# LEGISLATIVE COUNCIL

## Tuesday, 23 July 2019

**The PRESIDENT (Hon. A.L. McLachlan)** took the chair at 14:15 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 community. We pay our respects to them and their cultures, and to the elders both past and present.

*Bills*

### STATUTES AMENDMENT (CHILD EXPLOITATION AND ENCRYPTED MATERIAL) BILL

*Assent*

His Excellency the Governor assented to the bill.

### STATUTES AMENDMENT (SACAT) BILL

*Assent*

His Excellency the Governor assented to the bill.

### VICTIMS OF CRIME (OFFENDER SERVICE AND JOINDER) AMENDMENT BILL

*Assent*

His Excellency the Governor assented to the bill.

### PARLIAMENTARY COMMITTEES (PETITIONS) AMENDMENT BILL

*Assent*

His Excellency the Governor assented to the bill.

*Parliamentary Procedure*

### PAPERS

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Reports—2018—
- Flinders University
- Torrens University Australia
- University of South Australia

Motor Accident Commission Charter dated July 2019
Public Sector Act 2009—Section 71, Report
Regulations under Acts—
- Advance Care Directives Act 2013—Exemption
- Associations Incorporation Act 1985—Forms
- Evidence Act 1929—Domestic Violence Proceedings
- Intervention Orders (Prevention of Abuse) Act 2009—Recorded Evidence
- Maralinga Tjarutja Land Rights Act 1984—Mamungari Conservation Park Co-management Board—General
- Teachers Registration and Standards Act 2004—Miscellaneous

Rules of Court—
- Magistrates Court Act 1991—
  - Criminal—Amendment No. 75

By the Treasurer (Hon. R.I. Lucas) on behalf of the Minister for Trade, Tourism and Investment (Hon. D.W. Ridgway)—

Parliamentary Report on Completed Autonomous Vehicle Trials
By-laws—
Town of Gawler—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Roads
No. 4—Local Government Land

By the Minister for Human Services (Hon. J.M.A. Lensink)—

Regulations under Acts—
National Parks and Wildlife Act 1972—Mamungari Conservation Park—General

## ANSWERS TABLED

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

*Question Time*

## LAND TAX

**The Hon. K.J. MAHER (Leader of the Opposition) (14:23):** My question is to the Treasurer in relation to land tax. What is the rort that the government's land tax aggregation measure aims to stop, and who are these rorters?

**The Hon. R.I. LUCAS (Treasurer) (14:24):** That's not language that I have used as Treasurer, or indeed the government uses in relation to the proposed changes to aggregation provisions. Put simply, the proposed changes that the government is seeking to address include and impart, as outlined, I think, in the budget speech, a set of circumstances in South Australia that is not permitted in New South Wales, Victoria or Queensland, where I as an individual could own next year seven separate properties valued at $400,000 each, that is, I could own $2.8 million worth of properties—that's the site value, not the total property value—and not pay a single dollar in land tax.

## LAND TAX

**The Hon. K.J. MAHER (Leader of the Opposition) (14:24):** Supplementary in response to the answer given: can the Treasurer advise whether he considers medium-sized business owners as people who are taking advantage of the aggregation measures as they currently stand?

**The Hon. R.I. LUCAS (Treasurer) (14:25):** The government's proposal in relation to the land tax reform, which I should say is a combination of packages, that is, an increase in the threshold, will see a significant benefit to some thousands of previously land tax payers in South Australia, a reduction in the top rate of land tax from 3.7 per cent to 2.9 per cent, which will again benefit a significant number of land tax payers. On the other hand, changes to aggregation provisions, which I outlined in response to the first question, are seeking to prevent that sort of circumstance occurring in South Australia when it is already prevented from occurring in New South Wales, Victoria and Queensland.

In response to the member's question, it will apply to all individuals and businesses—individuals, small businesses, medium-sized businesses or, indeed, large corporates—in relation to the land tax. From that viewpoint, it doesn't define the size of the business other than through the size of the landholding that an individual or a business or a company might hold or own.

## LAND TAX

**The Hon. K.J. MAHER (Leader of the Opposition) (14:26):** Supplementary arising from the original answer: will the Treasurer consider exemptions for certain sectors of business, such as businesses like retail centres owned by people like Harry Perks and his business associates who will have to pay much more land tax?

**The Hon. R.I. LUCAS (Treasurer) (14:26):** I am certainly not going to enter into the personal business or tax arrangements of individuals or businesses in a public forum. I will leave that to the honourable Leader of the Opposition if he wants to talk about the tax arrangements of individuals.

In relation to the current Land Tax Act and the proposed changes to the land tax bill, it doesn't make specific arrangements in relation to specific businesses or entities. It certainly exempts certain arrangements. In the Budget Statement I indicated that certain trusts, such as charitable trusts, guardianship trusts, complying superannuation funds and the like, were exempt in the other states and were likely to be exempt under the final drafting of the legislation the government brings down.

Given these questions and the interests, if I could briefly outline: the government, unlike other tax bills, has committed itself to public consultation on the final drafting of the bill, so a draft bill will go out for public consultation prior to introduction into the house. In my experience, in this chamber, that is unprecedented or virtually unprecedented. Most tax bills are introduced by governments of either persuasion into the house and then the debate begins. This government is committed, in relation to this particular proposed reform package, to put it out for public consultation. The Premier and I have both committed to listening, consulting and discussing the final shape of the government's proposal.

What will drive the government, however, will be that we are intent, from our land tax reform package, to actually collect less land tax than before. So the increase in the threshold, the reduction of the rate and the pace of the reduction of the rate will reduce our land tax by greater than whatever is to be collected from the new aggregation procedures. We have made that commitment and, in terms of the ongoing consultation and negotiation, the Premier and I, on behalf of the government, are committed to maintaining that particular commitment that, from our land tax reform package, we will collect less land tax than under the old arrangements.

## LAND TAX

**The Hon. C.M. SCRIVEN (14:29):** My question is to the Treasurer. Will the aggregation of land tax pose a significant level of risk to South Australia's investment environment, property owners, tenants and consumers, as claimed by the Property Council?

**The Hon. R.I. LUCAS (Treasurer) (14:29):** The government's view is that, no, that's not the case, because in particular these particular provisions already exist in New South Wales, Victoria and Queensland. What is a threat is the previous Labor government regime of an uncompetitive 3.7 per cent land tax. That was already impacting on investment in South Australia, and property owners were saying to the then Leader of the Opposition and myself as shadow treasurer that they were refusing to invest in South Australia because our land tax regime was uncompetitive. It was 3.7 per cent at the top rate. They wanted us to commit to a reduction of the 3.7 per cent.

So, no, it is certainly not the government's view that this will have the sort of impact that is being predicted on the state economy by the Property Council and some others.

## LAND TAX

**The Hon. C.M. SCRIVEN (14:30):** A supplementary: given that answer that there is no risk, will the Treasurer rule out further building company closures as a result of the government's land tax aggregation measures?

**The Hon. R.I. LUCAS (Treasurer) (14:31):** That is a silly question that could only ever be asked by a frontbencher from the Labor Party.

## LAND TAX

**The Hon. C.M. SCRIVEN (14:31):** Further supplementary, given that won't be ruled out: does the Treasurer agree that the government's land tax aggregation measures will result in many small business tenants paying higher rents?

**The Hon. R.I. LUCAS (Treasurer) (14:31):** It is possible that there may well be some impact on rents in some sections of the market. What that final impact will be will depend on the net result of the impact of the land tax package which is being introduced. There are two or three scenarios which are being promoted by opponents to the government's land tax reform package. One is that

everyone will get out of investment properties and sell up and move interstate. Others are saying they will pass it through in relation to higher rent increases.

It will really depend ultimately on the final shape and nature of the government's tax reform proposal and then secondly which one of those scenarios ultimately proves to be the case. The realistic assessment would be it may well be a combination of both; that is, clearly not everyone is going to, as some are suggesting, sell up their investment properties and get out of the investment market, but realistically some may well reduce their property holdings and move into other forms of investment.

That then depends on who purchases the investment properties. If more home owners purchase those particular investment properties, the government has a housing stimulus reform package which provides interest-free loans for a small number of low income households, and with the changes that are occurring at the federal level, with much lower interest rates and income tax reductions, there may well be a more productive environment for investment.

I note that the independent analysis by BIS Oxford Economics, respected economic commentators, on the property market in South Australia, released after the state budget, forecasts moderately strong property growth in South Australia—and stronger than in some of the other states: 11 per cent property growth in terms of the investment market for property in South Australia.

So there are lots of predictions as to what might be the impacts. No-one at this stage can definitively say what they will be. Ultimately, it will be what is the final shape and nature of the government's reform package, what the parliament's decision is in relation to the reform package, and then what the impacts will be.

## LAND TAX

**The Hon. C.M. SCRIVEN (14:34):** Further supplementary, and if I may just clarify that my question was in regard to small business, and I think the Treasurer has answered mainly in regard to residential property, so I will ask again: does the Treasurer agree the government's land tax aggregation measures will result in many small business tenants paying higher rents?

**The Hon. R.I. LUCAS (Treasurer) (14:34):** My answer is substantially the same; that is, one can't indicate beforehand. There may well be some impact in relation to the level of rent. Again, it will depend on, as I said, the final shape and nature of the government's land tax reform proposal; secondly, the decision of the parliament in relation to that; and thirdly, which one of all the scenarios that are being predicted will occur. Not all of them can occur at the same time as some of them are in immediate conflict with the other; that is, everyone either sells up, everyone increases rent or a whole variety of other scenarios that are being promulgated. It will depend on what mix there is of those. One can't rule out that there might not be some impact in relation to small business tenant rental as a result of any land tax reform proposal.

## LAND TAX

**The Hon. E.S. BOURKE (14:35):** My question is to the Treasurer. Why did the Treasurer announce a new policy of land tax aggregation and publish revenue estimates in last month's budget without having done any modelling on the impact of this policy?

**The Hon. R.I. LUCAS (Treasurer) (14:35):** Well, that's just untrue. Treasury did estimates and modelling in relation to the—

**The Hon. K.J. Maher:** Estimates and modelling, or estimates or modelling?

**The Hon. R.I. LUCAS:** Both estimates and modelling.

**The Hon. K.J. Maher:** That is not what you said before.

**The Hon. R.I. LUCAS:** You can characterise it as you will. Treasury have looked at the proposals, as they did for the former Labor government's state tax reform proposal, and in 2015 Treasury estimated that the aggregation provision changes would collect $30 million. Treasury's estimates in relation to this are $40 million. As I said this morning, if you want to characterise Treasury estimates as modelling, then it is indeed modelling.

**The Hon. K.J. Maher:** So estimates are modelling?

**The Hon. R.I. LUCAS:** Well, exactly. What else are they? What else are estimates? Estimates are modelling. They are one and the same. It would only be the Leader of the Opposition who couldn't understand that. I understand he has a little bit of a legal background but not much of an economics and finance background. Let me explain it to you in simple language: the Treasury did estimates and you can refer to that as modelling or estimating and modelling. They did all of the above. They did it for the former Labor government and they did it for the current government.

## LAND TAX

**The Hon. E.S. BOURKE (14:37):** Supplementary: was the estimates and the modelling that were conducted prior to the announcement, as we have just heard, shared with your Liberal colleagues or with stakeholders as well?

**The Hon. R.I. LUCAS (Treasurer) (14:37):** They are actually included in the budget papers.

*Members interjecting:*

**The Hon. R.I. LUCAS:** The modelling—

**The PRESIDENT:** Don't respond to their form of questions.

**The Hon. R.I. LUCAS:** —and the estimating of $40 million was included in the budget papers.

## LAND TAX

**The Hon. E.S. BOURKE (14:37):** Further supplementary: do you agree with the Premier's comments claiming land tax will go down by $9.7 million when the government's own budget papers reveal that land tax is going up?

**The Hon. R.I. LUCAS (Treasurer) (14:38):** I always agree with the Premier, and the Premier is, in fact, right. The opposition—

**The Hon. K.J. Maher:** It goes up each year in the budget papers.

**The Hon. R.I. LUCAS:** No, it doesn't. As a result of the land tax reform package in last year's budget paper, the increase in the threshold and the reduction in the top land tax rate reduces land tax collections by $47 million or $48 million. There is another $2 million or so listed for 2020-21 as part of this package and then there is a collection of $40 million from the aggregation provisions. If you subtract $40 million from the $49.7 million or so, there is a $9.7 million reduction. That actually increases; that is, the reduction in the total land tax collected by 2022-23 is around about or just under $20 million a year less being collected in land tax as a result of the government's land tax reform package. The answer to the question is the Premier, as always, is right.

## LAND TAX

**The Hon. K.J. MAHER (Leader of the Opposition) (14:39):** Supplementary: how does the Treasurer justify land tax actually going down when his own budget papers show every single year in the forward estimates, the number is greater than the one before?

**The Hon. R.I. LUCAS (Treasurer) (14:39):** That is very simple but, again, the Leader of the Opposition wouldn't understand it. The government has indicated that the collections from its land tax reform package, which is: increasing in thresholds, reduction in the rate from 3.7 to 2.9, and the removal of aggregation, collects less. The reason why the total land tax collections goes up was a process started by the former Labor treasurer, Tom Koutsantonis, when he gave additional funding to the Valuer-General to undertake the revaluation exercise.

Total land tax collections go up because of the revaluation exercise and the increases in property values right across the board. The government has been quite clear that from its land tax reform proposals we will be collecting less land tax, but property values increase every year and, as a result of the revaluation exercise commenced by the former Labor treasurer, Mr Koutsantonis—and as I have replied I think to a question from the Hon. Mr Darley on a number of occasions—the former treasurer estimated an extra $19 million a year being collected from the revaluation exercise. That was an estimate done by the former Labor government and the former Labor treasurer.

*Members interjecting:*

**The PRESIDENT:** The Hon. Ms Bourke, I will allow one more supplementary. I am keen to get to the crossbench.

## LAND TAX

**The Hon. E.S. BOURKE (14:41):** Can the Treasurer explain why primary industries minister, Tim Whetstone, told Channel 7 reporter Mike Smithson yesterday, and I quote, 'We don't even know what the impact will be,' and, 'If people could go and work out exactly what impact it would have on them, we could deal with the issue.'

**The Hon. R.I. LUCAS (Treasurer) (14:41):** Mr Whetstone is entirely correct and that is until—

**The Hon. K.J. Maher:** You don't know what it will be.

**The Hon. R.I. LUCAS:** No—until the final negotiation in relation to the package has passed through the parliament, and then if the parliament passes that particular package and it is then introduced, as I indicated in response to the earlier questions, the final impacts in particular areas won't be established until it has been able to be introduced.

*Members interjecting:*

**The PRESIDENT:** The Hon. Ms Lee.

## PUBLIC SECTOR EXPENDITURE

**The Hon. J.S. LEE (14:42):** Thank you, Mr President—

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Ms Lee is on her feet.

*The Hon. K.J. Maher interjecting:*

**The PRESIDENT:** Leader of the Opposition, please show some courtesy to the Hon. Ms Lee.

**The Hon. J.S. LEE:** My question is to the Treasurer about a matter raised in the Ombudsman's report. Can the Treasurer please provide an update to the council about the government's response to the concerns expressed in the Ombudsman's report into public expenditure of the former CEO of the Department of Planning, Transport and Infrastructure, Mr Michael Deegan?

**The Hon. R.I. LUCAS (Treasurer) (14:42):** I am delighted to be able to respond to the honourable member's question in relation to this very important issue that has been raised by the Ombudsman. The background to this report was a freedom of information request I first submitted more than three years ago, because at that particular time—

**The Hon. S.G. Wade:** That's accountability for you.

**The Hon. R.I. LUCAS:** Exactly. At that particular time, I had been informed by public sector sources that ministers of the former Labor government, because their credit card expenses were being FOI'd by opposition members, had decided to have their chiefs of staff or their chief executives take them out to the best restaurants in town, or overseas, on the taxpayers' purse to get around the freedom of information requests for their own expenses. I note that the Ombudsman in his damning report said, and I quote:

> I am all the more concerned by DPTI's practice of funding restaurant meals between the Chief Executive and other public officers. I note, in particular, that DPTI appears to have funded at least two CBD restaurant meals between Mr Deegan and the Minister responsible for this Department—

I interpose: that is the current member for Lee, Mr Mullighan, the shadow treasurer—

> at least one meeting of which involved the purchase of alcohol using departmental funds.

The Ombudsman was also critical of $860.50 spent at The Barn Steakhouse at a community cabinet meeting in Mount Gambier because the minister or ministers had left their credit cards in their rooms. I think that's a—my comment here—novel excuse from Mr Deegan and the ministers who were involved, including the member for Lee former minister Mullighan.

After more than three years of trying I have now been able to establish some of these invoices that former minister Mullighan and the Labor government were so desperate to conceal for almost three years, fighting the release of these particular documents. The invoice for The Barn Steakhouse for $860.50 on the receipt, for some reason, has 'Mullighan'. Given that it was on Mr Deegan's credit card, I'm not sure why.

The preferences of the former minister are eye watering: two special Wagyu fillets at $69 each; four eye fillets–this was a group of ministers—for $154; four filet mignons for $168; bottles of Herbert Pinot Noir; two bottles of Majella wine, $65 each; a total of $318 on beverages, mostly alcoholic. A cosy little dinner with Mr Deegan and former minister Mullighan at Press Food and Wine, one of our finest establishments in South Australia, at a total cost of $247.40. A nice little Estrella Damm lager brewed in Spain was enjoyed by one of the two of them. Two Scotch fillet steaks at $48 each, two glasses of Yangarra shiraz from McLaren Vale at $14 each, and crispy potatoes, coquettes and morcilla, which I am told is a blood sausage, often called blood pudding in Britain.

But the minister's enjoyment at taxpayers' expense spread overseas as well: a total cost of $1,490 for a lovely evening with a number of people at the Grill Royal in Berlin, with the minister, the chief of staff and some other officers involved there. Top 10 Berlin states of the Grill Royal:

> The celebrity restaurant in Berlin no matter if it is Leonardo DiCaprio, Scarlett Johansson, Samuel L. Jackson, the late Karl Lagerfeld or many top models, all of them have been there. The Grill Royal is currently the celebrity restaurant in Berlin.

The *Lonely Planet* writes:

> The Grill Royal ticks all the boxes of a true metropolitan restaurant. A platinum card is a handy accessory if you want to slurp your oysters and tuck into aged prime steaks in the company of A-listers, power politicians and pouty models.

*Members interjecting:*

**The Hon. R.I. LUCAS:** Pouty models. Former minister Mullighan and others—we are not sure who had what—one porterhouse steak for €119 (or $173), it must have been a nice piece of porterhouse; Chateaubriand, €70 (or $102); half a kilo of prawns; three bottles of Klumpp Syrah pinot noir from Germany, €96 (or $140) each, three bottles; six glasses of Diel Auslese, German riesling, for €84. That was at the Grill Royal.

**The PRESIDENT:** We are coming very close to four minutes, Treasurer.

**The Hon. R.I. LUCAS:** Yes, Mr President. Thank you, Mr President, I will be very quick. The Spice Market, described as an alluring enclave awash with indulgent pleasure, is a restaurant in New York where $US370 was expended. Finally, the Eatery Bar and Restaurant in Hamburg—we are not entirely sure whether the minister was a guest there, but the minister was travelling with Mr Deegan—where $359 was spent, together with the obligatory euro rib eye steaks and two Aperol spritzers at €10 each at those particular establishments.

In conclusion, it is concerning that the former minister and now the shadow treasurer treated public expenditure in such a cavalier fashion. As I said, it is a shame and a travesty that has taken three years of an Ombudsman's inquiry to finally get the detail of these particular invoices. They were successfully concealed prior to the most recent election.

The Ombudsman has asked me—or the government, I should say, and I, on behalf of the government—to look at what various options there might be in terms of tightening up, on behalf of the long-suffering taxpayers of South Australia, public expenditure of this particular form indulged in and engaged in by the former minister and the shadow treasurer, Mr Mullighan.

**DEEGAN, MR M.**

**The Hon. T.A. FRANKS (14:50):** Supplementary: could the Treasurer advise if this is the same chief executive officer who was serving on a selection panel for the appointment of this position but then was appointed to the position himself without even the production of a CV?

**The Hon. R.I. LUCAS (Treasurer) (14:50):** I think the Hon. Ms Franks has a very good memory of previous Budget and Finance Committee meetings. My recollection—and I will check the details; I am pretty positive I am correct—is that Mr Deegan sat on the panel for the selection of the new chief executive of DPTI and, at the end of that process, he and others decided there wasn't anyone suitable and then proceeded for him to be appointed.

