and this government will not stop fighting for a basin plan that is delivered on time and in full.

Then there is the orphan sites policy reform. South Australia has led the response at a national level on contamination on sites where it's not possible to identify who is responsible for that contamination. We have established a cross-government orphan sites committee to make decisions on behalf of government and oversee an ex gratia assistance program. As a result, property owners are now better protected against health risks, and our policies in these areas are helping to shape other states' and territories' responses to the similar problems they experience.

The Premier's steady hand at the tiller has seen South Australia become a national and world leader in so many areas of our policy crucial to our state's future in an increasingly variable world. It is no wonder South Australians have responded to his leadership so positively, and I have no doubt that South Australians will do so again in March 2018.

WASTEWATER ALLOCATIONS

The PRESIDENT: Senator-elect Brokenshire.

The Hon. R.L. BROKENSHIRE (15:05): I am not sure about that, sir, but I thank you for the call. I seek leave to make a brief explanation before asking the Minister for Water and the River Murray a question about wastewater allocations.

Leave granted.

The Hon. R.L. BROKENSHIRE: Family farmers on the Northern Adelaide Plains have been denied access to an additional 20 gigalitres, I am advised, of water from the Bolivar wastewater treatment plant that SA Water plans to release because this government has decided to hand on the water allowance to a consortium. Our northern plains producers are an important part of this state's food belt, contributing approximately 170,000 tonnes of fresh produce (and more if the government built proper levy banks), or one-third of all South Australia's horticultural production, valued at more than $340 million.

More than 400 growers north of Adelaide are highly reliant on the 17 gigalitres of recycled water currently delivered each year via the Virginia pipeline scheme, and this extra 20 gigalitres, I am advised, could not only aid their viability but could actually help them double production and thereby boost home-grown jobs for the region and grow our economy. Therefore, my questions to the minister are:

1. Can the minister confirm the allegation that this 20 gigalitres of wastewater is being put out for use because the minister's agency, the Environment Protection Authority, has threatened SA Water with a $400 million fine per year if they continue to release it into the gulf?

2. Can the minister explain why this government chose to give this water to one corporate body rather than using the release to create a water market?

3. Concerning this consortium, can the minister say how many jobs it will bring to the region, how it will benefit the South Australian economy financially and whether its operations will impact the viability of existing producers?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:07): I thank the Hon. Robert Brokenshire for his incredible, well-researched question. There is no doubt why this man is on a trajectory into higher office in the Senate: he obviously has so much to offer our state at the federal level. I can only say that I will miss him when he is gone.

I am sure that most people in the chamber, if not all, would be aware of the Northern Adelaide Irrigation Scheme—certainly the Hon. David Ridgway, the Leader of the Opposition, is aware of it because he has more positions on this scheme than he has had hot breakfasts. It is a great initiative, expanding the use of recycled water for horticultural irrigation in the Northern Adelaide Plains.

The Hon. D.W. Ridgway interjecting:

The Hon. I.K. HUNTER: Well, yes. The Northern Adelaide Irrigation Scheme project aims to expand the use of recycled water from the Bolivar wastewater treatment plant for horticultural irrigation in the Northern Adelaide Plains.

SA Water is the lead agency, conducting an EOI and being assisted by the knowledge and expertise of the Department of Primary Industries and Regions and the Department of State Development. After an extensive evaluation process of the EOI, a consortium consisting of two South Australian companies—Tonkin Consulting and Leed Engineering and Construction—together with Spanish water infrastructure and horticulture companies—Valoriza and New Growing Systems—has been selected to undertake a NAIS feasibility study.

The feasibility study will be crucial in confirming the viability of the proposal, and whether the preferred proponent can progress in the selection process. The consortium has a proposal that utilises the recycled water exclusively in high-technology greenhouses. As I understand it, their proposal means there will be no need to build over-winter storage facilities for the water, and of all proposals submitted this project is forecast to create the largest number of jobs and greatest economic benefit to our state.

Importantly, it is envisaged that the produce will be distributed primarily to international markets—and that is important. This means that new produce will largely avoid competing with current South Australian markets. Economic modelling suggests that the proposal has the potential to create over 5,000 FTE jobs at a gross value of production to the state of over $1 bill per annum over the 30-year life of the contract.

Due to the relatively constant demand profile of the greenhouses, as I said earlier, only limited storage of the winter water will be required. The NAIS project represents the opportunity to provide an additional 20 gigalitres of recycled water every year for intensive horticulture and primary production on the Northern Adelaide Plains. This will be in addition to the 17 gigalitres of recycled water from Bolivar that is currently provided each year to around 400 customers through the Virginia pipeline scheme. What an exciting time it is for South Australian irrigators.

One of the more peculiar things about this place—I am sure there are many that we could have on our list—is the sense of déjà vu that one gets when the opposition claims to support a policy and then goes out and attacks it. On 19 November last year, almost a year ago, the Hon. Mr Ridgway asked a strange question about the NAIS, where he claimed it was Liberal policy that the government stole.

The Hon. J.M.A. Lensink: Yes, it was; March 2014.

The Hon. I.K. HUNTER: The Hon. Michelle Lensink pipes up. The Hon. Michelle Lensink says, 'Yes, it was. It was Liberal policy.' At the time, I remarked that it was great to finally have the opposition come to the table to support government policy. It has also been great to hear support for the proposal from the opposition during briefings on the scheme this year which have been undertaken by SA Water. It was, until they started attacking it in the media a few weeks ago, a great idea that they were supporting. They claim to support the government, but then go out and try to whip up a frenzy in the media. It would be great for the opposition to clarify whether they support this important project and are willing to be constructive or whether they are going to continue to play politics with South Australia's future.

Irrigators in Adelaide's north recognise that the consultation and evaluation process for a major project that could deliver up to 5,000 jobs will take time, but once again the Hon. David Ridgway decided to play street politics. Rather than back the significant project for our state, the Hon. Mr Ridgway said—and I kid you not—'It would make more sense to direct the extra 20 gigalitres to existing producers so they can all expand and put on a couple of extra employees.'

A couple of extra employees versus the potential of 5,000 FTE equivalents. A couple of extra employees instead of a project that could deliver over 5,000 jobs to South Australians. That is the Liberal Party policy. That is their plan for the future. This is so typical of an opposition led by Mr Steven Marshall, the member for Dunstan in the other place. I have to say, they are always willing to attack good ideas, to background the media and to attack long-term policy, but they are never willing to do the hard yards and actually develop a plan for South Australia's economic future.

I am aware of some legitimate concerns that have been raised by some growers and industry groups about the risk of the NAIS proposal displacing existing growers from their current markets—of course I am. This is why the evaluation criteria for the NAIS EOI were weighted heavily towards export markets. These evaluation criteria have resulted in a feasibility study being conducted with a consortium that is focused on export markets. I am sure the Hon. David Ridgway knows this but has conveniently chosen to ignore it. I cannot think of any other way to explain his ridiculous antics.

I also understand that SA Water has been engaging with the Northern Adelaide Plains community since June 2015 to identify acceptable options and possible locations for recycled water storage in the Northern Adelaide Plains. We are committed to listening to South Australian irrigators and working in partnership to deliver the best outcome for our state. I am advised that discussions from the community engagement process have assisted SA Water in the development of the draft SA Water guidelines for recycled water storage in the Northern Adelaide Plains.

This is an exciting project for South Australia. We are committed to supporting South Australian irrigators as our economy transitions to the future. We are committed to creating new jobs in the north of Adelaide. Where are the Liberals? Nowhere but knocking on radio, knocking all the positive schemes that we have put in place to try to drive economic development and create more job opportunities for South Australians. The Liberals are nowhere.

The PRESIDENT: Supplementary.

WASTEWATER ALLOCATIONS

The Hon. R.L. BROKENSHIRE (15:13): My supplementary question is: can the minister confirm that the 20 gigalitres of wastewater are being put out for use because the EPA threatened $400 million in fines per year if SA Water continued to release it into the gulf?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:14): I have no idea where the honourable member gets his information. I certainly cannot confirm that at all, but to suit him, before he leaves this place, I will expedite a question from my office if they could take this on now and get it back to us before the end of the week, because the Hon. Mr Brokenshire may not be here—he may not be here for very much longer—to find out where he might have been misinformed.

WASTEWATER ALLOCATIONS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:14): Can the minister explain why the Vietnamese farming community, the Vietnamese that I visited during the floods, has no

knowledge of this particular project, in particular the water seemingly going to consortia, when most of them would like to access more water for their own operations?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:14): I cannot speak for any Vietnamese farming community whatsoever. All I can say is, as I said in my response, SA Water has been consulting on this since 2015. We made the announcement a few weeks ago. It hit the media and I guess that is where the Hon. Mr Ridgway saw his chance to change tack and attack the government after previously accusing us of stealing his policy.

WASTEWATER ALLOCATIONS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:15): I have a further supplementary. What consultation has been undertaken by the government in relation to dispersing that water to existing growers as opposed to options for storage?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:15): There is no ability to disperse that amount of water—20 gigalitres. Currently, 17 gigalitres goes through the Virginia pipeline. There is no opportunity for that 20 gigalitres to be dispersed continuously around the year without over-winter storage. There is not the demand for that amount of water. That would mean a huge amount of expenditure on pipe and dam infrastructure or storage infrastructure of some sort. That is what the Hon. Mr Ridgway sees as his policy way forward.

What we have identified is a preferred proponent who will utilise that water all year round, not necessitating over-winter storage and, additionally, the preferred proponent offers more jobs for South Australians in terms of their development. What is so hard to understand about that being the reason why they were selected as preferred proponent? They must now go through the feasibility study stage. That is what they must do. They must develop their business case.

We have some money donated to that process through the federal government, minister Barnaby Joyce made that available to us and we are very grateful for it. That is the process now that we are entering into to work up that feasibility study. But how is it hard for the Hon. Mr Ridgway to understand that a project that will utilise water all year round in high-tech greenhouses, targeted at overseas markets, is the preferred option when the job outcomes so vastly exceed any other model?

WASTEWATER ALLOCATIONS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:16): I have a further supplementary question. Can the minister confirm if his cabinet colleagues, the Hon. Tom Koutsantonis Treasurer, or the Hon. Kyam Maher minister for whatever he is, Northern Adelaide, have received offers and proposals of shovel-ready projects from local producers in that particular area?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:17): As I said, we went out to market with an EOI. We went to market with an EOI and a preferred proponent was determined through that process. That is exactly the way it should be done. It was proper and we do not go and do deals, as the Hon. Mr Ridgway might be suggesting we do, when we go through a public process of EOIs. That is the opportunity for private sector investors to put up their projects and have them analysed side by side with other proponents—and that is exactly what we have done.

WASTEWATER ALLOCATIONS

The Hon. J.S.L. DAWKINS (15:17): I have a supplementary question. Did the consultation that the minister refers to include the industry organisations that represent the various commodities that are already grown in that region to seek their indication of the potential for the use of that water?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:18): I can only assume that the consultations were widespread but I can check on that for the Hon. Mr Dawkins. However, again, it was a public expression of interest process. How can I not make it clearer to members opposite? It was a public process: come in and give us your proposals. Whose

responsibility is it then? The honourable member opposite is saying, 'Have you gone and spoken to this person, have you gone and spoken to that person?' It is their responsibility to put up projects to be analysed and tested against the others through this EOI process. That is the proper way forward. I am incredibly surprised that members of the Liberal Party would be suggesting some alternative method.

WASTEWATER ALLOCATIONS

The Hon. J.A. DARLEY (15:18): Can the minister tell us how many hectares of land are likely to be serviced by this proposed irrigation system?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:19): No, of course not, because as I said we have to go out and do the feasibility tests.

Members interjecting:

The Hon. I.K. HUNTER: Up to.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The Hon. I.K. HUNTER: No, it is over 5,000 jobs and up to 1,000 hectares but, again, it comes down to what the feasibility case will show us.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: You have the honourable members across there laughing, the Hon. Michelle Lensink and the Hon. David Ridgway laughing about the prospect of growing the economy in the north, growing jobs for South Australians. They have absolutely no commitment to the north of Adelaide at all. We saw that when they wanted to close down Holden's and they had Liberals out there urging them on. That's what you get from the Liberal Party in this state, that's what you get in terms of support for workers in the north of Adelaide: zero from the Liberals. It always comes down to a Labor government.

WASTEWATER ALLOCATIONS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:19): Supplementary: does the minister believe by his statements that the local producers are not capable of building and investing in high-tech greenhouses?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:20): Again, Mr President, the Hon. David Ridgway refuses to understand the open and transparent process that is an EOI. You go out to market and you say to businesses, 'Come to us with your proposals and we will test them; we will test them one against the other.' What is the Hon. Mr Ridgway suggesting we do instead? Go out and pick winners? Go and pluck people out of the streets? We went through a public process.

Members interjecting:

The Hon. I.K. HUNTER: This is what the Hon. Michelle Lensink can't understand. She doesn't get her head around probity. She doesn't understand probity in the first instance. You go through a public expressions of interest process and you assess what comes into you. That is the proper course of action. But why would you expect the Liberal Party here, in this state, to understand probity?

AUTOMOTIVE WORKERS IN TRANSITION PROGRAM

The Hon. A.L. McLACHLAN (15:21): I seek leave to make a brief explanation before asking the Minister for Automotive Transformation a question relating to employment data.

Leave granted.

The Hon. A.L. McLACHLAN: On 20 September, the minister tabled an answer to my question without notice regarding the employment outcomes of those who have participated in the Automotive Workers in Transition Program. The minister's answer stated that data on the numbers of workers successfully employed will be collected as this information becomes available. I ask the minister whether the government will also be collecting data on what percentage of those workers have gained full-time alternative employment and what percentage have only been able to gain part-time alternative employment? Are you collecting full-time and part-time employment statistics?

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) (15:21): I thank the honourable member for his question and his interest in automotive transformation, which marks a very different view to many of his colleagues in these matters that affect our workers in the north, as has been demonstrated over the last 15 minutes in this chamber.

I can provide an update to the honourable member on current statistics for the Automotive Workers in Transition Program. I am pleased to be able to advise the honourable member that the most recent statistics I have are program activities and outcomes to 6 October 2016 and those statistics are that 2,942 individuals have attended information sessions, resulting in 1,123 registrations, is what I am advised, that 690 individuals have been supported to access career advice and transition services, and there have been 266 activities for training tickets and/or licences approved.

In relation to statistics that are kept on the breakdown of various types of employment that are gained, I don't think we have that data available, but if there is an answer that I can bring back, I will bring back that answer for the honourable member.

GLOBAL GIG CITY NETWORK

The Hon. G.E. GAGO (15:23): My question is to the Minister for Science and Information Economy. Can the minister inform the chamber about Adelaide becoming part of the US Ignite gigabit network?

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) (15:23): I thank the honourable member for her question to do with science and the information economy, something the honourable member was recognised for in her stewardship of these portfolio areas. Many of the programs that the government embarks upon had their genesis in many of the ideas put forward by the honourable member.

As honourable members know, the last state budget delivered the largest investment in innovation we have ever seen in this state. The government committed almost $80 million to boost innovation and entrepreneurship in the South Australian economy. That included an investment of almost $5 million to connect our innovation precincts to the existing SABRENet ultra high-speed broadband network to allow innovators to take advantage of Adelaide becoming the first Gig City in the southern hemisphere; that is, precincts that are connected to at least symmetrical gigabits internet speeds.

Two weeks ago, Adelaide joined the US Ignite Gig City Network, a network of cities with superfast internet connections that are embracing innovation. Adelaide is the first international city to join this community. US Ignite is a non-profit group that is committed to the development of the next generation's applications that provide strong public benefit. Their focus is in helping cities to develop the infrastructure needed to allow the great ideas in their communities to be developed.

Cities such as Austin, Texas, Adelaide's sister city, and Chattanooga, Tennessee, have invested significant resources in transforming their cities and, in doing so, have attracted advanced technology companies, created jobs and driven the development of innovations that have improved lives. Our investment in Gig City will make Adelaide one of the most connected cities in the world.

Along with other packages to modernise the economy and the state budget, South Australia will become a first-choice destination for innovative start-ups and businesses.

By signing up to the Gig City network, Adelaide has the opportunity to lead the way in innovative developments that improve the quality of life and that provide economic opportunities in this state. We have the benefit of being able to capitalise on the infrastructure that already exists as a result of the collaboration between the South Australian government and our three universities; that is, the SABRENet network. We are the only city in Australia that has a government involvement in its university research fibre backbone.

The investment by the state government announced in the budget will allow innovation precincts throughout Adelaide to be connected to the network—precincts such as Tonsley, St Pauls, and the Stretton Centre, going from south to north. Cities like Chattanooga, Tennessee, have been transformed by high-speed internet connection and are now at the forefront of innovation and technological research. The University of Tennessee in Chattanooga has looked at the research in terms of what their gigabit internet connection has provided, and it is estimated to have provided somewhere near $1 billion in extra economic and social benefits and to have created something like 3,000 new jobs.

In addition, advances in health care with gigabit network connection are being used to transfer very large medical and research data, and that has enabled things like the printing of 3-D organs to allow researchers to examine patients without opening them up. Advances in education, with students at local schools being able to control the very large and expensive microscopes using 4K video technology, brings science into the classroom that was not available before these sorts of connections. A gigabit network also promotes and allows collaboration and innovation in other sectors such as the arts, where musicians can interact in real time with absolutely no delay.

Finally, of great benefit for places like Chattanooga was the way the city has changed and the way it views itself. Chattanooga, Tennessee, for example, has long been a city that has been involved in heavy industry, textiles and the steel industry, but has now grown and transformed on the back of their gigabit network and is attracting people in advanced technologies and the start-up community to Chattanooga. It is a great example of what can be made economically and socially from an investment in optical fibre.

I know Premier Weatherill first visited Chattanooga in 2012 and identified the city as an ideal model on which to base the transformation from a heavy manufacturing to a smart manufacturing economy that we are presently going through in Adelaide. It is from this beginning that our journey to the Adelaide Gig City network originated, and it is an excellent example of the long-term forward thinking that is essential to make this transformation.

Following that trip in 2012, the Premier identified the use of technology such as smart lighting, camera technology and other sensors, that we are now seeing in a smart lighting trial occurring in the CBD in Adelaide. The investment in such infrastructure allows the development and the deployment of these applications, and it is critical to continuing the advance towards the transformation into high-tech areas. Adelaide is taking a lead in investing in the infrastructure to make our city the most connected in Australia. We have become the first Cisco Lighthouse City in the southern hemisphere.

In April, Adelaide will host the 2017 Australian Smart Communities Summit, an event that will bring together national and international leaders at the forefront of smart community technologies. We are developing the innovative infrastructure to allow our smartest minds to develop the ideas that will shape our future economically and socially over the coming decades. The Adelaide Gig City network will provide the infrastructure backbone to support innovation and collaboration between our innovation precincts and our education and research institutions.

TATTOO INDUSTRY

The Hon. T.A. FRANKS (15:29): I seek leave to make a brief explanation before addressing a question to the minister representing the Minister for Police on the topic of SAPOL's administration of the Tattooing Industry Control Act 2015.

Leave granted.

The Hon. T.A. FRANKS: The tattoo industry once existed on the margins of our society and, increasingly, is mainstream. Between 2009 and 2014, the average growth rate of this industry was 4.7 per cent each year, and currently over 2,000 staff are working in 987 registered tattoo studios across the nation. These artists are highly skilled. They complete apprenticeships, and yet, under South Australian laws, they have been linked with so-called undesirable associations and labelled a threat.

The Tattooing Industry Control Act and its regulations came into effect in this state this year on 1 July, the stated aim being to prevent criminal infiltration of the industry. Yet, in the application of this act we are seeing the entire industry criminalised. It requires a new system of notification where applications to continue operating are subject to approval through Consumer and Business Services. The deadline for these applications across the state was 28 July. The CBS website stated that they would be processed within 4 to 6 weeks. Due to the nature of the new legislation and controls, that application process must be vetted by SAPOL.

I have been informed that many applications under the new law were made well before that July deadline, as they are keys to those tattoo artists or workers in this industry keeping their jobs. They also face penalties of up to four years in prison, or, indeed, quarter of a million dollar fines for a body corporate, should they be disqualified. It is now over 11 weeks since the deadline for those applications, and over five weeks since it was stated that they would receive notification of their success or otherwise. My office is receiving increasingly frustrated contact from those in this industry, wondering what has happened to their applications.

They have been informed that they are stuck in SAPOL. Those who have contacted Consumer and Businesses Services are now being referred to SAPOL. One complainant, who attempted to make a complaint about this to the Ombudsman's office, was referred to the Police Ombudsman for their complaint. However, the Police Ombudsman is unable to take systemic complaints, as they act only on complaints about individuals. My questions to the police minister are:

1. What extra resourcing has been given to SAPOL for the implementation and administration of the Tattoo Industry Control Act 2015?

2. When will operators and artists see this matter resolved, and their jobs assured?

3. Is no news good news, and can the minister give operators and artists an assurance that they are not currently operating outside of the law and, indeed, being criminals while waiting on SAPOL to assess whether they are criminals?

4. What procedures exist for South Australians to make complaints about SAPOL when the nature of that complaint is a systemic departmental one, as in this case, rather than an individual one?

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) (15:33): I thank the honourable member for her question and, on behalf of the Minister for Police, I will make sure that the question is taken on notice and an answer is brought back for the honourable member.

BUCKLAND PARK DEVELOPMENT

The Hon. S.G. WADE (15:33): My question is for the Minister for Water and the River Murray. Given the extensive damage from recent flooding in the Northern Adelaide Plains, will the government now concede that its plans for urban growth at Buckland Park will create a potential localised flood disaster area, and what action will the government take?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:33): It sounds to me like this was a question that was written very quickly and hastily, and directed at the minister that is not responsible for the portfolio area that the Hon. Mr Wade is seeking an answer to.

Members interjecting:

The Hon. I.K. HUNTER: If you listen to his question, and I'm sure none of you did, because you don't usually do that in this place, you would have heard that he was talking about questions related to planning and development out at Buckland Park. He segued into it, of course, on the back—

Members interjecting:

The Hon. I.K. HUNTER: —on the back of recent flooding. Of course, it's well known that that area is prone to flooding: it's known as a flood plain.

The Hon. J.S.L. Dawkins: Holloway should never have done it and you know that.

The PRESIDENT: Order! The minister has the floor.

The Hon. I.K. HUNTER: We have a number of interjections from Liberals opposite who have really been caught out; they do not have a question to ask so they have hastily written one and addressed it to the wrong minister. That is not unusual for the Liberals; they are totally disorganised in this place and in the other place, so I am not surprised.

The Hon. Mr Wade asked if the planning decision taken in terms of the area known as Buckland Park, to zone it for potential housing development, was an error in light of recent flooding. That would perhaps be the case if it were not known, previous to the decision, that it was subject to planning. This is a floodplain area, and people knew that. Indeed, I would expect, as I have answered recently with regard to a similar question, that when it comes down to the proper council processes that have to be gone through in terms of any development application—

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

The PRESIDENT: Order! The minister has the floor.

The Hon. J.S.L. Dawkins: He doesn't know what he is talking about.

The PRESIDENT: It is inappropriate for you to make that sort of comment. Minister, finish your answer.

The Hon. I.K. HUNTER: I would, Mr President, if honourable members opposite would cease interjecting into the well-informed commentary that I was offering to the chamber. These issues will be attended to in any application for a development; they would have to be. I could not imagine any knowledgeable buyer wanting to buy property or houses in such an area if they were not assured that the issues to do with flooding would be managed appropriately by the developer.

Motions

CHILD DEVELOPMENT AND WELLBEING BILL

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) (15:36): I move:

That this order of the day be discharged.

Motion carried; bill withdrawn.

Bills

CHILDREN AND YOUNG PEOPLE (OVERSIGHT AND ADVOCACY BODIES) BILL

Second Reading

Adjourned debate on second reading.

(Continued from 20 September 2016.)

The Hon. J.A. DARLEY (15:37): I rise in support of this bill, and am glad that the government has finally seen fit to move ahead with the proposal to introduce a commissioner for children and young people.

The suggestion to establish a children's commissioner was first made to the government by the Hon. Robyn Layton in her 2003 report. Since that time our state has had about half a dozen

investigations into our child protection system in the form of parliamentary inquiries, royal commissions and coronial inquests and it is now, 16 years later, that the government has finally decided this is a matter worth taking action on.

The government may accuse the upper house of stalling its previous attempts to establish a children's commissioner; however, it is the government's unwillingness to negotiate on the matter which has resulted in its previous bill sitting on our *Notice Paper* for nearly two years. The people of South Australia have waited a long time for this, and it is important that we now take the time to get it right. Belinda Valentine, grandmother to young Chloe Valentine, agreed with me on this sentiment when we discussed this bill.

As I mentioned before, the government introduced another bill in 2014 which established a children's commissioner. This bill is still on our *Notice Paper* because there was disagreement over whether the commissioner should have investigative powers or not. Belinda Valentine, grandmother to Chloe Valentine, came out last year and strongly stated that a commissioner without investigative powers would essentially be a toothless tiger. I, and the majority of members in this chamber, supported this position.

The bill before us now has given the commissioner investigative powers; however, only if matters relate to systemic issues. The commissioner will have the power to investigate individual issues but only if they relate to systemic issues. To me this seems a bit like putting the cart before the horse.

How is the commissioner meant to know if an individual matter relates to a systemic issue if they do not investigate? It was only through investigating the matters relating to Chloe Valentine's individual case that the Coroner was able to uncover systemic issues within Families SA that caused him to describe Families SA as being broken and fundamentally flawed. Prior to this, all those involved denied that there were any issues within the agency and, indeed, supported the actions of Families SA staff.

I note that clause 12 of the bill states that the commissioner may conduct an inquiry if they suspect that the matter is of a systemic nature—that is to say that the threshold would be low enough for the commissioner to investigate individual matters if they have the mere suspicion that it may relate to a systemic issue. I would be grateful if the minister could provide details on this and clarify my understanding that a person would only have to make a complaint about a matter and accuse this of being demonstrative of a systemic problem to trigger the commissioner's ability to conduct an inquiry.

I understand that part of the reason the government did not want the commissioner to have investigative powers was that they did not want the commissioner to become a clearing house for complaints. In fact, the Premier has said on a number of occasions that Families SA is swamped with inquiries and he did not want the commissioner to be similarly swamped. I agree that we did not want the commissioner to be a clearing house, but it is important that those with concerns—and, clearly, there are many people with concerns—have a clear indication of where they need to take their complaint.

I understand that the Ombudsman will be given more powers under this bill to investigate matters and to streamline the investigation of complaints. I am advised that the government plans on having a public campaign to educate the public on where they can go with their complaints and I would like the minister to provide more details on this. In particular, I would like further information on whether this means there will be more staff for the Ombudsman or the Health and Community Services Complaints Commissioner and the budget implications for this. I would also like information on what the public campaign will entail, who it will target and the method by which the information will be disseminated.

Further to this, using the example of Chloe Valentine, can the minister provide details of where Belinda Valentine would have gone with her complaints and the exact process of how her complaint would have been handled? Would the commissioner have been able to conduct an inquiry? My office has discussed the bill at length with Belinda Valentine, who raised some issues with regard to how complainants were treated. She is particularly concerned that the commissioner

has the discretion to refuse to investigate matters and that there did not seem to be any further recourse available to complainants.

As such, I will be moving an amendment to the bill which will allow persons who have approached the commissioner but whose request to investigate a matter has been declined by the commissioner to approach the minister, who can reconsider the matter and advise the commissioner. This will also ensure that, if matters go wrong in the future, the minister cannot then claim that they did not have any knowledge of the issue.

Another issue that Belinda raised was the fact that complainants were not given any response or acknowledgement of their complaint. A person who is unaccustomed to dealing with government departments may not be aware that it is best practice to take down the details of conversations, including who they spoke to and when. Belinda raised concerns that there was no paper trail to demonstrate that contact had been made with the relevant agencies. As such, I will be moving amendments which will require agencies to provide an acknowledgement of a complaint in writing. Not only will this strengthen accountability, but I believe it is a practice that should be commonplace within the public sector.

Finally, I note that the provisions in the Children's Protection Act with regard to the independence of the guardian have been removed and I ask the minister to advise why these were not carried over to this new bill. I look forward to receiving the minister's responses to the matters I have raised today.

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) (15:44): I thank honourable members for their comments and overall general support in relation to the establishment of a commissioner for all children and young people, which is a key feature of this bill.

On behalf of the government, I would like to respond to some of the various questions that were asked during the debate, beginning with the concern raised by the Hon. Dennis Hood who notes the extensive powers provided by clause 12 of the bill and is concerned that the commissioner for children and young people may, by his own volition with little justification or subject to few checks and balances, inquire into any private organisation.

As stated in the second reading, the bill was drafted with the purpose of implementing not only specific recommendations but also views expressed by Commissioner Nyland within the text of the Child Protection Systems Royal Commission report itself. I refer members particularly to page 598 of the royal commission's report where Commissioner Nyland states:

> The capacity to inquire into systems should not be restricted to formal, government-based systems. It should extend to informal systems that have developed in the community, and which involve areas or issues which have the potential to have great impact on children's lives, or that may affect a large number of children.

The powers recommended are necessary for the children's commissioner to effectively perform his or her functions. Restrictions of these powers risk frustrating the commissioner's capacity and undermining public confidence in the office's overall capacity.

The extensive powers of the royal commission will not only be available to the commissioner for children and young people in undertaking an inquiry pursuant to clause 12 of the bill, which is one of many functions conferred upon the commissioner for children and young people. It is correct and intentional that these powers be able to be used with respect to government and non-government sectors that have a connection with children and young people in this state.

This connection could, for example, be a contractual arrangement between the government and a not-for-profit to recruit and train foster carers. An alternative example would be an independent, self-financed not-for-profit that provides outreach services to young teenagers. The scope of the agency's organisation and providers is vast, and the government will be seeking advice as to the appropriate method by which to identify those relevant organisations and bodies currently falling outside the scope of state authorities as defined in the bill. The appropriate place for this to be achieved is in the regulations. I am advised that there is precedent for this approach, namely regulation 19 of the Independent Commissioner Against Corruption Regulations 2013.

The parameters of an inquiry conducted by the commissioner are set out at clause 12(1) of the bill, namely the policies, practices and procedures as they relate to the rights, development and wellbeing of children and young people generally or a group of children and young people generally. The safeguards regarding the scope of the commissioner's powers whilst undertaking an inquiry are, in the government's opinion, sufficient.

Firstly, at clause 12(2) of the bill, there are three requirements that the commissioner must have regard to before undertaking an inquiry: firstly, the matter raises an issue of particular significance to children and young people; secondly, the matter is of a systemic nature, not an individual circumstance; and, thirdly, it is in the public interest to conduct the inquiry. Further, clause 15 of the bill places a mandatory requirement on the commissioner to prepare and deliver a report on the inquiry to the minister, who in turn must cause a copy of the report to be laid before both houses of parliament for scrutiny.

There is no opportunity for the commissioner for children and young people to exercise the powers set out in clause 12 without the minister or, indeed, the parliament being made aware of it. To do otherwise would be outside the jurisdiction of his or her powers. Such conduct would undoubtedly trigger clause 6(8) of the bill that allows the government to suspend the commissioner from office with the ability thereafter to remove him or her from office.

I now turn to address comments and questions from the Hon. Tammy Franks, who noted that the government received 156 written submissions from stakeholders and members of the community with regard to this bill. I seek to clarify for the purposes of *Hansard* that this was quoted in the second reading speech as being in relation to the government's original bill to establish a commissioner for children and young people, namely the Child Development and Wellbeing Bill 2014, not the current bill.

The government has provided the external consultation submissions that were not marked 'confidential', received in relation to the bill, to those members who have requested them. I am advised that the entirety of the bill was made publicly available through the Attorney-General's Department website on 31 August 2016, with the consultation period stretching to 15 September 2016.

The Guardian for Children and Young People has been informed that the charter of rights for the children and young people in care, which is currently prescribed in part 7A, division 3 of the Children's Protection Act 1993, has not been carried across to this bill but will be retained, as the Deputy Premier in the other place has announced. The government is in the process of drafting a new child protection act, and the charter will more appropriately be captured in that bill.

The Hon. Tammy Franks also sought clarification about the meaning of 'matters of a systemic nature'. I am advised that this term attracts no special definition for the purposes of the bill, other than its ordinary meaning. It has been noted, both in this place and in feedback received during consultation, that section 52AB of the Children's Protection Act 1993 has not been carried across to this bill.

Section 52AB currently provides for the independence of the Guardian for Children and Young People from direction of the minister and government. The independence of the guardian remains and is now reflected in clause 18(2) of the bill, which states:

> (2) The Guardian is independent of direction or control by the Crown or any Minister or officer of the Crown.

This approach achieves the same outcomes as section 52AB, but is in accordance with modern drafting practices. On behalf of the government, let me be clear: there is no intention or underhand motives at play to change or water down any existing functions of the current oversight or advocacy bodies.

Members will also note that section 52B of the Children's Protection Act 1993 has not been carried across in the new bill. Section 52B states that the minister must provide the guardian with staff and other resources that the guardian reasonably needs for carrying out the guardian's functions. This was because the government had been advised that such provisions do not reflect current drafting practices, and funding of the guardian will be done through the usual appropriate

processes. In any event, the government has listened to stakeholders' concerns and will be addressing this in the committee stage and reinserting the clause in the bill.

The Hon. Tammy Franks also sought clarification about the employment status of the guardian's staff and how that compares with the staff of the commissioner for children and young people in the bill and the reasons for this approach. I am advised that clarification of the employment status within the public sector is to be found in the Public Sector Act 2009, which makes provisions for employment management in government matters relating to the public sector of the state. Section 25(1) of the Public Sector Act 2009 states that:

> Subject to subsection (2), all persons employed by or on behalf of the Crown must be employed in the Public Service under this Act.

I note, for the sake of completeness at this point, that the current Children's Protection Act 1993 does not make express reference to the status of the guardian's employees. Clause 19(3) of the bill confirms that the guardian is not a public servant and is therefore excluded from the Public Service pursuant to section 25(2)(p) of the Public Sector Act.

The commissioner is also excluded from the Public Service pursuant to section 25(2)(q) of the Public Sector Act, which states that he or she is:

> (q) a person whose terms and conditions of appointment or employment are under another Act to be determined by the Governor, a Minister or any specified person or body;

This means that the instrument of appointment, which contains the terms and conditions, will govern their employment rather than statutory provisions set out in the Public Sector Act. As the guardian's staff do not fall into any exemptions, section 25(1) of the Public Sector Act will apply, despite not being expressly stated in the bill, in accordance with modern drafting practices.

At clause 9 of the bill it states that the commissioner may engage employees on terms and conditions determined by the commissioner. Clause 9 of the bill is consistent with and replicates the approach taken for employees engaged by the Independent Commission Against Corruption pursuant to section 12 of that act.

The Public Sector (Honesty and Accountability) Act 1995 only applies to Public Service employees and imposes duties of honesty and accountability on public sector officeholders, employees and contractors. Given the nature, role and functions undertaken by the commissioner for children and young people, it is appropriate that the duties in the Public Sector (Honesty and Accountability) Act apply. Clauses 16(14) and 9(2) of the bill ensure that these duties apply to the commissioner and his or her staff, despite not consulting public servants. With those words, I look forward to the committee stage and the passage of this bill.

Bill read a second time.

RETIREMENT VILLAGES BILL

Committee Stage

In committee.

(Continued from 27 September 2016.)

Clause 23 passed.

Clause 24.

The Hon. S.G. WADE: I just wanted to flag that I have some issues I would like to raise in relation to the issues dealt with in clause 24, but I think it is probably more appropriate to do that when we consider the review because I believe they are matters for future consideration rather than consideration in the context of this bill. So, I indicate that I will be addressing that when we consider the review mechanisms under this bill.

Clause passed.

Clause 25 passed.

Clause 26.

The Hon. S.G. WADE: I move:

Amendment No 7 [Wade–1]—

Page 18, lines 2 and 3 [clause 26(2)]—Delete '(or a person claiming under the resident)'

This is a key provision of the bill. It requires an operator to repay a former resident or their estate the exit entitlement if 18 months after ceasing to reside in the village or giving notice of the same their interest in the village is not sold. Significantly, the statutory payment provision was not recommended by the select committee. It was only introduced to the legislation in the context of the draft bill distributed last year.

I think it is really important that we be clear about the mischief that we are trying to address in this bill: that is, that older South Australians wanting to leave their retirement village residence but who are unable to access their exit entitlement until their interest has been sold are, from time to time, unduly delayed in being able to leave and receive their entitlement. The Liberal team agrees that the problem is real and that a focused statutory buyback is a measured response to the mischief. However, our view is that the provision is drawn much more broadly than it needs to be, in particular it gives an automatic payment to beneficiaries of deceased estates.

The Liberal team does not consider that the state should legislate to enforce a buyback in favour of beneficiaries of the estate of deceased residents of retirement villages. Executors of wills have a duty to dispose of the assets of the deceased, such as a family home, without being able to force anyone else to buy it. We do not see why an interest in a retirement village should be treated differently from other assets of the estate. In fact, the Liberal team asserts that it would be unhelpful to do so.

If the beneficiaries have the capacity to force an operator to buy their interest there is at least the risk of a conflict of interests and even the risk of elder abuse. Potential beneficiaries of an older person may put pressure on a person to move into a retirement village unit to protect the value of their estates and to make it easier for them to realise the value of the estate on the death of the person. Limiting the scope of the buyback to residents current and former would also dramatically reduce the risk to the industry. The Liberal team considers that a more appropriate recognition of the interests of beneficiaries would be to allow, after a nine-month period, a beneficiary or a resident to take joint control of the marketing of the unit, and we have an amendment to that effect.

I would also argue that allowing deceased estates to access a statutory buyback reduces the housing options for older South Australians by undermining the viability of current operators and discouraging future investment. In relation to supply, I remind the chamber that retirement villages are an important option for people and support active ageing: 7 per cent of South Australians currently live in retirement villages, a number which I am told is significantly higher than other states and territories. The number of registered retirement villages has increased 14 per cent in the last seven years. It is very important that we not just sustain that growth but that we increase the rate of growth in this sector to accommodate our ageing population.

In 20 years, on my, shall we say, amateur calculations, there will be 347,000 South Australians over the age of 70. That is a growth of 66 per cent. On the basis of 8 per cent of people over 70 living in retirement villages and about 1.4 residents per residence, we would need over 7,730 more retirement village residences in the next 20 years. That is a 43 per cent increase in the supply of retirement village residences in the next 20 years. Current operators will need to make financial provision for buybacks under this bill rather than putting those finances into investments.

It is hard to quantify the impact because the government has not done a cost-benefit analysis but the prudent step would be to give priority to older people and, in my view, not just older people who seek to leave a retirement village but also protect older people in terms of the supply of retirement villages in the future. I also highlight to the chamber that I believe that this bill is dangerous because it could lead to significant market concentration.

The retirement village industry is predominantly a not-for-profit industry. Currently, as I understand it, 74 per cent of villages are operated by not-for-profit operators and there is a significant proportion that is for-profit operators who are small to medium operators. I think it is important that

we realise that the not-for-profit sector is more likely to be cash poor and that the impact of the current provisions may well lead to a significant market concentration.

In terms of small operators, data provided by the government shows that 31 per cent of operators have less than 10 independent living units. Almost half of the operators maintain less than 50 units across all their villages, so that means that almost half of the operators are what I would describe as small operators and that small operators are disproportionately not-for-profit and regional and therefore they are particularly at risk from this provision. I remind the house that we are not just legislating for large, cashed-up corporate entities. Less market diversity and less competition are not in the interests of consumers.

I would like to finish my comments on moving the amendment by quoting a letter that has arrived since we last debated this bill. My understanding is that this letter has been provided to all members of this place, and also to the government. It is signed by 12 operators, a range of operators, both for-profit and not-for-profit, and also small and large operators. This is my copy, and it says:

Dear Mr Wade,

The signatories to this letter, who represent a broad cross section of the retirement village industry in South Australia (including not-for-profits) met on Thursday, 6 October 2016, to discuss this Bill.

We are alarmed at the way in which this government has not properly considered the consequences of the Retirement Villages Bill 2016.

We do not believe that the views of large sections of the industry, particularly smaller and regional operators, have been heard.

The major issue of concern is around the statutory buyback. Not one of the signatories to this letter indicated that they would find development of new retirement villages in South Australia attractive under the proposed legislation. Much needed future investment would be aborted. It is no coincidence that no new villages have been foreshadowed since the intent of the Bill became known. Plans for over 1,000 units would be immediately shelved by operators in yesterday's meeting alone.

Further,

- The proposed legislation is retrospective and overrules current contracts.
- The buyback provisions have the capacity to render operators bankrupt in poor property markets, which we experience from time to time. This is particularly salient in rural and regional areas.
- Future supply will be severely impacted. Not only will smaller operators withdraw from the market, but Banks have indicated that they will not finance developments in South Australia under the proposed Act.
- The value of villages will fall. This will impact small business and ultimately retirement villages residents.
- Any future development will only be able to be undertaken by large national groups with big balance sheets. Do we wish for our future seniors' housing needs to be in these hands?

We understand the concern of older South Australians who feel 'trapped' in a retirement village, wishing to leave but delayed by the sale process. We accept that people like this need a way out.

However, a unilateral buyback is 'a sledgehammer to crack a nut'. If the industry is destroyed, this issue will not be a problem.

We do not believe that the government has properly researched or consulted on this bill, has turned a deaf ear to small business, and does not understand the consequences. No cost benefit analysis was done and no regulatory impact statement.

We would like the bill deferred. We suggest that a broad-based steering committee be established, including representatives from both the industry and SARVRA, to try to find the right balance in this legislation. The industry will fund this initiative.