He had very strong Labor connections. He had been a former chief of staff to two Labor ministers in New South Wales and was a favourite son, a fellow traveller, of the Australian Labor Party. Much admired by the current member for West Torrens and the current member for Lee, they often laud his virtues as to being what an outstanding public servant he was.

I am not surprised given that, through his obfuscation and refusal to even comply with the Ombudsman's requests to provide invoices, he managed to forestall the publication of this particular damning Ombudsman's report until after the state election, when clearly the Ombudsman was trying to complete the report, as he should have, prior to the March 2018 state election.

**SCISSOR LIFTS**

**The Hon. T.A. FRANKS (14:52):** I seek leave to make a brief explanation before addressing a question to the Treasurer on the topic of SafeWork SA consultations on elevating work platforms, aka scissor lifts.

Leave granted.

**The Hon. T.A. FRANKS:** On 29 May 2019, an email was sent from the review and reform section of SafeWork SA regarding and entitled 'A discussion session'. This email was inviting organisations and individuals to attend a discussion session regarding elevating work platform safety and the state Coroner's recommendations contained within the inquest findings in relation to the death of Mr Jorge Castillo-Riffo. That email noted:

> In late 2018, SafeWork SA wrote to industry groups, unions and training organisations seeking views on how the recommendations made by the State Coroner may impact operating practices and potential health and safety implications on worksites.

It went on to state:

> A discussion session is now being held to gain further insight from your organisation on the recommendations.

Importantly, the email noted further:

> The session will be attended by the Hon. Rob Lucas MLC, Treasurer.

That discussion session was duly held on the morning of Friday 5 July this year in the office of the Hon. Rob Lucas MLC, Treasurer, at the State Administration Centre. My questions to the Treasurer are:

1. Who was invited to this meeting, be they union bosses, bosses' bosses or others?

2. Were any invitees such as the CFMEU, now known as the CFMMEU, subsequently disinvited from that meeting? If so, at whose behest was this done and on what reasoning?

3. Of those in attendance on the day, how many organisations and individuals stated that the implementation of the Coroner's recommendations would save lives?

**The Hon. R.I. LUCAS (Treasurer) (14:54):** Mr President, I seek your guidance: we actually have a bill before the house in relation to this particular issue and whether, under the standing orders, I am permitted to answer questions in relation to a bill that is currently before the house.

**The Hon. T.A. FRANKS:** Point of order: my question was specifically on a meeting.

**The PRESIDENT:** To the extent that it relates to a meeting, I will allow it, but you don't need to answer in relation to the bill or the contents of the bill.

**The Hon. R.I. LUCAS:** Given your ruling, Mr President, in relation to whether or not people were disinvited, I would need to take advice. The range of people who attended the meeting ranged from employer representatives; people with a direct interest; the Elevating Work Platform Association; SA Unions; another individual union, but I would need to check, I think it was the CEPU; together with SafeWork SA officers and staff from my office. I am happy to take on notice in relation to the exact names—I am sure they wouldn't object—and organisations that they represented.

In relation to the specific question as to whether someone had been disinvited—if that's the word the honourable member used—I can check that. It was organised through SafeWork SA. The only one that I know who had been invited but who declined to attend was the Master Builders Association, but they weren't disinvited, they declined the invitation. In relation to whether or not anyone had been disinvited who had previously been invited, I would need to take advice, but if that decision was taken I suspect it must have been taken at some level within SafeWork SA.

In relation to the consultation, I think each of those individuals—once I have identified them and their organisations I think it will be quite clear, when their names and organisations are present, what their positions are because they have publicly expressed them on any number of occasions, other than maybe the Elevating Work Platform Association. I am not sure, they may or may not have expressed their view publicly. I think I would leave it to the individuals to indicate the nature of their responses.

But as I said, it won't surprise the honourable member that the majority of people expressed the views in that meeting that they have expressed publicly in relation to the bill. But again, if I get into that area I am traversing something which I understand, from the President's ruling, I shouldn't.

## SCISSOR LIFTS

**The Hon. T.A. FRANKS (14:57):** Supplementary: did the Treasurer pre-empt this discussion meeting of 5 July, that he should have been well aware was to take place, with his previous statements in recent months on this matter in the council, and will he now clarify whether the government's position on the use of spotters and standards on sites using scissor lifts is open, to be announced at a later date, or whether he stands by his previous comments that the government would not consider the Coroner's recommendations?

**The PRESIDENT:** The Hon. Ms Franks, that concerns directly the bill, so I am going to have to probably rule that out of order.

**The Hon. T.A. FRANKS:** No, it actually pre-empts the discussion meeting that the Treasurer called himself; it has nothing to do with the bill. The government could bring forth a bill and clarify their position, but it is not actually a question about the bill.

**The PRESIDENT:** Treasurer, do you have anything to add to that question?

**The Hon. R.I. LUCAS (Treasurer) (14:58):** Other than it directly relates to the issues in the bill that the Hon. Mr Pangallo is canvassing. I am in your hands, Mr President. My understanding of the standing orders is—and there have been rulings before when we were in opposition—that, if there is a bill before the house, we are not entitled to canvass the issues that are in the bill. The Hon. Ms Franks has been here for a number of years and she would be familiar with those previous rulings, so this is nothing new.

We will have the opportunity to discuss these issues, Mr President, but I am in your hands. The standing orders are the standing orders. There's a bill before the house which canvasses all these particular issues. You ruled earlier that I could answer questions in relation to the meeting, which I have done so. These questions are now canvassing matters which will be canvassed and will have to be determined as part of the response to the Hon. Mr Pangallo's bill.

## SCISSOR LIFTS

**The Hon. T.A. FRANKS (14:59):** Supplementary: did the Treasurer meet with the Master Builders Association before or after they declined to attend this discussion meeting?

**The Hon. R.I. LUCAS (Treasurer) (15:00):** I don't believe I have met with the Master Builders Association since that particular meeting, but I have certainly met with the Master Builders Association and a range of other groups, both supportive of the Coroner's recommendations and opposing the Coroner's recommendations, formally and informally, between the period of the Coroner's recommendations and the particular meeting to which the member refers.

Any number of people in any number of different fora have put particular points of view to me, and one of those groups would have been the Master Builders Association at some particular time. The meeting may well not have been specifically in relation to this issue. I have meetings with various stakeholder groups on a range of issues. It may well have been previously that they might have raised the issue. They might have raised the issue previously when we were having discussions about a whole range of issues, in particular in relation to things like stamp duty concessions and the construction industry generally—the sort of general issues that the Master Builders tend to raise with the government and the treasurer of the day.

## SCISSOR LIFTS

**The Hon. T.A. FRANKS (15:01):** Supplementary: will the Treasurer give an assurance to this council that he had no role and his office had no role in the disinviting of the CFMEU to this meeting?

**The Hon. R.I. LUCAS (Treasurer) (15:01):** I said I would take that part of the question on notice. I am not even aware that someone was 'disinvited', to use the honourable member's word. The honourable member has asked a question. I have indicated that I will take advice from SafeWork SA in relation to that particular issue.

## ELECTIVE SURGERY, PRIVATE PROVIDERS

**The Hon. R.P. WORTLEY (15:01):** My question is to the Minister for Health and Wellbeing. Will the contracts to outsource elective surgery to private hospitals, including pricing for the 13 private hospitals over the four-year contracted period that the minister has signed, be publicly released? If not, why not?

**The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:02):** I will certainly seek further advice on that, but my understanding is that government contracts are published. I just want to make it clear that the panel is for four years, which will be reviewed at that time, with a possible extension for another four.

## ELECTIVE SURGERY, PRIVATE PROVIDERS

**The Hon. R.P. WORTLEY (15:02):** Supplementary: do the contracts with the private hospitals include any requirements for nurse-patient ratios for public hospital patients? If not, why not?

**The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:02):** My understanding is that the enterprise agreement under which those ratios are placed are specific to the public sector. Providers to be placed on the panel are all required to be nationally accredited and licensed. The panel will be overseen by SA Health to ensure high quality and also ensure the buying power of taxpayers' investment.

## ELECTIVE SURGERY, PRIVATE PROVIDERS

**The Hon. R.P. WORTLEY (15:03):** Will all the funding for private hospitals come from existing public hospital budgets? If so, what will those public hospitals have to forgo to fund services under the contract?

**The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:03):** I thank the member for that last question, being nonetheless a supplementary one, because it shows the hypocrisy of the Labor Party in relation to this. The Labor Party had a large number—

*Members interjecting:*

**The PRESIDENT:** Order! It's not even humorous. Minister, get on with it.

**The Hon. S.G. WADE:** The opposition is shameless in its hypocrisy in relation to this matter. They criticise us for partnering with the private sector. That has been a feature of the South Australian public health system for decades, including the 16 years that they were in public office.

Let's think about some of the examples. In terms of directly purchasing private hospital activity, the winter demand strategies that were issued by the former Labor government specifically provided for private hospital bed capacity being purchased by the public system. There are numerous individual LHN contracts purchasing private hospital bed activity under the former Labor governments, so what is the sin we have committed?

The sin we have committed is that instead of having an ad hoc non-strategic approach to contract management, what we are putting in place is a structured, organised approach. That will, in my view, lead to better quality oversight. It will provide better purchasing power for the taxpayer dollar. It will allow us to have better planning, more streamlined coordination of services, less red tape and, very importantly, more timely responses.

One of the key benefits of the public sector having the capacity to access private hospital capacity from time to time is to deal with peaks of demand. There isn't much point in trying to engage the private sector to manage a peak in demand if you have to go through a long procurement process so that by the time the procurement process is completed the peak has well and truly passed.

This will lead, I believe, to a much better framework within which public hospital managers can engage private hospital resources as needed. For the public patients of South Australia, the benefit is very clear. It means the opportunity for reduced waiting times for elective procedures and care closer to their homes. We are very committed to driving high-quality, value-for-money services for South Australians, and this is an important step in delivering on that commitment.

**The PRESIDENT:** The Hon. Mr Wortley, a supplementary.

## ELECTIVE SURGERY, PRIVATE PROVIDERS

**The Hon. R.P. WORTLEY (15:06):** Under the contract, are the private providers able to stop the services to public patients where the load is affecting waiting times for private patients?

**The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:06):** I need to stress that this is a framework, so within the individual local health networks we will turn to the private sector on an as required basis. The panel is an enabler. It doesn't pre-commit a single dollar of expenditure. Likewise, it doesn't conscript the private sector to provide a service. It is a procurement framework within which the public hospital can ask what capacity is available, how many patients, and what services can be provided by the private providers, and the private providers are able to indicate what capacity they have and what services they can provide.

## ELECTIVE SURGERY, PRIVATE PROVIDERS

**The Hon. I.K. HUNTER (15:07):** Supplementary question arising from the original answer: the minister said in his original answer to the Hon. Mr Wortley that the contracts that were contemplated in the question are usually published. My question is: does the minister intend to make these contracts in question public?

**The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:07):** I intend to comply with all normal contract disclosure arrangements.

## PUBLIC HEALTH SERVICES, PRIVATE PROVIDERS

**The Hon. E.S. BOURKE (15:08):** Supplementary: can the minister guarantee that no other public health services will be outsourced to private health providers?

**The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:08):** The hypocrisy of Labor is amazing. We have a member of the Labor opposition asking me whether this government is open to engaging the private sector in service provision. I have already mentioned what the former Labor government did in relation to engaging private hospital services, but let's look at some of the other privatisations under Labor. Under Labor, we had radiology services at Modbury Hospital and Noarlunga Hospital delivered through external providers. There are 14 country hospitals where radiology services were delivered during Labor's term through external providers.

What about hospital services? There are five metropolitan hospitals—FMC, Modbury, Lyell McEwin, TQEH and the Women's and Children's—that receive a significant proportion of their hospital services through the private sector. In relation to the transport of patients, SALHN, NALHN, Country Health and SAS all use private providers to transport patients. Then, of course, under the former Labor government, we had the largest privatisation deal in the state's history with the NRAH deal. This has 29 years to run. I feel almost humbled by my four-year contract framework for private hospitals. Labor decided that they would have a 29-year deal—

**The Hon. K.J. MAHER:** Point of order, Mr President: the question was about what the minister is doing. He is talking about what Labor was doing, and I for one am keen to hear from the crossbenchers.

**The PRESIDENT:** There were two points there: one was time, and the minister is still answering the question, so I am not accepting that; and the minister, as you know, has some latitude to answer, and I assume he is getting to the point. I hope he is getting to the point.

**The Hon. S.G. WADE:** Like the former government, we will continue to engage private providers.

## MENTAL HEALTH SERVICES

**The Hon. T.J. STEPHENS (15:10):** My question is to the Minister for Health. Will the minister update the council on acute mental health services in South Australia?

**The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:10):** I thank the honourable member for his question. Following the Oakden scandal, the Marshall Liberal government was elected with both a commitment and a responsibility to improve the state mental health services, particularly acute mental health services. Often, when the mental health system is not working optimally, we see the impact and we see it in emergency departments. When mental health patients can't be placed elsewhere in the health system, they often remain in emergency departments. Emergency departments do not provide the best environment for mental health consumers to wait for treatment.

The Marshall Liberal government has recognised this and has already delivered real improvements in acute mental health services. Since we were elected a short 17 months ago, we have opened the 10-bed psychiatric intensive care unit at the Royal Adelaide Hospital, which Labor had left unopened; we have opened five mental health short-stay beds at the Lyell McEwin Hospital; we have implemented a forensic court assessment and diversion service; and last week we delivered a further 10 mental health beds with the opening of 10 forensic mental health beds at Glenside.

These beds will ease pressure on our hospital system in several ways. They will free up general mental health beds in hospitals, which are currently being used by forensic patients. That will in turn reduce the waiting time for mental health patients in our emergency departments. The Glenside beds will also provide a more clinically appropriate space for the treatment of forensic mental health consumers and, by providing this place and facilitating patient flow through the forensic mental health pathway, we are reducing forensic mental health patients in our emergency departments. This will be an improvement for the patients themselves, for other people presenting to the emergency department and for our clinicians working in an already high-pressure environment.

Around Australia, we are seeing an increase in mental health-related concerns and this government is determined to respond to them. Labor didn't even open the PICU mental health beds at the new RAH before they left government. Labor closed the Lyell McEwin short-stay unit just months before the election. This government has delivered more mental health beds. We are getting on with the job of improving health services in this state, with investment in both acute mental health and alternative pathways.

## MENTAL HEALTH SERVICES

**The Hon. E.S. BOURKE (15:13):** A supplementary: can the minister advise if mental health services like Diamond House and Catherine House help keep patients with mental health issues out of hospital?

**The Hon. S.G. WADE (Minister for Health and Wellbeing) (15:13):** My understanding is that Diamond House Clubhouse relates to people with psychosocial disability. I am not aware of them having any role in relation to forensic mental health services but, considering I have visited them a number of times, I would be happy to get further information on that.

The mental health network of services needs to be balanced, and I think one thing that is increasingly stark is that in the latter years of the former Labor government the forensic mental health provision was neglected, and that had a significant impact on patient flow. That would certainly have affected clients of Diamond House Clubhouse because if they were needing emergency mental health care, or other care for that matter, they, like other South Australians, would have found an emergency department that's not operating optimally when people are not there because of emergency department services but because they can't take the next step on the journey.

So, of the range of cohorts of mental health patients requiring inpatient services, the forensic mental health services was an area of particular concern and problematic. It was specifically raised with me in the discussions with employee organisations at the end of last year. It was raised with me by the Chief Psychiatrist and a number of other people. This government is proud that we have delivered on an investment in an additional 10 forensic mental health beds.

## LAND TAX

**The Hon. F. PANGALLO (15:15):** I seek leave to make a brief explanation before asking the Treasurer a question about his current irritant, land tax.

Leave granted.

**The Hon. F. PANGALLO:** It is fair to say that the government's proposed overhaul to land tax laws has caused widespread outrage across the community, not just from the top end of town, as some people are saying, but also thousands of hardworking and aspirational mum-and-dad investors who have strived all their lives to provide a strong financial future for themselves and their families.

They have been described by one of the state's most successful homegrown property developers as the greatest threat to the state's economy that he has seen in his 40-plus year career, something that has caused him to seek out opportunities interstate for the first time. Now we read they are threatening to lead to a revolt in the Treasurer's own party, such has been the level of secrecy in planning these changes and the unrest it has caused many Liberal MPs in their electorates.

I note that in their election manifesto last year the Premier didn't allude to the extent of their full aggregation reforms. My questions to the Treasurer are, and I am happy to take these on notice:

1. Can you explain to a mum-and-dad investor with only three residential properties totalling $1.5 million how they are supposed to find an extra $20,000 per annum to cover the 2,000 per cent increase to their land tax bill?

2. How many South Australians will the changes to land tax aggregation impact, and when will the government release their modelling?

3. How many South Australians with average holdings—that is, properties valued at around the $450,000 mark—will be captured by the changes to the land tax aggregation?

4. Has the government done any modelling to understand how the changes to the land tax aggregation will combine with a statewide revaluation initiative to impact the state's property market?

5. Given the government has estimated it will reap an extra $40 million per annum from the changes to aggregation, yet the proposed changes to land tax rates will only deliver relief of around $9 million per annum, will the government accelerate its full rate cap to provide relief faster than its forecast staged seven-year reduction?

6. Will the government consider grandfathering its changes to land tax aggregation to ensure property owners who have been playing by the rules are not forced to sell off their assets once the changes are introduced on 1 July next year?

7. Does the Treasurer have any modelling that outlines the impacts of a property fire sale that could be triggered by the combination of aggregation changes and the statewide revaluation?

8. Does the government have any indication of how many vulnerable South Australians who currently rent low income houses from these mum-and-dad investors will be turfed out if the aggregation changes to land tax lead to a fire sale of investment assets?

9 Can he advise how much it will cost the government per year to collect these increases in taxes?

10. Can he provide details of how he or the government plan to sell or educate the public about the proposed changes?

**The Hon. R.I. LUCAS (Treasurer) (15:19):** A number of those questions I have already addressed answers to in response to earlier questions. I can repeat very quickly. This is not a secretive bill, because I have indicated, unlike virtually every other bill that I have ever seen in this place, it will go out to public consultation prior to its actual introduction into the house. Virtually all tax bills that I am familiar with are introduced by the government of the day without public consultation before them. So it is not going to be secretive; there will be an open process of consultation for everybody in relation to the issues. In relation to—

*Members interjecting:*

**The Hon. R.I. LUCAS:** I would like to address the questions of the Hon. Mr Pangallo rather than the cacophony of squealing from the opposition benches, if that is possible. The Hon. Mr Pangallo deserves the respect of this chamber.

*Members interjecting:*

**The Hon. R.I. LUCAS:** Are you finished? Let me address some of the questions the Hon. Mr Pangallo has raised. Some of them have already been addressed by way of responses to earlier questions that I have raised. It is not secretive; we are going to go out to public consultation. The other issue, as I highlighted earlier, is that there are many thousands of South Australians who will actually benefit from the land tax reforms, the increasing of the threshold and the reduction in the land tax rate.

Anyone who owns property between $390,000 and $450,000—the honourable member referred to that in one of his latter questions; this is site value, not total property value—won't pay land tax on that particular property if that is their sole investment property because the land tax threshold is being increased to $450,000. Many thousands of South Australians' investments will be advantaged by not having to pay land tax.

Those—as I indicated earlier and I won't repeat the examples again—in between, currently, just over $1 million in property values and $5 million will be advantaged by a massive reduction from 3.7 per cent to 2.9 per cent. If you own a single commercial property at $3½ million or $4 million, you are currently paying 3.7 per cent and you will be paying 2.9 per cent, a massive advantage in terms of both that individual owner and the property market and the properties that they are actually competing with.

As the Premier and I have indicated and highlighted right from the word go, there will be some people who will end up paying more land tax than they are currently paying. I have given the example of someone who can own $3 million worth of properties in seven separate companies or trusts and not pay a single dollar in land tax.

In the particular circumstances to which the honourable member referred, if that individual or person, whoever it is, was to own those three investment properties of $1.5 million total in terms of site values and owns them as an individual, they are already aggregated in South Australia and they will be paying the higher rate of land tax. The only way they reduce that level of land tax is that, as an individual, they form themselves into three separate companies or they form themselves into three separate trusts. In that way, they minimise the level of land tax that is being paid. There are some individuals in exactly the same circumstances who don’t do that and who end up paying the land tax—I don't know the exact numbers—at the higher rate to which the honourable member referred.

The government has indicated, in relation to this package, whilst overall we will be collecting just under $10 million less in our first year and up to $20 million less in our third year (2022-23) from the land tax reform package, there will be many winners and there will be some who lose and have to pay more land tax. That is the inevitable result of a land tax reform package. You can't have a land tax reform package where everyone in the world benefits—well, you can if you are not facing a $2.1 billion reduction in GST revenue.

The most important question, which I have publicly stated previously—I am not sure that I did in response to earlier questions and I am happy to repeat again—is that I have given a number of public commitments, and the Premier has repeated those commitments since his return from leave, that the government is prepared, as part of its negotiation, instead of phasing in the seven-year reduction of 3.7 down to 2.9 for property values above $5 million, to look at doing that more quickly—perhaps in three years, perhaps even quicker than that. That will be part of the discussion that I have indicated publicly and the Premier, upon returning from leave, has also indicated publicly.

The government is prepared to talk seriously and to consult seriously with interested stakeholders in relation to this particular issue, and then we will bring back to the parliament the final package. Ultimately, it will be a decision for the parliament to decide whether or not they are prepared to support the final shape and structure of the land tax reform package that we have.

*Bills*

## STATUTES AMENDMENT (CHILD EXPLOITATION AND ENCRYPTED MATERIAL) BILL

*Final Stages*

The House of Assembly agreed not to insist on its disagreement to amendments Nos 1, 3, 8 to 11, 13, 20 to 22, 25 and 26 made by the Legislative Council.

## EDUCATION AND CHILDREN'S SERVICES BILL

*Final Stages*

The House of Assembly agreed to amendments Nos 3 and 6 made by the Legislative Council without any amendment and disagreed to amendments Nos 1, 2, 4, 5 and 7 to 9.

Consideration in committee.

**The Hon. R.I. LUCAS:** Mr Chairman, thank you for your forbearance. As I said, there have been some discussions with other members and the reason we are trying to bring this on quickly or more quickly than we normally do is because of the strange sitting habits of this parliament over the next two weeks, where we sit for one day and then we have two days at the end of next week. My understanding is that as a result of what happens here this afternoon it may well be that there has been general agreement to enter into a conference of managers between the houses and that would obviously be able to be expedited between today and next week, and then a final resolution in relation to the bill might be achieved by the end of next sitting week, so my apologies for the delay.

The Minister for Education has kindly given me some riding instructions which I will now place, on his behalf, on the public record:

The Legislative Council made nine amendments to the Education Children's Services Bill. The House of Assembly has agreed to two of those amendments put forward by the Hon. Ms Bonaros relating to corporal punishment in non-government schools, and disagreed with seven. The seven amendments disagreed to are in relation to three issues:

1. The proposal for an education ombudsman with broader powers and jurisdiction than the existing ombudsman;
2. The mechanism for approving religious or cultural activities being undertaken by public schools; and
3. The role of the AEU or staff rep on promotional panels and school review committees.

In relation to the question of an education ombudsman, members would be aware by now of the happy news that agreement has been reached between the government, crossbench parties and the Labor opposition for a review or inquiry, as suggested by the Hon. Ms Franks, looking into matters relating to suspensions, exclusions and the complaints process in general, including the existing powers and jurisdiction of the ombudsman and what other

processes potentially, including an education ombudsman, would be of benefit to our system, to schools and teachers, to families and students.

We expect that this review will provide a report with recommendations for consideration by the government and anyone else at some stage during 2020. It will be held under the auspices of the Child Development Council and the government will provide sufficient resources to the council to enable a suitably qualified reviewer to be appointed and to undertake this work.

As a result of the government confirming our support for this inquiry I understand that the proponents of these amendments have indicated they are happy to not insist on them and consequently both sides in the Assembly did not agree to these amendments.

In relation to the religious or cultural activities amendment, the amendment to clause 82 of the bill, our council supported the Hon. Mr Darley's amendment to insert the governing council as a decision-maker in relation to whether or not activities take place. The government does not support this amendment. I remind members that in the current act, religious activities—a visit to an Easter service or a talk with an Imam about Ramadan, for example—are allowed to take place and exemptions may be sought by parents. The bill imposes an additional requirement that parents be informed if such an activity is to take place on the decision of the principal and consequently parents can opt out if they wish.

I note the previous government preferred an opt-in clause. In either version the decision-makers are the principal and the parents. We do not believe that a third layer of decision-maker in the governing council is appropriate and we fear that it may change the nature of governing councils in a negative way. If need be, we may have to explore alternatives in a conference of the managers, but we encourage councillors to consider not insisting on this amendment.

In relation to the role of the AEU or staff rep on review committees and promotional panels, the government maintains our position that we do not believe that the AEU should have a privileged position and prefer a general staff rep who may be an AEU member. The council's amendment would double the staff representation but leave the AEU in a privileged position. We do not believe it would improve on the status quo and we therefore remain opposed to this amendment. We may be open to exploring alternative approaches in a conference of the managers.

The minister thanks staff for their assistance and to other parties for good faith negotiations. The minister, on behalf of the government, asks that the council do not insist on any of the amendments. But, if the government has to go to a conference of managers, the minister indicates that he and the government will do so in good faith and in the expectation that we may not be far from agreement.

I understand it is likely that the council may have differing views on some of the amendments. My understanding is that on the first two, there might be agreement.

*Amendments Nos 1 and 2:*

**The Hon. R.I. LUCAS:** I move:

That the council do not insist on amendments Nos 1 and 2.

**The Hon. K.J. MAHER:** For clarity and as to how this may play out, amendments Nos 1 and 2, which have been moved, and the last two amendments Nos 8 and 9 all relate to the education ombudsman. I indicate that Labor will not be insisting on the Legislative Council amendments on these. We will be supporting the government's review into the impact of suspension/exclusion policies and practice on students and into whether the ombudsman currently has sufficient powers to undertake systemic reviews in relation to education, as needed. I would like to acknowledge, in particular, the Hon. Tammy Franks and her role in not just the original amendments but in what has been a pretty sensible outcome and way forward in relation to this.

As we are speaking to amendment No. 1, I might speak on the other amendments. I think they are amendments Nos 4, 5, 6 and 7 which fall broadly into a couple of categories. One, as the Treasurer has outlined, is the inclusion of the employee representatives—that is, the AEU—on various panels, including the review committee, which look into school mergers and closures, and also the committees which look into the appointment of senior positions. The Labor opposition will be insisting upon the Legislative Council's amendments to those.

Finally, on the matter of the governing school council having input into what religious activity a school can undertake, we understand that there is no perfect way to construct a law about the secular school system that can allow students to undertake religious activities while at school. We believe the amendment that the Legislative Council has made and agreed to, allowing governing councils to be responsible for decisions made on what activities are appropriate to offer school students, the student body and their parents, is one that Labor will be supporting as to that

empowerment of governing councils. Therefore, Labor will be insisting on this provision. In summary, Labor will not be insisting on Legislative Council amendments Nos 1, 2, 8 and 9 but will be insisting on amendments Nos 4, 5, 6 and 7.

**The Hon. T.A. FRANKS:** I indicate that with regard to Nos 1 and 2, and then later Nos 8 and 9, which relate to an education ombudsman, the Greens will not be insisting on those amendments. That does not mean that we do not look forward to the review of the possibility of an education ombudsman and what role they would play or a review of the school complaints process, which I would acknowledge has been improved in recent years and has come a long way since the member for Bragg, in fact, previously moved for an education ombudsman.

I note also that the CDC, an independent body, will do a thorough analysis, as the Victorian ombudsman did, of those suspensions, exclusions and expulsions of students—what became known as the missing students, the students who are detached from the education system, when it is a fundamental human right to an education—and the use of those behavioural management techniques and whether or not they are used in a way that supports education or hinders that education.

As a member of the previous select committee into disability access, the select committee that the Hon. Stephen Wade and the Hon. Kelly Vincent had some great leadership in, about access to education for children with disabilities, we know there are children falling through the gaps. We know that there is inappropriate use of behavioural management techniques and we know that it is affecting children's access to education in this state.

Similar to Victoria, we hope that there is leadership from this state government on those issues. With that, we willingly do not insist on these particular amendments but look forward to the progress in these areas. It is once in a generation legislative reform for our school system and we would not want to lose that once in a generation reform for the sake of not being able to agree on an education ombudsman here today, but we certainly believe that we should be back in this place sometime soon debating better complaints processes, independent complaints processes and reforms that ensure all children get access to education in this state.

**The CHAIR:** The Hon. Ms Franks, could you give me some guidance on your view on amendments Nos 4, 5 and 7, just so I can put the questions in an orderly fashion?

**The Hon. T.A. FRANKS:** We will be insisting on amendments Nos 4, 5, 6 and 7.

**The CHAIR:** Amendments Nos 4, 5 and 7; 6 has been dealt with.

**The Hon. J.A. DARLEY:** I will be insisting on amendment No. 5, but I will not be insisting on any of the others.

**The CHAIR:** The Hon. Mr Pangallo, I would welcome some guidance on whether you are going to insist on amendments Nos 4, 5 and 7.

**The Hon. F. PANGALLO:** I will be supporting the opposition and the Greens on their moves, Mr Chair.

Motion carried.

*Amendments Nos 4, 5 and 7:*

**The Hon. R.I. LUCAS:** I move:

That the council do not insist on amendments Nos 4, 5 and 7.

For the reasons I outlined at the outset on behalf of the government and the minister. However, I acknowledge, from previous indications from enough members to constitute a majority in this chamber, that our position is unlikely to be sustained in this Legislative Council chamber, so I will accept the decision on the voices.

**The Hon. T.A. FRANKS:** Simply, I wish to put on the record the Greens' strong insistence on these measures with regard to the existence of religious instruction in our school system. We believe that the highest safeguards possible and the most transparency around that religious

instruction should be present. Indeed, we are open to a discussion, should there be a deadlock conference, with all of the options being on the table.

Certainly, the role of the AEU, which has been defined by the Treasurer today, and I think by other members of his party previously, as being a privileged position is exactly right. That is actually the point that we have the AEU in these roles because they are in a privileged position. It is a privileged position where their voice at the table is resourced, is informed and is unable to be compromised.

Motion negatived.

*Amendments Nos 8 and 9:*

**The Hon. R.I. LUCAS:** I move:

That the council do not insist on amendments Nos 8 and 9.

Motion carried.

## STATUTES AMENDMENT (MINERAL RESOURCES) BILL

*Second Reading*

**The Hon. R.I. LUCAS (Treasurer) (15:45):** 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.

South Australia has mineral resources of national and global importance and this state has prospered from the wealth of its natural resources. Over the last 180 years the diversity of our regional economies has supported South Australian communities through times of hardship caused by drought, volatile world markets and economic transition.

Both the mining and farming industries are primary industries. They have a shared relationship to the land and utilise natural, raw materials to generate commodities and value-added products for consumers. Both industries require continuous investment, operational skill, technological innovation and a degree of luck to be successful. They are strong allies on key issues facing the primary industries sector including the need for adequate road, rail, ports, power, water and other infrastructure.

In the southern areas of our state, productive soils and sufficient rainfall have supported the growth of significant industries based on production of wheat, barley, oil seeds, sheep (meat and wool), dairy cattle, beef cattle and wine grapes, amongst other produce. Right from the earliest decades of the South Australian colony, we have been an agricultural powerhouse. Our agriculture, food, wine and forestry industries are our largest export sector and a major employer. In 2016-17, they generated about $22.5 billion in revenue and accounted for 57 per cent of the state's merchandise exports.

Our entire state, including these same southern areas, are also home to globally significant major mining projects. The historic Burra 'Monster Mine' supplied 5-10 per cent of the world's total copper consumption for decades, while in the modern mining era the multi-mineral ore body at Olympic Dam contains the world's fourth-largest copper deposit, the largest known uranium deposit and the fifth-largest gold deposit.

Significant new mineral discoveries are still being made and new mining projects continue to commence in the current mining era, underpinned by environmentally and socially responsible regulation. We are home to projects extracting copper and gold at Prominent Hill and Carrapateena, gold at the Challenger mine, zircon at Jacinth-Ambrosia, copper at Kanmantoo, iron ore at Cairn Hill, Peculiar Knob and in the Middleback Ranges, amongst others and in addition to our competitive quarrying sector. Other companies are poised to develop projects, waiting for the right market conditions to strike. The mineral resources sector employed over 26,000 people and delivered $5.2 billion in production, $3.8 billion in exports and $214 million in royalties to South Australia in 2017.

Together, the expansion of farming and the copper mining booms on the Yorke Peninsula and in the mid north drove the development of South Australia's regional and rural towns, rail, road and sea infrastructure.

Then, as now, mining and farming are critical foundations of South Australia's success, fuelling the prosperity and well-being of communities across this state. Our diversity remains our strength.

This is a critical and exciting time for the mineral resources industry globally and South Australia must stand ready to capitalise on significant opportunities, including the growth in renewable energy technologies and increasing global interest in sourcing minerals derived from responsible social and environmental practices. There is strong interest from businesses in establishing supply chains in low risk geopolitical jurisdictions with strong regulatory frameworks, and stable and secure government.

We must continue to enhance the global reputation of the South Australian mineral resources sector to support the growth and diversity of our economy. While South Australia is already internationally recognised as a low risk world-class mineral investment destination, our mining regulation system must keep evolving and innovating to deliver efficiency and certainty for all stakeholders. This will attract investment from the most environmentally and socially responsible mining operators, who will seek to work collaboratively with the government, landowners and communities, delivering long-term, sustainable benefits for all South Australians.

Mining is a key enabler in the transition to alternative energy solutions. Critical minerals that will form the foundation of Australia's future economy are found in significant quantities in South Australia, such as the green energy commodities of copper, cobalt, graphite, nickel and rare earths. We will continue to position South Australia at the forefront of future technological changes, working to capture emerging green industries by connecting developers with product value chains, from mining operations and mineral refinement, through to research and development and downstream manufacturing opportunities.

This bill to amend the *Mining Act 1971*, the *Mines and Works Inspection Act 1920* and the *Opal Mining Act 1995* is just the beginning of this process.

We acknowledge the research, analysis and consultation undertaken during the previous term of government and the spirit of bipartisan cooperation that supported the development of this bill. Responsible debate is crucial to finding a good outcome, to be able to strike the right balance between competing interests and opinions.

Further consultation was undertaken since we took office to determine if key stakeholders remained supportive of this bill. The vast majority of the bill as introduced in late 2017 continues to be supported as an effective and fair compromise between stakeholder interests, balancing a wide spectrum of social, environmental and economic concerns.

This bill increases protections and assistance for communities, simplifies processes and improves market mechanisms to drive investment, delivers a fit-for-purpose compliance and enforcement scheme and delivers further alignment with the *Environment Protection and Biodiversity Conservation Act 1999*. This bill significantly increases transparency and procedural fairness, reduces uncertainty and supports genuine and quality interactions between all parties.

This Government is committed to supporting responsible and productive ways for mining and farming to coexist for the benefit of every South Australian. The bill will increase protections and assistance for communities and landowners via nation-leading transparency requirements, a free and open mining register, increased protection zones around rural residences, increased industry-funded legal advisory assistance at an early stage, and clearer engagement obligations.

The bill proposes a number of measures to improve environmental protection. This bill will modernise investigatory powers to assist evidence gathering for environmental prosecutions under the Act. It will deliver a new power to reinstate expired tenements to allow full use of compliance and enforcement tools under the Act, a new test for the grant of a leases and miscellaneous purposes licences so the Minister must not grant unless satisfied that appropriate environmental outcomes can be achieved, and an expanded scope for compliance directions.

The *Mines and Works Inspection Act 1920* is now largely outdated and obsolete, this bill proposes to limit the operation of this Act to the Leigh Creek coal mine, Olympic Dam and the Liberty OneSteel Whyalla Steelworks. The *Work Health and Safety Regulations 2012* will be amended to include specific requirements for the competence of mine managers to ensure these important provisions remain in force for South Australian mine sites.

This bill also improves processes under the *Opal Mining Act 1995* to support the needs of our opal mining industry, which supplies around 40 per cent of the world's opal and has significant linkages to our tourism sector.

The Government has also made targeted amendments to the version of the bill considered by the Parliament in late 2017.

We have listened to feedback from landowners and we have reinstated the term 'exempt land', removing the proposed change in terminology to 'restricted land'. This will provide landowners with certainty their rights are not being eroded by this bill.

This bill provides increased flexibility to landowners who are seeking to pursue legal redress. We support best practice engagement as the preferred method to negotiate outcomes between landowners and mining companies and want to see the courts used as an avenue of last resort. This bill therefore will complement the Government's election commitment to support the Small Business Commissioner to provide advice and alternative dispute resolution services between farmers and resource companies. All eligible parties are strongly encouraged to use this service.

The 2017 bill contained amendments that sought to reinforce the preclusion of scientific investigations from designated wilderness areas. These amendments have been removed to ensure the Act does not unnecessarily preclude future scientific geological, geophysical and geochemical investigations in these areas by the Geological Survey of South Australia. This science is of value for its contribution to geological, soil and environmental knowledge and understanding. It is noted these scientific investigations are permitted in the *Arkaroola Protection Act 2012* where they have made an important contribution in support of the Flinders Ranges' pending nomination as a World Heritage site.

Following further consultation with the quarrying sector, this bill retains 'Part 11B—Private mines' with some key updates. Part 11B recognises the unique history and mineral rights of private mines in South Australia. The key updates ensure the Minister has the ability to regulate private mines to an appropriate standard commensurate with the rest of the state's mining sector.

With further consideration of the interaction between the bill, and 'Part 9B—Native Title' and the *Native Title Act 1993 (Cth)*, a few amendments have been made to ensure the rights of native title holders are protected, and they receive the same rehabilitation protections as any other landowners.

Finally, a number of minor typographical errors and omissions identified through our review have been rectified for proper operation of the Acts.

This is not the end of the conversation. We do not intend to wait another decade before examining these Mining Acts again. A regular renewal process of review and amendment will be established to ensure we remain at the forefront of international trends and practices in mining regulation. South Australia should aim to be the best in the world. To that we propose more significant review of the legislative and policy frameworks surrounding this invaluable part of our State's economic future to remain globally competitive, take leading environmental and social stewardship of our resources, and increase our global investment rankings.

New Mining Regulations will be developed in consultation with industry, landowners, traditional owner groups, communities and all other interested parties. The principles that will underpin the development of the Regulations are the same principles that have driven the review of these Acts—transparency, certainty, efficiency, fairness, best practice and compromise.

We look forward to working cooperatively with all members of Parliament to secure passage for this important bill.

I commend the bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Mining Act 1971*

4—Amendment of section 6—Interpretation

This clause amends a number of definitions consequent on new or updated provisions in the measure. This includes the amendment and recasting of key terms used in the Act such as *mineral tenement* (instead of mining tenement), *authorised operations* (instead of mining operations), and *tenement holder* (instead of mining operator).

5—Amendment of section 7—Application of Act

This clause inserts new subsections (2), (2a) and (2b). Subsections (2) and (2a) provide power to make regulations in respect of the application or non-application of specified provisions of the Act depending on various specified factors. Subsection (2b) provides for the circumstances in which royalty is payable or not payable under the Act. The clause also makes a consequential amendment.

6—Amendment of section 8—Declaration of mineral land etc

The amendments in subclauses (1) and (2) are consequential. Subclause (3) inserts a new subsection (7) which provides for the circumstances in which a proclamation made under the section before 29 June 1972 will be taken to have limited or affected the exercise of the power to make a proclamation under the section on or after that date.

7—Amendment of section 8A—Opal development areas

This amendment is consequential.

8—Amendment of section 9—Exempt land

The clause amends section 9 to declare land of the following kinds to be exempt land:

- land that is lawfully and genuinely used as a yard or garden;
- land that is lawfully and genuinely used as a cultivated field, plantation, orchard or vineyard;

- land situated within the prescribed distance (as now defined in the section, which varies in relation to whether the operations are low impact or advanced exploration operations, or any other authorised operations) of a building or structure used as a place of residence;
- land that is situated within 150m of a building or structure with a value equal to or exceeding the prescribed amount (as defined in the section) used for an industrial or commercial purpose or within 150m of a spring, well, reservoir or dam.

The clause also makes a number of consequential amendments to section 9.