We do not need to preside over the death of another industry in this state particularly given the increase in accommodation needed over coming decades to house an ageing population. It is our view that retirement villages, in conjunction with homecare operators, will have an increasing role in looking after the needs of our seniors.

Health and aged care is currently one of our state's few growth industries. It will not provide growth or jobs if this Bill proceeds.

So, the council is put in the predicament of having a very strong letter from industry operators. They tell us that, amongst those 12 signatories alone at that meeting, they are shelving 1,000 units. As I said before, units with a residency factor of about 1.4 per unit, that's about 1,500 South Australians

who immediately would have their housing options constrained. Yet we have no idea what the long-term impact would be. They indicated that there had been no new villages foreshadowed since the bill had been known.

The impact on the industry is clearly stark. I note the concern of the industry that no cost-benefit analyses were done and no regulatory impact statement was done. I note the request of the committee that there be a steering committee established to consider the legislation. The opposition is of the view that we, as a parliament, should pause and give the government an opportunity to do a proper analysis.

We are not being prescriptive on what that analysis might look like but clearly, with a government that is not willing to come to the table with a clear cost-benefit analysis and not willing to do the work, with industry players making very strong statements that they—with the decision-makers who drive the development of this industry—are not in a position where they can invest and provide the services that older South Australians need, I think it would be reckless to let this bill proceed without proper analysis.

On that basis, I suggest to this house that we should pause at this point. We should pause at the committee stage to give the government an opportunity to provide us with proper analysis and to provide us with assurance that this legislation will not do damage. At the moment, the information that has been provided to us is that to address a mischief for a relatively small group of people—which I am told by the industry is probably about 3 per cent of people who leave retirement villages—we are threatening the future supply for 100 per cent of residents. So, I intend—

The Hon. I.K. Hunter: Well, let me respond.

The Hon. S.G. WADE: I take the minister's point. I will let the minster respond, but I would foreshadow that I intend to move that we report progress.

The Hon. I.K. HUNTER: I thank the Hon. Mr Wade for giving me an opportunity to respond to his comments. The amendment moved by the Hon. Mr Wade—there are a number of others too, but we will come to those in due course—seeks to exclude deceased estates from the statutory requirement to repay a resident's exit entitlement 18 months after the resident vacates their village.

There are a number of very good reasons why this amendment should not be supported, and the key one is this—I will come back to this later again, but I will just say it now: operators will be able to apply to the tribunal under section 26(7) for an extension of the time frame for repayment if they are unable to repay an exit entitlement to an estate at 18 months. So there is already, in this legislation before us, an ability for operators to apply to the tribunal—which is the appropriate place to give consideration to this—for the opportunity to extend, if their arguments are strong enough to do so.

There are many other arguments that I would like to make in response to the Hon. Mr Wade's comments as to why we should not be supporting this amendment, and then I will come to address the letter the Hon. Mr Wade referenced as well and give some response about its contents. The amendment creates, fundamentally, two classes of people. The Hon. Mr Wade's amendment creates two classes of people or two classes of resident, I should say: those who are alive, who will receive payment in 18 months; or the estates of those who have passed away may continue to wait indefinitely for finalisation of the estate. There is no control on that.

We should ask ourselves a question: would the repayment time commence from the time the resident leaves the village or the date of death? A resident who leaves a village and nine months later, for example, passes away, are they or their estate or their heirs no longer entitled to a timely repayment? We already know the degree of anxiety that people experience—any of us here will have had to deal with relatives in this situation—when it comes to the terms of their estate, their wills. If it is entirely disbursement to the inheritors of their choice, why would we be creating, in this amendment by the Hon. Mr Wade, further anxiety, when the whole intention of this bill is to remove and relinquish that anxiety from people in this situation? I do not know why we would.

Estates also deserve a finalisation date, the government believes. One of the compelling reasons to introduce a statutory repayment period was to address longstanding contract settlements, with an estate being tied up until a unit is licensed again. This provision provides certainty to residents

and their estates as to when the repayment of the exit entitlement will occur. The government believes they should be treated in exactly the same way.

If I can turn to the letter referenced by the Hon. Mr Wade in his contribution. It is on the paper of Karidis Corporation Limited. My copy is signed by Mr Gerry Karidis AM. I do not have any other signatures annotated at the back of mine, so when it says, 'A broad cross-section of the retirement village industry in South Australia met on Thursday 6 October to discuss this bill,' I am not aware of who of they may be. I can assume, I suppose (and I may be wrong), that it was a meeting of the Property Council's retirement living committee. Members will understand and remember that the Property Council has been recalcitrant in dealing with these issues, and in that light the letter is not all that compelling.

We also need to remember that extensive consultation has occurred with industry, residents and other interested parties over the development of this bill. There were 13 public forums on the RV bill and over 300 submissions received, and my information is that the Karidis Corporation did not provide a submission or comment on this bill.

I also understand that particular attention was paid to smaller and regional operators about the impacts of the bill, and members may recall that they originally proposed a 12-month repayment period. The time frame was extended to 18 months in response to concerns raised, which, I think, was an adequate and sensible compromise. The other thing to bear in mind is this: I am advised that there is a total of 92 villages in rural and remote SA and the majority advise that an 18-month statutory repayment period will not affect their day-to-day business. I am also advised that 60 of these already repay within 12 months or less.

So in terms of the content of the letter, I can understand where it is coming from but it is incredibly alarmist. To say that development of new retirement villages in South Australia will not be attractive and that no new villages have been foreshadowed since the intent of the bill became known is not, I think, correct. The retirement village sector is extremely active, and the prospect of legislation has not slowed or deterred operators.

I am advised that five new villages were registered in the 2015-16 financial year and media reports have announced a number of village developments this year, including the Carmelite premium apartments at Myrtle Bank by Southern Cross Care, Uniting Community developing the Maughan church site, and The Brougham on Brougham Terrace in North Adelaide overlooking the city. Life Care has announced a development on the grounds of Pedare College in Golden Grove, and I am also advised that a new boutique retirement village is proposed on the grounds of the former Underdale bowling club.

Those are just a few points in rebuttal to the letter that the Hon. Mr Wade read into the record, and I conclude with this: the ultimate reason the Hon. Mr Wade's amendment is not needed is because of the 'get out' provision in the legislation. It is simply this (and it is what I started with): operators will be able to apply to the tribunal under section 26(7) for an extension of the time frame for repayment if they are unable to pay an exit entitlement to an estate in 18 months. That is sensible, that is proper. For the life of me I cannot understand why you would want to set up in legislation two classes of people, two classes of residents: those who are living and those who have died.

The Hon. S.G. WADE: I would like to respond to a couple of points the minister made. The legislation already has more than one class of people; we have aged care residents, and people exiting aged care residences, for a start. Why we would want to establish two classes of people is because in our view this should be focused on the interests of older South Australians, and if providing a benefit to a large number of deceased estates is going to jeopardise the future provision of housing options for older South Australians then we stand with older South Australians.

In relation to the minister's alleged rebuttal of the letter, my understanding is that that meeting was not a meeting of the Property Council. In terms of the suggestion that there has been a range of retirement villages announced since the legislation was announced, I spoke to a senior member of the management team of one of the developments the minister refers to, asking how retirement villages can be so bad if they are going ahead with X development, and was told that all relevant contracts were signed before the draft bill was tabled.

The Hon. I.K. HUNTER: One final point on this. If we are trying to introduce and bring forward legislation in the interests of older South Australians, surely to goodness it is in the interests of older South Australians that their estates are treated no differently than they are when they exit retirement villages. If you ask older South Australians they would tell you that is absolutely one of their key interests.

The Hon. S.G. WADE: I might just glance around the room and see if anybody else would be wanting the call but, if not, I move:

That the committee report progress.

The committee divided on the motion:

Ayes.....9
Noes.....6
Majority.....3

AYES

Darley, J.A.	Dawkins, J.S.L.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	McLachlan, A.L.
Ridgway, D.W.	Vincent, K.L.	Wade, S.G. (teller)

NOES

Franks, T.A.	Gago, G.E.	Gazzola, J.M.
Hunter, I.K. (teller)	Maher, K.J.	Ngo, T.T.

PAIRS

Brokenshire, R.L.	Malinauskas, P.	Lucas, R.I.
Kandelaars, G.A.	Stephens, T.J.	Parnell, M.C.

Progress thus reported; committee to sit again.

CHILDREN AND YOUNG PEOPLE (OVERSIGHT AND ADVOCACY BODIES) BILL

Committee Stage

In committee.

Clause 1.

The Hon. K.L. VINCENT: Dignity for Disability has some reservations about supporting the original bill and looks forward to seeing some amendments which, we understand, are in the pipeline as I speak. A fundamental shift is needed for the system to truly hear and understand the experiences of young people. The royal commission often heard of children's needs not being met because attention was focused on what the adults around them needed and wanted rather than what they needed and wanted.

The large number of reports, inquests and inquiries on child protection, particularly in recent years, shows the persistence of the problem in South Australia and, indeed, elsewhere. Notwithstanding those reports' recommendations, the system remains largely ill-equipped to respond to the needs of many young people at risk in our community and in out-of-home care.

In her report, Commissioner Nyland states that the royal commission's recommended reforms will not fix the system. At best, they may improve it and start a process of ongoing evaluation and improvement. In her inquiry, Robyn Layton envisaged a framework that was never fully realised, and how we proceed now seems to be based on what we implemented back then out of a suite of recommendations, when we chose a different structure than what was originally recommended.

Commissioner Layton envisaged a children's commissioner and, dragging our feet behind other states, to say the least, it seems that South Australia will finally move to that model. That is a good thing. Yet, what is that role about? If we want to give children and young people a voice, and goodness knows it is certainly the rhetoric that we have been hearing, then it must be about the whole of children's lives, not just when things go wrong. Child protection matters. In fact, it is impossible to think of a single issue in our community that matters more, ultimately.

Yet, young people's lives, for most children, most of the time are good, and take place in an environment of home, child care, preschool, school and in the community. Our children's commissioner needs to be concerned with these lives as much as with the lives of children and young people who have come to the attention of the authorities for the terrible cases of abuse and neglect that we will hear about seemingly far too often, particularly in recent times. The Aboriginal Legal Rights Movement and Aboriginal community leadership reference group have expressed concerns about this bill and, in particular, that it does not clearly articulate provisions for Aboriginal children and young people. I know that certain members have moved to improve that.

Yet, we know that Aboriginal children make up 50 per cent of child protection matters before our courts. Close to 40 per cent of children who live in out-of-home care in South Australia are Aboriginal, and half of the children in residential care are Aboriginal, so we must ensure fair representation within the oversight structures that we are now establishing. From a document provided to me from the Aboriginal Legal Rights Movement (the ALRM) I quote:

> The state cannot assume that without legislated responsibility specific to Aboriginal perspective and cultural safety, that non-Aboriginal people within the oversight and advocacy bodies have the skills and knowledge that will ensure the rights, safety and wellbeing of Aboriginal children and young people.

We need to recognise the over-representation, in particular, of Aboriginal children within the oversight of our child protection system, and that it is urgent. The passage of this bill has become urgent to meet the time lines set by the government, and this is not the best way to enact our democracy. The groups who have made their views known will, I trust, have their suggestions included in this bill, and Dignity for Disability certainly look forward to further debate and supporting those views being enacted. For that reason, we support the bill.

The Hon. K.J. MAHER: I thank the honourable member for her contributions on this bill and her interest in this matter and I want to thank other honourable members in this place. I know many have had ongoing discussions with the government and with each other in making sure that we can progress this bill as quickly as possible.

The Hon. S.G. WADE: I would like to briefly reflect on what has happened in the period since I gave my second reading contribution. I mentioned in my second reading contribution that, whilst the opposition appreciated the bill was not perfect, we did not want perfection to get in the way of progress, and that we were supporting the government progressing the bill without amendment. In the intervening period, a group of child welfare and protection agencies and offices made submissions to government, and the Attorney-General, on behalf the government, indicated that he was favourably disposed to a number of those amendments.

That has led to discussions amongst a number of members of this place, which will lead to a series of amendments being put before the council this afternoon which, in normal circumstances, would be inappropriately short notice. I think all members have had the SACOSS letter. The amendments do focus around the SACOSS issues. What I mean by SACOSS is I am talking about the organisations on behalf of whom SACOSS is speaking. I think SACOSS, in that letter, appropriately indicates that none of these issues are new: that they are well ventilated issues.

There has been significant and constructive discussion, certainly between the government and the opposition, and I understand the government and other members of this house, to finetune those amendments, so I believe that they are an improvement to the bill. They are an improvement to the bill that can be made in a timely fashion.

In my discussions with the Attorney-General he certainly acknowledged that there may well be further opportunities to improve the statutory framework, but he indicated that the government does have legislation that it is bringing forward, particularly in the child protection bill, which will give

this council and the parliament as a whole an opportunity to take up other suggestions that have been made in these discussions.

So, if you like, the government has taken the opportunity to improve the bill in the context of the suggestions made in the SACOSS letters. It is fully acknowledged that there are other very worthy points raised in submissions such as that from the Australian Medical Association and the Law Society; those matters appropriately can be addressed as we look further at strengthening the statutory framework.

In that context, I welcome the undertaking that the Attorney-General has given to brief members of the parliament in the near future on the government's legislative program coming out of the Nyland royal commission, and I hope that we as a parliament can play our part constructively to strengthen the statutory framework, which is our part in providing a better environment for the development, wellbeing and protection of the children of this state.

The Hon. T.A. FRANKS: Briefly, I rise on behalf of the Greens to give some information about the process on which we are about to engage in this committee stage. It is at short notice that some of these amendments sit on our chamber tables, but in this committee process I am looking forward to a very positive outcome. With that said, I thank Brette Schumann from the Attorney' office, who provided the submissions I had been asking for in the second reading, some time around the South Australian storm weather event, so I particularly thank her for that.

Certainly, the Greens are strongly advocating that we come into this chamber fully informed, particularly where the public and particular advocacy groups have made submissions to a particular piece of legislation. It is the best outcome if all members of the parliament, not just the government benches, are well informed.

I also thank SACOSS, along with the other groups who have raised as a group, in a considered and organised way: YACSA; the Office for the Guardian for Children and Young People; the Aboriginal Legal Rights Movement; the Child and Family Welfare Association SA; and the Council for the Care of Children in that letter sent to crossbenchers and particular key members engaged in this debate, outlining their key concerns with the bill as it stood as it was passed in the other place, that is: the referencing of the UN Convention on the Rights of the Child; the UN Convention of the Rights of Indigenous Peoples; the involvement of children and young people in the recruitment of the commissioner and in reporting the focus on the role of the Children's Development Council on the outcomes, framework for children and young people; retaining the independence and capacity of the Guardian for Children and Young People; recognising the special needs of Aboriginal children and young people for providing for the appointment of a commissioner for Aboriginal children and young people; and reviewing the legislation after two years, given the specific time factors and time pressures that saw this bill pass through the other place in less than half an hour.

I thank them for the work and the effort that they put into that. I have certainly taken up and circulated amendments to effect a number of those calls made by the sector, but I note that today the government has also circulated amendments and the Hon. John Darley has had amendments for some time.

I will indicate my position as we progress through the committee stage, but certainly I commend the government for coming to the table, and thank the Hon. Stephen Wade in particular for his leadership role in this and look forward to a speedy committee stage, given the difficult circumstances in which we find ourselves.

Clause passed.

Clauses 2 and 3 passed.

New clauses 3A and 3B.

The Hon. K.J. MAHER: I move:

Amendment No 1 [Emp–1]—

Page 5, after line 25—Insert:

3A—Meaning of rights, development and wellbeing

(1) For the purposes of this Act, a reference to the *rights* of children and young people will be taken to include a reference to rights recognised in accordance with statutory and common law, rights set out from time to time in the *United Nations Convention on the Rights of the Child* and rights set out in any other relevant international human rights instruments.

(2) For the purposes of this Act, a reference to the *development* of children and young people will be taken to include a reference to the physical, social, emotional and intellectual growth of each individual from birth through to adulthood.

(3) For the purposes of this Act, a reference to the *wellbeing* of children and young people will be taken to include a reference to—

(a) the care, development, education, physical and mental health and safety of each individual from birth through to adulthood; and

(b) the cultural welfare and wellbeing of children and young people.

3B—State authorities to seek to give effect *to United Nations Convention on the Rights of the Child* etc

Each State authority must, in carrying out its functions or exercising its powers, protect, respect and seek to give effect to the rights set out from time to time in *the United Nations Convention on the Rights of the Child* and any other relevant international human rights instruments affecting children and young people.

The government has received a wide range of responses in relation to the bill as a result of the public and community consultation that took place during September 2016. A number of not-for-profit agencies in particular contributed by providing often detailed submissions in relation to specific clauses. A recurring theme that arose during consultation was the need to incorporate a reference to the UN Convention on the Rights of the Child in the bill and how that impacts on the interpretation to be given to the rights, development and wellbeing of children and young people.

I note for the sake of completeness that this provision was originally included at clause 4 in the government's Child Development and Wellbeing Bill 2014, which has now been superseded by this bill. The government has listened and has filed an amendment to insert this into this bill, which will assist all those who either work with or seek to apply this legislation.

Firstly, this amendment provides a definition of the phrase 'rights, development and wellbeing' for the purposes of legislation. Secondly, it requires the state authorities to seek and give effect to the United Nations Convention on the Rights of the Child and any other relevant international human rights instruments affecting children and young people. I commend the amendment to the committee.

The Hon. S.G. WADE: I indicate that the opposition will be supporting the amendment. By way of commentary, I note that the SACOSS letter also wanted the UN Convention on the Rights of Indigenous People to be specifically referenced, but I acknowledge that the government's amendment does refer to any other relevant international human rights instrument which, of course, would include that convention.

To be frank, in recognition of the Hon. Kelly Vincent from Dignity for Disability, other relevant conventions you would expect to be picked up there would include the United Nations declaration in relation to the rights of people with disability. We want to include all children. This convention in this legislation is appropriately referenced specifically, but there is clearly, on the face of the government's own amendment, no intention to exclude other relevant conventions.

I would also indicate that clause 3B is only, shall we say, a segment of what was clause 8 in the government's Child Development and Wellbeing Bill, and I also had a similar provision in the 2014 Commissioner for Children and Young People Bill that I brought forward as a private member's bill. My understanding from the government is that the broader principles enunciated in clause 8 of the Child Development and Wellbeing Bill might well find their way into the next raft of legislation, and so it is not intended to, shall we say, diminish the other principles that were in that legislation.

The Hon. T.A. FRANKS: On behalf of the Greens, I indicate that we will be supporting the government amendment. While the Greens have tabled a similar, more extensive, amendment, this is actually potentially a neater way of inserting these provisions, these very important provisions recognising the United Nations Convention on the Rights of the Child and other important human rights international instruments within our state legislation with regard to this particular act.

The Hon. J.A. DARLEY: I indicate that I will be supporting the government's amendment.

The Hon. K.L. VINCENT: Just very briefly, on behalf of Dignity for Disability, I am happy to also support the amendment. I take on board the comments of other colleagues in terms of it not necessarily being the most efficient mode to try to reference every relevant document. However, I am confident that this would reflect the principles of many important documents, including, as my colleague the Hon. Mr Wade pointed out, the United Nations Convention on the Rights of Persons with Disabilities.

Indeed, we know that people with disabilities generally, but particularly children, are tragically at a much greater risk of abuse and neglect compared to the general population and therefore would love to see this sort of specific work around that. We recognise that it is more efficient in terms of drafting legislation to have a more overarching wording, but look forward to some direct action being taken on those issues.

New clauses 3A and 3B inserted.

Clause 4 passed.

New clause 4A.

The Hon. J.A. DARLEY: I move:

Amendment No 1 [Darley–1]—

Page 5, after line 31—Insert:

4A—Complaints etc to be acknowledged in writing

> If a person reports a matter to, or otherwise brings a matter to the attention of, the Commissioner, the Guardian, the Committee or the Council, the Commissioner, Guardian, Committee or Council (as the case requires) must, by notice in writing to the person, acknowledge receipt of the report or matter.

This amendment is the first in a group of amendments which relate to the same thing: very simply, it is to provide that all complaints that are made to any of the bodies in the act are to be acknowledged in writing. As previously stated in my second reading contribution, this amendment was suggested by Belinda Valentine who was frustrated that it was so difficult to provide information on when and who she had contacted as she had not been provided with any documentation or follow-up on many of her contacts with Families SA. This amendment is to ensure that there is a paper trail to increase accountability.

The Hon. K.J. MAHER: I thank the honourable member for his amendment but indicate that the government will oppose this amendment. The government opposes this amendment on the basis that it constitutes an administrative matter and is unnecessary for inclusion in the legislation. It constitutes a matter of office procedure and good practice with any agency or business to acknowledge receipt of correspondence or complaints received from members of the public. I am advised that most if not all state agencies, such as the Ombudsman, already adhere to this practice. Further, the government notes for the sake of completeness that the Child Death and Serious Injury Review Committee referred to in this amendment does not receive complaints directly from members of the public.

The Hon. S.G. WADE: The minister acknowledged that the Ombudsman, for example, as a comparable agency, does acknowledge receipt of matters. I also wonder whether or not the commissioner would be an officer who is reviewable by the Ombudsman and therefore a failure of administrative law or practice could then be referred to the Ombudsman. In a way this relates to not just this amendment by the Hon. Mr Darley but in particular would relate to amendment No. 2 which is a report to the minister.

The PRESIDENT: Minister?

The Hon. S.G. WADE: If the minister is seeking further advice, I understand there are other members who want to ask questions so we might come back to that.

The Hon. D.G.E. HOOD: I indicate that Family First will support the Hon. Mr Darley's amendment.

The Hon. T.A. FRANKS: The Greens will be supporting the Hon. Mr Darley's amendment. We think that while it might be administrative and a very small clerical thing it is quite an important thing to happen. Given that we have seen in the past that it has not happened, let us make it happen.

The Hon. K.L. VINCENT: I am inclined to support this and, as other speakers would say, you would hope it would be unnecessary, but better safe than sorry. However, I wonder if I might ask a question of the mover in terms of his understanding of the way it is written. I wonder if allowing or requiring people to be notified 'in writing'—whether the Hon. Mr Darley could define 'in writing'; for example, could that include an email or another form other than a letter? I am envisioning a situation where we might unintentionally (or at least I hope unintentionally) exclude people who are not able to read in hard copy print; for example, people who are blind or have a vision impairment, and also how information might be given to people with low literacy issues relating to other experiences or needs as well.

The Hon. J.A. DARLEY: My amendment was intended to cover email and any other form so as to convey the message to the complainant that their concern has been received.

The Hon. K.J. MAHER: In answer to the earlier question asked by the Hon. Stephen Wade, I am advised that the Ombudsman would be able to exercise jurisdiction in relation to the commissioner.

The Hon. S.G. WADE: Thank you minister for your response. The opposition will be supporting the government amendment on this. The reason being that this is a very broad amendment, it talks about not just the commissioner, but the guardian, the committee and the council. All four bodies identified in this legislation will be required to respond to every matter.

In spite of the number of times that I have tried to assure the government and the community, through the media, that the Liberal Party does not seek a broad-based complaints body, it must be accepted that there is a risk that a significant number of members of the community may misconceive the role of the commissioner and see it as a broad-based complaints body. The Liberal team would hate the good work of the commissioner to be distracted, and, for that matter, the other three bodies listed in this amendment, by having to establish cumbersome administrative processes merely to acknowledge complaints that should never have been referred to them.

I thank the government for its response in terms of the Ombudsman question, because if we have a commissioner, or for that matter any of these other bodies that are deaf to the legitimate entreaties of the public, they have other recourses, to the Ombudsman or by other means. If it is a problem that we see that there is ineffective communication between the commissioner or any of these bodies, it is something we can revisit in the review process that we will consider later. Let us put it this way, I think there is a significant risk that should be avoided at this stage. If it is an issue that is alive in two to three years' time, let us address it then. I am not supporting this amendment.

New clause negatived.

The Hon. T.A. FRANKS: New clauses 4A, 4B, 4C and 4D repeat the content of the successful government amendment, so I will not be moving them.

Clause 5 passed.

Clause 6.

The Hon. K.J. MAHER: I move:

Amendment No 2 [Emp–1]—

Page 6, after line 7—Insert:

(2a) The Governor may, by regulation, establish a scheme for the recruitment of the Commissioner (and recruitment of the Commissioner must comply with that scheme).

This amendment seeks to amend clause 6 of the bill, which sets out how the commissioner for children and young people is to be appointed and removed from office. Specifically, the amendment seeks to insert subclause (2a) regarding the recruitment scheme for the commissioner for children and young people. The amendment allows the Governor to, by regulation, establish a scheme for the recruitment of the commissioner and the recruitment of the commissioner must comply with that

scheme. This amendment has been borne out of the need to address ongoing concerns regarding the involvement of children and young people in the appointment process of the commissioner. I urge support for the government amendment.

The Hon. S.G. WADE: I indicate that the opposition will be supporting the government amendment. I remind members of the council that the Nyland royal commission specifically recommended that the voice of the child and young people in the recruitment of the commissioner be included and in that context referred favourably to the submission from the council.

In that context SACOSS, and again I am using shorthand for the SACOSS-led group of stakeholders, reiterated their desire that there be the children's and young people's voice in the process. I concur with the government that it would be unfortunate to have an overly cumbersome, inflexible process built into legislation. The opposition supports it being in the form of the regulation. From a parliamentary point of view, it would be very unusual to develop a process that ensures a voice of children and young people.

However, with this, the onus is on the sector to develop a workable process to ensure an authentic voice and then, once the sector has supported the government for that model, it can be reviewed by this house by way of consideration as a regulation. I think this is a workable way of reflecting the Nyland royal commission without having the process bound to an overly rigid process.

Amendment carried; clause as amended passed.

New clause 6A.

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

Amendment No 2 [Franks–1]—

Page 7, after line 21—Insert:

6A—Assistant Commissioner for Aboriginal children and young people and other Assistant Commissioners

(1) The Governor—

(a) must appoint an Assistant Commissioner to assist the Commissioner in carrying out functions under this Act as they relate to Aboriginal children and young people; and

(b) may appoint such number of other Assistant Commissioners as the Commissioner thinks necessary.

(2) An Assistant Commissioner will be appointed on conditions, and for a term (not exceeding 7 years), determined by the Governor and specified in the instrument of appointment.

(3) A person appointed to be an Assistant Commissioner is, at the end of a term of appointment, eligible for reappointment but cannot hold office for terms (including any term as an Acting Commissioner) that exceed 10 years in total.

(4) An Assistant Commissioner is subject to the direction and control of the Commissioner, but is otherwise independent of direction or control by the Crown or any Minister or officer of the Crown.

(5) An Assistant Commissioner has the functions conferred on the Assistant Commissioner by the Commissioner.

(6) An office of Assistant Commissioner becomes vacant if the holder—

(a) dies; or

(b) completes a term of office and is not reappointed; or

(c) resigns by written notice to the Commissioner; or

(d) is nominated for election as a member of an Australian Parliament; or

(e) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or

(f) is convicted of—

(i) an indictable offence against the law of this State; or

(ii) an offence against the law of this State that is punishable by imprisonment for a term of at least 12 months; or

(iii) an offence against the law of another jurisdiction that, if committed in this State, would be an offence of a kind referred to in a preceding paragraph; or

(g) is sentenced to imprisonment for an offence (whether against a law of this State or another jurisdiction); or

(h) is removed from office by the Governor under this section.

(7) The Governor may remove an Assistant Commissioner from office on the presentation of an address from both Houses of Parliament seeking the Assistant Commissioner's removal.

(8) An Assistant Commissioner is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

This creates the position of commissioner for Aboriginal children and young people. I do so in response to the letter referred to previously by those in the sector calling for this. It would be of no surprise that this has been identified as an area of particular need, given the poorer outcomes of Aboriginal children and young people in the areas of education, health, justice and child protection. Indeed, that is a compelling argument why the establishment of an additional commissioner would focus on those particular children and young people.

The submission that was authored by those sectoral groups noted that the model that is established in Victoria under the Victorian children and young people act 2012 includes provisions for the establishment of additional commissioners alongside the principal commissioner in that particular act. It was requested that a similar provision be sought here.

Aboriginal children and their families and communities should be involved in all aspects of this particular area. I think nobody would argue against Aboriginal inclusion in this particular place. It is an indictment on our society that while Aboriginal people represent such a small numerical part of our population, they are over-represented in all the wrong places. That is certainly a compelling argument for an additional commissioner charged with that particular responsibility to be considered.

I am not expecting to get the numbers in the chamber on this occasion, but I thought it was an important point to raise at this part of the debate. I would hope that it would be taken into consideration as we get to debates around the review and what debates we see coming from the government in the future in this place.

The Hon. K.J. MAHER: I thank the honourable member for her amendment and her remarks on the amendment. The government opposes the amendment at this time on the basis of views expressed in the Child Protection Systems Royal Commission report. I note on page 599 of the commission's report, it states:

> The Commission does not believe the appointment of assistant commissioners is required. However, the Children's Commissioner should have the capacity to engage experts and commission research as necessary, and funding should be provided for this...

I am advised that the ability to engage commission research is a measure already included in this bill. In relation to funding, there are government amendments filed, and I foreshadow that members will be moved to address this. Accordingly, the government will not support the amendment at this stage. I note the government will also be moving an amendment to introduce review mechanisms for this legislation which, as the honourable member pointed out, will provide an opportunity to examine this matter further.

The Hon. S.G. WADE: The opposition will also be supporting the government's amendments. As the minister indicated, the Nyland royal commission did specifically address this issue, but I do join the Hon. Tammy Franks, and I know the minister also has a strong commitment to the welfare of Aboriginal children and young people. I certainly think it is appropriate that this house regularly reflects on what we can be doing, particularly for advancing the welfare of Aboriginal children and young children. As the Hon. Tammy Franks rightly points out, their current outcomes for development, wellbeing and protection are extremely poor, and we have a shared commitment to address that.

The Hon. K.L. VINCENT: I can see where the numbers lie, nonetheless Dignity for Disability is inclined to support this amendment. One of my staff members who is trained in the early childhood field often says a quote which is something like, 'Every child needs at least one person in their life who is absolutely crazy about them.' We would hope that the assistant commissioner would be that person for Aboriginal children and young people.

Of course, in a perfect world we would not need a specific role looking after those issues. The same goes for disability, as I am sure many people have heard me talk about in this place before. However, the fact is that we do not yet live in a perfect world, so we think that the more eyes and ears there are out there on the ground, working for and with children and young people, particularly those who are most at risk and most marginalised, the better. Therefore we would have been happy to see such a role established but, as I said, we can see where the numbers lie. I just wanted to put on the record my feelings about this.

The Hon. D.G.E. HOOD: I think the Hon. Ms Vincent makes a good point. Obviously this amendment will be defeated on this occasion, but I point out that this is something that Family First would otherwise be inclined to support. I think Aboriginal children are a unique case, a special case if you like, and to have a dedicated commissioner and the ability to have assistant commissioners where appropriate is something I think has merit. We have a real problem in some of the most remote areas of Australia, as members in this chamber know well, and if this amendment goes any way to assisting in dealing with that problem then I believe it warrants support.

The Hon. J.A. DARLEY: I will be supporting the Hon. Tammy Franks' amendment.

New clause negatived.

Clauses 7 and 8 passed.

New clause 8A.

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

Amendment No 4 [Franks–1]—

Page 8, after line 4—Insert:

8A—Staff and resources

> The Minister must provide the Commissioner with the staff and other resources that the Commissioner reasonably needs for carrying out the Commissioner's functions.

This is very much addressing the concerns of the sector, and certainly the concerns that were strongly put in the Greens' second reading contribution on this bill. We need to make sure not only that we get this right but also that this commissioner is resourced—it is as simple as that—by ensuring that we carry over the language that was previously giving that certainty, here for the commissioner but obviously also for the other bodies that are involved in the area of child development and protection. We will be doing the appropriate thing in this chamber, ensuring that we are not just setting people up to fail but that we are actually setting them up to succeed.

The Hon. K.J. MAHER: I thank the honourable member for her amendment. As I think I indicated in an earlier contribution, in terms of resourcing for research and other reasons, the government supports this and will support the Hon. Tammy Franks' amendment. We will withdraw our amendment to the same effect very shortly.

The Hon. S.G. WADE: The opposition will also be supporting the Hon. Tammy Franks' amendments and we will be treating any subsequent resource clauses as consequential, whoever moves them.

New clause inserted.

Clauses 9 to 11 passed.

Clause 12.

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

Amendment No 5 [Franks–1]—

Page 9, after line 36—Insert:

(7a) For the purposes of this section, a reference to a State authority will be taken not to include a reference to the Guardian.

This amendment clarifies the role of the guardian, and I thank the minister for addressing my concerns about that in his response to the second reading speeches. Again, it was asked for by the sector. Certainly, I think it is better to be as clear as we possibly can in this piece of legislation that the guardian is able to have that role in relation to the commissioner made clear—that, indeed, it is not to include a reference to the guardian.

The Hon. K.J. MAHER: I rise to indicate that the government is opposed to this amendment which seeks to exclude the guardian as a state authority for the purposes of this act. The consequential effect of this amendment, if passed, is that the commissioner for children and young people will not be able to exercise his or her functions or powers should there be, for whatever reason, a grievance regarding the guardian in the future.

In the government's view, this is not appropriate and there should be oversight mechanisms for all the agencies and authorities working with children and young people. The guardian's important job involves working with and for our most vulnerable children and it is important that those functions are able to be reviewed if there is an issue. Far from undermining the guardian's independence, this legislation provides the commissioner with appropriate powers to allow for public confidence in the integrity of the guardian's work, on the occasion that they should ever be undermined.

The Hon. S.G. WADE: The opposition supports the government in opposing this amendment.

The Hon. T.A. FRANKS: Obviously, the numbers will not be here in terms of support. I look forward to the government taking a very similar position when we come to the role of SAPOL in terms of having security checks.

Amendment negatived; clause passed.

New clause 12A.

The Hon. J.A. DARLEY: I move:

Amendment No 2 [Darley–1]—

Page 9, after line 38—Insert:

12A—Right of person to report refusal or failure to conduct inquiry under section 12 to Minister

(1) If—

(a) a person brings a matter to the attention of the Commissioner that the person believes should be the subject of an inquiry under section 12; and

(b) the Commissioner refuses or fails to conduct such an inquiry,

then that person may, in a manner and form determined by the Minister, report that failure or refusal to the Minister.

(2) On receiving a report under subsection (1), the Minister must—

(a) determine whether or not the matter to which the report relates should, in the Minister's opinion, be the subject of an inquiry under section 12; and

(b) if the Minister determines that the matter should be the subject of an inquiry under section 12—advise the Commissioner of the determination; and

(c) notify the person who made the report of the determination and of any other action taken, or to be taken, by the Minister in respect of the report.

This amendment simply gives people the right to approach the minister about a matter which they have previously taken to the commissioner in relation to which the commissioner has declined to take action. As I mentioned in my second reading speech, this amendment was made in conjunction with Belinda Valentine who wanted further accountability for these matters. If the minister believes that the matter does require investigation, they must advise the commissioner and the complainant of this.

The Hon. K.J. MAHER: I rise to indicate that the government opposes this amendment. It does so primarily on the basis that it has the potential to infringe on the independence of the commissioner for children and young people. Secondly, it does not address the legitimate circumstances that would lead to a failure or refusal by the commissioner to conduct an inquiry pursuant to clause 12 of the bill.

Clause 5(2) of the bill states, 'The Commissioner is independent of direction or control by the Crown or any Minister or officer of the Crown.' Although technically not an oversight function that attracts any binding determinations, this amendment unnecessarily creates an additional step for the hearing of a grievance which, in the government's opinion, should stop with the commissioner for children and young people.

The government notes that nothing currently prevents a member of the public communicating a matter of concern to the minister, so there is no need to include such a provision in the legislation. Further, aside from the reference to making the report in a manner and form determined by the minister, absent from the amendment is what information will be considered in the minister making the determination.

For example, will the minister be required to provide reasons to the commissioner? Will the minister have to have the requisite powers to seek further information from agencies? Would the person with the grievance provide this information when making the report, or would the minister be required to conduct their own investigation and source such relevant information? These are some of the issues that arise with the amendment.

Secondly, in accordance with the recommendations of the Child Protection Systems Royal Commission report, the commissioner for children and young people has coercive powers to conduct an inquiry pursuant to clause 12 of the bill which is, however, limited to systemic issues affecting children and young people. Aside from limited prescribed circumstances, he or she will not have the capacity to investigate individual grievances or complaints. Subclause (2) of clause 12 of the bill sets out the three matters the commissioner for children and young people must hold a suspicion of in order to conduct an inquiry with the powers of a royal commission. These are that:

(a) the matter raises an issue of particular significance to children and young people; and

(b) the matter is of a systemic nature rather than being limited to an isolated incident; and

(c) it is in the public interest to conduct the inquiry.

A person who holds a view that their grievance concerns a systemic issue relating to children and young people may of course be ultimately proven correct. However, as stated in subclause (1) of clause 12 of the bill, it is at the commissioner's absolute discretion to conduct an inquiry into certain matters relating to the rights, development and wellbeing of children and young people.

Another legitimate reason not to undertake an inquiry may be that the grievance in question may not satisfy all three requirements set out in subclause (2) of clause 12, so thereby would cause the commissioner for children and young people to not be able to conduct an inquiry pursuant to that clause. Another reason for refusal or failure to conduct an inquiry could be that the commissioner for children and young people considers the matter to be vexatious or frivolous. For those reasons, the government will not be supporting the amendment.

The Hon. S.G. WADE: I indicate that the opposition will be supporting the government in opposing this amendment for many of the reasons the minister gave. If I could add a couple of others, I am concerned about the use of the word 'believes' in paragraph (a). Many beliefs are subjectively well founded but not objectively able to be substantiated.

I am concerned about the importance of the commissioner being able to take up matters at their absolute discretion. I am sure that there will be myriad issues that the commissioner would love to address and that they believe would meet all three criteria but, within their resources, within what they believe is going to produce the most value to addressing systemic issues for children in terms of development, wellbeing and protection, they choose not to undertake an inquiry. Commissioner Nyland was very clear that the commissioner should be able to take up inquiries at their 'absolute discretion'. That phrase is used in this legislation. We should respect the independence of the commissioner to make those choices.

Another concern I have is that, if there is going to be an appeal from the commissioner, why would it go to a politician? It is very important that we do not politicise these processes. On the other side of the coin, if the minister, having had representation from somebody who has not been able to get an issue raised with the commissioner, thinks that there are important issues to be addressed, there is nothing to stop the minister using other processes to pursue them, whether they be departmental or, for that manner, parliamentary committees, independent inquiries and the like.

I believe this is not a helpful addition to the set. Going back to our earlier discussion about the Ombudsman, to the extent that the commissioner is failing to act reasonably, people may well have recourse to the Ombudsman also.

The Hon. T.A. FRANKS: The Greens will be opposing this amendment. We do so with concerns that there should not be ministerial interference or oversight of the commissioner. Indeed, it should be as independent as we can make it, and this sets up some expectations that there may be political influence.

Ministers do, of course, have a range of mechanisms, as the Hon. Mr Wade has just stated, to undertake inquires where appropriate. The issue that seeks to address, though, is not having inquiries: it is actually about a lack of action and a lack of ministerial oversight where there have been areas of quite significant breaches of child protection and child abuse in our systems.

That ministerial oversight can be addressed, I think, in different ways, and certainly we saw both the opposition and the government oppose the simple receipt of a 'complaint in writing' amendment. That is absolutely an area that I think the government and the relevant ministers should be complying with and perhaps be forced to comply with, particularly when we are talking about these topics in this state.

The Hon. K.L. VINCENT: Having given this some thought and having listened to the debate, I am also inclined to oppose this amendment. I completely understand and empathise with the sentiment with which it has been moved, and I deeply appreciate, as I am sure we all do in this place, the work of people like Belinda Valentine. However, I can see a number of practical issues with this proposal, many of which my colleagues have already outlined very eloquently, so I do not intend to rehash them.

The only thing I can add is that one would hope, I assume, that a person appointed to a role such as a commissioner would be qualified and experienced enough to differentiate between levels of seriousness of different issues and what should or should not be investigated within the jurisdiction of their role, and I believe that that professional judgment should, in general, be trusted.

I would also be loathe to see the commissioner's time being taken up any more than it has to be with dealing with complaints. Of course people should have the right to complain and the right to pursue other avenues, but I think the commissioner has to maintain a freedom from political influence, as has already been outlined, and the space to keep a major focus on systematic change. For those reasons, as well as for those already outlined, I am inclined to add my opposition to this particular amendment.

New clause negatived.

Clauses 13 to 20 passed.

New clause 20A.

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

Amendment No 6 [Franks–1]—

Page 13, after line 18—Insert:

20A—Staff and resources

> The Minister must provide the Guardian with the staff and other resources that the Guardian reasonably needs for carrying out the Guardian's functions.

This amendment ensures that the minister must provide the guardian with staff and other resources that the guardian reasonably needs for carrying out the guardian's functions. I raised this matter in my second reading contribution. It was an area of concern, raised most obviously by the guardian's

officers themselves but echoed by other representatives from the sector. We need to ensure the resourcing so that we are setting up these people to do the best possible job they can, and that is the least we can do. I imagine that the government will be looking favourably on it, given that it has sought to move similar amendments.

The Hon. K.J. MAHER: I thank the honourable member for her amendment and can confirm that the government does look favourably upon it. For reasons previously explained at amendment No. 4 [Franks-1], the government supports this amendment and has filed amendments to the same effect, but we will withdraw it should the committee see fit to pass this one.

New clause inserted.

Clauses 21 and 22 passed.

Clause 23.

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

Amendment No 7 [Franks–1]—

Page 14, lines 22 to 34—Delete clause 23 and substitute:

23—Participation of children and young people in development of practices etc

The Guardian must establish and maintain processes to ensure the participation of children and young people in strategic, policy or systemic practice development or review processes.