9—Amendment of section 9AA—Waiver of exemption (including cooling-off)

Section 9AA provides a formal process for a tenement holder to invite an owner of land to enter into an agreement with the tenement holder to waive the benefit of an exemption under section 9. If the tenement holder is unable to reach an agreement with the owner of land, they can apply to the ERD Court for an order waiving the benefit of the exemption.

Under section 9AA as proposed to be amended by this clause, an owner of land who has the benefit of an exemption in respect of land to which a mineral claim has been registered will be able to advise the tenement holder of their position in relation to the waiver, and the conditions (if any) on which they may agree to the waiver. If application is made for a production tenement or a miscellaneous purposes licence, an owner of land who has the benefit of an exemption under section 9 in respect of the land to which the application relates will be able to apply to the appropriate court for orders under subsection (9).

Subsection (9) as recast will authorise the appropriate court to make the following orders:

- an order confirming that the owner of land is entitled to the benefit of an exemption under section 9;
- if the tenement holder or owner of land satisfies the court that any adverse effects of the proposed authorised operations on the owner of land can be appropriately addressed by the imposition of conditions on the tenement holder (including the payment of compensation to the owner)—an order waiving the benefit of the exemption and imposing conditions on a party to the proceedings.

New subsection (14b) requires an agreement made under the section to be given to the Mining Registrar for registration on the mining register.

New subsection (14c) makes it clear that nothing in section 9AA derogates from the jurisdiction of the Warden's Court under section 67 to make determinations about whether land is exempt land under section 9.

10—Amendment of section 9A—Special declared areas

The amendments in this clause are of a consequential nature.

11—Repeal of section 10A

This clause repeals section 10A dealing with special conditions attaching to the mining of radioactive minerals.

12—Amendment of section 10B—Interaction with other legislation

The clause amends section 10B to provide that the Minister must, in acting in the administration of the *Mining Act 1971* take account of codes of management under the *Wilderness Protection Act 1992*.

13—Amendment of section 12—Delegation

This clause amends section 12 to extend and clarify the power of delegation of the Minister and the Director of Mines.

14—Amendment of section 13—Mining registrars and other staff

The clause amends section 13 to extend and clarify the power of delegation of the Mining Registrar.

15—Amendment of section 14B—Authorised investigations

The clause makes a number of consequential amendments, as well as provides additional circumstances in which an investigation is to be taken to be an authorised investigation, namely if the purpose of the investigation is—

- to undertake any inquiry relevant to the administration or enforcement of the Act; or
- to inspect any authorised operations which are creating, or are likely to create, a nuisance, or are damaging, or are likely to damage, property.

16—Amendment of section 14C—Powers of entry and inspection

This clause amends section 14C to extend and clarify the powers of entry and inspection of authorised officers under the Act. The clause also provides additional provisions that require an authorised officer to only exercise

powers of entry and inspection as provided in the section on the authority of a warrant issued by a magistrate (including as a warden) or justice in accordance with the section.

17—Amendment of section 14D—Power to gather information

The clause amends section 14D to delete the existing self-incrimination provision and clarify the consequences for a person who fails to comply with a requirement to answer a question or to provide information. New subsections (6) and (7) make it an offence with a maximum penalty of $5,000 to refuse to state a person's full name, usual place of residence and to produce evidence of the person's identity when required to do so by an authorised officer.

18—Amendment of section 14E—Production of records

This clause makes a number of consequential amendments, and extends the powers of authorised officers to retain, seize and make copies of records produced under the section.

19—Insertion of sections 14G and 14H

This clause inserts new sections as follows:

14G—Power to issue expiation notices

The proposed section enables authorised officers to give expiation notices for alleged offences which are expiable under the Act.

14H—Provisions relating to things seized

The proposed section sets out the process for dealing with things that are seized under Part 2 of the Act.

20—Amendment of section 15—Power to conduct geological investigations etc

The amendments in this clause make a number of consequential amendments.

21—Repeal of section 15A

This repeal is consequential on the re-enactment of this provision in proposed Part 2A.

22—Insertion of Part 2A

This clause inserts a new Part as follows:

Part 2A—Mining register and information

Division 1—Mining register

15AA—The register

The proposed section provides that there is to be a mining register kept by the Mining Registrar, sets out the matters that are to be registered on the register, the circumstances in which matters must be registered and the form and manner in which the register must be kept. It is an offence with a maximum penalty of $5,000 for a tenement holder or other person to fail to meet registration requirements.

15AB—Dealings with mineral tenements

The proposed section provides that a mineral tenement or an interest in a mineral tenement (being a legal or proprietary interest) must not be transferred, assigned, sublet or be held subject to a trust, whether directly or indirectly, without the consent of the Minister. The section further sets out the consent and registration requirements for dealings with such mineral tenements and interests.

Division 2—Mortgages

15AC—Mortgages

The proposed section provides for the requirements in relation to a party to a mortgage over a mineral tenement who applies to the Mining Registrar for the registration of a mortgage, including the application requirements, requests for information from the Mining Registrar, the status of a registered mortgage, and the effect and circumstances in which the mortgage may be surrendered and discharged.

15AD—Application to court to challenge aspects of mortgages

The proposed section provides for the circumstances in which a person who has an interest in a mineral tenement subject to a registered mortgage or an interest directly affected by a registered mortgage may apply to the appropriate court for an order or declaration in relation to the mortgage, as provided in the section.

Division 3—Caveats

15AE—Caveats

The proposed section provides for the circumstances in which a person who has or is claiming an interest in a mineral tenement may apply to have a caveat registered in accordance with the Division, including the form and manner in which the caveat is to be made, the matters to which a caveat may relate, and the effect of a caveat.

15AF—Application to Warden's Court to lapse caveat or obtain compensation

The proposed section provides for the circumstances in which a person who has an interest in a mineral tenement subject to a registered caveat or an interest directly affected by a registered caveat may apply to the Warden's Court for a declaration or order in relation to the caveat as registered under the proposed Division.

Division 4—Other dealings

15AG—Other dealings

The proposed section provides for the manner and circumstances in which a tenement holder may apply to the Mining Registrar for the registration on the register of any agreement, memorandum, arrangement, instrument, document or dealing (a *registrable dealing*) relating to—

- the relevant mineral tenement or an interest in the mineral tenement; or
- authorised operations carried out, or to be carried out, on the relevant mineral tenement.

Division 5—Protection from liability

15AH—Protection from liability

The proposed section provides for the status and liability of the Mining Registrar, Minister, Director of Mines and Crown in relation to an interest, instrument, agreement, statement, notice, order, direction, bond, penalty or other document or dealing on the mining register.

Division 6—Information

15AI—Interpretation

The proposed section defines terms to be used in the proposed Division, and provides the manner in which the Director of Mines may specify information or material as designated material.

15AJ—Compilation, keeping and provision of material

The proposed section provides requirements for a tenement holder in relation to the compilation, keeping and provision of material relating to the tenement. An administrative penalty applies to any tenement holder who fails to comply with a provision of the proposed section.

15AK—Tests

The proposed section requires a tenement holder to allow testing and samples of minerals to be taken at the request of the Director or person acting under the written authority of the Director.

15AL—Release of material

The proposed section provides for the manner and circumstances in which prescribed material may be released by the Minister or Director of Mines.

23—Amendment of section 17—Royalty

Section 17 as amended by this clause will provide that, subject to the Act, royalty is payable on all minerals recovered from mineral land. An exception is made for extractive minerals in certain specified circumstances.

This clause also makes substantial changes to the manner in which the value of minerals is to be determined for the purposes of calculating royalty. Where minerals are sold pursuant to an arms length contract with a genuine purchaser, the value of the minerals for the purposes of determining royalty will be the market value on the day that ownership passes, and the market value will be the contract price. The section as amended by this clause will set out a number of alternative methods for determining market value that apply in circumstances where there is no contract with a genuine purchaser at arms length.

24—Amendment of section 17A—Reduced royalty for new mines

This clause makes consequential amendments.

25—Insertion of sections 17AB and 17AC

This clause re-enacts sections 73E and 73EA of the current Act (which deal with royalty for private mines) and relocates them into this Part.

26—Substitution of section 17B

This clause repeals section 17B and substitutes a new section that broadens the circumstances in which the Treasurer may make an assessment of royalty that a person is liable to pay. In addition to the circumstances that apply currently, the Treasurer will be authorised to make an assessment if—

- there is disagreement about an estimate of the market value of minerals; or
- there is a default in furnishing a return; or
- the Treasurer is not satisfied with a return; or
- the Treasurer is of the view that there has been an underpayment or an overpayment of royalty.

If there has been an overpayment of royalty, the Treasurer is required to refund the amount of the excess to the person or set off the amount against a future liability.

27—Insertion of section 17CA

New section 17CA, inserted by this clause, is substantially similar to current section 76, which is to be repealed. The section requires a tenement holder to furnish a return twice in each year. There is also a requirement for a return to be furnished if a tenement is cancelled, suspended, transferred, forfeited or due to expire.

28—Amendment of section 17D—When royalty falls due (general principles)

The amendments made by this clause are consequential.

29—Amendment of section 17DA—Special principles relating to designated tenement holders

The amendments made by this clause are consequential.

30—Amendment of section 17E—Penalty for unpaid royalty

A penalty applies under section 17E if royalty is not paid on or by the date on which it fell due. Currently, the formula for determining the penalty refers to the loan reference rate applied by the Commonwealth Bank of South Australia. The section as amended will refer instead to the applicable market rate under section 26 of the *Taxation Administration Act 1996* on the day on which royalty fell due.

31—Substitution of section 18

Current section 18 provides that property in minerals passes to a person in consideration of payment of royalty or, if royalty is not payable, on recovery of the minerals. This clause substitutes a new section that provides that property in minerals recovered from mineral land passes to the tenement holder on the day on which a determination of the value of the minerals is made for the purposes of assessing royalty payable on the minerals under section 17. It is still the case under the new section that if royalty is not payable, property passes on recovery of the minerals. The new section also provides that the liability of a tenement holder to pay royalty to the Crown arises when the property in minerals passes to the tenement holder or the proprietor.

32—Amendment of section 20—General right to prospect for minerals

This clause makes a consequential amendment.

33—Amendment of section 21—Steps to establish a mineral claim

This clause contains amendments consequential on the insertion of common provisions in proposed Part 8B. It also amends the section to make the Mining Registrar responsible for the manner and form of an application for the establishing of a mineral claim.

34—Amendment of section 25—Rights conferred by ownership of mineral claim

This clause amends section 25(3) consequent on amendments to section 17.

35—Amendment of section 26—Mineral claim not transferable etc

This amendment is of a technical nature.

36—Amendment of section 27—Land not to be subject to successive mineral claims

A new subsection 27(2) is proposed which relates to the circumstances in which a mineral claim due to lapse is the subject of another mineral claim covering the same area. The clause also makes a number of technical amendments.

37—Substitution of sections 28 and 29

This clause substitutes sections 28 and 29 as follows:

28—Preliminary

The proposed section defines terms to be used in relation to Part 5 which makes provision for the granting of an exploration licence, including when land will be taken to be open ground or relinquished ground. The proposed section also provides for an area of land to be declared by notice to be an exploration release area, and for the circumstances in which an exploration licence may be granted by the Minister.

29—Nature of exploration licence

The proposed section sets out the operations able to be undertaken by the holder of an exploration licence.

29A—Application for exploration licence

The proposed section sets out the application process for an exploration licence, including the requirements that the applicant must meet and the manner in which the Director and Minister must consider and deal with such applications.

29B—Grant of exploration licence

The proposed section provides for the circumstances in which an exploration licence will be taken to be granted, and for the Minister to give notice of the granting of such a licence.

38—Amendment of section 30—Incidents of licence

The clause updates references in the section to refer to terms or conditions of licence (instead of just conditions). It increases the maximum penalty for the offence provided for in section 30(8) from $120,000 to $250,000.

39—Insertion of section 30AAA

This clause inserts a new section as follows:

30AAA—Expenditure

The proposed section requires a tenement holder, as a condition of an exploration licence, to achieve a level of expenditure specified in or in relation to the licence on operations carried out under the licence (an *expenditure commitment*).

The tenement holder must furnish a statement to the Minister in a manner and form, and including such information or evidence, as determined by the Minister and the requirements of the proposed section and the regulations, outlining the exploration operations to be carried out under the licence and declaring the amount of expenditure incurred and estimated to be incurred in carrying out such operations.

The proposed section allows for a tenement holder or tenement holders to amalgamate their expenditure commitments in relation to 2 or more exploration licences, and also for the deferment or variation of the amount of an expenditure commitment.

40—Amendment of section 30AA—Area of licence

The clause inserts new subsections (3) to (11) which provide for the manner and circumstances in which the holder of an exploration licence may apply to the Minister for approval to surrender a part of the area of the licence. The surrender, under an agreement, would enable another party to the agreement to obtain a new exploration licence in relation to the land to be surrendered. The clause also provides for the manner in which the licences will be dealt with if the Minister grants such an approval.

41—Amendment of section 30A—Term and renewals of licence

The clause amends various provisions in the section to increase the maximum term for which an exploration licence may be granted from 5 years to 6 years. It also amends the section to provide for the manner in which an exploration licence may be renewed.

42—Substitution of section 30AB

This clause deletes current section 30AB which provides for a subsequent exploration licence to be granted. These provisions are now covered in the proposed amendments to section 30A allowing for renewal of an exploration licence. The proposed new section 30AB is as follows:

30AB—Excise of land for public purposes

The proposed new section allows the Minister, if of the opinion that land comprised in an exploration licence is required for a public purpose, to excise the land from the licence. The proposed section outlines the manner in which the Minister may undertake such a process and the rights of the tenement holder to apply to the ERD Court for compensation.

43—Amendment of section 31—Fee

The clause amends section 31 to provide that the liability to pay a fee under the section is a debt due to the Crown.

44—Repeal of sections 32 and 33

The clause repeals sections 32 and 33, which are now provided for in proposed Part 8B.

45—Insertion of section 33B

This clause inserts a new section as follows:

33B—Retention status

The proposed section outlines the manner and circumstances in which the holder of an exploration licence may apply to the Minister for retention status in relation to the licence. The section further provides for the following:

- the circumstances in which retention status may be granted;
- the requirements on the tenement holder who has been granted retention status in respect of the licence;
- the terms and conditions of the licence to which retention status applies;
- the status of land before, during and after retention status applies to the land.

46—Substitution of sections 34 to 37

The proposed sections recast and consolidate the sections to be substituted as follows:

34—Preliminary

The proposed section outlines the circumstances in which the Minister may grant a mining lease.

35—Nature of mining lease

The proposed section outlines the rights conferred under a mining lease, that mining leases may be of a prescribed class and that terms and conditions may apply to the lease.

36—Application for mining lease

The proposed section sets out the requirements for a person making an application for a mining lease.

37—Approval of application and registration

The proposed section states the circumstances in which the Minister may or may not grant a mining lease.

47—Amendment of section 38—Term and renewal of mining lease

The clause amends section 38 to consolidate, simplify and clarify the process for the renewal of a mining lease.

48—Repeal of sections 39 to 41

The repealed sections are to be re-enacted in proposed Part 8B.

49—Substitution of Parts 6A and 8

This clause substitutes Parts 6A and 8 which provide for retention leases and miscellaneous purposes licences as follows:

Part 7—Retention leases

42—Preliminary

The proposed section outlines the persons to whom a retention lease may be granted and the requirements and limitations on the type of person and stratum to which the licence may relate.

43—Nature of retention lease

The proposed section sets out the cases in which a retention lease may be granted, and the rights that such a lease, if granted, confers on the holder of the lease, and that the lease is to be subject to terms and conditions as may be prescribed and as may be specified by the Minister in the lease.

44—Application for retention lease

The proposed section sets out the requirements for a person applying for a retention lease.

45—Approval of application and registration

The proposed section states the circumstances in which the Minister may or may not grant a retention lease.

46—Term and renewal of retention lease

The proposed section sets out the term for which a retention lease may be granted and the manner in which the holder of a retention lease may apply for renewal of the lease.

Part 8—Miscellaneous purposes licences

47—Preliminary

The proposed section sets out the circumstances in which the Minister may grant a miscellaneous purposes licence.

48—Nature of miscellaneous purposes licence

The proposed section provides that a miscellaneous purposes licence is to be granted for ancillary operations and that the Minister may limit the scope of operations under the licence by terms and conditions to which the licence is subject.

49—Application for miscellaneous purposes licence

The proposed section outlines the process by which a person may apply for a miscellaneous purposes licence.

50—Approval of application and registration

The proposed section outlines the circumstances in which the Minister must not grant a miscellaneous purposes licence, and that the licence will be taken to be granted by the Minister when registered.

51—Term and renewal of miscellaneous purposes licence

The proposed section provides for the term for which a miscellaneous purposes licence may be granted, and outlines the process by which a miscellaneous purposes licence may be renewed.

50—Substitution of section 56B

This clause substitutes section 56B as follows:

56B—Special mining enterprises

The proposed section defines a special mining enterprise, and provides for the manner in which an agreement is to be made between a proponent and the Minister prior to an application under Part 8A being made, and the sections of the Act that are to apply to such an application.

56BA—Concept phase

The proposed section outlines the first step that a proponent seeking special mining enterprise status must undertake, namely to consult with the Director of Mines about the proposal in a manner set out in the section. The Director may then bring the consultation to an end by advising the proponent that the matter may proceed to an application to the Minister under Part 8A, or that the matter is not, in the opinion of the Director, suitable for further consideration. The effect of this is that the proponent is then not entitled to make an application to the Minister under the Part.

56BB—Application phase

The proposed section outlines the manner and form of an application to the Minister under Part 8A and the process by which the Minister must consider the application.

51—Amendment of section 56C—Power to exempt from or modify Act

The clause amends section 56C to provide that the following sections cannot be exempted or modified by agreement as contemplated by the section:

- sections 9 and 9AA;
- section 61;
- Part 9B;
- any other provisions specified by the regulations.

The clause also increases the maximum penalty for failure to comply with a condition of an exemption or a modification under the section from $50,000 to $250,000.

52—Amendment of section 56D—Existing tenements

This clause makes a technical amendment.

53—Insertion of Part 8B

This clause inserts a new Part as follows:

Part 8B—Common provisions

Division 1—Identifying areas and considering applications

56E—Identification of areas

The proposed section outlines the manner in which an area to which the section applies is to be identified, delineated or defined, including in accordance with any manner or form determined or approved by the Mining Registrar. The section applies in relation to the following:

- establishing a mineral claim;
- an application for an exploration licence;
- an application by the holder of an exploration licence for retention status in relation to the licence;
- an application for a mining lease, retention lease or miscellaneous purposes licence;
- a registered mineral tenement.

56F—Related environmental legislation

The proposed section provides that if an application to which the section applies relates to an area within the Murray-Darling Basin, the Minister must, in considering the application, take into account the objects of the *River Murray Act 2003* and the *Objectives for a Healthy River Murray* under that Act. The section applies to the following:

- an application for an exploration licence, mining lease, retention lease, miscellaneous purposes licence or for the renewal of such a lease or licence;
- in relation to an exploration licence after it has been granted—an application to revise the program that applies in relation to the licence under Part 10A so as to authorise the use of declared equipment.

56G—Specially protected areas

The proposed section provides for applications to which the section applies relating to an area within or adjacent to a specially protected area to be referred by the Minister to the relevant Minister for consideration. If the Minister and the relevant Minister cannot agree, the matter is referred to the Governor for determination. The section applies to the following:

- an application for an exploration licence, mining lease, retention lease, miscellaneous purposes licence or for the renewal of such a lease or licence;
- in relation to an exploration licence after it has been granted—an application to revise the program that applies in relation to the licence under Part 10A so as to authorise the use of declared equipment.

Division 2—Notice

56H—Notice

The proposed section provides for the manner in which the Minister must give notice of an application to which the section applies before granting such applications. The section applies to an application for a mining lease, retention lease (unless exempt by the regulations), miscellaneous purposes licence or an application under Part 8B Division 7 (to the extent that the requirements of that Division are applied by the regulations).

Division 3—Terms and conditions

56I—Matters to be considered

The proposed section sets out the matters to which the Minister must give proper consideration in determining the terms and conditions subject to which a mining lease, retention lease or miscellaneous purposes licence is to be granted.

56J—Alteration of terms and conditions

The proposed section sets out the manner in which the terms and conditions of a mining lease, retention lease or miscellaneous purposes licence may be added to, varied or revoked by the Minister, and the circumstances in which the holder of a mineral tenement must be consulted or may appeal to the ERD Court in relation to such an addition, variation or revocation.