This is a new area of the debate, but was certainly, again, raised in my second reading contribution and at the behest of the Office of the Guardian for Children and Young People. It deletes the current clause 23 and substitutes:

23—Participation of children and young people in development of practices etc

The Guardian must establish and maintain processes to ensure the participation of children and young people in strategic, policy or systemic practice development or review processes.

This wording is more attractive both to the Greens and to the office of the guardian, because it gives a greater deal of flexibility. It is less prescriptive but still achieves the goals that I think we all share in this place.

The Hon. K.J. MAHER: I rise to indicate, I think for the third time in a row, that the government will be supporting the Hon. Tammy Franks' amendment on the basis that it acknowledges and mandates the participation of children and young people in important processes such as policy and systemic practice development, which is of great value to all. Again, like the last two that we have supported, I indicate that the government has an amendment to a similar effect—don't we?

The Hon. S.G. Wade interjecting:

The Hon. K.J. MAHER: Not the same one, but to a similar effect. I can indicate that, should the committee be minded to pass this amendment, we will withdraw that one.

The Hon. S.G. WADE: You will not need to, because the clause will have already been deleted, but be that as it may. The opposition also supports the amendment of the Hon. Tammy Franks. We welcome the move towards a less prescriptive approach in terms of the mode of engagement but share the commitment of both the Hon. Tammy Franks and the government to make sure that the voice of children and young people remains strong in these processes.

Reflecting on our discussions over the last few days, and for that matter the last few years, achieving the voice of children and young people in these processes is not easy. That does not mean it is not vital, and I wish the guardian and all the people involved in the processes under this legislation success in finding mechanisms that can ensure that the voice of children and young people is heard.

The Hon. K.L. VINCENT: Dignity for Disability is happy to support this amendment from the Hon. Ms Franks and thanks her for putting it forward. It is almost quite sad really that we need to sit around here and mandate the fact that children and young people should be included in something

that is ultimately all about their rights and wellbeing, but better safe than sorry, I think, is the best approach.

I suppose you could see the fact that the amendment is quite broad in its description or definition of consultation as a negative, but I am inclined to see it as a positive, in that different people and different groups may well need to be consulted in different ways. Dignity for Disability looks forward to working with whoever we have to following the passage of this bill (which we hope will be very soon, as I am sure we all do) particularly around how this might impact children and young people with disabilities or other related needs. We would particularly like to ensure things like interpreters for children of different cultural backgrounds, including deaf and hard of hearing children, and also the inclusion of communication assistance or communication partners for children and young people who may communicate in ways other than verbalising.

A number of things need to be considered here, and that is why we think that a broad definition is relatively beneficial, so that we are not too prescriptive and that we actually give children and young people the freedom to be included in the way that is most conducive to them being involved and being themselves. For those reasons, doubled with the fact that, as I said earlier, children and young people with disability are particularly over-represented in out-of-home care and their voices need to be heard in order to make systematic change to get them out of that situation as much as possible, we are happy to support this amendment.

The Hon. S.G. WADE: I was just reflecting on the fact that this amendment only refers to the guardian but the government has indicated, and rightly so, that the general functions of the commissioner already require it to promote the participation of children and young people in the making of decisions that affect their lives, and presumably that also includes in the operation of the commissioner. I think this clause, in relation to the guardian, complements what is already an expectation of the commissioner.

The Hon. T.A. FRANKS: Just to clarify: this section 23 actually required the guardian to adopt a formal advisory committee and that structure was seen as problematic, particularly with the group of quite vulnerable children and young people who are involved in this area and, indeed, a more flexible approach. This was the wording that the guardian's office submitted for their particular purposes. Section 23, however, does not apply to the commissioner.

Amendment carried; clause as amended passed.

Clauses 24 to 30 passed.

New clause 30A.

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

Amendment No 8 [Franks–1]—

Page 17, after line 2—Insert:

30A—Staff and resources

The Minister must provide the Committee with the staff and other resources that the Committee reasonably needs for carrying out the Committee's functions.

Again, this goes to staff and resources. In this particular case the minister must provide the committee with the staff and other resources that the committee reasonably needs for carrying out the committee's functions. It is a similar debate in terms of ensuring the resourcing.

The Hon. K.J. MAHER: Like the previous amendments that go to the resourcing, the government will be supporting the Franks amendment No. 8 and will not be proceeding with ours that have a similar focus.

New clause inserted.

Clauses 31 to 36 passed.

Clause 37.

The Hon. J.A. DARLEY: They were consequential to my other amendments.

Clause passed.

Clause 38.

The Hon. J.A. DARLEY: The same.

The CHAIR: Consequential.

Clause passed.

Clause 39 passed.

Clause 40.

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

Amendment No 9 [Franks–1]—

Page 21, after line 16 [clause 40(3)]—Insert:

or

(g) the Guardian.

This inserts into clause 40 referral of matters to inquiry agencies, etc., not affected in the definition of inquiry agency. It adds after:

(a) South Australia Police; or

(b) the Ombudsman; or

(c) the State Coroner; or

(d) the Independent Commissioner against Corruption; or

(e) the Commissioner for Public Sector Employment; or

(f) the Health and Community Services Complaints Commissioner.

a new line that states:

or

(g) the Guardian.

The Hon. K.J. MAHER: I rise to state that the government supports this amendment and, once again, will not be proceeding with a government amendment with a similar effect if the committee supports this.

Amendment carried; clause as amended passed.

Clauses 41 to 47 passed.

New clause 47A.

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

Amendment No 10 [Franks–1]—

Page 24, after line 2—Insert:

47A—Staff and resources

The Minister must provide the Council with the staff and other resources that the Council reasonably needs for carrying out the Council's functions.

Again, this goes to staff and resources and provides that the minister must provide the council with the staff and other resources that the council reasonably needs for carrying out the council's functions.

The Hon. K.J. MAHER: I indicate government support.

New clause inserted.

Clause 48 passed.

Clause 49.

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

Amendment No 11 [Franks–1]—

Page 24, lines 27 to 39 [clause 49(2)(c) and (d)]—Delete paragraphs (c) and (d)

My amendment deletes paragraphs (c) and (d). Those are under the functions and powers of council, (c) to keep under review the operation of the Children and Young People (Safety) Act 2016 and Family and Community Services Act 1972, so far as it affects the interest of children, and (d) to provide advice to the minister on:

1. Creating environments that are safe for children;

2. Raising community awareness of the relationship between the needs of children for care and protection, and their developmental needs;

3. Initiatives involving the community as a whole, for the protection or care of children;

4. Policy issues that may require government action or legislative reform; and

5. Priorities for research.

This does so in an attempt to address the concerns of the duplication that were raised by the sector.

The Hon. K.J. MAHER: I rise to indicate government support for this amendment and, again, I will not be proceeding with the amendment in similar terms. For the sake of getting it on the record, clause 49 of the bill provides that the primary function of the child development council is to prepare and maintain the outcomes framework for children and young people. This clause also sets out further functions in addition to the preparation of the outcomes framework of the council under the measure.

This amendment proposes to delete paragraphs (c) and (d) of clause 49(2) of the bill, thereby limiting the functions of the council to preparing and maintaining the outcomes framework for children and young people. Once again, as many of these amendments have, this amendment arises from feedback received from the government, but primarily from the non-government sector during public consultation, which expressed the view that the outcomes framework should be the exclusive focus of the child development council. The main concern raised with the government was that clause 49, as currently drafted, appeared to have some overlap between the functions of the child development council and the commissioner for children and young people.

To avoid any confusion arising from this overlap we are acting as requested and limiting the child development council's function to the outcomes framework at this stage. I note, for the sake of completeness, however, that clause 49(2)(e) of the bill is retained, which states, 'Further functions may be assigned to the council under this act or any other act by the minister, should it be required in the future.'

The Hon. S.G. WADE: I certainly welcome the steps being taken to avoid duplication, but, presumably, the commissioner could look at the operation of the outcomes framework?

The Hon. K.J. MAHER: I am advised that that is the case.

Amendment carried; clause as amended passed.

Clauses 50 to 54 passed.

Clause 55.

The Hon. K.J. MAHER: I move:

Amendment No 10 [Emp–1]—

Page 27, lines 15 to 19 [clause 55(1)]—Delete ', the Guardian or the Council may, by notice in writing, require a specified person (whether or not the person is a State authority, or an officer or employee of a State authority) to provide to them such information, or such documents, as may be specified in the notice (being information or documents in the possession of the person or body that the Commissioner, Guardian or Council' and substitute:

or the Guardian may, by notice in writing, require a specified person (whether or not the person is a State authority, or an officer or employee of a State authority) to provide to them such information, or such documents, as may be specified in the notice (being information or documents in the possession of the person or body that the Commissioner or Guardian

This amendment applies to clause 55(1) of the bill, and relates to government amendment 9, and is necessary as a result of the refinement in scope of the child development council's function. As a result, clause 55 of the bill currently enables the commissioner, the guardian or the council to require person or body, whether or not the person or body is a state authority, to provide them certain specified information documents. Failure to comply with the request is an offence.

The clause also makes procedural provision in relation to noncompliance with a requirement by a state authority. As stated, given the amendment to restrict the scope of the child development council's function to the preparation and maintenance of the outcomes framework for children and young people, it is no longer appropriate that the council be given the power prescribed by clause 55 of the bill, and so all references to the council have been deleted.

The Hon. S.G. WADE: The opposition is inclined to support this amendment, but is it conceivable that information that the council might require for the development and monitoring of the outcomes framework might well be information that it will require as state authorities, and, in spite of the fact of the narrowing of the focus of the council, that there might still be value in the council having this power?

The Hon. K.J. MAHER: My advice is that any relevant information they need should be able to be obtained through the minister, but it is a point that we are happy to have a look at when we bring back the future legislation that goes to the Children's Protection Act.

The Hon. S.G. WADE: I thank the minister for his response.

The CHAIR: Minister, do you want to also move your amendments 11 to 13; they are all related?

The Hon. K.J. MAHER: Mr Chairman, amendments 11 to 13 are consequential to the amendment before us now, so, with the indulgence of the committee, I will move them en bloc:

Amendment No 11 [Emp–1]—

Page 27, line 22 [clause 55(2)]—Delete ', Guardian or Council' and substitute 'or Guardian'

Amendment No 12 [Emp–1]—

Page 27, line 28 [clause 55(4)]—Delete ', Guardian or Council' and substitute 'or Guardian'

Amendment No 13 [Emp–1]—

Page 27, line 33 [clause 55(4)(b)]—Delete ', Guardian or Council' and substitute 'or Guardian'

The Hon. S.G. WADE: Then we would regard them as consequential also.

Amendments carried; clause as amended passed.

Clauses 56 to 63 passed.

New clause 63A.

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

Amendment No 12 [Franks–1]—

Page 32, after line 5—Insert:

63A—Review of Act

(1) The Minister must cause a review of the operation of this Act to be conducted and a report on the review to be prepared and submitted to the Minister.

(2) The review and the report must be completed before the second anniversary of the commencement of this Act.

(3) The Minister must cause a copy of the report submitted under subsection (1) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

I note that the government does have an amendment which differs slightly in that it states that that review would be completed before the third anniversary of the commencement of the act. The sector asks for two years. I have put two years. I think, given the importance of this issue, it warrants eyes on it sooner rather than later, and, while either is actually quite a tight time frame in terms of our regular pieces of legislation being reviewed, I think this is a special case where we should be making sure that that review is happening—once there has been enough operation of the act, but indeed in a timely way. I am also cognisant of the electoral cycle and the three years falling well beyond that electoral cycle. I think there is nothing like an election to put a bit of pressure on as well to make sure that we do this right.

The Hon. K.J. MAHER: I thank the honourable member for her amendment and appreciate the motivation behind the amendment. However, on this occasion, the government has filed a similar amendment, as foreshadowed; that is, that it is three years rather than two years, and the government prefers the three years rather than the two years, which we think reflects a more appropriate time period for the act to be in operation before a review is undertaken. In short, a two-year period, in the government's view, is premature. I appreciate the sentiment there, but we do have an opposing amendment for the committee to support three rather than two years.

The Hon. S.G. WADE: I indicate that the opposition will be supporting the government. With all due respect to the Hon. Tammy Franks, I think the government's amendment more accurately reflects the request of SACOSS. SACOSS says the legislation should be reviewed after two years, but the Hon. Tammy Franks' amendment, as I understand it, would require that the review be completed before the second anniversary, so it would be having the review undertaken earlier than SACOSS sought.

As a member who has been in this place for a while now, I do welcome the new phrasing of these review provisions. Members will note that it states:

> The review and the report must be completed before the third anniversary of the commencement of this Act.

I appreciate that it does run the risk that somebody could start a review the day after the act has started and give us, shall we say, a hollow review. However, having been around for a while, I think there is a far greater risk for protracted, delayed reviews that frustrate the parliament in consideration of legislation, and that is a far greater mischief than premature reviews.

The CHAIR: Minister, do you want to move your amendment as well?

The Hon. K.J. MAHER: I move:

Amendment No 14 [Emp–1]—

Page 32, after line 5—Insert:

63A—Review of Act

(1) The Minister must cause a review of the operation of this Act to be conducted and a report on the review to be prepared and submitted to the Minister.

(2) The review and the report must be completed before the third anniversary of the commencement of this Act.

(3) The Minister must cause a copy of the report submitted under subsection (1) to be laid before both Houses of Parliament within 6 sitting days after receiving the report.

This is the government amendment No. 14 standing in my name, and I think I have outlined the reasons why.

The Hon. K.L. VINCENT: Whether it is two or three years, I think the fact of the matter is we need a review. Given that the South Australian community has invested such large amount of money and time in having this commission, we owe it to the South Australian community to track how those recommendations are being implemented or not being implemented, as the case may be. We owe it to the South Australian community to be open and transparent about how that is happening. Quite frankly, I think if you were to go onto the street right now and pull a group of people aside and ask them whether they think it should be two or three years, I highly doubt that there would be a strong opinion either way.

So we would have been happy to support two years, but we are also happy to support three, just to ensure that there is at least some semi-timely review in place and because we owe that to this community and to these young people that we are discussing right here and now.

The Hon. S.G. WADE: I completely agree with the Hon. Kelly Vincent's comments, and completely with the spirit of both the government's and the Hon. Tammy Franks' amendments. The task of the commissioner, as I understand it, is not specifically to monitor the implementations of the Nyland recommendations. My recollection, from looking at the report of the commissioner, was that she shares the impatience of the honourable member, if I can put it in those terms. My understanding is that she has asked for an indication of the government's response to her recommendations even before the end of this year.

I think the Hon. Kelly Vincent raises a very important issue, which is the responsibility of this parliament and the whole community to stay focused on improving outcomes for children and young people. In that context—I do not want to get in trouble with the Clerk in terms of revealing the internal proceedings of a select committee—it would be fair to say that the Select Committee on Statutory Child Protection and Care has already discussed whether it has a role or whether this parliament has a role in monitoring the implementation of the Nyland royal commission.

I know the Attorney-General, as I indicated earlier, is keen to brief members on the government's legislative program, so I would just indicate to the honourable member that, in supporting the government's amendment, the opposition is in no way thinking that this is a task—accountability on Nyland can wait three for years; it will be an ongoing process starting now. In that context, if the minister were able to give an update on the government's response to the Nyland royal commission—and I appreciate that is not strictly within the terms of this bill—it may be useful for the house.

The Hon. K.J. MAHER: I thank the honourable member for his question. I am advised that the government intends to provide responses by the end of the year in line with the time line proposed by the royal commission.

The Hon. T.A. FRANKS: Very briefly—and I note the words of the Hon. Kelly Vincent, who looks quite remarkably different to myself—yes, I do think that a person on the street, if you pulled them aside, would not differ too much about whether they thought the review should happen in two or three years. However, I think they would agree that it should happen—and it was not on the government bill; it is the Legislative Council that has put this review.

It should have always been in there. I say to the government, given that we are really rushing some of this legislation, please ensure that those review provisions are given the due process and the due importance they should be given, and that they appear in future bills in this area.

The Hon. K.L. VINCENT: I might just offer a point of clarification to the Hon. Mr Stephens—I mean Mr Wade, I am sorry (men, they all look so much alike!). I was not insinuating that it is the role of the commissioner per se to implement the recommendations of the commission except in the broad sense of working to improve the lives of children and young people.

I simply meant that it was the role of the commissioner to do their job and also the role of us, as a parliament, to ensure that we are proactively pushing this and that this does not become just another shiny report that sits on a shelf. That is all I meant, and I just wanted to clarify that I was not insinuating that the commissioner would have a direct role in literally implementing the recommendations of the report.

The Hon. T.A. Franks' amendment negatived; the Hon. K.J. Maher's amendment carried; new clause inserted.

Remaining clause (64) and schedule passed.

Title.

The Hon. K.J. MAHER: Given the amendments that have been passed, particularly amendment No. 13 [Franks-1], I move:

Delete the words 'and the Youth Advisory Committee'.

Amendment carried; title as amended passed.

Bill reported with amendment.

Third 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) (17:48): I move:

That this bill be now read a third time.

Bill read a third time and passed.

SUMMARY OFFENCES (DECLARED PUBLIC PRECINCTS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 20 September 2016.)

The Hon. A.L. McLACHLAN (17:49): I rise to speak to the Summary Offences (Declared Public Precincts) Amendment Bill 2016. The Liberal Party is supporting the second reading of the bill. The Liberal Party at this stage does not anticipate that it will seek any amendments to the bill. I have a number of questions in respect to the operation of the bill and I ask that they be responded to by the minister in his summing-up of the second reading debate. I alert the government that I may have more questions during the committee stage, after reflecting on the second reading debate.

The bill proposes to add a new part 14B to the Summary Offences Act 1953. The Liberal Party is supportive of any sensible and warranted measures that ensure that our citizens remain safe while at the same time not unreasonably restricting the liberties of our citizens. This is why the Liberal Party is supporting the second reading. However, when the government is seeking to strip its citizens of their rights and, in this case, restrict their movements and subject them to searches, the Liberal opposition needs assurances that the realities on the street justify the legislation and that there will be monitoring of the effectiveness of the provisions going forward.

The parliament has been given little justification to date that these laws are needed. Little data has been provided to underpin the government's arguments—just anecdotes. There are no compulsory reporting requirements to allow for the effectiveness of these laws to be assessed going forward. This is of concern. We have been advised in a briefing that the police requested the enactment of these laws. The conception of this bill has all the hallmarks of the police once again looking for more power at the expense of our people's liberty and of a government willing to acquiesce so that it can claim another notch on its law and order totem.

Laws such as these should be proposed after careful consideration of the crime on our streets. Then, once enacted, their effectiveness should be measured against agreed key performance indicators. We will have to await a Liberal government for this type of informed public policy and legislative process. I send out a challenge to the police executive: even without legislated reporting requirements in respect of these specific measures, if the bill is enacted, hold yourself accountable, measure the impact and have it independently verified.

I renew my own personal calls that this state have an independent body to conduct analysis and publish crime data. I acknowledge the work in this regard of the Queensland Taskforce on Organised Crime Legislation. While it is focused on organised crime, the commentary of the task force is equally applicable. The task force recommended to the Queensland government that it should establish an independent statistical research body to collect and publish regular analysis of Queensland crime data.

Interestingly, in the report, the task force commented that how a community feels—in particular, whether it is members feel safe from a crime—does not necessarily correlate with the actual crime rate statistics. Rather, public perceptions about things like community safety can be influenced by a number of sometimes nebulous factors—the daily lives of individual citizens, their own personal encounters with crime and what they hear from politicians and media sources. They went on to say that the collection, presentation and scrutiny of crime statistics is crucial in providing

government, law enforcement, policy bodies and the public with a comprehensive picture of crime in our state. Interestingly, they also acknowledge the influence of politicians' comments on public opinion.

I now return to the provisions of the bill before us. This bill provides the Attorney-General with the power to make a declaration that a public precinct is a declared precinct where there is a reasonable likelihood of conduct occurring in the area that would pose a risk to public health and safety. Once a particular area is declared, the police are provided with additional powers to interfere with the lives of our citizens if they are within the area or attempting to enter the area.

Such a declaration can be made either on the Attorney-General's own motion or on the recommendation of the Commissioner of Police. Such a declaration would be gazetted and would operate for a period specified in the declaration. This declaration must be no longer than 12 hours within a 24-hour period. It can be on a recurring basis or on an as needs basis. The declaration, once gazetted, will then be communicated on a web page. The government has provided Hindley Street on Friday and Saturday nights or Gouger Street during Chinese New Year as examples of when such a declaration might be contemplated.

The Attorney-General is being invested with significant power. There appear to be no substantial restrictions on the unreasonable exercise of this power other than public examination or condemnation. The Attorney-General must be satisfied that there is a reasonable likelihood of conduct in the area posing a risk to public safety and a declaration is reasonable, having regard to the risk. I suspect the role of the independent media will become critical in assessing the reasonableness of the declarations—the same media that the government continually seeks to keep away from its darkest secrets and refuses to protect by recently opposing shield laws and other legislation that facilitates transparency.