56K—Special term or condition relating to extractive minerals

The proposed section provides that the terms or conditions of a mineral tenement may make provision for the management and use of extractive minerals, and the exemption of those extractive minerals from the payment of royalty.

56L—Offence to contravene term or condition

The proposed section creates an offence with a maximum penalty of $250,000 for a person to contravene or fail to comply with a term or condition of a mineral tenement.

Division 4—Rental

56M—Rental

The proposed section provides for the manner and circumstances in which rental is payable in relation to a mining lease, retention lease or a miscellaneous purposes licence.

56N—Debt payable to Crown

The proposed section provides that the liability to pay any rental under the proposed division is a debt due to the Crown.

Division 5—Rectification of boundaries

56O—Rectification of boundaries

The proposed section outlines the manner and circumstances in which the Mining Registrar may vary the boundaries or delineation of a mineral tenement.

Division 6—Amalgamation of areas

56P—Amalgamation of areas

The proposed section provides for the manner in which the Minister may, on application by a tenement holder or by agreement with a tenement holder, amalgamate the areas of 2 or more mineral tenements.

Division 7—Change in operations

56Q—Preliminary

The proposed section provides that a change in authorised operations under a mining lease, retention lease or a miscellaneous purposes licence of a kind outlined in the section must not be made without the approval of the Minister, with a maximum penalty of $250,000.

56R—Application

The proposed section outlines the manner in which an application for an approval is to be made under the proposed Division.

56S—Consultation

The proposed section provides that the Minister must undertake consultation in a manner outlined in the section in relation to an application under the proposed Division.

56T—Consideration of proposal

The proposed section outlines the considerations that must be undertaken before a change under the Division is approved by the Minister.

56U—Terms and conditions

The proposed section provides the circumstances in which the Minister may, at the time of granting an approval under the proposed Division, add, vary or revoke a term or condition of the relevant mineral tenement, and the matters to which the Minister must give proper consideration in adding, varying or revoking such a term or condition.

56V—Registration

The proposed section provides that if the Minister decides to approve an application under the proposed Division, it will be taken to be granted when the approval is registered on the Mining Register.

Division 8—Cancellation, suspension and surrender

56W—Cancellation and suspension—action by Minister

The proposed section outlines the process and circumstances in which the Minister may cancel or suspend an exploration licence, mining lease, retention lease or miscellaneous purposes licence.

56X—Surrender on application

The proposed section outlines the manner in which a tenement holder may apply to the Minister for an approval to surrender a mineral tenement, or a part of the area of a mineral tenement, and how such a surrender will be taken to be approved.

Division 9—Extension of term or reinstatement of tenement

56Y—Extension of term of tenement

The proposed section provides for the circumstances in which the Minister may, in circumstances set out in the section, extend the term of certain mineral tenements.

56Z—Reinstatement of tenement

The proposed section sets out a scheme by which the Minister may renew a mining lease, retention lease, miscellaneous purposes licence or (if the regulations so provide) an exploration lease that has expired under another provision of the Act.

Division 10—Assessment reports

56ZA—Assessment reports

The proposed section provides that the Minister must prepare a report (an *assessment report*) under the proposed section that sets out or includes the Minister's assessment in respect of matters set out in the section. The section further provides for the manner in which the assessment report is to be dealt with.

54—Amendment of section 57—Entry on land

The proposed clause makes amendments consequential on other provisions in the measure.

55—Amendment of section 58—How entry on land may be authorised

The proposed clause makes amendments consequential on other provisions in the measure.

56—Substitution of section 58A

The clause substitutes section 58A as follows:

58A—Notice requirements

The proposed section recasts the current section 58A which provides for the manner and circumstances in which a person intending to prospect for minerals under section 20 or the holder of an exploration licence or a mineral claim must give notice to the owner of land before entering the land to carry out authorised operations. The proposed section further provides for the circumstances in which an owner of land may object to the entry on the land by the person or to the use of the land for authorised operations.

57—Repeal of section 59

The clause repeals section 59 which dealt with the authorisation of the use of declared equipment, which is now to be undertaken as part of the program under Part 10A.

58—Amendment of section 61—Compensation

This clause makes a number of amendments consequential on other changes in the measure.

59—Amendment of section 62—Bond and security

Subclauses (1) to (5) make a number of amendments consequential on other changes in the measure. Subclause (6) recasts the current subsections (4), (5) and (6) to update the provisions, increases the maximum penalties from $120,000 to $150,000 under subsection (3) and adds a further provision to clarify that liability to pay an amount of bond paid under the section is a debt due to the Crown.

60—Insertion of section 62AA

This clause inserts a new section as follows:

62AA—Mining Rehabilitation Fund

The proposed section provides for the Minister to establish a fund entitled the Mining Rehabilitation Fund and outlines the following matters:

- amounts that will be paid into the fund;
- the manner in which those amounts are to be paid;
- the circumstances in which the Minister may require a tenement holder to pay an amount into the fund;
- the purposes for which money standing to the credit of the fund may be used by the Minister;
- power for the Minister, Director of Mines or a person authorised in writing by the Minister or Director to enter land and carry out tests or work for the purpose of carrying out operations associated with using fund money for a specified purpose, making it an offence for a person to interfere with or obstruct such a person in the exercise of such a power.

61—Amendment of section 62A—Right to require acquisition of land

This clause makes amendments of a consequential nature.

62—Amendment of section 63—Extractive Areas Rehabilitation Fund

This clause makes amendments of a consequential nature.

63—Repeal of Part 9A

This clause repeals Part 9A.

64—Amendment of section 63F—Qualification of rights conferred by exploration authority

This clause makes amendments of a consequential nature.

65—Amendment of section 63K—Types of agreement authorising mining operations on native title land

This clause makes amendments of a consequential nature.

66—Amendment of section 63L—Negotiation of agreements

This clause makes amendments of a consequential nature.

67—Amendment of section 63N—What happens when there are no registered native title parties with whom to negotiate

This clause makes an amendment of a consequential nature.

68—Amendment of section 63O—Expedited procedure where impact of operations is minimal

This clause increases the period during which a notice may be given under Part 9B Division 4 from 2 months to 4 months.

69—Amendment of section 63R—Effect of registered agreement

This clause makes amendments of a consequential nature.

70—Amendment of section 63S—Application for determination

The clause amends section 63 to substitute the definitions of *relevant period* for the purposes of subsections (1) and (4) to refer consistently to a period of 6 months.

71—Amendment of section 63V—Effect of determination

This clause makes an amendment of a consequential nature.

72—Amendment of section 63ZB—Review of compensation

This clause makes an amendment of a consequential nature.

73—Amendment of section 63ZBA—Mining Native Title Register

The clause increases the maximum penalty for an offence against subsection (7) from $10,000 to $50,000.

74—Substitution of heading to Part 10

This clause substitutes the heading to Part 10 as follows:

Part 10—Warden's Court—general provisions

75—Amendment of section 64—Establishment of Warden's Court

This clause inserts a new subsection (1a) which provides that the jurisdiction of the Warden's Court will be such jurisdiction as conferred by or under the *Mining Act 1971* or any other Act or contemplated by those Acts.

76—Amendment of section 65—Powers etc of Warden's Court

This clause proposes amendments to section 65 that will give the Warden's Court the powers and authorities of the Magistrates Court. However, the Warden's Court will not have a power or authority of the Magistrates Court that is prescribed for the purposes of the section. Under the section as amended, additional powers and authorities may also be prescribed.

77—Amendment of section 66—Rules of Warden's Court

The clause amends subsection (1) to provide that the rules of the Warden's Court are to be made by the Senior Warden, being a warden nominated by the Attorney-General to be the senior warden of the Warden's Court.

78—Amendment of section 67—Jurisdiction relating to tenements and monetary claims

The clause amends section 67(1a) to increase the jurisdictional limit on claims to be heard in the Warden's Court from $100,000 to $150,000. The clause makes further amendments of a consequential nature.

79—Repeal of section 69

This clause deletes section 69.

80—Amendment of section 70—Forfeiture and transfer of mineral tenement

The clause amends section 70 significantly to clarify the circumstances in which the Warden's Court may, on application under the section, adjudge that a mineral tenement to which the section applies is liable to forfeiture and recommend to the Minister that the tenement be forfeited. The section applies in relation to a mineral claim, an exploration licence (if the regulations so provide), a mining lease or a retention lease. The clause further allows the regulations to provide for matters associated with making an application under the section, and makes amendments of a consequential nature.

81—Amendment of heading to Part 10A

This clause amends the section to include the term 'operating approval'.

82—Amendment of section 70A—Object of Part

This clause amends the heading to Part 10A to include the term 'operating approval' and makes other amendments of a consequential nature.

83—Amendment of section 70B—Preparation or application of program

The clause amends the manner in which programs under Part 10A are to be submitted, and also makes a number of amendments of a consequential nature.

84—Amendment of section 70C—Review of programs

The clause makes amendment to the review of programs provisions to provide for additional circumstances in which a program must be reviewed. The clause also makes amendments of a consequential nature.

85—Substitution of section 70D

This section substitutes section 70D and inserts new sections as follows:

70D—Notice of certain programs

Programs where authorised operations proposed to be carried out constitute a controlled action within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth which is not to be assessed under Part 8 of that Act but under a bilateral agreement in accordance with that Act are to be notified in the manner outlined in the proposed section.

70DA—Audit of program

The proposed section requires a tenement holder to carry out tests, environmental monitoring or other investigations (a *program audit*) in relation to authorised operations carried out under the relevant mineral tenement. The tenement holder must comply with the requirements or outcomes as determined by the program audit to the satisfaction of the Minister. The section allows the Minister to provide directions regarding a program audit, which must be carried out in accordance with the provisions of the proposed section.

70DB—Publication of program

The proposed section provides that the Minister may publish a program or part of a program in such manner as the Minister thinks fit.

70DC—Offences

The proposed section recasts current section 70D, clarifying offence provisions and increasing the maximum penalties for offences under the section from $120,000 to $250,000.

86—Substitution of heading to Part 10B

This clause substitutes the heading to Part 10B as follows:

Part 10B—Compliance and enforcement

87—Amendment of section 70E—Power to direct tenement holders to take action to prevent or minimise environmental harm

The clause makes amendment to the section to remove the ability of an authorised officer to issue an environmental direction that is urgently necessary (which is now to be incorporated into a new provision permitting authorised officers to issue emergency directions—see proposed section 70FB), inserts into subsection (3) more detailed requirements in relation to a direction relating to testing and monitoring, and makes a number of other consequential amendments.

88—Amendment of section 70F—Power to direct rehabilitation of land

The clause clarifies the requirements in section 70F(6) that a rehabilitation direction may be issued at any time including after a mineral tenement has expired or been cancelled, and makes a number of other consequential amendments to the section.

89—Insertion of sections 70FA, 70FB and 70FC

This clause inserts new sections as follows:

70FA—Compliance directions

The proposed section allows the Minister to issue a compliance direction for the following purposes:

- securing compliance with a requirement under the Act, a mineral tenement or any authorisation or direction under or in relation to a mineral tenement;
- preventing or bringing to an end specified operations that are contrary to the Act or a mineral tenement (including a term or condition of a mineral tenement);
- preventing or rehabilitating land on account of any authorised operations carried out without an authority required by the Act.

The compliance direction must be given in a manner and form outlined in the proposed section. It is an offence with a maximum penalty of $250,000 for a person to fail to comply with a compliance direction within the time allowed in the direction.

70FB—Emergency directions

The proposed section provides for the circumstances in which an authorised officer may issue a direction (an *emergency direction)* to a person involved in undertaking authorised operations. Such circumstances include if, in the opinion of the authorised officer, it is urgently necessary to take action as authorised operations are being carried out in a way that results in, or that is reasonably likely to result in undue damage to the environment, a breach of an environmental outcome under a Part 10A program or a breach of a term or condition of a mineral tenement.

The proposed section further provides for the manner in which an emergency direction may be issued, the term and duration of the direction and the manner in which a direction may be varied or revoked. It is an offence with a maximum penalty of $250,000 for a person to whom an emergency direction relates to fail to comply with the direction within the time allowed in the direction.

70FC—Contravention of Act

The proposed section provides that the Minister or an authorised officer may, if of the opinion that it is reasonably necessary to do so in the circumstances, include in a direction under the Part an act or omission that might otherwise constitute a contravention of the Act and, in that event, a person incurs no liability to a penalty under the Act for compliance with the requirement.

90—Amendment of section 70G—Application for review of direction

The clause makes amendments consequential on the insertion of the sections proposed in clause 89.

91—Amendment of section 70H—Action if non-compliance occurs

The clause makes amendments consequential on the insertion of the sections proposed in clause 89.

92—Insertion of sections 70HA and 70HB

This clause inserts new sections as follows:

70HA—Restriction of claims

The proposed section provides that the Warden's Court may make orders restricting claims under the Act until the requirements of a direction under Part 10B have been complied with.

70HB—Self-incrimination

The proposed section makes provision for the grounds on which a person may refuse to provide information required by or under a direction under Part 10B if to do so might tend to incriminate the person or make them liable to a penalty.

93—Insertion of Part 10C

This clause inserts a new Part as follows:

Part 10C—Offences and penalties

70HC—Penalty for illegal mining

The proposed section sets out the offence of illegal mining.

70HD—Obstruction of person authorised to mine etc

The proposed section sets out the offence of obstructing or hindering the holder of a mineral tenement in the reasonable exercise of rights conferred under the Act.

70HE—Civil penalties

The proposed section sets out a scheme for the imposition of civil penalties as an alternative to undertaking criminal proceedings against a person who has committed an offence under, or contravened a provision of, the Act.

70HF—Additional orders on conviction

The proposed section provides for additional orders that the court may make in relation to a person who is convicted of an offence against the Act.

70HG—Continuing offences

The proposed section provides for the manner and circumstances in which a person convicted of an offence against the Act in respect of a continuing act or omission may be liable to further and ongoing penalties for each day during which the act or omission continues.

70HH—Offences by bodies corporate

The proposed section provides for the circumstances in which a director of a body corporate may be guilty of offences against the Act for which the body corporate is found guilty.

70HI—Time limits

The proposed section sets out the time limits for commencement of criminal proceedings under the Act.

70HJ—Summary offences

The proposed section provides that all offences under the Act are to be classified as summary offences.

70HK—Evidentiary provisions

The proposed section provides certain evidentiary provisions for the purposes of the Act.

94—Amendment of section 71—Minister may assist in conduct of operations

This clause makes a consequential amendment.

95—Amendment of section 72—Research and investigations

This clause makes a consequential amendment.

96—Repeal of Part 11A

This clause repeals Part 11A

97—Amendment of section 73C—Interpretation

The clause amends several definitions to support other amendments to Part 11B in the measure.

98—Amendment of section 73D—Application of Act

Subclauses (1) and (2) make amendments of a consequential nature. Subclause (3) inserts a new subsection (3) setting out which sections of the Act apply to or in relation to a private mine or a person carrying out operations in relation to a private mine.

99—Repeal of sections 73E, 73EA and 73F

The clause repeals sections that are to be re-enacted and relocated elsewhere in the Act.

100—Amendment of section 73G—Mine operations plans

The clause inserts a new subsection (12a) which provides that the Minister may publish a mine operations plan in such manner, and to such extent, as the Minister thinks fit.

101—Amendment of section 73H—General duty to avoid undue environmental damage

This amendment is consequential.

102—Amendment of section 73I—Compliance orders

This clause increases the penalty provision in subsection (4) from a maximum penalty of $120,000 to a maximum penalty of $250,000.

103—Amendment of section 73J—Rectification orders

This clause increases the penalty provision in subsection (4) from a maximum penalty of $120,000 to a maximum penalty of $250,000.

104—Insertion of sections 73KA and 73KB

The clause inserts new sections as follows:

73KA—Emergency order

The proposed section sets out the manner and circumstances in which an authorised officer may issue a notice (an *emergency order*) to a person undertaking mining operations in order to address operations that may constitute a breach of an objective under a mine operations plan or undue damage to the environment.

73KB—Contravention of Act

The proposed section provides that the Minister or an authorised officer incur no liability for acts or omissions they may order under Part 11B.

105—Amendment of section 73L—Application for review of direction

The clause makes a consequential amendment.

106—Substitution of sections 73M to 73Q

The clause deletes and substitutes sections as follows:

73M—Action if non-compliance occurs

The proposed section provides for the circumstances in which the Minister or Director may take action required by an order under Part 11B.

73N—Revocation of private mine

The proposed section provides power for the Governor, by proclamation and on recommendation of the Minister, to vary or revoke the declaration of an area as a private mine made under the Act, and the actions the Minister must take before giving such a recommendation.

73O—Evidentiary provisions

The proposed section provides evidentiary provisions for the purposes of Part 11B.

107—Substitution of sections 74 and 74AA

This clause substitutes sections 74 and 74AA as follows:

74—Civil remedies

The proposed section provides for the circumstances in which the Minister or the Director of Mines may make application to the ERD Court for various orders as provided in the section in respect of the following persons:

- a person who has engaged, is engaging or is proposing to engage in conduct in contravention of the Act;

- a person who has refused or failed, is refusing or failing or is proposing to refuse or fail to take any action required by the Act;
- a person who has suffered injury or loss or damage to property as a result of a contravention of the Act, or incurred costs and expenses in taking action to prevent or mitigate such injury, loss or damage.

The proposed section further provides for the manner in which the Court may deal with such orders.

74AA—Enforceable voluntary undertakings

The proposed section provides for the Minister to accept a written undertaking from a person in connection with a matter relating to a contravention or alleged contravention by the person of the Act, and for a penalty to apply and powers for the ERD Court to make orders in respect of a person who contravenes the undertaking.

108—Amendment of section 74A—Compliance orders

This clause makes a consequential amendment.

109—Amendment of section 75—Provision relating to certain minerals

The clause makes an amendment to provide for the circumstances in which a claim, lease or mineral tenement is not required under the Act for the recovery of extractive minerals from land.

110—Amendment of section 75A—Avoidance of double compensation

This clause makes technical amendments.

111—Repeal of sections 76 to 77D

The section repeals sections 76 to 77D (inclusive) consequent on the recasting and relocation of these provisions in proposed Part 8B.

112—Amendment of section 78—Persons under 16 years of age

This clause makes consequential amendments.

113—Amendment of section 79—Minister may grant exemptions

This clause makes consequential amendments.

114—Substitution of section 79A

This clause deletes section 79A (which is obsolete) and substitutes the following:

79A—False or misleading information

The proposed section makes it an offence with a maximum penalty of $150,000 for a person who furnishes information to the Minister, the Director, the Mining Registrar or any other person involved in the administration of the Act that is false or misleading in a material particular.

115—Amendment of section 80—Conditions under which land may be simultaneously subject to more than 1 tenement

The clause makes a number of amendments consequential on other amendments in the measure, and increases the maximum penalty for the offence in subsection (1d) from $5,000 to $20,000.

116—Substitution of sections 81, 82 and 83

This clause substitutes sections 81, 82 and 83 as follows:

81—Additional provisions relating to liability

The proposed section provides for joint and several liability of each tenement holder in circumstances where there are 2 or more tenement holders in relation to the same mineral tenement.

82—Deemed consent or agreement

The proposed section provides for deemed consent or agreement between an owner of land and a tenement holder in circumstances where the owner of land and the tenement holder are the same person.

117—Repeal of sections 84 and 84A

This clause repeals obsolete sections.

118—Substitution of sections 85 and 86

This clause substitutes sections 85 and 86 as follows:

85—Charge on property if debt due to Crown

The proposed section makes provision in relation to the creation of a charge on property if the owner of the property is liable to pay a debt due to the Crown under the Act.

86—Removal of machinery etc

The proposed section recasts and updates the current provision in relation to removal of machinery on land that is within a mineral tenement that has been transferred or that has ceased to be subject to a mineral tenement.

119—Substitution of sections 88 and 89

This clause substitutes sections 88 and 89 as follows:

88—Hindering authorised officers

The proposed section updates and consolidates the offences formerly contained in sections 88 and 89 of the Act.

120—Insertion of section 89B

The clause inserts a new section as follows:

89B—Penalties and expiation fees payable into fund

The proposed section provides that penalties payable in respect of offences against the Act and expiation fees paid under the Act are payable into the Mining Rehabilitation Fund.

121—Substitution of section 90

This clause deletes section 90 (the content of which is relocated elsewhere in the measure) and substitutes the following:

90—Reports and verification of information

The proposed section provides for the manner and circumstances in which a tenement holder must provide a report, at the request of the Minister, setting out or accompanied by information or material relevant to matters set out in the section. A tenement holder is liable to a maximum penalty of $20,000 for failure to comply with a requirement under the section within the period specified by the Minister.

122—Amendment of section 91—Administrative penalties

The clause amends the section to allow the Director of Mines (instead of the Minister) to impose an administrative penalty on a person, and to issue a penalty notice without prior consultation with the person and without the need to give a warning or any prior notice in relation to the matter. The level of administrative penalty is increased from a maximum of $10,000 to a maximum of $15,000. Any such penalty recovered will be paid into the Mining Rehabilitation Fund.

123—Repeal of section 91A

This clause repeals section 91A which is proposed to be reenacted in Part 11B as section 73N.

124—Amendment of section 92—Regulations

The clause amends section 92 to update and include provisions in relation to the circumstances in which the Governor may make regulations as a result of the measure.

125—Amendment of Schedule

This amendment is consequential.

126—Renumbering

This is a technical amendment allowing for the renumbering of the provisions of the Act after all provisions in Part 2 of the measure have been brought into operation.

Part 3—Amendment of Mines and Works Inspection Act 1920

127—Amendment of section 4—Interpretation

Subclause (1) deletes the definition of *manager*, as all references in the Act to 'manager' are to be deleted. Subclause (2) amends the definition of *mining operation* to limit it to mining operations in respect of which the Act applies.

128—Substitution of section 5

This clause substitutes section 5 as follows:

5—Application of Act

The proposed section provides that the Act applies in respect of the following operations:

- operations undertaken under the Indenture under the *Roxby Downs (Indenture Ratification) Act 1982*;
- operations under the Indenture under the *Whyalla Steel Works Act 1958*;
- operations by a person to whom a sale or lease of any seam of coal vested in the Crown at or near Leigh Creek has been made or granted by or on behalf of the Crown (including any successors at law of such a person) as authorised under section 48(1) of the *Electricity Corporations Act 1994*;
- operations by a person authorised under section 48(2) or (3) of the *Electricity Corporations Act 1994* to mine any seam of coal vested in the Crown or SAGC, at or near Leigh Creek.

129—Amendment of section 8—Disqualification for office of inspector

These amendments are consequential on removal of references to 'manager' in the measure.

130—Amendment of section 10—Power of inspector on inspection

These amendments are consequential on removal of references to 'manager' in the measure.

131—Amendment of section 12—Miners' inspectors

These amendments are consequential on removal of references to 'manager' in the measure, and replaces the references with 'owner'.

132—Amendment of section 13—Obstructing or refusing to assist inspector

These amendments are consequential on removal of references to 'manager' in the measure.

133—Substitution of section 16

This clause substitutes section 16 as follows:

16—Notice

The proposed section updates the current notice provision in the Act.

134—Amendment of section 20—Imprisonment for wilful neglect

This amendment is consequential on removal of references to 'manager' in the measure.

135—Amendment of section 22—General provisions as to proceedings for offences

This amendment is consequential on removal of references to 'manager' in the measure.

136—Amendment of Schedule—Subject matter of regulations

These amendments are consequential on removal of references to 'manager' in the measure.

Part 4—Amendment of *Opal Mining Act 1995*

137—Amendment of section 3—Interpretation

The clause amends various definitions, and inserts new definitions to support provisions in the measure.

138—Amendment of section 6—Exempt land

The clause makes a number of amendments to ensure consistency with amendments made to the *Mining Act 1971* in the measure, and makes other consequential amendments.

139—Amendment of section 7—Application for permit

These amendments update the manner in which an application for a permit may be made, and change references to 'a mining registrar' to 'an opal mining registrar'.

140—Amendment of section 8—Nature of permit

This clause substitutes the penalty in section 8(4) with an administrative penalty as provided for in the measure.

141—Amendment of section 9—Terms and renewal of permit

These amendments update the manner in which the terms and renewal of precious stones permits may be made, and change references from 'mining registrar' to 'opal mining registrar'.

142—Amendment of section 10—Rights of holder of permit

This clause amends the section to extend the prohibition on residing on precious stones fields other than in the Mintabie township lease area.

143—Amendment of section 10A—Special provisions in relation to Mintabie precious stones field

The clause makes a number of amendments consequential on the amendments in clause 142 and further consequential amendments related to the change of reference from 'mining registrar' to 'opal mining registrar'.

144—Amendment of section 11—Qualifications to permits

Subclause (1) inserts a new subsection that provides that a precious stones prospecting permit does not authorise the pegging out of an area that is not either wholly within, or wholly outside, a precious stones field. The clause also makes a number of amendments consequential on the change of reference from 'Mining Registrar' to 'Opal Mining Registrar'.

145—Amendment of section 15—Effect of pegging an area

This amendment is consequential on the amendment in clause 144.

146—Amendment of section 16—Ballot may be conducted in certain cases

This clause makes consequential amendments related to the change of reference from 'mining registrar' to 'opal mining registrar'. The clause also updates the penalty provisions currently in subsection (9) to include an administrative penalty for pegging out an area for a precious stones tenement in contravention of the section.

147—Substitution of section 18

This clause substitutes section 18 as follows:

18—Contravention of Part

The proposed section recasts current section 18 to update penalties and insert administrative penalties for certain offences under the section.

148—Amendment of section 18A—Special conditions for tenements in relation to Mintabie precious stones field

The clause makes amendments consequential on the amendments in clause 142.

149—Amendment of section 19—Application for registration of tenement

This clause makes amendments of a consequential and technical nature.

150—Amendment of section 19A—Special provision related to application for and registration of tenements on Mintabie precious stones field

This clause makes a number of consequential amendments related to the change of reference from 'Mining Registrar' to 'Opal Mining Registrar'.

151—Amendment of section 20—Registration of tenement

This clause makes a number of consequential amendments related to the change of reference from 'Mining Registrar' to 'Opal Mining Registrar', and, in subclause (10), makes a technical amendment.

152—Amendment of section 22—Term and renewal of tenement

These amendments update the manner in which the terms and renewal of precious stones permits may be made, and change references from 'Mining Registrar' to 'Opal Mining Registrar'.

153—Amendment of section 23—Rights conferred by a tenement

The clause inserts a new subsection (3) to provide that it is a condition of every registered precious stones claim and every registered opal development lease that the holder of the claim or lease (being a holder who is a natural person) must not reside on the land comprising the claim or lease other than in the Mintabie township lease area in accordance with a licence issued under section 29D of the *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*, or as otherwise allowed under that Act.

154—Amendment of section 25—Unlawful entry on tenement

This clause updates the penalty provision in section 25(1).

155—Substitution of section 26

This clause substitutes section 26 as follows:

26—Caveats

The proposed section provides for the circumstances in which a person who has or is claiming an interest in a matter relevant to the registration of a tenement may apply to have a caveat registered in accordance with the section, which includes the form and manner in which the caveat is to be made, the matters to which a caveat may relate, and the effect of a caveat.

26A—Application to Warden's Court to lapse caveat or obtain compensation

The proposed section provides for the circumstances in which a person who has an interest in a tenement subject to a registered caveat or an interest directly affected by a registered caveat may apply to the Warden's Court for a declaration or order in relation to the registered caveat.

156—Amendment of section 27—Power of Opal Mining Registrar to cancel tenement

This clause makes a number of consequential amendments related to the change of reference from 'Mining Registrar' to 'Opal Mining Registrar'.

157—Insertion of section 27A

This clause inserts a new section 27A:

27A—Cancellation and suspension

The proposed section provides for the circumstances and manner in which the Opal Mining Registrar may cancel or suspend a precious stones tenement if the tenement holder contravenes or fails to comply with a term or condition of the tenement or a provision of the Act.

158—Amendment of section 28—Surrender of tenement, removal of posts etc

This clause makes a number of consequential amendments related to the change of reference from 'Mining Registrar' to 'Opal Mining Registrar' and on the amendments in clause 144.

159—Substitution of section 29

This clause substitutes section 29 as follows:

29—Removal of machinery

The proposed section recasts and updates the current provision in relation to removal of machinery on land that has ceased to be subject to a tenement.

160—Amendment of section 30—Maintenance of posts

The proposed section provides for an administrative penalty for the offence in the section.

161—Amendment of section 32—Notice of entry

The clause makes a consequential amendment updating the reference from 'Mining Registrar' to 'Opal Mining Registrar', and an amendment updating the penalty provision in section 32(7).

162—Amendment of section 33—Duration of notice of entry

The clause amends section 33(1) to provide that a notice of entry remains in force for a period of 12 months instead of 6 months.

163—Amendment of section 34—Use of declared equipment

The clause updates the penalty provisions in section 34 and makes an amendment updating the reference from 'Mining Registrar' to 'Opal Mining Registrar'.

164—Amendment of section 35—Rehabilitation of land

The clause updates the penalty provisions in the section and makes consequential amendments.

165—Insertion of sections 35A and 35B

This clause inserts new sections 35A and 35B:

35A—Compliance directions

The proposed section allows the Minister to issue a compliance direction for the following purposes:

- securing compliance with a requirement under the Act, a tenement or any authorisation or direction under or in relation to a tenement;
- preventing or bringing to an end specified operations that are contrary to the Act or a tenement (including a term or condition of a tenement);

- requiring rehabilitation of land on account of any operations carried out without an authority required by the Act;
- requiring the taking of any action that, in the opinion of the Minister, is required to ensure public safety.

The compliance direction must be given in a manner and form outlined in the proposed section. It is an offence with a maximum penalty of $250,000 if a person fails to comply with a compliance direction within the time allowed in the direction.

35B—Contravention of Act

The proposed section provides that the Minister or an authorised officer may, if of the opinion that it is reasonably necessary to do so in the circumstances, include in a direction under the Part a requirement for an act or omission that might otherwise constitute a contravention of the Act and, in that event, a person incurs no liability to a penalty under this Act for compliance with the requirement.

166—Amendment of section 36—Bonds

The clause makes consequential amendments updating references from 'Mining Registrar' to 'Opal Mining Registrar', updates penalty provisions and makes another amendment consequential on the amendment in clause 144.

167—Amendment of section 37—Application of bonds

This clause makes a consequential amendment updating references from 'Mining Registrar' to 'Opal Mining Registrar'.

168—Amendment of section 43—Registration of agreement

This clause makes a number of consequential amendments updating references from 'Mining Registrar' to 'Opal Mining Registrar'.

169—Amendment of section 44—Agreement may be varied or revoked

This clause makes a number of consequential amendments related to the change of reference from 'Mining Registrar' to 'Opal Mining Registrar'.

170—Amendment of section 45—Appeal to Warden's Court

This clause makes a consequential amendment to update the reference to 'Mining Registrar' to 'Opal Mining Registrar'.

171—Amendment of section 49—Qualification of rights conferred by permit

The clause amends section 49(1) to provide that a precious stones prospecting permit confers no right to carry out mining operations on native title land unless an indigenous land use agreement registered under the *Native Title Act 1993* of the Commonwealth provides that statutory rights to negotiate are not intended to apply in relation to the mining operations.

172—Amendment of section 50—Limits on grant of tenement

The clause amends section 50 to provide that a precious stones tenement may not be registered over native title land unless an indigenous land use agreement registered under the *Native Title Act 1993* of the Commonwealth provides that statutory rights to negotiate are not intended to apply in relation to the mining operations.

173—Amendment of section 51—Applications for tenements

The clause makes a consequential amendment updating the reference to 'Mining Registrar' to 'Opal Mining Registrar'.

174—Amendment of section 59—Agreement

This clause makes consequential amendments updating references from 'Mining Registrar' to 'Opal Mining Registrar'.

175—Amendment of section 64—Effect of determination

This clause makes a consequential amendment updating the reference to 'Mining Registrar' to 'Opal Mining Registrar'.

176—Amendment of section 70A—Opal Mining Native Title Register

The clause substitutes subsection (1) to provide that the Opal Mining Registrar must establish a distinct part of the opal mining register (which may be referred to as the *Opal Mining Native Title Register*) for the registration of agreements and determinations under Part 7. The clause makes a number of amendments consequential on proposed subsection (1) and updates the penalty provision in subsection (7).

177—Amendment to section 72—Jurisdiction relating to tenements and monetary claims

The clause updates the penalty provision in subsection (2a) and makes a number of other consequential amendments updating references from 'Mining Registrar' to 'Opal Mining Registrar'.

178—Insertion of section 75A

This clause inserts section 75A:

75A—Opal Mining Registrar

The proposed section provides for there to be an Opal Mining Registrar and other opal mining registrars who are to be Public Service employees, and sets out the powers of delegation of such officers.

179—Amendment of section 76—Opal Mining Register

The clause amends section 76 to provide that the Opal Mining Registrar must keep a register (the *opal mining register*) in accordance with the requirements set out in the section.

180—Amendment of section 77—Appointment of authorised persons

The clause updates penalty provisions in the section, and makes a number of other amendments to bring the appointment and powers of authorised persons into line with the powers of authorised officers under the *Mining Act 1971*.

181—Amendment of section 79—Exemptions

The clause substitutes subsection (1) to provide for the circumstances in which the Minister, if satisfied that it is justifiable to do so, may exempt the holder of a tenement from the obligation to comply with a term or condition of the tenement or a provision of the Act (except Part 7). The clause also updates the penalty provision in section 79(5).

182—Amendment of section 82—Offences

The clause updates the penalty provisions for offences as outlined in the section.

183—Amendment of section 84—Prohibition orders

The clause updates the penalty for the offence in subsection (5).

184—Amendment of section 85—Power of Opal Mining Registrar to require pegs be removed

The clause makes consequential amendments to update references from 'Mining Registrar' to 'Opal Mining Registrar'.

185—Amendment of section 87—Evidentiary provision

The clause makes a number of amendments consequential on taking into account other amendments in the measure.

186—Amendment of section 89—Disposal of waste

The clause updates the penalty provisions in the section.

187—Repeal of section 91

The clause repeals an obsolete section.

188—Amendment of section 93—Interaction with Mining Act

The clause makes amendments consequential on amendments in Part 2 of the measure, and updates the penalty provisions in the section.

189—Insertion of sections 98A and 98B

This clause inserts a new section:

98A—Administrative penalties

The proposed section provides for an administrative penalty to apply to a provision of the Act (of an amount not exceeding $15,000 prescribed by the regulations in relation to the relevant provision) and the circumstances and manner in which such a penalty may be imposed.

98B—Penalties payable into Mining Rehabilitation Fund

The proposed section provides for penalties including administrative penalties paid under the Act to be paid into the Mining Rehabilitation Fund established under the *Mining Act 1971*.

190—Amendment of section 99—Regulations

The clause provides for further powers of the Governor to make regulations for the purposes of the Act.

Schedule 1—Transitional provisions

Part 1—Transitional provisions—*Mining Act 1971*

This Part contains a number of transitional provisions consequent on the enactment of provisions in the measure dealing with the following:

- references to mining operations in other Acts;
- waiver of exemptions;
- registers;
- mortgages;
- registered documents and dealings;
- royalty;
- exploration licences;
- expenditure;
- reinstatement of tenements;
- Mining Rehabilitation Fund;
- jurisdiction relating to tenements and monetary claims;
- programs for environment protection and rehabilitation;
- caveats;
- private mines;
- safety net.

Part 2—Transitional provisions—*Opal Mining Act 1995*

This Part contains a number of transitional provisions consequent on the enactment of provisions in the measure dealing with the following:

- opal mining register;
- caveats;
- safety net;
- jurisdiction relating to tenements and monetary claims.

Debate adjourned on motion of Hon. I.K. Hunter.

## LANDSCAPE SOUTH AUSTRALIA BILL

*Second Reading*

Adjourned debate on second reading.

(Continued from 4 July 2019.)

**The Hon. I.K. HUNTER (15:46):** I rise to make some remarks on the second reading of the Landscape South Australia Bill. The bill seeks to repeal the Natural Resources Management Act 2004 and replace the system of NRM boards with a similar system of landscape boards to govern the management of our state's natural resources. The bill is curious for what it leaves out and even more curious for what it deletes. I will cover some of those aspects later in my contribution.

The NRM system evolved out of individual soil boards, pest control boards and water catchment boards. It was a fantastic reform of the Rann Labor government and then minister for environment and conservation, the Hon. John Hill. For some five years I was fortunate enough to work closely with NRM boards, departmental officers and the many people in the community involved in the work of natural resources management. It has been a system that has worked well for our state.

Projects have seen the reintroduction of species and restoration of habitats where we had previously seen environmental destruction. Boards, officers and community have worked effectively

to mitigate soil erosion, control pest plants and animals, and manage flood risks. NRM grant programs across South Australia have seen community groups and schools invest in a wide range of environmental projects. Throughout it all, the former government's NRM policy has brought together work to support our primary industries, protect the environment, conserve biodiversity and ensure our natural resources are sustained for the next generation of South Australians.

However, as the shadow minister for environment and water in the other place has noted, this bill represents a once in 15 years chance to review how we manage natural resources in our state and establish a system which reflects the changing world that we now find ourselves in. The repeal of the NRM Act and introduction of a landscape act was, of course, one of the key environmental policy commitments the now government took to the 2018 state election. The Liberal Party's policy document entitled 'Natural Resources Management—Empowering Communities' promised to 'make NRM reform a foundation of our environmental and regional policies'.

The promises and rhetoric make it surprising—to me, at least—that much of the bill that we have before us is simply a reflection of the NRM system as it actually operates now. There still will be boards with broadly similar objectives to those of the NRM boards and the minister will still have the opportunity to appoint a majority of board members, including the chair. In his contribution on the bill in the other place, the Minister for Environment and Water noted that 'most water-related provisions in the act have been carried over unchanged to the new bill'.

The bill also seeks the continuation of the work of authorised officers to ensure the legislative framework and board decisions are carried out. Indeed, some of the restrictions on authorised officers have been removed from this bill, with the abolition of regional authorised officers meaning all will have statewide jurisdiction.

This is the curious aspect, because I have been, I suppose, the object of many criticisms of the existing framework, directed specifically around authorised officers, directed specifically around matters related to water, but this bill makes little or no changes to these aspects of the legislation. If these core aspects of the NRM system have not been changed, what has been?

The minister's public statements highlight the reform of direct election of some landscape board members. It is worth noting that the government has opted for a relatively minimal model of direct election of board members. The minister's stated intention is to hold these elections alongside local government elections. Only three of seven members are to be directly elected, and provisions exist for the minister to wholly appoint the board if he or she deems it preferable in a particular region due to special circumstances.

The bill also retains key areas of concern raised by stakeholders, including through the consultation undertaken in mid-2018 on proposed changes to the NRM system. For some years, and in the consultation report published on the YourSAy website, as I said earlier, stakeholders have raised concerns about the appointment of authorised officers, the breadth of powers that are given to them and a perceived heavy-handedness in the way compliance activities have been undertaken.

In government, we sought to strike a balance between respecting and partnering with landholders and also acknowledging the need for effective enforcement when policies and regulations were not being followed. There are many specific situations where individual landowners were not able to, or did not desire to, follow the legislative responsibilities of landowners.

Yet, we have the minister now seeking to reform NRM in this state and he has only made minor changes to the appointment and powers of authorised officers in this bill. The distinction between statewide and regional authorised officers has been removed, as I said, but the changes do not go very far beyond that.

I fail to see how the minister's rhetoric matches up to what is in the legislation before us. There is minimal change and it does not address the key issues of stakeholders. It does not address even the issues that the minister used to attack the previous government on. In fact, the bill before us is largely identical in many respects on these key issues.

In her second reading explanation in this place, the minister representing the Minister for Environment and Water noted that conditions on the appointment of an authorised officer could be

made as the minister thinks fit. It is worth noting that the same provision appears in the NRM Act currently, that is, NRM Act sections 66 to 69, which largely mirror the bill clauses 200 to 202.

In a similar way, the concerns raised in the formal consultation process and in community feedback more generally focus heavily on the provisions in the bill for water management. Indeed, the consultation report 'Managing our landscapes: conversations for change' by Becky Hirst Consulting, dated 26 October 2018, notes on page 56:

> Whilst it was highlighted throughout the engagement process that this stage of the reform process did not include significant water management reform, this topic was still raised consistently as a priority across the state.

Critiques about the current water management framework and suggestions for change have not been addressed in this legislation before us. Again, the former Labor government sought to balance the concerns of various groups and reach the outcome that benefited communities, met our obligations under the Murray-Darling Basin Plan and other agreements and ensured strong environmental outcomes, and also to ensure that water was available for irrigators into the long-term future.