I question what the required threshold will be to allow the Attorney-General to make a finding that there is a reasonable likelihood of conduct occurring in an area. Will it be sufficient that the Attorney-General reads about one act that has occurred in a newspaper and then makes a declaration? Does it have to be a series of incidents? Will the Attorney make the grounds for his decision public; in other words, give reasons to facilitate a challenge of the decision? Given the implications of a decision to declare an area, will the Attorney-General hold himself accountable, as our independent courts do, and supply reasons for the decisions to the public?

When the police make a recommendation, will there be an evidence brief provided to the Attorney-General? Will that be made public and accompany the declaration? Will the recommendation be provided to members of this chamber, or will we have to pursue a long FOI process? This government has an addiction to secrecy. I question whether the process of making a declaration will be transparent and communicated. As I have indicated, in my view, the transparency is warranted given the corresponding restriction on people's liberty. My concern is that we are again moving to a regime with administrative decision-making based on criminal intelligence or, in this instance, simply the vibe that a street is unsafe.

I query how the declarations will be challenged. Will someone who wishes to defend charges resulting from actions in an area have an opportunity to seek to challenge the validity of the declaration? I ask the minister to set out his understanding of the manner in which the decisions made by the Attorney can be subject to scrutiny by our courts. Such an expansive power in the hands of the Attorney-General has inherent potential for abuse.

What is to stop the Attorney-General from declaring an area around someone's home? What is to stop the Attorney-General from declaring areas of the Parklands as a strategy to disrupt gatherings of certain communities as well as remove their children? Will the provisions of the bill apply to someone driving through the street—for example, Hindley Street? Can vehicles be stopped and searched? I ask the minister to respond to these important questions.

Following the declaration being made, the police will have enhanced powers in relation to the declared precinct. They will have the power to remove children from the precinct using the powers under the Children's Protection Act 1993, if they are in serious danger. This includes where they are behaving in an offensive or disorderly manner. The police also have the power to order a person or a group to leave the precinct if the officer believes or apprehends on reasonable grounds that an

offence that may have posed a risk to public order and safety has been committed or is about to be committed, or the presence of a person or group poses a risk to public order and safety.

If a person who has been ordered to leave the precinct remains, re-enters or attempts to re-enter the declared precinct during the declared period, they can be charged with an offence. In essence, the bill turns a declared area into a type of uber-licensed venue with the police acting as security guards. A declaration also empowers the police to bar a person from entering or remaining within the precinct if the officer believes or apprehends on reasonable grounds that an offence poses risk to public order and safety, has been or is about to be committed, or the person behaves in an offensive or disorderly manner.

I note that the police officer may even bar the person from entering or remaining within any other declared precinct specified in the order. For example, if there are two declared precincts on the same evening, a barring order could prohibit the person from entering both of those precincts. How will the police in the neighbouring declared areas know that an individual has been barred? Will CC television and facial recognition be viewed to enforce this provision? I ask the minister to respond to these questions.

The police will have the power to serve an expiation notice on a person behaving in an offensive or disorderly manner within the declared public precinct. The bill also creates an offence to carry an offensive weapon or dangerous article in a declared public precinct without lawful excuse.

Clause 66R enables the police to carry out metal detector searches for the purpose of detecting the commission of an offence. I ask the minister to set out the extent to which the words in clause 66R, for the purposes of detecting the commission of an offence, restrict the use of metal detectors by the police. Can a metal detector be positioned at the entrance to a declared area and can any or all people seeking entry be searched? Clause 66 provides for general drug detection searches of any person who is in the declared public precinct. I ask whether there are any restrictions on the exercise of this power.

The Attorney-General will communicate a declaration via a web page. This is after an area is gazetted. I ask whether it is anticipated that there will be other attempts to inform the public that an area is declared. For example, will notices be erected in the areas informing the public of enhanced police powers? To fail to communicate the effect of the declaration appropriately, in my view, would potentially undermine the public confidence in these provisions.

The requirement to notify the public in the bill seems somewhat light. I find it difficult to envisage our youth seeking out the *Government Gazette*. It appears on first blush that the Attorney-General expects all of us, before going out at night, to check whether we intend to enter a declared precinct. If so, we have truly entered the era of the police state.

Whilst the opposition is supportive of making our community safer, I highlight that a number of legislative mechanisms are already in operation that deal with public order and safety. I will list just a few that spring to mind: section 7 of the Summary Offences Act makes it an offence to behave in a disorderly or offensive manner in a public place (this includes licensed premises). Section 21C of the Summary Offences Act prohibits any person from carrying an offensive weapon or an article of disguise without lawful excuse.

Section 21C(3) prohibits any person from carrying an offensive weapon or dangerous article at night while in or apparently attempting to enter or leave licensed premises or a car park area of a licensed premises. Section 117A of the Liquor Licensing Act makes it an offence to behave in an offensive or disorderly manner in the vicinity of licensed premises. Furthermore, it appears that these powers are actually effective.

SAPOL's annual report for 2014-15 states that, in that period, public order offences had decreased by 13.7 per cent, and, similarly, disorderly conduct offences had decreased by 12.1 per cent. Given these recorded decreases, I ask the minister to provide the chamber with the data that the police use to justify the request for the proposed laws that are before us for consideration. From their own account, they seem to be doing very well. Their own assertions undermine the government's case for this legislation.

There have been a number of significant submissions in respect of this bill. In coming to its decision to support the second reading, the Liberal Party has had particular regard to the submission of the Australian Hotels Association. There are other submissions that give rise to particular concerns about the impact of the legislation. I ask the minister to directly address their concerns in his summing up.

While the submissions were raised in debate in the other place, I seek to have their issues more directly addressed in this chamber. It is therefore my intention to read them into *Hansard*. There are three: one is from the Law Society, one from the Youth Affairs Council and one from the Aboriginal Legal Rights Movement.

I refer to a letter from the Law Society, dated 22 April 2016, to the Hon. John Rau, signed by the president, David Caruso. Paragraph 1 is a thank you for receiving the drafts, and I will not read it into *Hansard*, so I will proceed from paragraph two:

2. The comments expressed in this submission have been informed by our Children and the Law Committee and the Aboriginal Issues Committee.

3. The Society has also had the benefit of considering submissions made by Aboriginal Legal Rights Movement (ALRM) and the Youth Affairs Council of South Australia (YACSA) and broadly supports the views expressed by both organisations.

4. The Society makes the following comments…

5. The Society submits that the Bill is likely to have a disproportionate impact on both Aboriginal people and young people.

6. The terms of proposed s 66L of the *Summary Offences Act* 1953 are reassuring in relation to protection of the common law right of free association of persons.

7. However, the Society is concerned that this will not extend to the protection of Aboriginal people who are often functionally illiterate, transient and present in public places. The Society will elaborate further in comments relating to the proposed ss 66O and 66Q, below.

8. In addition, we are concerned that the Bill creates a real risk that young people will be restricted in their rights to access public spaces and to congregate and socialise in peer groups.

9. The conflictual nature of youth and police relationships is well documented in juvenile justice research.

10. It is the experience of members acting for child clients that children's poor experiences with police earlier in life (their own or that of their parents) very often influences future interactions and attitudes towards police.

11. Child clients also report police acting with hostility and mistrust towards them. One recent example from one of our members is of a girl aged 17 years who was stopped in the city by police. Police queried why she was in possession of a number of fiction books, some of which were new. The girl reported that Police did not believe her story that they had been given to her by a local youth service.

12. The proposed amendments provide the Police with enhanced powers to stop and question young people for the mere fact of being in a declared public precinct.

13. When this is viewed in the context of the often difficult relationships between Police and young people, the Society submits that there is potential for an undue escalation of summary offending by young people (such as use of offensive language and assaults on police). This may be amplified when young people with undeveloped communication and problem solving skills assert their position in the face of mutual antipathy and distrust.

14. The Society highlights the comments made by YACSA in respect to the negative regard in which young people are held by the broader community public when accessing public spaces for further context to our concerns.

15. The Society supports the comments made by ALRM in its submission that the apparent safeguards in the proposed s 66M(4) are inadequate.

16. The society agrees with ALRM that 'special circumstances' in which the Minister may extend a declaration of public precinct beyond 12 hours should be defined inclusively in the legislation, and that the Minister should be compelled to provide reasons when exercising that power.

17. The Society opposes the power to request that persons leave a declared public precinct in proposed s 66N(1)(b) as it is currently drafted.

18. This power appears to relate to the specifics of a person as opposed to the situation they find themselves in in a public place.

19. The Society submits that there is a real risk of this power being open to abuse, and we endorse the comments made by ALRM as to the necessity of s 66N(1)(b) in addition to s 66N(1)(a).

20. The Society is concerned that young people in a declared public precinct, particularly those who are socialising in groups, will be disproportionately targeted by police and requested to leave for reasons referred to in the general comments section above.

21. Such young people may then be at greater risk of being charged with a criminal offence pursuant to proposed s 66O.

22. The Society shares ALRM's concerns about the use of expiation notices in relation to public order offences.

23. We submit that legislating further expiation notice provisions (such as those in proposed s 66O(1)) will have a disproportionate impact on Aboriginal people who have high illiteracy levels by comparison with the general population and who are, therefore, more likely to ignore expiation notices.

24. The process of arrest and charge of suspects is in such cases of greater benefit to Aboriginal defendants, who might find themselves unintentionally trapped in offending patterns.

25. Proposed s 66Q provides a form of limitation of the liberty of the subject by instituting a barring regime within a declared public precinct.

26. As indicated above, regarding proposed s 66O, this regime has the potential to set Aboriginal people up for multiple breaches by relying on terms in a written document. Such documents may include complex directions involving a bar not only from the public precinct where the impugned behaviour or presence has occurred, but also from one or more other public precincts.

27. The Society is concerned about the effect of s 66Q(1)(3) on young people as potentially restricting their access to public transport, by reason of entering a declared public precinct from which they are banned.

28. Similarly, this proposed subsection may impact on young people's access to youth services given that the city is a services hub for many young people.

29. The Society is also aware that youth services, such as Multicultural Youth South Australia, provide outreach and street work in and around the vicinity of Hindley Street after hours on weekends. The Society is concerned that the proposed amendments would deter young people from seeking out these services, which is at odds with helping to keep children and young people safe.

30. The Society is concerned with the effect of s66R on young people who are experiencing homelessness or other forms of social disadvantage or marginalisation.

31. For many young people, being taken home by police is no safer than being permitted to remain in the declared public precinct where they can access services supports and their homeless peer group for support.

32. Young people in a state of primary homelessness tend to use the city as a safe place to stay awake and away from the deeply fractured environment of home rather than sleep rough. They then access specialist youth and homelessness support services upon opening in the morning; services such as Streetlink or Trace-A-Place.

33. Proposed s 66R would have a negative impact on this cohort of young people. In addition, many of these young people are declared to be independent by Centrelink and in receipt of the Unreasonable to Live At Home Allowance (UTLAH). UTLAH may be granted to young people aged 15 and over. In this instance a young person is their own legal guardian and are not required to have a 'guardian' present as suggested by proposed s 66R(1)(a).

34. If Police are to take children and young people removed from the declared public precinct home, we suggest that there must be accompanying support to the families of these young people.

35. Support is critical to assist families to begin to address the factors that led to their children and young people leaving in the first place. Simply taking a back home does nothing to address these reasons and may continue to place children in situations of (hidden) harm within the family home.

The other two submissions which I wish to read into *Hansard* are the ALRM and Youth Affairs Council which are referred to in the Law Society's submission. The next submission is from Christopher Charles, a legal practitioner and Director of Legal Services, Aboriginal Legal Rights Movement, to the Attorney, dated 6 April 2016. I will skip the salutations. It states:

We note that the Bill refers to a new part 14b of the *Summary Offences Act*. The new division 1 s 66l is welcome. We are concerned however at the adequacy of the safeguards provided in s 66n subsection 4. In particular we note that under subsection 4 a public precinct may not be declared for more than 12 hours in any 24 hour period unless the Minister is satisfied that special circumstances exist in the particular case. We note that special circumstances are not defined in the Bill, and although it may be argued that special circumstances have been judicially defined in relation to numerous other sets of legislation, that does not mean that the powers of administer to create such draconian orders, should not be suitably circumscribed by Parliament. Accordingly ALRM recommends that special circumstances requiring an extension beyond 12 hours in a 24 hour period should be defined in the legislation.

Similarly, it is submitted that, should occasion arise whereby the Minister felt required to extend a public precinct declaration beyond 12 hours in a 24 hour period, the Minister should be required, in making the declaration, to give statement of reasons to the public. That should be done via the Minister's website pursuant to subsection 5.

We refer to proposed s 66N. Under s 66N(1)(b), a person may or group of persons may be ordered to leave the declared public precinct, upon the basis of the police's reasonable belief that the presence of that person or group of persons in itself poses a risk to public safety, public scrutiny or public order.

This is very much an in personam power. It relates to the specifics of the person, not to the situation that they may find themselves in in a public place. There is a great potential for such a power to be abused, particularly when the entirely reasonable ground referred to in proposed s 66N(1)(a), has been made out. If (a) has been made out, what is necessary for (b)? It is submitted that subparagraph b should be removed from the Bill because there is a real risk that it could be used by the government of the day, or by the Commissioner, or by police to isolate, and heavily infringe upon the civil liberties of particular individuals, solely upon the basis of their identity.

Referring to s 66O, ALRM has a general disapproval of the use of expiation notices in relation to public order offences. This is well known to you from previous submissions in relation to the abuse of the *Expiation of Offences Act*, in relation to dry areas declaration.

ALRM is concerned that Aboriginal people who may not be literate or who may not be able to understand the expiation notice, could be subject to multiple expiations for disorderly behaviour or offensive language in a prescribed public precinct, without fully understanding the circumstances giving rise to the expiations.

At any event, if a person is behaving in a disorderly fashion, or using offensive language in a public place and if it is a prescribed public precinct where police hold genuine fears for public safety, public security or public order, surely that is a reason why arrests should take place rather than the provision of expiation notices. In that circumstance, ALRM raises the question why provision is being made for giving out expiation notices under s66O(1).

The final submission that I wish to read into *Hansard* is from the Youth Affairs Council and is titled 'Submission to the Summary Offences (Declared Public Precincts) Amendment Bill 2016'. It is dated April 2016 and it states:

The Youth Affairs Council of South Australia (YACSA) is the peak body in South Australia representing the interests of young people, youth workers, organisations and networks throughout the non-government youth sector. Policy positions are independent and not aligned with any particular party or movement. YACSA's aim is to encourage young people, and those working with them and for them, to achieve meaningful improvements in the quality of young people's lives.

YACSA is pleased to have the opportunity to respond to the Summary Offences (Declared Public Precincts) Amendment Bill 2016. The amendments outlined in this Bill will provide police with many of the same powers that they have dealing with criminality and disorderly conduct in private spaces but will apply to public events and public spaces. YACSA is concerned that young people, who are already scrutinised, monitored and regulated in public spaces, may be disproportionately impacted upon by these changes.

YACSA recognises the importance of public space to young people and supports their right to free and unhindered access to public spaces regardless of their backgrounds, economic status and age. However, we remain concerned that young people's right to lawfully use public space, as well as privately owned spaces such as suburban shopping complexes and the city centre, is under threat.

As such, YACSA has concerns that the operationalisation of this legislation by the South Australian Police will have the potential to further impact upon the use of public space by young people in South Australia.

YACSA advocates for the fundamental right of all young people to participate in and contribute to all aspects of community life, particularly decision making processes which impact upon them directly. Young people's involvement in society is vital in ensuring the development of relevant, forward-thinking and representative policy, programs and services. YACSA believes that young people are the experts in their own lives, and it is young people to whom decision-makers should turn when considering solutions to the problems young people face.

Sadly, it is more often the case that young people are excluded from decisions that affect them. For example, while young people are expected to assume many responsibilities in our society—including the responsibility of securing and maintaining employment—the same society can devalue their contribution and marginalise their role as stakeholders in civil, political, economic, social and cultural life, simply because of their age.

We live in a world where our perceptions are shaped by the media, which provides us with an ongoing, often negative, commentary that often serves to limit the roles available to young people. Young people are often portrayed as the victim, the child, the criminal, or the symbol of 'what is wrong with the youth of today'. Young people are also often seen as 'adults in the making', which suggests they are somehow are less capable, less insightful, less intelligent and less valuable than adults. This gives rise to the notion that young people are unable to make proper decisions or contribute in a meaningful way until they are older.

YACSA advocates strongly for young people to be viewed as important, contributing and valued members of their communities and as such, the opinions, knowledge, experience and participation of young people should always be sought and included.

The use of public space by young people is the subject of almost perpetual debate. With active citizenship and the use of public space being increasingly linked to consumption and financial participation, young people are being progressively excluded from public and commercial spaces and are subjected to increased surveillance, regulation and stigmatisation. Young people are often perceived and promoted (particularly by the media and some business owners) as pests or as a threat to the enjoyment of public space by others. The media attention surrounding young people congregating and skateboarding through Victoria Square (shortly before the city skate park closure) is a prime example of the often baseless hysteria inspired by young people enjoying a public space. In this case, local business owners reported 'hoards' of young people skateboarding through Victoria Square in the afternoons and on weekends allegedly serving to deter others from taking advantage of the space. However, apart from the opinions of local business owners there was no actual evidence offered to back up claims of the reported 'hoards' using the space or whether in fact the use of the space by young people was deterring the use of the space by others.

With this example in mind, YACSA contends that young people, (while using public space) are subjected to an increased amount of suspicion, regulation, restrictions and surveillance. Increased regulation for young people accessing public space is often couched in terms such as "crime prevention" or "decreasing anti-social behaviour". But low crime and anti-social behaviour rates in juvenile populations aren't easily reconciled with this heavy handed approach.

This disparity in regulation experienced by some councils, decision makers, police and other authorities often has young people complaining about unfair treatment particularly where they have not committed a crime or broken any laws. To many, it would seem that young people, on the most part are experiencing this treatment purely for being young.

YACSA and the Council for the Care of Children developed a joint report in response to the Citizens' Jury on 'How to ensure that we have a vibrant and safe Adelaide nightlife' in 2013. The basis of this report was the premise that young people have a right to access public space and to do so safely regardless of age or background. We received around 100 responses to a survey which underpinned the report from young people who told us about their experiences in using public space and what had to occur to make accessing public space safer for them. Young people wrote about the importance of public space for them and the importance of public space as a means for them to congregate with their peers and to feel connected to their communities.

It is important to acknowledge that like all citizens, young people have a right to access public space. For young people, it is an important means of feeling connected to their friends, their community, engaging with their peer group/s, and engaging in sports and leisure activities. Regrettably this right to accessing public space is not acknowledged or supported by all within the community and as such, young people are often subjected to increased police and security attention when gathering in public spaces.

The Bill proposes a series of amendments designed to give police additional powers to search, bar, and remove individuals who are using public space. These changes and our concerns consist of:

The proposed amendments to the Summary Offences Act will enable the Minister to declare certain public spaces 'Declared Public Precincts' which are designed to give police similar powers to the powers that they exercise in private spaces. This means police can bar an individual from the 'Declared Public Space' for a prescribed time frame.

YACSA is concerned that geographical public areas that may have previously been freely enjoyed by young people will now (albeit temporarily) become areas in which they potentially face police scrutiny, fines, barring and/or removal. In addition, how will young people keep informed of these declarations to ensure they know the temporary status of the public space and the potential legal ramifications for entering the area?

Police are also permitted through this legislation to conduct metal detector searches on anyone who is found within a 'declared public space' if they have a reasonable suspicion that the individual is carrying an object which constitutes an offence. If the individual resists or fails to produce the 'item' then the police officer can use other search methods (other than by a metal detector).

YACSA contends that police already have sufficient powers to search individuals whom they suspect of carrying an illegal item or who have committed or are about to commit a crime. The concern is that young people will again be subjected to unnecessary searches by police while accessing public space.

If the police believe that an individual has committed an offence of any kind that poses a risk to 'public order, safety or security' or behaves in an offensive or disorderly manner within a 'declared public precinct' then the police can bar the individual from entering the precinct or any other declared public precinct for up to 24 hours. If an individual, who has been barred from entering a Declared Public Precinct re-enters that space within the prescribed time period then they are subject to fines of up to $2500. YACSA would like to point out that fines, particularly for young people (whose income may be low or non-existent), will create substantial debt for individuals who transgress this new legislation. This debt (if not paid) may also lead to further contact with the justice system and unnecessary criminalisation.

For young people, barring becomes a more significant issue if the geographical location the young person is barred from is part of their local community or a location frequented by their peer group.

The submission goes on to set out how young people under the age of 16 can be removed from a declared public precinct. I do not intend to go through that. I will now go to the conclusion of their submission:

YACSA is concerned that this section of the legislation will also negatively impact upon young people who access public space due to homelessness. Young people experiencing homelessness are often in public places in groups at night for their own safety. Moving these young people on, or removing them from the public space may serve to criminalise an already marginalised group of young people.

While YACSA values the need for young people to exist within safe environments we have several questions related to this section of the Bill. How will young people (under the age of 16) know that the area is now a 'declared public precinct'? What standards or criteria (apart from the broad list contained in the Bill) will police use to ascertain whether the young person is at risk? Again YACSA believes that young people have the right to access public space and we are concerned that young people will face unnecessary removal from public space and contact with police and other authorities as a result of these changes.

The submission goes on, but I have put on *Hansard* the relevant pieces. I just want to draw the chamber's attention to the recent experience in Victoria and the review of Victoria Police's use of 'stop and search' powers. In 2009, the Victoria Police powers to search for weapons was significantly enhanced with the Summary Offences and Control of Weapons Acts Amendment Bill 2009. This amending act empowered the police to search any person without warrant in a public place in an area specifically designated for the purposes of this search power. It also created a new offence of disorderly conduct in a public place.

In 2012, the Office for Public Integrity (OPI) tabled a review of Victoria Police's use of these new 'stop and search' powers. It is useful to consider the Victorian experience when contemplating the bill currently being debated in the chamber. The OPI report found that there were problems with ensuring appropriate transparency and accountability associated with the use of these powers. The report identified the following specific problems associated with the legislation. Victoria Police was not able to meet the legislative reporting requirements due to inadequate data collection and retrieval mechanisms. Problems with definitions and statistical data collection made it difficult to establish how effective 'stop and search' powers had been at reducing knife-related crime in Victoria.

Similar powers that were granted in the United Kingdom have not proven to be effective in reducing crime rates. Consequently, the report concluded that accurate data collection is an important tool for enhancing transparency and accountability. The report recommended that Victoria Police needed to address the flaws in statistical reporting to enable the automatic report to be generated, which meets the legislative requirements for reporting to the minister. The report also emphasised that although high-visibility policing can enhance community perceptions of safety and public confidence in the police, 'stop and search' operations in designated areas have limited value in isolation from other crime prevention strategies.

The report acknowledged that community education is central to building public confidence that police use their powers effectively to provide safer communities. It is vital that police engage with local communities about where 'stop and search' powers have been used, why they were used, and the impact of those operations on knife-related crime. The Victorian experience should be a salutary lesson to us. It reinforces why in this state we should follow other jurisdictions in having an independent body to collect and report on data on our policing, and in turn, the effectiveness of our laws.

I ask the minister why there are no reporting requirements contained in this bill. In the police request to the Attorney-General for powers contained in this bill, were the findings of the Victorian report addressed? Has the government sought to take into account the findings of the Victorian report prior to the decision to enact legislation in the matter before us? I can recall the words of former premier the Hon. Don Dunstan in a debate in the other place on the police officers act. The debate concerned the police powers in respect to the offence of loitering and the need to give reasons. He said:

The only proper place for police powers to interfere with the rights of a citizen to be in a public place is one based on probable cause.

The bill before us represents a Labor Party abandoning the Dunstan legacy of considered legislation with a watchful eye on the need to restrain the powers of the police as well as a deep respect for the rights of our citizens. This bill comes at a time when we have the Acting Police Ombudsman expressing concern at the use of search powers by the police. He writes in his annual report:

> If such powers are not carefully monitored, the danger is that the erosion of civil liberty will gradually occur over a period of time.

It is incumbent on the minister to give assurance to the chamber that these new powers will not be abused, that mechanisms are in place that prevent their abuse, and that there will be monitoring of the application of the powers in this bill and appropriate data collected. Police operations in a democracy must function with a commitment to the rule of law. This allows the parliament and the executive to operate with legitimacy and our people to retain confidence in the law and our justice system.

I have not been encouraged by the legislation agenda over the past three years that there is a real commitment to the rule of law within the government or the police executive. The powers in this bill have the look of proclamations you would normally expect from a military junta. They do not sit well with our image of the progressive city of Dunstan, which the Labor Party so often proclaim but at the same time relentlessly undermine with harsh laws based on wafer thin supporting evidence. These types of laws are increasingly placing the police as a central component of the power of the state in respect of its peoples. I fear that this bearing is taking this state away from its progressive and inclusive past to a darker future. The Liberal Party will support the second reading and looks to the minister to allay its concerns and make its case.

Debate adjourned on motion of Hon. G.E. Gago.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

The House of Assembly appointed Mr Duluk to the committee in place of Mrs Redmond.

Bills

CHILD SAFETY (PROHIBITED PERSONS) 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) (18:30): 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 Child Safety (Prohibited Persons) Bill 2016 (the Bill) aims to minimise the risk to children posed by people who work or volunteer with them. In order to achieve this aim, the Bill provides a framework for the prohibition of persons, who pose an unacceptable risk to children, from working or volunteering with children. This objective is stated in the Bill. Under the Bill, persons wanting to work or volunteer with children are required to undertake a working with children check every five years. This check is undertaken by a central assessment unit and a person can be prohibited from working or volunteering with children.

The Bill specifically provides that the paramount consideration in respect of the administration, operation and enforcement of this new regime is the best interests of children, having regard to their safety and protection.

This is important reform that is firmly focussed on protecting the safety and well-being of children.

It is very important however, that people are not lulled into a false sense of security, and hence the Bill focuses on people being prohibited to work with children or not, rather than being cleared to do so.

Reflecting this, the Bill provides for a number of principles that must be taken into account in connection with the administration, operation and enforcement of this Act, including:

- a working with children check relating to a person is conducted by the central assessment unit to determine (based on an assessment of information available to the central assessment unit):

- whether the person poses an unacceptable risk to children; and
- whether the person should be prohibited from working with children;

- persons who pose an unacceptable risk to children are to be prevented from working with children;
- a working with children check is not a determination of a person's suitability to work with children and cannot be relied on as such, and in particular:
  - a working with children check that does not result in a person being prohibited from working with children is not proof of good character; and
  - a working with children check that does not result in a person being prohibited from working with children is not proof that the person does not pose a risk to children;
- a working with children check is an assessment of a person's prior conduct, and the fact that working with children checks are conducted in relation to employees does not, of itself, satisfy an employer's obligation to ensure that a workplace is safe for children; and
- organisations and employers must have in place comprehensive strategies to ensure child safe environments.

The Bill adopts a number of recommendations of Royal Commissioner Nyland of the South Australian Child Protection Systems Royal Commission (the SA Royal Commission), as well as recommendations made by the Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse (the Cth Royal Commission) as set out in its final recommendations on working with children checks.

The Bill represents the adoption of recommendations 238(a) to (c) of the SA Royal Commission, being that a stand-alone legislative instrument is enacted to regulate the screening of individuals engaged in child-related work which:

- declares that the paramount consideration in screening assessment must be the best interests of children, having regard to their safety and protection;
- invests powers in only one authorised government screening unit which is charged with maintaining a public register of all clearances and their expiration dates;
- empowers the screening authority to take into account in its assessments criminal offence and child protection history, professional misconduct or disciplinary proceedings, and deregistration as a foster parent or other type of carer under the *Family and Community Services Act 1972;*

Under the Bill, this screening authority is the central assessment unit and the public register is referred to as the records management system. In addition, under the Bill a screening is a working with children check.

Recommendation 238(d), states that the legislation should provide a clear definition of child-related work, including the meaning of incidental or usual contact. This will be adopted through the use of regulations facilitated in the Bill.

The Bill also adopts recommendation 238(e) to (g) such that the Bill:

- declares that the outcome of a screening assessment will be limited to either a clearance or a refusal and that all applications, even if withdrawn, will be assessed;
- requires individuals to seek and maintain a personal clearance, valid for a period of up to five years, through a card or unique electronic identifier system, which has portability across roles and organisations in the state and to notify the screening authority of relevant changes in their offence, conduct or child protection circumstances;
- requires employers to ensure that all relevant personnel in their organisations, at all times, hold current clearances.

The Bill also adopts recommendations 238(h)(i), (ii) and (iv) by precluding exemptions from screening requirements for registered teachers, applicants waiting on screening outcome decisions and those who have been refused a working with children check.

Recommendation 238(h)(iii) stated that the legislation should preclude exemptions from screening requirements for those working or volunteering with children who are in care. The Government's intention is to consider this recommendation and determine how it can be adopted in a balanced way (by way of regulations) that ensures the privacy of children in care is not unnecessarily jeopardised. By precluding the application of some exemptions to children in care, people who would not otherwise need to know, may need to be told that a certain child was in care.

Recommendation 238(i) and (j) are also adopted so that the legislation includes:

- new offences for individuals and organisations who fail to comply with the provisions of the legislation, including engagement in or for child-related work without a clearance, and dishonesty in the application process; and
- permits appeals from decisions of the screening authority to the South Australian Civil and Administrative Tribunal or other independent body.

The Bill facilitates the adoption of the SA Royal Commission recommendation 239, by allowing continuous monitoring such that changes in screened individuals' circumstances are communicated to the screening authority, that clearances are reviewed, and that changes are reflected in the register, and communicated to employers.

Recommendation 240(a) to (d) are adopted in the Bill so that the screening authority:

- has access to forensic expertise in child protection and behavioural indicators of risk; and
- has to develop a consolidated set of standards, matrices, and weighting guidelines for use in screening assessments, that include substantiated and unsubstantiated criminal, child protection and disciplinary matters, and ensure that assessors are appropriately trained in their application;
- through the regulations, will develop guidelines for ensuring that applicants are afforded appropriate procedural fairness, including circumstances in which information may be withheld from applicants;
- has to develop and promulgate timeline benchmarks for screening outcomes, and procedures for informing applicants whose clearances may fall outside benchmarked times.

Recommendation 240(e) (to develop information sharing protocols with interstate screening units) whilst supported, is not appropriate for inclusion in legislation but can be facilitated administratively.

The Bill also facilitates recommendation 241, to develop an independent mechanism and evaluation process for reviewing the performance of the screening authority.

By establishing a single central assessment unit to undertake all working children checks on application by an employee, that are portable and valid for five years, the Bill also reflects South Australia's support of the Cth Royal Commission recommendations concerning working with children checks.

The Cth Royal Commission supported the establishment of a national model for working with children checks, which South Australia supports and is facilitating by largely adopting the recommended elements of what constitutes working with children and providing flexibility in the Bill for key terms (such as the different elements that constitute working with children, what constitutes incidental contact with children, what is assessable information) to be fully or partially defined in the regulations.

There is one particular recommendation of the Cth Royal Commission that has, however, not been adopted. The Cth Royal Commission supported a scheme whereby a person could commence working or volunteering with children whilst awaiting the outcome of their working with children check. This was not supported by the SA Royal Commission and the Government has chosen to adopt the approach recommended by Royal Commissioner Nyland whereby a person cannot commence working or volunteering with children until their working with children check has been undertaken and they have not been prohibited.

The Government supports the views expressed by Royal Commissioner Nyland concerning this issue.

Taking into account the scheme as proposed under the Bill, where working with children checks are portable and valid for five years, it is an unnecessary risk to children to allow people to commence employment before the working with children check has been completed.

Under the Bill, a central assessment unit is tasked with assessing, on application by a person, whether that person would pose an unacceptable risk to children and whether they should therefore be prohibited from working or volunteering with children. This is referred to as a working with children check.

Under the Bill, guidelines will be developed and will be gazetted in relation to:

- procedures to be followed by the central assessment unit when conducting working with children checks; and
- standards to be applied by the central assessment unit when determining the weight to be given to evidence of a specified kind; and
- benchmarks for periods within which certain applications for working with children checks are to be processed by the central assessment unit; and
- the risk assessment criteria to be used by the central assessment unit in conducting working with children checks.

In addition, regulations will be made that will provide for procedural fairness in the exercising of powers or the performing of functions under the Bill.

The Bill also provides the central assessment with powers to require others to provide the unit with information.

Under the Bill, a person is provided with a unique identifier and once the assessment is done, the central assessment unit can then issue a prohibition notice, stating the person is a prohibited person, thereby banning the person from working or volunteering with children (as defined under the Bill).

The Bill provides that it is an offence for a prohibited person to work or volunteer with children, and it is also an offence to employ or allow a person to volunteer with children if they are prohibited.

Under the Bill, it is also an offence to employ a person or allow them to volunteer with children unless they have undertaken a working with children check in the last five tears, and an offence for any person to work or volunteer with children without having undertaken a working with children check in the last five years.

It is also an offence for any person to falsely represent that a working with children check has been conducted in relation to the person (or any other person) within the preceding 5 years that the person (or any other person) is not prohibited from working with children. In addition,

When a working with children check is undertaken, the person will be given a unique identifier. Using that unique identifier and a person's full name and date of birth, it will be possible for a person to determine whether a working with children check has been undertaken in the last five years and whether the person was prohibited from working or volunteering with children.

Under the Bill, certain people are excluded from having to undertake a working with children check. This includes members of South Australia Police and the Australian Federal Police, as well as any person who employs a child or who supervised a child in employment where the work undertaken is not child-related.

The Bill sets out the steps an employer must take if employing a person to work with children. The terms in the Bill are defined in such a way that these provisions also apply to any organisation that is engaging a person to volunteer with children.

The Bill requires the employer to obtain from the person their full name, date of birth and the unique identifier issued to them by the central assessment unit when they undertook the working with children check.

Using this information, the employer then verifies in accordance with regulations that a working with children check has been conducted in the last five years in relation to the person and that the person has not been prohibited from working with children.

When undertaking this verification, the employer will also need to provide the central assessment unit with the name, address and telephone number and email address of the business or organisation at which the person will be employed (or will volunteer) and the name and contact details of the person who undertook the verification.

The employer also becomes liable to provide certain information to the central assessment unit about the person if they become aware of it.

In addition, a person who has been issued with a unique identifier is also required to provide the central assessment unit with certain information, such as whether they become prohibited from working with children interstate or whether they become a registered offender under the *Child Sex Offenders Registration Act 2006* (SA).

In addition to employer being able to verify that a person has undertaken a working with children check and is not a prohibited person, any person who is responsible for a child (for example, a parent) in respect of whom child-related work is, or is to be, performed by a person may also require the person to provide their full name, date of birth and unique identifier. The responsible person can then access the records management system to verify that a person has undertaken a working with children check and is not a prohibited person.

The central assessment unit can also undertake a working with children check about a person at any time, meaning that if information comes to the attention of the central assessment unit about a person to whom a unique identifier has been issued, the central assessment unit can re-assess the person and if appropriate, issue a prohibition notice.

Through the contact information that the employer (or organisation) provides, the central assessment unit can then also comply with obligations under the Bill the unit has to notify known employers if the person has been prohibited from working with children, if more than five years has passed since the person's most recent working with children check was conducted or whether their unique identifier has changed.

The effect of this Bill is to significantly improve how people in South Australia, who wish to volunteer or work with children, are screened.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

Part 2—Objects, principles and guidelines

3—Object and principles

This clause sets out the objects of the Act - to minimise the risk to children posed by persons who work with them - and sets out principles that must be taken into account in connection with the administration, operation and enforcement of the measure.

4—Guidelines

This clause enables the Minister to publish guidelines for the purposes of the measure.

Part 3—Interpretation and provisions relating to application of Act

5—Interpretation

This clause defines terms and phrases used in the measure.

6—Meaning of child-related work and work with children

This clause defines what working with children means in terms of the operation of the measure.

7—Meaning of employed, employee and employer

This clause defines what these terms mean for the purposes of the measure, in particular by extending the terms to include self-employed person and volunteers etc.

8—Meaning of assessable information

This clause sets out the information to be assessed in the course of a working with children check.

9—Meaning of excluded person

This clause sets out the definition of excluded persons, being persons to whom certain provisions of the measure do not apply.

10—Criminal intelligence

This clause enables certain information classified by the Commissioner of Police to not be disclosed.

11—Procedural fairness

This clause provides that the central assessment unit and the Registrar, in exercising powers or performing functions under the measure, need not afford a person procedural fairness except where the regulations provide otherwise.

12—Interaction with other Acts and laws

This clause clarifies the interaction between the measure and other Acts and laws.

13—Act to bind, and impose criminal liability on, the Crown

This clause expressly provides that the measure can impose criminal liability on the Crown, as required under the *Acts Interpretation Act 1915*.

14—Exemptions

This clause confers on the Minister the power to exempt a specified person, or a specified class of persons, from the operation of the measure. However, subclause prevents exemptions from being granted to certain persons.

Part 4—Restrictions on working with children

Division 1—Persons who cannot work with children

15—Prohibited persons not to work with children

This clause defines who are 'prohibited persons' for the purposes of the measure.

The clause prohibits those persons from working with children, and creates offences for those contravenes the provision.

Similarly, an employer who employs a prohibited person also commits an offence.

16—Working with children without current working with children check prohibited

This clause creates an offence for a person to work with children if the person has not had a working with children check conducted in the preceding 5 years.

Division 2—Steps employers must take in relation to employing person

17—Steps employers must take before employing person in prescribed position

This clause prescribes a series of steps that must be taken by an employer before they employ a person in a position in which they may work with children. The steps are intended to verify that the person is not prohibited from working with children.

An employer who contravenes the proposed section is guilty of an offence.

18—Employer to ensure working with children check conducted at least every 5 years

This clause requires an employer to verify that working with children checks are conducted in respect of their employees, and that those employees are not prohibited persons, with an offence committed by those who do not do so.

19—Employer to advise central assessment unit of certain information

This clause requires employers of people employed in positions in which they may work with children to notify the central assessment unit if they become aware of the matters specified in subclause (1), with an offence committed by those who do not do so.

Part 5—Working with children checks

Division 1—Central assessment unit

20—Central assessment unit

This clause requires a central assessment unit to be established.

21—Functions

This clause sets out the functions of the central assessment unit.

22—Registrar

This clause requires a Registrar of the central assessment unit to be appointed, and makes procedural provision accordingly.

23—Powers of delegation

This clause is a standard delegation power.

24—Evaluation of central assessment unit

This clause requires the Minister to evaluate the performance of the central assessment unit, with the scheme for doing so to be set out in the regulations.

Division 2—Working with children checks

25—Working with children checks to be conducted by central assessment unit

This clause provides that working with children checks can only be conducted by the central assessment unit.

26—Nature of working with children check

This clause explains the nature of a working with children check, providing that the check consists of the central assessment unit assessing assessable information relating to a person against the prescribed risk assessment criteria to determine whether or not the person poses an unacceptable risk to children.

27—Application for working with children check

This clause sets out how a person can apply for a working with children check.

28—Working with children check to be conducted even if application withdrawn

This clause requires a working with children check to be conducted once an application is made, even if the application is subsequently withdrawn.

29—Unique identifiers

This clause requires the central assessment unit to issue a unique identifier to the persons specified in the clause. That identifier is used to identify the person for the purposes of the measure, including inspecting the records management system.

30—Central assessment unit may conduct additional working with children checks

This clause empowers the central assessment unit to conduct working with children checks on persons despite no application having been made.

31—Central assessment unit may seek external advice

This clause enables the central assessment unit to seek professional advice in respect of determinations under the measure (for example, psychological or legal advice).

32—Issue of prohibition notice

This clause requires the central assessment unit to issue a prohibition notice to each person who is to be prohibited from working with children (the issue of the notice is the vehicle for prohibition under proposed section 15).

33—Revocation of prohibition notice

This clause sets out the limited circumstances in which a prohibition notice may be revoked by the central assessment unit, and makes procedural provision in respect of applications for such revocations.

Division 3—Records management system

34—Records management system

This clause requires the Registrar of the central assessment unit to establish and maintain a records management system for the purposes of the measure.

The clause sets out requires for the form and content of the system.

35—Inspection of records management system

This clause sets out how, and by whom, the records management system may be inspected, and requires that evidence of inspection be provided to a person who inspects the system.

Division 4—Information gathering powers etc

36—Registrar may require information from public sector agencies

This clause confers on the Registrar the power to require public sector agencies to provide to the Registrar certain information in its possession. The clause makes provision for any failure to comply on the part of agencies.

37—Registrar may require information from other persons

This clause confers on the Registrar the power to require specified persons to provide to the Registrar certain information in his or her possession. Failure to comply with a requirement constitutes an offence.

38—Court to provide notice of certain findings of guilt to central assessment unit

This clause requires a court that finds a person guilty of a prescribed offence to provide prescribed information relating to the finding of guilt to the central assessment unit.

39—Commissioner of Police to provide information to central assessment unit

This clause requires the Commissioner of Police to provide to the central assessment unit prescribed information relating to any person who is charged with a prescribed offence.

40—Certain persons to advise central assessment unit of changes in information

This clause requires a person to whom a unique identifier has been issued to notify the central assessment unit if any of the specified events occurs, with an offence created for those who refuse or fail to comply.

41—Central assessment unit to advise employer of certain information

This clause requires the central assessment unit to notify employers of persons if the person becomes a prohibited person, or more than 5 years have passed since the person's last working with children check, or the person changes their unique identifier.

42—Central assessment unit to advise prescribed persons and bodies of certain information

This clause requires the central assessment unit to notify certain persons and bodies if a person relevant to the person or body becomes a prohibited person, or more than 5 years have passed since the person's last working with children check, or the person changes their unique identifier. This is intended to include regulatory and licensing bodies.