Yet, the minister, despite initiating a consultation process and introducing a bill to repeal the NRM legislation, has not yet taken the opportunity in this bill before us to address this feedback and incorporate the strongly held views of some respondents. He has ignored them. Indeed, the bill and the public statements made by the Minister for Environment and Water seem to be something of a smoke and mirrors exercise. The minister, I believe, is hoping that no-one who has complained about these various issues will actually read the content of the bill. The proposals for decentralisation and community focus are relatively limited, and key aspects of the bill remain unchanged.

What, then, has changed? Sadly, it appears to be the natural environment that will suffer in the transition from NRM to Landscape SA. The push for a 'back-to-basics' approach, the focus on sustaining ecosystems and promoting biodiversity and striving for the best environmental outcomes have somehow been lost in the drafting.

To my mind, the bill could have been an opportunity to modernise our approach to these issues, some 15 years after the passage of the NRM legislation, to reflect developments in science and ecology and, indeed, in terms of climate change and to ensure that South Australia is not being left behind in addressing key issues. Yet, the minister appears to have used this as an opportunity to do the opposite: to strip away the focus on these key biodiversity and ecological issues from the legislation.

This area of public policy is an incredibly important one for landholders and primary producers. We know that because farmers tell us. It is also important in ensuring our natural environment is protected and sustained to ensure future generations enjoy it and make as much use of it as we could want. That is why it is important to have those protections in this legislation—and it has disappeared.

There is a delicate balance to be struck here. It appears the minister has not acknowledged this and has undermined the work done under the previous system to ensure our environment is managed in a way that enables it to thrive. The shadow minister for environment and water ably prosecuted these issues during debate in the other place and I encourage members to read the *Hansard* in considering their own response to this bill.

The shadow minister secured some amendments, which are now reflected in the bill before us, making some progress in ensuring current and future risks to natural resources are identified in the state landscape strategy and in ensuring the Green Adelaide board is prioritising biodiversity sensitivity in urban design. Yet, these are only small measures in the context of the whole system. They are small saves, if you like, in the context of what has been lost in the drafting of this legislation.

The bill in its present form leaves out the importance of biodiversity and ensuring the health of our ecosystems and making action on climate change central to its provisions. I note that the Leader of the Opposition in this place has filed a number of amendments to address these and other issues—very fine amendments, in my view—and I look forward to supporting them. As it stands, the impact of the changes being made on our natural environment is being somewhat hidden behind smoke and mirrors, as I said, and we risk missing this opportunity to enshrine environmental outcomes in this substantial body of legislation before us.

As I said at the outset, the opposition will be supporting the bill. If I did not say that, I am saying it now. The council has an opportunity before it to set up a natural resources management framework for the next 15 years, just as the NRM Act gave us a framework for the last 15 years. I certainly hope the council takes advantage of its privileged position to do so, and I certainly believe that such longstanding legislation as we have needs to give higher priority to our natural environment, otherwise there may not be much left to manage into the future, and I know that our significant primary industries will suffer because of it.

**The Hon. F. PANGALLO (15:57):** I rise to speak in broad support of the Landscape SA Bill. While at first glance the bill appears to be the old Natural Resources Management Act 2004 by another albeit more modern name, there are a number of improvements in this bill which I strongly endorse. My amendments, [Pangallo-1], [Pangallo-2] and [Pangallo-3], which I will speak to later, seek to remedy a provision that has been carried forward from the old NRM bill that I do not support.

I would like to thank minister Speirs and his advisers for the comprehensive briefings he has provided SA-Best. These, along with our own community and stakeholder engagement, have given me a thorough understanding of the bill and a good appreciation of the new approach that it seeks to implement. I would like to acknowledge the consultation undertaken by the minister and his team, and the incorporation of community views and ideas in formulating the bill. The bill is certainly all the better for the input of a very wide range of community members and groups.

While our eight NRM boards for the most part have served us well since 2004, this bill creates eight new at arms-length landscape boards to replace the old NRM boards and creates a new entity: Green Adelaide. The creation of the Green Adelaide board is well timed to ensure that Adelaide becomes a world renowned, water sensitive, ecologically vibrant and climate-resilient city that retains the best of what our city planners so beautifully laid out, while embracing 21st century innovation in regard to water, open space and greening. We want to make sure that we maintain the land of the Kaurna people and do not detract from the vision of Colonel William Light.

The Green Adelaide board members are all ministerial appointments, and the other boards will comprise three elected and four appointed board members. We broadly support Labor's amendment that is aimed at ensuring one of those ministerial appointments will be a local council member. This will be an important linkage. This should provide a good mix of skills, qualifications, knowledge and experience, although I note these criteria will be prescribed in regulation rather than legislation.

Electing members of the eight regional boards in a process aligned with local government elections should be more cost-effective than standalone elections and should give the new boards stronger local representation and diversity. The focus of the new boards on a limited number of priorities over a five-year period, as articulated in new regional landscape and water allocation plans, should also produce better regional outcomes and performance that can be achieved under the outdated NRM Act.

Decentralised decision-making and getting rid of red tape are always welcome improvements, and local partnerships should give our landscapes more bang for our buck. I see it as an important and positive initiative that there will be scope for redistributing Green Adelaide levies into a new landscape priorities fund that can be directed to broader, longer term regional and statewide priorities, such as pest plants, animal control and overabundant native species.

We know we cannot effectively deal with the overabundant species, such as koalas, corellas or bats, on a limited local basis. Contrary to my opposition colleagues' views, I think the new Landscape SA board boundaries sensibly align with regional communities and local government boundaries. Being closer to the ground and better connected to the communities, the grassroots grants program that will be administered by the new regional boards should be better able to respond to local needs, to partner with local government and leverage from volunteer community groups, such as Trees for Life or the Australian Conservation Foundation.

The requirement for landscape boards to work collaboratively with Aboriginal communities and native title holders should ensure better ongoing management and participation of Aboriginal people in landscape management. I have not heard a lot of complaint about the on-ground compliance operations of NRM officers that the Hons Mr Darley and Mr Maher have referred to,

although I have heard of some ridiculous native vegetation clearance prosecutions pursued by the department in the South-East, Kangaroo Island and Eyre Peninsula. I hope the bill delivers a more pragmatic approach which favours more collaborative compliance actions over initiating costly formal processes against landholders, most of whom I have overwhelmingly found to be highly competent and committed land managers.

The increased penalties in this bill, as compared to some of the outrageous price hikes we have seen from the government, are in keeping with CPI increases, but I would want to see improved relationships leading to less litigation in future. Like some of my Legislative Council colleagues, I will have more questions about all these aspects of the bill, including the employment and transition arrangements for NRM and departmental staff, at the committee stage, but overall I see the bill as a positive improvement.

That said, an element of the NRM legislation I have received sustained complaints about is the mechanism whereby local councils have to bill and collect the NRM levy on behalf of the state government. Apparently, this arrangement was made in 2004 as no other mechanism existed for the state government to collect the NRM levy. This is not the case today, with the government clearly capable of billing and collecting the emergency services levy and any other levy it so chooses to apply, including the Landscape SA levy.

I strongly disagree in principle with local government acting as a levy collection agency on behalf of the state government. It is completely inappropriate that local government should have to continue to carry the financial cost of billing, as well as the risk and debt of non-collection of state government levies. Irrespective of how much the unpaid levies might be—and they are estimated by the LGA to be in the region of $700,000—the mechanism for state government to collect these levies should be via the state and not passed on to local government. Put simply, the state government must take responsibility for the collection of its own state government levies, including this one.

My suggested amendments in [Pangallo-1], [Pangallo-2] and [Pangallo-3] all address this issue, albeit in two different approaches. My suggested amendments in [Pangallo-2], with [Pangallo-3] being consequential amendments, seek to amend the legislation to end the arrangement of local councils collecting the Landscape SA levy on behalf of the state government. Under my suggested amendments in [Pangallo-2] and [Pangallo-3], the state government Landscape SA boards would have to serve the notice and collect the levy from ratepayers. The Landscape SA board could do this by agreement with a public authority or the Governor may make other provisions by regulation.

My suggested amendment in [Pangallo-1] is a backstop measure should [Pangallo-2] and [Pangallo-3] fail to pass. [Pangallo-1] is a suggested amendment that would see local councils still collecting the landscape levy but, if council writes off a debt constituted by an unpaid regional landscape levy, the regional landscape board must, on application of the council, refund to the council an amount equal to the amount of the levy that has been written off. This provision is not perfect as there are conditions attached to local government writing off a debt, but it is better than having no provision to this effect at all, as we have now.

It is a welcome development that this bill caps Landscape SA levies to CPI increases, but I note that the minister can override this cap. I look forward to considering the suite of amendments that my colleagues, the Hon. Mark Parnell and the Hon. Kyam Maher, have filed recently. We broadly support the engagement of peak bodies being articulated in the bill. We will need to stay vigilant and alert to any report tabled in parliament identifying any sneaky new government fee increases and cost shifting to local government councils, such as we have seen recently from this government in regard to a 40 per cent hike to waste dumping fees and land tax.

As the old saying goes, the devil is in the detail. I look forward to the committee stage of the bill, which I am sure will cover a huge range of issues associated with the 400-odd provisions in the bill. With those comments, I indicate my broad support for the bill, inclusive of my suggested amendments.

**The Hon. J.M.A. LENSINK (Minister for Human Services) (16:08):** I would like to thank all speakers who have provided a contribution on the bill before the house. A number of comments have been made on this legislation, the merits of this reform and why we are doing it. I look forward

to responding to questions on particular clauses that are of interest to members during the committee stage of the bill.

If I could address some of the particular concerns and, in particular, the concerns raised by the Hon. Ian Hunter. Water reform was specifically not part of the scope of this particular review and the government has been quite transparent about that from the start. In terms of the consultation, the brief of a lot of the consultation was to elevate the role of community in this very important role that these boards undertake on behalf of their communities.

Over the years, having been the opposition spokesperson for the environment, I have sat in here with a number of colleagues who were here. In relation to the existing legislation, the complexity of the consultation processes and the prescriptive nature of how consultation must take place—reports and so forth—has been a frustration for the community and has been a frustration for boards.

The bill before us reflects the consultation undertaken, with very clear messages that came through from that. A number of the amendments that have been filed are contrary to what the community told us, and some amendments use existing NRM concepts and language rather than being modernised, so I make those brief remarks.

I note that the bill passed the House of Assembly with some amendments moved by the Labor opposition. A number of other amendments were put forward that the Minister for Environment and Water, the Hon. David Speirs, did not agree to. He did, however, make it clear that we would be open to further discussing some of those amendments between the houses or in this place. I indicate that some of those amendments have now been filed by the honourable Leader of the Opposition and I look forward to considering those amendments in this chamber.

I would like to make a few remarks highlighting some of the key reforms to be delivered by this legislation to improve the way natural resources are managed. Over recent years, a gradual centralisation of staffing, resourcing and decision-making has eroded public confidence in how the natural resources management system is working. During extensive community consultation on the bill, people made it clear that they are looking for a simpler and more effective system that puts people back at the heart of managing our natural resources. They are looking for less focus on planning and bureaucratic regulation and more focus on giving communities a greater say on the management of our natural resources.

Importantly, to deliver what our community is looking for, this reform has focused on changes to board governance, including changes to the composition of boards and the way that they will operate in the future. Our reforms deliver a system that is more centred on boards working in partnership and on ground with local communities and groups to deliver real outcomes and practical programs to sustain our landscapes. The reforms also deliver a simpler and more accessible system by removing unnecessary bureaucracy, focusing regional planning on clear priorities and making way for more community involvement on ground and through representation on boards.

A key aspect of this new reform is that the boards will be decentralised, putting the decision-making authority in the hands of the community. Under the legislation there will be eight new regional landscape boards plus Green Adelaide. To provide greater community confidence that a community voice is present in board decision-making, for the first time regional communities will have a say on who sits on a board through community elections. We will move away from the minister appointing all members. In future, three board members will be elected democratically by their local community and four members will be appointed by the minister, also coming from within the community.

Boards will exercise greater control over their workforce and budgets, improving the ability of boards to manage their own business. There will also be greater transparency for communities as to how their levies are being spent, with boards reporting on their activities and the expenditure of levy funds annually.

Another real game changer is the landscape priorities fund, which is taking some of the levy collected in the Adelaide metropolitan area and redistributing it into regional and rural South Australia. This fund will ensure that big funding projects can be delivered in regions through partnerships between the boards and others, delivering investments that will make a real environmental difference and increase resilience in the landscape.

The distribution of a proportion of Adelaide's levy base to the fund gives us the opportunity to see what Adelaide's levy base can contribute to regional projects. This initiative was supported through the consultation process, recognised as an understanding and appreciation that people living in Adelaide enjoy and benefit from the regions too. By providing for simpler, more efficient planning, engagement and operations, this bill will enable regional landscape boards to spend less time planning and refocus their efforts and resources on delivering outcomes on ground for the benefit of the community.

Regional planning requirements under the NRM Act require boards to address a long list of matters in their regional plans, complete prescriptive consultation processes and service an extensive planning cycle. Going forward, each board will have a high-level five-year regional landscape plan that sets out five priorities for managing the region's landscapes, or seven priorities for Green Adelaide. Rather than prescriptive consultation requirements, each board will have flexibility as to how they engage, taking into account consultation guidelines.

Having high-level plans and greater flexibility is about doing the right amount of planning so boards can get on and deliver on the ground, going about the consultation they need to do in a manner that is right for the community and in their circumstances. Importantly, it is a requirement of the bill that boards and other decision-makers are informed by the local knowledge and expertise that is held within communities, together with the best available science when they are planning and making other decisions. In other words, genuine participation and engagement with the custodians of our natural environment is a must. This is to ensure that the priorities and on-ground outcomes being delivered are informed by the experience and knowledge of land managers, Aboriginal people and industry alike, as well as scientists.

Regional communities will be more empowered to deliver natural resources management outcomes as well. The bill enshrines the principle that the boards will work collaboratively and forge strong, enduring and productive partnerships with land managers, volunteer groups, industry experts, Aboriginal nations, other tiers of government and advocacy organisations to deliver practical on-ground works that address local priorities. Boards will also be giving back through providing education and a helping hand where needed, and sharing the knowledge and understanding that experts and governments have to support local communities and land managers to be directly responsible for sustainably managing their regions' natural resources.

At the moment, board grant programs come and go and operate inconsistently across regions. The grassroots grants program under this bill will give a guaranteed legislated stream of funding to go toward on-ground projects led by the community for the community. This will provide the opportunity for local communities and groups to work together to come up with solutions for environmental problems and strategies towards sustainability. Regions with smaller levy resources will also draw from the state funding they receive to fund their grassroots grants.

Green Adelaide is another key initiative. This board will focus on seven key priorities and work towards Adelaide becoming one of the most ecologically vibrant and climate-resilient cities in the world. The reforms in the bill have also achieved our government's commitment to cap increases to levy rates to CPI and to reduce cost-of-living pressures on our community. The government's position is that councils should continue to collect the land levy as the most cost-effective way to collect it, maximising the funding available for delivery on ground.

I am advised that previous reviews have concluded that local government provides the most cost-effective levy collection option, a recommendation that has been supported by Treasury. There is a low administrative cost of collection through the use of the local government rating system. Further, I am advised that discussions with RevenueSA in 2003 on the costs associated with incorporating the collection of the NRM levy via the emergency services levy indicated that it would likely be more than double the cost of the current system of collecting through council rates notices.

The government is taking steps to address issues underlying council concerns around collecting the levy, including introducing a cap on levy increases and requiring boards to report annually on how levy money is spent. I understand that the Local Government Association's position is driven in part by concern that councils are left out of pocket for the costs of collecting the levy. Clause 68 of the bill provides for councils to be able to recover both set-up and ongoing collection

costs from regional landscape boards. These arrangements will be prescribed by regulations that will be the subject of consultation with the Local Government Association. In practice, around half a million dollars was paid to councils for levy collection costs in 2018-19.

The Hon. Frank Pangallo has indicated that he will suggest an amendment to the bill which ensures that unrecovered land levies written off by local councils will be paid by regional landscape boards to local councils upon application, using the current provisions of the Local Government Act. In this manner it is proposed that local councils will not be out of pocket for unrecovered land levies, and the government will support such an amendment.

Given our focus on changing arrangements for board governance, regulatory arrangements for soil and land management, water resource management and pest plant and animal control have not changed significantly from those in the NRM Act. However, the opportunity has been taken to enhance and modernise certain features to deliver better outcomes, reflect advances in our understanding and knowledge from that when the NRM Act was enacted in 2004, and streamline and reduce red tape in the system.

We see this in the express recognition of the significance of climate change. We also see this in a 'broadened concept of landscapes' in the bill, which incorporates an integrated hills to sea approach to natural resource management and captures social, cultural and economic values in landscapes, as well as natural resources. This broadened focus will shape decision-making and planning outcomes and be reflected in what boards and other decision-makers deliver on the ground.

While opportunities for further reform have been raised in these areas, feedback has highlighted that by and large these arrangements are working well for NRM delivery in communities, and our intention is to come back and look at areas such as water in the medium term so that we can ensure this complex area is carefully considered and thoroughly consulted.

Importantly, this bill provides a framework to manage the landscape to ensure it is sustained to deliver environmental, social and economic outcomes for the benefit of everyone. It provides for the management of private lands and resources used by farms in an environmentally sensitive and environmentally sustainable way.

It is also about sustaining resources for other industries, including mining and tourism. In this regard, I note the bill's objectives have a broader purview than the NRM Act. The bill supports a broader range of other industries, such as nature tourism, in response to feedback received during development of the bill.

Critically, the bill is about sustaining and protecting the landscape and natural resources. In doing so, this bill will operate alongside other legislation that delivers biodiversity and other outcomes for the environment, including the Native Vegetation Act and the National Parks and Wildlife Act. This will not change the important role these other pieces of legislation play. As part of the government's future reform agenda, we are planning to come back to explore improved interactions with other state legislation that intersect with landscape management.

Together, these reforms will deliver a fundamental change in how natural resources are managed in this state for the benefit of all South Australians. Again, I thank all members for their contributions and reiterate that these reforms will move South Australia towards a productive and sustainable natural landscape.

Bill read a second time.

*Committee Stage*

In committee.

Clause 1.

**The Hon. K.J. MAHER:** At clause 1, there are some general questions I want to ask. Questions at clause 1 include: will the minister advise which stakeholders the Minister for Environment and Water directly consulted with and what was the nature of those consultations? What further consultations were undertaken by the department?

I understand that an independent consultant was engaged for the purposes of undertaking a consultation process in the development of this bill. I would be grateful if the minister would briefly outline the nature of the consultant's work on that process and the time frames in which that occurred. What was the total cost to the government for engaging that consultant? What specific efforts were made to consult with Aboriginal communities in developing this legislation? What was the nature of those consultations and who were those consultations with?

Noting that the bill was in part a response to the Liberal Party's pre-election commitment outlined in a document entitled 'Natural Resources Management—Empowering Communities', I would be grateful if the minister would explain whether the bill and related materials differ in any way from the policy outlined in the document and the reasons for any of those differences. Also, in relation to a couple of questions asked at the second reading, I seek responses to a number of questions that were put on record regarding Aboriginal partnerships and the costs of unrecovered NRM levies to local councils.

**The Hon. J.M.A. LENSINK:** I thank the honourable member for a number of questions. We will get some detailed responses for him and provide those when we next debate the bill.

Progress reported; committee to sit again.

## LOCAL GOVERNMENT (RATE OVERSIGHT) AMENDMENT BILL

*Second Reading*

Adjourned debate on second reading.

(Continued from 6 September 2018.)

**The Hon. C.M. SCRIVEN (16:26):** I rise to oppose the bill. In doing so, I emphasise that the Labor Party did not make this decision lightly or without thorough deliberation. We have witnessed the waste and rorts that have occurred in some South Australian councils. Council-funded Apple watches and iPhones, and a CEO's Kooyonga Golf Club joining fee, valued in excess of $6,000 I am told, were some of the staff and member perks and rorts that have rightly shocked and appalled South Australian ratepayers in recent years.

We have heard the public's disgust and disappointment at these practices. These examples do not meet community expectations of appropriate governance standards. Furthermore, under the leadership of Peter Malinauskas, the Labor opposition has also embarked on a process of policy reassessment. We assess each policy on its merits, but when policies are assessed we consider several relevant factors, which include the important question of: what problem is the policy proposal attempting to solve?