Part 6—Review of decisions by South Australian Civil and Administrative Tribunal

43—Review of decisions by South Australian Civil and Administrative Tribunal

This clause confers jurisdiction on the SACAT in respect of the review of certain reviewable decisions under the measure.

Part 7—Miscellaneous

44—Parents etc may require person to provide unique identifier

This clause requires a person who is performing, or is to perform, child-related work in respect of a child to produce their unique identifier, or to verify that they are not a prohibited person electronically, to the person responsible for the child at the request of that person. An offence is created for a contravention of the proposed section.

45—Misrepresentations relating to working with children check

This clause creates offences for persons who falsely represent certain matters.

46—False or misleading statements

This clause creates an offence for a person to knowingly make a false or misleading statement in information provided under the measure.

47—No obligation to maintain secrecy

This clause provides that obligations to maintain secrecy, or other restrictions relating to disclosure of information, under other Acts or laws do not apply to the disclosure of information to the central screening unit under this measure, other than an obligation or restriction designed to keep the identity of an informant secret.

48—Limitation of liability

This clause confers immunity from liability in respect of an act or omission in good faith in the exercise or discharge, or purported exercise or discharge, of a power, function or duty conferred or imposed by or under the measure.

49—Confidentiality

This clause is a standard confidentiality provision restricting the disclosure of confidential information.

50—Victimisation

This clause makes provision for where a person who causes detriment to another on the ground, or substantially on the ground, that the other person or a third person has provided, or intends to provide, information under the measure, allowing the person to choose to recover in tort or through the *Equal Opportunity Act 1984*.

51—Service

This clause sets out how notices etc under the measure are to be served on a person.

52—Evidentiary provision

This clause provides that certain matters may be proved in legal proceedings by way of allegations in the information or certificate signed by the Registrar.

53—Regulations

This clause is a standard regulation making power.

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

PUBLIC INTEREST DISCLOSURE 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) (18:31): 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.

I am pleased to introduce this important Bill. This Bill compliments the establishment of the Independent Commissioner Against Corruption and the proposed new police complaints scheme. Together they provide a

comprehensive scheme for the disclosure and investigation of complaints about alleged wrongdoing in public administration and for appropriate support and protection of persons who make those disclosures.

The proposed scheme will replace the *Whistleblower Protection Act 1993*, which was ground breaking legislation at the time, but no longer represents best practice in this area and is no longer a comfortable fit with the modern integrity landscape. With the introduction of the Independent Commissioner Against Corruption Act in 2012 the Government committed to a review of the whistleblower legislation. This Bill is based on the recommendations of the review carried out by the Hon Bruce Lander QC. The review included a long and extensive consultation process. Submissions received during that process were supportive of the proposed legislation.

This purpose of the Bill is to facilitate disclosures about public administration information by public officers or former public officers; ensure that public disclosures are properly assessed and where necessary, investigated and actioned, and ensure that a public officer making a disclosure is protected against reprisal. The definitions in the Bill complement the scheme established under the ICAC Act. For example corruption, misconduct and maladministration in public administration, public administration and public officer have the same meaning as in the ICAC Act, and public administration information means information that raises a potential issue of corruption, misconduct or maladministration in public administration (whether occurring before or after the commencement of this Act).

However, the Bill also provides protection for disclosures by members of the public about wrongdoing in the private or public sector where the information is disclosed to an appropriate recipient and the information relates to substantial risk to public health or safety and the environment. It would be hard to argue that such disclosures should not be encouraged and facilitated and that persons making such disclosures should not have the protections of the scheme.

For a disclosure to be protected, the person must believe on reasonable grounds that the information is true, or believe on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated, and the public officer must make the disclosure to a relevant authority, defined in the Bill. Of course, like the ICAC Act, a critical aspect of the bill is confidentiality. The Bill provides an offence for knowingly divulging, without the consent of the informant, the identity of the informant except in certain circumstances which carried a maximum penalty of $10,000 or imprisonment for 1 year. The Bill also contains an identical offence of victimisation to that contained in the ICAC Act. A person who makes an appropriate disclosure is not subject to any liability as a result of that disclosure. The Bill places a duty on the person who receives an appropriate disclosure to take action in relation to the information and to take reasonable steps to keep the informant advised of the action and the outcome of any investigation. Under this scheme, principal officers of public sector agencies and councils and persons designated as responsible officers are required to take appropriate action.

The Bill complements the important reforms already taken by the Government for the maintenance and improvement of the quality, accountability and integrity of public administration in this State. It provides an appropriate balance between the Government's need to conduct its business at times confidentiality with the need for transparency and accountability in conducting that business.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Objects

This clause sets out objects for the measure.

4—Interpretation

This clause defines certain terms used in the measure. In particular, *environmental and health information* is defined as information that raises a potential issue of a substantial risk to the environment or to the health or safety of the public generally or a significant section of the public and *public administration information* means information that raises a potential issue of corruption, misconduct or maladministration in public administration. The umbrella term used in the measure to encompass both of these categories of information is *public interest information.*

5—Immunity for appropriate disclosure of public interest information

This clause provides an immunity from liability for any person who makes an appropriate disclosure of environmental and health information and for a public officer who makes an appropriate disclosure of public administration information. The section also sets out the requirements for making an 'appropriate disclosure' for each category of information and who such a disclosure may be made to.

6—Disclosure to a member of Parliament

This clause sets out an additional way in which an 'appropriate disclosure' of information may be made.

7—Duty to act in relation to appropriate disclosure

This clause sets out actions to be taken following an appropriate disclosure of public interest information. Such information must be assessed and, following assessment, action must be taken (in accordance with applicable guidelines or as appropriate in the circumstances). The clause also provides for notification to be given to the informant and to the OPI. The clause does not apply to a disclosure to a member of Parliament other than a Minister of the Crown (who is required to refer the disclosure to a relevant authority who is then obliged to deal with the disclosure as if it had been made to them).

8—Identity of informant to be kept confidential

This clause creates an offence protecting the identity of an informant.

9—Victimisation

A person who causes detriment to another on the ground, or substantially on the ground, that the other person or a third person has made or intends to make an appropriate disclosure of public interest information commits an act of victimisation. Victimisation is an offence and is also actionable as a tort or as if it were an act of victimisation under the *Equal Opportunity Act 1984*.

10—False or misleading disclosures

Making a false or misleading disclosure of public interest information is an offence. The clause also makes it clear that such disclosures are not protected under the measure.

11—Preventing or hindering disclosure

This clause creates an offence of preventing or hindering a person making an appropriate disclosure of public interest information.

12—Duties of principal officers

The principal officer of a public sector agency or council must ensure that 1 or more officers or employees of the agency or council are designated as responsible officers under the measure and must ensure that a document setting out relevant procedures for making and dealing with appropriate disclosures of public interest information is prepared and maintained.

13—Duties of responsible officers

A responsible officer of a public sector agency or council for the purposes of this Act must receive and deal with appropriate disclosures of information and provide advice to officers and employees of the agency or council in relation to the administration of this Act.

14—Guidelines

The ICAC may publish guidelines for the purposes of the measure.

15—Non-derogation

The measure is in addition to, and does not derogate from, any privilege, protection or immunity otherwise existing under which information may be disclosed without civil or criminal liability.

16—Regulations

This clause provides a regulation making power.

Schedule 1—Related amendments, repeals and transitional provisions

Part 1—Related Amendments

This Part sets out related amendments to the *Local Government Act 1999* and the *Public Sector Act 2009*.

Part 2—Repeal

This Part repeals the *Whistleblowers Protection Act 1993*.

Part 3—Transitional provisions

1—Disclosures under repealed Act

The measure (other than clause 7) applies to an appropriate disclosure of public interest information under section 5 of the *Whistleblowers Protection Act 1993* as if it were an appropriate disclosure of public interest information under the measure.

2—Designation of responsible officers

The principal officer of a public sector agency or council in existence at the commencement of the measure must ensure that clause 12 is complied with within 3 months after that commencement.

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

POLICE COMPLAINTS AND DISCIPLINE 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) (18:31): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill is a response to the recommendations in the Report of the Hon Bruce Lander QC: 'Review of Legislative Schemes: The oversight and Management of Complaints About Police; The Receipt and Assessment of Complaints and Reports about Public Administration'. When the *Independent Commissioner Against Corruption Act 2012* was enacted, it was always envisaged that a review of the State's integrity system would be necessary to determine and address duplication and inefficiencies in existing complaints systems. The review highlighted the unnecessary complexity of the system established under the *Police Act 1998* and the *Police Complaints and Disciplinary Proceedings Act 1995* for the receipt, assessment and investigation of complaints about police.

The Police Complaints and Discipline Bill 2016 will repeal the Police Complaints and Disciplinary Proceedings Act, abolishing the Office of Police Ombudsman, and establish a streamlined complaints system in which SAPOL retains primary responsibility for the assessment of complaints and reports about police with independent oversight by the Office for Public Integrity.

The Bill provides for the Office for Public Integrity to have general oversight of the police complaints scheme. Under the current legislation, this role is undertaken by the Police Ombudsman. The OPI will have 24 hour access to a complaints management system set up under this Bill, which will remove duplication, increase efficiency and ensure that the resolution of a complaint is appropriate and audited. The ICAC will report annually on the types of sanctions imposed at the outcome of a complaints process.

The Bill provides for OPI to give directions to the Internal Investigations Section, to reassess complaints and reports entered onto the complaints management system established under this Bill and, after consultation with the Officer in Charge of the IIS, substitute the IIS assessment of the complaint or report with another assessment. The OPI will continue to refer matters to the ICAC if satisfied that the complaint or report related to matters that should be dealt with by the ICAC under the ICAC Act.

The Bill also provides for an informal process of dealing with complaints about police conduct. Management resolution is intended to be an informal and much simpler resolution process for complaints about conduct that the Police Commissioner determines is suitable for such resolution. The OPI must approve of a determination. It is envisaged that largely conduct that can and should be addressed through education, training, counselling or conciliation, imposition of restrictions relating to duties, authorities or ability to attend courses will be dealt with through this process. The result of a management resolution will be recorded on the electronic management system which will allow outcomes to be audited by the ICAC.

In accordance with recommendations, the scheme established by this Bill uses language that is more appropriate to a complaints and disciplinary scheme. Under the current legislation the Police Commissioner may charge a designated officer with a breach of discipline. Where a charge is laid, and the officer subject of the charge does not make an admission of guilt, proceedings on the charge are heard and determined by the Police Disciplinary Tribunal. The Bill allows for the Commissioner to issue a Notice of Allegation. If the officer does not admit an allegation contained in the notice, the allegation will be heard and determined by the Police Disciplinary Tribunal. Proceedings of the Tribunal remain largely unchanged by this Bill except that provisions allowing the use of evidentiary aids and information obtained by lawful exercise of powers under any Act have been included. .

The introduction of this Bill is another important step towards ensuring an efficient, cohesive integrity system for this State. The proposed scheme is welcomed by SA Police. The transition will require considerable effort and time and I look forward to the passage of this Bill and commencement of the implementation of the new scheme.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used throughout the measure.

4—Application of Act

This clause clarifies that the measure is in addition to, and does not derogate from, the specified Acts.

5—Separate Internal Investigation Section to be constituted

This clause requires the Commissioner of Police to constitute a separate Internal Investigation Section.

6—Complaint management system

This clause requires the Commissioner of Police to establish a system of recording and managing information for the purposes of the measure, and to ensure the ICAC and the OPI have direct and unrestricted access to the complaint management system for the purposes of the measure and the *Independent Commissioner Against Corruption Act 2012*.

7—Code of conduct

This clause provides for the establishment of a code of conduct for police officers by regulation.

8—Functions of OPI under Act

This clause sets out the functions of the Office for Public Integrity under the measure.

9—Complainant and police officer to be kept informed of progress of complaint

This clause requires the Commissioner of Police to keep people who make complaints about police officers, and the police officers concerned, informed of the progress of the complaint.

Part 2—Making complaints and reports

Division 1—Complaints and reports about conduct of police officers

10—Making a complaint about conduct of police officer

This clause sets out how a person may make a complaint against a police officer.

11—Right of persons in custody to make complaint

This clause makes procedural provision about the making of complaints under the measure by prisoners.

12—Police officers to report certain conduct of other police officers

This clause requires police officers who suspect other police officers of engaging in certain conduct to report the suspicion.

13—Action to be taken on receipt of complaint or report

This clause sets out what a person to whom a complaint is made must do on receipt of it. In particular, the person is generally required to refer the complaint to the Internal Investigation Section within 48 hours.

Division 2—Assessment of complaints and reports

14—Assessment of complaints and reports by IIS

This clause requires each complaint or report under the measure to be assessed to determine whether it raises issues relating to corruption, misconduct or maladministration in public office.

15—Commissioner may decline to act in relation to certain complaints

This clause sets out circumstances in which the Commissioner may decline to take further action in respect of a particular complaint or report.

Part 3—Certain matters to be resolved by management resolution

16—Application of Part

This clause sets out the kinds of matter to which the Part applies.

17—Further matters relating to operation of Part

This clause enables regulations to be made dealing with matters under the proposed Part such as identifying the kinds of complaints that should, or should not, be the subject of a determination under proposed section 16.

18—Dealing with matters by way of management resolution

This clause sets out how matters to which the proposed part applies are to be resolved. These are minor matters, and are to be dealt with by way of management resolution rather than in formal proceedings before the Tribunal.

19—Reporting results of management resolution of matter

This clause requires the resolution officer in respect of a matter dealt with under the proposed Part to report on the resolution of the matter.

20—Monitoring of management resolutions under Part

This clause requires the Commissioner to cause all matters dealt with under this Part to be monitored and reviewed with a view to maintaining proper and consistent practices.

Part 4—Formal proceedings for breach of discipline

21—Investigations of complaints and reports by IIS

This clause requires each complaint or report under the measure to be investigated by the Internal Investigation Section, other than those specified in proposed subsection (2). The clause sets out how matters are to be investigated and confers powers, obligations and protections on police officers.

22—Notice of allegation to be issued in respect of breaches of discipline

This clause sets out how proceedings for a breach of discipline are to be commenced by the Commissioner of Police.

23—Suspension where charge of offence or alleged breach of discipline

This clause provides the Commissioner of Police with the power to suspend the appointment of a police officer in the circumstances specified. The clause also sets out procedural matters in respect of such a suspension.

24—Police officer may admit or deny allegations

This clause enables a police officer to admit or deny allegations contained in a notice of allegation, to be done in accordance with the regulations.

25—Allegations to be heard and determined by Tribunal

This clause provides that allegations contained in a notice of allegation and not admitted by the police officer concerned are to be heard and determined by the Police Disciplinary Tribunal in accordance with the proposed section.

26—Commissioner may sanction police officer following offence or breach of discipline

This clause provides that the Commissioner of Police may impose certain sanctions on a police officer who admits, or is found to have committed, a breach of discipline.

Part 5—Oversight of complaints and reports by OPI etc

27—OPI may direct Commissioner etc in relation to handling of complaints and reports

This clause provides that the Officer for Public Integrity may direct the Commissioner of Police and other police officers in respect of complaints or reports under the measure. Such a direction must be complied without undue delay.

28—Reassessment of certain complaints and reports by OPI

This clause provides that the Officer for Public Integrity may reassess a complaint or report under the measure (and such an assessment will then be taken to be the assessment of the Internal Investigation Section).

29—OPI may refer complaints and reports to ICAC

This clause enables the Office for Public Integrity to refer complaints and reports under the measure to the Independent Commissioner Against Corruption to be dealt with under the *Independent Commissioner Against Corruption Act 2012*.

30—ICAC may investigate matters under section

This clause enables the Independent Commissioner Against Corruption to investigate complaints and reports under the measure if he or she considers it appropriate to do so, and in doing so has all the powers of a member of the Internal Investigation Section.

31—Annual report on sanctions imposed for breaches of discipline

This clause requires the Independent Commissioner Against Corruption to prepare an annual report in respect of the number and general nature of sanctions imposed under proposed section 26 in relation to breaches of discipline in the preceding financial year.

Part 6—Appeals

32—Appeals

This clause confers a right of appeal to the Administrative and Disciplinary Division of the District Court against a decision of the Tribunal, or certain decisions of the Commissioner in respect of management resolutions and the imposition of sanctions.

Part 7—Police Disciplinary Tribunal

33—Constitution of Police Disciplinary Tribunal

This clause provides for a Police Disciplinary Tribunal, constituted of a magistrate.

34—Registrar and deputy registrar

This clause requires the Registrar and Deputy Registrar of the Tribunal to be public servants.

35—Proceedings before Tribunal

This clause makes procedural provision in respect of proceedings before the Tribunal.

36—Powers of Tribunal

This clause sets out the powers of the Tribunal in respect of proceedings and witnesses etc.

37—Protection of Tribunal, counsel and witnesses

This clause confers protections on specified persons appearing before the tribunal consistent with those in court proceedings.

38—Reference of question of law

This clause enables the Tribunal to refer questions of law to the Supreme Court.

39—Costs

This clause provides for the awarding of costs by the Tribunal.

40—Reasons for decision

This clause requires the Tribunal to give reasons for its decisions at the request of the specified persons.

Part 8—Miscellaneous

41—Obstruction of complaint or report

This clause creates an offence for a person to prevent or hinder a person from making a complaint or report under the measure.

42—False or misleading statements

This clause creates an offence for a person to make a false or misleading statement in information provided under the measure, and to make a false complaint or report under the measure.

43—Use of evidence or information obtained under other Acts etc

This clause enables evidence and information obtained under this measure or any other Act to be used in relation to management resolutions or proceedings before the Tribunal under this measure.

44—Limitation on requirement to divulge information

This clause provides that a person who is, or who has been, engaged in the administration or enforcement of this measure or the repealed Act cannot be required to divulge information disclosed or obtained in the course of an investigation except in the specified circumstances.

45—Confidentiality

This clause creates an offence for a person engaged in the administration of the measure to disclose certain information, and makes provision for when information can be disclosed.

46—Publication of information and evidence

This clause prevents a person from publishing certain information without the authorisation of the Commissioner of Police, the ICAC or the OPI or a court.

47—Service

This clause sets out how notices and documents are to be served under the measure.

48—Review of Act

This clause requires the Minister to conduct a review of the operation of the measure before the third anniversary of its commencement, and report to Parliament on the review.

49—Regulations

This clause is a standard regulation making power.

Schedule 1—Related amendments, repeal and transitional provisions

Parts 1 to 14

These Parts make related amendments to numerous Acts to replace provisions relating to the Police Ombudsman, a position abolished under the measure.

The Parts also make consequential amendments to the *Police Act 1998* and the *Protective Security Act 2007*consequent upon the repeal of the *Police (Complaints and Disciplinary Proceedings) Act 1985*.

Part 15—Repeal of *Police (Complaints and Disciplinary Proceedings) Act 1985*

52—Repeal of *Police (Complaints and Disciplinary Proceedings) Act 1985*

This clause repeals the *Police (Complaints and Disciplinary Proceedings) Act 1985*.

Part 16—Transitional provisions

53—Certain orders of Commissioner etc under repealed Act taken to be valid

This clause validates certain actions purportedly taken under section 40 of the *Police Act 1998* and over which some doubt exists as to their validity.

54—Complaints, reports and proceedings under *Police (Complaints and Disciplinary Proceedings) Act 1985*

This clause deems certain complaints or reports made under the repealed Act to be complaints or reports under this measure or the *Protective Security Act 2007* (as the case requires).

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

At 18:33 the council adjourned until Wednesday 19 October 2016 at 14:15.

Answers to Questions

MUNICIPAL AND ESSENTIAL SERVICES PROGRAM

In reply to **the Hon. S.G. WADE** (25 May 2016).

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): I have been provided with the following advice:

The Aboriginal Lands Trust (ALT) has continued to confirm its ongoing interest in being involved in the planning for future delivery of the Municipal and Essential Services (MUNS) program on ALT land. Acknowledging the complexity of this matter, I continue to encourage all key stakeholders to adopt a collaborative approach to planning.

PRIVATE HOSPITAL ADMISSIONS

In reply to **the Hon. J.A. DARLEY** (9 June 2016).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for Health has received this advice:

There were no private hospital beds purchased and therefore no public hospital patients admitted to private hospitals due to a lack of beds in 2015-16.

PRIVATE HOSPITAL ADMISSIONS

In reply to **the Hon. K.L. VINCENT** (9 June 2016).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for Health has received this advice:

There were no private hospital beds purchased and therefore no public hospital patients transferred and admitted to private hospitals due to lack of beds in 2015-16. In instances where patients do require medically authorised low acuity transports, SA Ambulance Service provides dedicated ambulance crews.

As well as inter-hospital transfers, transports can occur between community and home settings to hospitals for admission, outpatient appointments and hospital discharge. SAAS ambulance crews are a highly trained and skilled workforce and have the knowledge and equipment to provide an appropriate level of care to meet each patient's individual needs.

All SAAS crews have access to high-level clinical support via phone on a case-by-case basis if required.