It is this policy assessment process which reveals the first major flaw in the rate oversight bill. One of the major objectives of the bill was to deal with the waste and rorts evident at some councils. The theory was that if you constrain the revenue available to councils they will be more prudent with their expenditure. I will deal in a moment with how this bill does not even deliver an effective model for constraining council revenue, but the important point here is that the logic is flawed.

Evidence shows that constraining council revenue does not lead to better council expenditure practices. Research from the University of New England's Brian Dollery has found that the experience of the rate pegging system in New South Wales demonstrates that when council revenue is constrained council expenditures remain high and council debt is increased. New South Wales councils expend more money than South Australian councils per head of population, despite a system of rate pegging having been operational there for more than 40 years.

Poor governance practices are never going to be effectively dealt with through an ineffective revenue policy, which is what is proposed in the bill. The best method to deal with poor governance and expenditure practices is to address these problems directly through measures designed to empower ratepayers. This is why the Labor Party last year put forward measures in its ratepayer protection bill that would have increased the transparency and disclosure requirements on councils for major expenditures, annual budgets and member and staff expenses, as well as proposing

constraints on the remuneration of the CEOs and a number of other reforms designed to improve council governance practices. But the Marshall Liberal government refused to support those reforms.

In this bill, the government has chosen not to trust ratepayers. Rather than equip ratepayers with the information necessary to hold their councils to account for how they raise and spend their money, the government wants to place an unelected bureaucracy in charge of how much revenue South Australian councils should raise through rates each year.

**The Hon. J.E. Hanson:** How much would that cost?

**The Hon. C.M. SCRIVEN:** How much would that cost, the Hon. Mr Hanson asks—a very good question. It is both undemocratic and ineffective. As the Leader of the Opposition has previously emphasised, this bill does not contain a rate cap. Despite the rhetoric around rate capping, this bill does not contain a rate cap.

**The Hon. J.E. Hanson:** Then what was it about?

**The Hon. C.M. SCRIVEN:** Indeed, as honourable members ask, what's it about? Instead, under this bill, ESCOSA is left in charge of a process which lacks guidance on the price index to be used to calculate the rate cap each year or the criteria to be used for assessing variation requests received from councils. ESCOSA is trusted to determine these key variables and the processes.

It is surprising that ESCOSA would be trusted with this responsibility, given its patchy record in constraining the prices charged for essential services in this state. As an example, between 2003-04 and 1 February 2013, ESCOSA had responsibility for regulating the electricity standing contract (or the residential retail safety net price) provided by AGL. In the final two financial years, under ESCOSA's regulation, the standing contract price for electricity increased by approximately 40 per cent for residential customers and 36 per cent for small businesses at a time when the consumer price index increased by only 6.3 per cent over the same period.

There are also a number of notable flaws in the mechanics of the bill. The costs of administering the scheme—equivalent costs being some $3 million annually in Victoria—is not addressed in the bill, and the costs of variation requests fall exclusively on councils, so more costs for councils.

The timing of council rate cap variations, falling due on 31 March of each year, including mandated public consultation processes, does not allow for flexibility for unforeseen events and will likely lead to increased administrative costs. The rate cap mechanics, which allow for council rate revenue growth to accommodate increases in the number of allotments, does not allow for rate revenue growth to accommodate an increase in the capital value of existing allotments. This would therefore penalise metropolitan councils which have invested in attracting capital investment.

However, perhaps the bill's most basic flaw is the government's underlying assumption that the annual determination and publication of a rate cap will constrain the rates charged to ratepayers. It will not. The flaw in this logic is simple, and one would think it would be obvious to those who are pushing this bill: if you publish a cap, councils will raise their rates to meet that cap, regardless of the need or merit for them to do so, because they have been provided with political cover.

Under this bill, because the rate cap will be published annually, councils will not risk forgoing rates for which they have political cover, as they will not know the level of rate increases that they will be permitted to charge the following year. Put simply, they will store the rate revenue for a rainy day, resulting in increased costs to ratepayers, possibly unnecessarily. This flaw was evident in the publication of the cap that ESCOSA would have enforced across South Australian councils for the 2019-20 year had this bill already been passed by both houses of parliament and assented to by the Governor.

Despite the minister's impassioned plea in the media for South Australian ratepayers to blame Labor for all council rate increases above ESCOSA's notional 2.9 per cent rate cap, the minister neglected to mention that all but four of the state's 68 councils publicly consulted on rates that were below this cap. They were below the cap that apparently ESCOSA would have been implementing. Some large metropolitan councils actually consulted on rates significantly below the 2.9 per cent notional cap. In fact, six metropolitan councils consulted on average residential rate increases of below 2 per cent.

If it was not for the Marshall Liberal government's shocking 40 per cent increase in the solid waste levy—the bin tax—

**The Hon. J.E. Hanson:** Bin tax.

**The Hon. C.M. SCRIVEN:** Bin tax bad—all but one metropolitan council would have delivered rate increases at or below ESCOSA's 2019-20 cap. Put simply, ESCOSA's so-called rate cap would have produced significantly higher rate increases than those being delivered across the vast majority of South Australian councils without it. For those few councils who have increased their rates above the 2.9 per cent cap, they would likely to have either been covered by a rate cap variation or been covered by an adjustment to the rate cap made to accommodate the 40 per cent bin tax hike.

Indeed, the Minister for Environment and Water, the Hon. David Speirs, in the other place indicated on ABC radio that the effect of the bin tax hike on council rates would have been factored into an increased figure for the 2019-20 rate cap, had a cap been in place. But remember, this rate capping bill does not include a rate cap.

The truth is that this so-called rate oversight bill confirms that the Marshall Liberal government does not have a rate capping policy; it has a rate capping slogan in search of a policy. It has a rate capping slogan in search of a policy; it does not contain a rate cap. The bill lacks detail. The bill contains a process that leaves most of the detail in the hands of an unelected body with a patchy record of restraining prices for essential services.

Most importantly, the logic underpinning the rate oversight system is flawed. Instead of ESCOSA's rate cap leading to lower council rates, it would have led to significant rate increases across the state, including the larger metropolitan councils. The rate oversight bill is poor policy, which will cost South Australian ratepayers if it is implemented. For these reasons, the Labor Party opposes the bill.

**The Hon. M.C. PARNELL (16:35):** This bill has been languishing on the *Notice Paper* for 12 months and now it is time to lance the boil. The Greens are pleased that today the government's rate capping legislation will be defeated. The commitment that we made before the last state election was that we would work constructively with local government and with other political parties to legislate reforms to improve the effectiveness and accountability of local councils. Our view remains that attention should now focus on improving accountability for rate spending and a host of other reforms that the local government sector has been calling for since before the last election.

Whilst the government was off sulking, the Greens and other parties were hard at work developing an alternative model, which passed this chamber many months ago and now sits languishing on the lower house *Notice Paper* because the government refuses to support it. Rate capping was bad public policy. It risked causing great harm to local communities without doing anything to improve accountability and transparency for how councils manage their budgets.

The campaign to oppose rate capping was very broad, with support from public sector and other unions as well as community organisations. For example, the Australian Services Union ran a 'Protect our local services' campaign that reminded people how much we value the local services that make our communities vibrant, inclusive and safe. Whether it is taking your kids to the local library or playground, swimming laps at your local pool, playing at your local sporting club, taking the dog to the local dog park or enjoying local food festivals and street parties, there is so much more that local councils do for the community that goes beyond the cliché of roads, rates and rubbish.

The state Liberal government's plan for rate capping would have been an arbitrary one-size-fits-all limit on council rates that restricts the ability of councils to provide essential community services that their residents and ratepayers want. Rate capping would have resulted in a reduction in services, reduced investment in infrastructure and backlogs in crucial maintenance. It would mean that the services that contribute to building strong and vibrant communities were either reduced or discontinued entirely. Rate capping also means communities pay more for the things that they love.

The Greens unashamedly support local services. We are committed to supporting local councils to provide the best services they can for their communities. That is why we have consistently

opposed rate capping. Our view has always been to support local councils being able to raise the amount of revenue they deem sufficient in exactly the same way that state governments and the federal government do. In the aftermath of the last state election, much was said about mandates. The Greens' mandate includes opposing rate capping. We took it to the election and now we are following through. The Greens will be opposing this bill.

**The Hon. F. PANGALLO (16:38):** I will be brief in my comments about this ill-conceived bill, as I have already made my comments known in this chamber about rate capping in the Local Government (Ratepayer Protection and Related Measures) Bill introduced and passed in the upper house by Labor, which was supported by SA-Best and the Greens.

Let me start with this quote from the Minister for Local Government, the Hon. Stephan Knoll, when he was trying to sell his fallacious bill last year:

> I can think of no other sphere of government that can increase its main tax to this level in disregard of the views of their communities.

I am not sure on what planet or in which world the minister was when he made that breathtaking remark. He only needs to look at what his own government and the Treasurer have done in recent weeks by upping taxes and charges, to quote him again, 'in disregard of the views of their communities', to conclude that here is the classic case of the biggest pot in the larder of government calling the little kettle black, so I viewed the return of this bill on the agenda with the cynicism it deserves.

Back in June, after months of delays, the minister finally released ESCOSA's report on setting a primary rate cap at 2.9 per cent that he said would have been effective from the 2019-20 financial year, which is now. To quote the minister again:

> Now that we know what the rate would have been, we know which councils are hurting their ratepayers with above the odds rate hikes.
>
> The rate…proposed by ESCOSA is approximately the same as the Local Government Price Index.

If only the state government played by those rules, too, by applying the CPI to their own cost hikes. As we know now, they have not done that with the waste levy, which has gone up a massive 40 per cent, forcing many councils to readjust their budget forecasts and their rates, which, before this shock, would have seen very moderate to zero increases. All that has changed. While some councils have decided to absorb the cost this time around, others had no choice but to cop it and lift their rates beyond the minister's mythical 2.9 per cent, as proposed by ESCOSA.

To add to the pain for ratepayers, the government, through the Valuer-General, is now rolling out new valuations for every commercial and residential property in the state. One Unley resident received his new valuation from the Unley council last week. It was bad news. Due to the revaluation initiative, the value of his property was increased by 89 per cent, meaning an 83 per cent increase in his new council rates. Some may go down, but the majority in this leafy, affluent area will rise, as they will in other areas, which in turn is going to impact on charges associated with them: water and sewage rates, the ESL, the NRM and, of course, the tax that has caused a huge backlash against the government of late—land tax.

Contrary to the Marshall manifesto going to the last election, they have increased taxes and charges and, with them, they will have broken their promise to bring down the cost of living. Their track record so far in government is not anything to write home about either. They will talk up some scientific and cultural knick-knacks at Lot Fourteen, a defence spend that is a long way from cranking up, and major infrastructure road projects using a lot of commonwealth money. Meanwhile, the jobless rate yoyos to depressing levels, business confidence is down, depending on who you talk to, and there are concerns that the land tax slug is going to batter investment confidence.

This has a ripple effect on the entire community because these costs inevitably must be passed on. So, as we have seen, council budgets have been readjusted beyond the 2.9 per cent set by ESCOSA. That is a strong argument against rate capping because the councils would then have needed to go cap in hand to the regulator seeking exemptions, and compiling those exemption reports would have cost councils a considerable amount of money without knowing whether or not they would be successful.

New South Wales has had rate capping since the 1970s. It has been a dismal failure, confirmed in a report by University of New England professor Brian Dollery, as outlined by the Hon. Clare Scriven, who compared New South Wales to non-rate capped South Australia. The mess it has created in that state is irreversible. Reduced revenues have caused higher levels of debt and large backlogs of infrastructure works. The proposed South Australian model is based on the Victorian one, which has been following a similar trajectory to NSW for the past three years.

Last year, a Victorian regional mayor, David Clark, told a South Australian LGA forum here that, if the state starts pushing up levies and charges, 'you'll be screwed'. Well, that prophecy has come to pass thanks to the Treasurer's money grabs in his second budget, and we are starting to see the signs of being screwed over.

The state government has continued to ramp up cost shifting to our local councils: the EPA levy, community housing, ESL and other costs that impacted on council revenues. With community housing, rates costs to Housing SA have been shifted to all councils when properties are transferred to community housing associations. I know of one council where frozen indexation of the federal government's financial assistance grant has cost them $400,000.

The City of West Torrens has been saddled with a government-owned white elephant called Cummins House, which needs a $400,000 refurbishment. Attempts by the council to get minister Knoll to the table have proved fruitless. In the landscape bill currently before us, minister Speirs wants councils to absorb the costs of collecting the NRM levies, but the government wants the full amount paid in advance, leaving the councils to absorb the costs of trying to recoup shortfalls in collections. Is that fair on communities? I think not. I believe the government should collect its own levies and taxes, and I am proposing that amendment in the Landscape SA Bill.

I did mention in the speech of last year that the Productivity Commission should look at local government and rate capping. I am pleased that this has happened, and we are likely to see their report soon. Minister Knoll uses every opportunity to try to discredit local government, peeved that they rejected his proposals, and the poor turnout in council elections last year hardly raised a ripple about rate capping. But, because of the recent budget measures that have impacted on council rates, he can now come out and say: 'I told you so. We would've kept rates frozen at 2.9 per cent if you had listened to us.'

Concurrently, he has outlined his own plans for reforming local government, which he intends to start rolling out by the end of the year. Perhaps that is where he needs to explore his rate capping idea. As the Local Government (Ratepayer Protection and Related Measures) Amendment Bill covered, here is what is needed for local government reform: improved transparency, accountability and corporate governance; community engagement; financial and asset management; driving efficiencies like administrative costs; collaboration with other councils, agencies and government; regional collaborations; voting reforms; and establishing a local government commission.

A commission would be answerable to parliament; oversee local government and councils; handle matters referred to it by government or parliament; monitor performance; offer guidance, support and oversight; and also look at charges, including rates. As the much admired and respected former mayor of West Torrens and former Speaker of the House of Assembly, the Hon. John Trainer, put to me about his own debt-free council: 'Why would we want to be involved with the hindrance of a "rate capping" publicity stunt that is akin to doing delicate brain surgery with an axe?' SA-Best does not support the bill.

**The Hon. J.A. DARLEY (16:49):** I rise to speak on the Local Government (Rate Oversight) Amendment Bill. This bill was introduced by the government as part of their election promise to cap council rates. I want to put on the record that I am supportive of capping council rates; however, I believe that certain matters need to be taken into consideration in conjunction with rate capping.

First of all is cost shifting. We have recently seen the state government dramatically increase the waste levy, a move that will have a significant impact on councils and their budgeting. Councils are responsible for the collection and disposal of household waste, so increasing the levies that are payable for disposing of this waste at commercial waste stations will increase councils' operating costs. I understand the government's rationale for this is to encourage councils and the community

to reduce the amount of waste that is produced; however, I question whether merely increasing the levy is the most effective way to achieve this outcome.

When the government dramatically increases a cost that councils have no choice but to pay, it seems very unfair to also cap the amount of revenue they can collect to cover this increased cost. If councils are unable to collect more money to cover these costs, it will mean that services they currently provide will have to be cut, undoubtedly a move that will not be popular in the community. I feel that the matter of cost shifting has not been addressed in the bill.

I do not dispute the fact that there is growing concern about the manner in which some councils spend their money. We see some council chief executive officers on salaries higher than the Premier and I have been contacted by many constituents who are alarmed at the proportion of council revenue that is attributed to salaries for council staff. We have seen certain councils embroiled in controversy over items that ratepayers have footed the bill for, such as golf club memberships, Apple watches and meals at expensive restaurants. Expenditure on these sorts of items does not often pass the pub test and it is why councils often receive criticism.

I do acknowledge that councils are not the only ones who are criticised for such matters: there have been similar criticisms of spending within the South Australian Public Service. To me, this shows that there are improvements that can be made across the board, rather than just focusing on one government area.

The second matter that does not sit well with me is the manner in which the government plans to calculate the cap. These details are not in the bill; however, a proposed strategy was presented to me many months ago. I remember it being somewhat complicated and I had concerns that much of councils' time would be occupied with applications to exceed the cap, an exercise that would cost councils time as well as money. This is not the desired effect of the bill.

In speaking to the minister, I discussed with him an alternative way to calculate the cap that involved the principle of zero-based budgeting and adding a percentage on to this each year, plus allowing the councils to benefit from natural growth from subdivision and new development. I understand the minister is not minded to change the method of calculating the rate cap.

I am surprised that the minister has decided to move this bill, as I understand not much has changed from when it stalled in the house many months ago. I eagerly await to hear from the minister as to why they are now progressing the bill, given the numbers do not seem to be there to support the passage of the bill. In view of that, I support the second reading; however, I reserve my position on the other stages of the bill.

**The Hon. R.I. LUCAS (Treasurer) (16:53):** I thank honourable members for their contribution to the bill and indicate on behalf of the government that it would appear, from the publicly stated positions of members, where the numbers lie, and potentially when we come to divide on the second reading we will see whether or not those numbers are indeed as have been publicly indicated. The government remains mightily disappointed in particular with the position that the Labor Party has adopted in relation to this, also supported by crossbenchers in this chamber.

The Marshall Liberal government has pledged to try to protect long-suffering ratepayers in many councils in South Australia from councils that continue to rack up significant increases in council rates without any concern in relation to some of the issues. It is disappointing to see, as we have seen in some of the contributions, members of the Labor Party continuing to defend some of the excesses that have occurred within councils and, indeed, in some cases within councils they have very close connection to.

I had a recent meeting with people representing rural media interests and they indicated to me that one of their concerns was councils who were funding their own online media outlets in competition with the local country press. I said, 'Tell me this is not true, that the ratepayers in your councils are actually funding media outlets in competition with their local country press,' and they said, 'No, that's the case.' That is one of the problems: if there are no controls over councils, if there are no controls in relation to what they can charge, then they continue to find new ways to cause grief in the community by spending money on a whole range of issues that are not their main cause for existence.

I speak up on behalf of some representatives of the country media here, the rural press. As I said to them, 'Why are you as ratepayers supporting your councils making decisions such as this and incurring ratepayer expenditure?' Some of the excesses that we have seen in the statewide media in relation to executives and office holders in councils who obviously think they are something akin to ministers in the former Labor government like minister Mullighan, minister Koutsantonis and minister Bignell.

I recounted in question time today some of the excesses of former minister Mullighan. It is a sad fact that, unless there are some controls in relation to these particular issues—and in relation to councils it comes back to the rate revenue capping option. As we have seen under the former Labor government, sadly these sorts of excesses are increasingly being reflected in office holders and senior executives within local councils.

**The Hon. C.M. Scriven:** You rejected the very deal that would have controlled those excesses.

**The Hon. R.I. LUCAS:** This bill would have controlled that and it is the Labor Party that is opposing it. In recent weeks, I have again been canvassing public opinion on this issue—not the opinion of the stakeholders, the local council mayors who are obviously agitating and the Labor Party and the unions, etc., I have been surveying actual ratepayers out in the real world and asking them, 'Do you support rate capping or don't you?'

I have been overwhelmed by hundreds of ratepayers in South Australia who strongly support the proposition of the Marshall Liberal government to cap council rates in South Australia. They wholeheartedly reject the dismal policies of the Australian Labor Party and the opposition in relation to this particular issue. They are on board.

I thought, 'Okay, there's been a very significant campaign, and the Labor Party, the crossbenchers, mayors and fellow stakeholders have been running a relentless campaign and maybe what they have done is they have convinced a lot of ratepayers that that view is right and the government has got it wrong,' but, no way in the world.

I challenge members of the Labor Party and others in this chamber to go out and run your own surveys, and talk to real people about rate capping and see what they say to you. They overwhelmingly support the position of the Marshall Liberal government, and they overwhelmingly reject the dismal policies of the failed former Labor government, supported by other stakeholders in this particular area.

So I am mightily disappointed on behalf of the ratepayers of South Australia that it would appear that this particular bill may well be defeated at the second reading. On behalf of the minister, can I indicate that the government is still undertaking a local government reform program following a round table with mayors earlier year. Online consultation on YourSAy occurred from 26 March to 26 April. Following this, the government has been working on a discussion paper to be released in the near future on the reform proposals.

The reform program focuses on four areas. First, stronger council member capacity and better conduct. Council members nominate for council to make decisions for and to act in the best interests of their community. Legislation plays an important role in assisting them to do this and to ensure that their decisions are always made with the highest standards of integrity. The government has sought ideas on the tools that councils need to ensure that relationships amongst their members are constructive and that all council members have the knowledge and skills to perform their roles.

Secondly, lower costs and enhanced financial accountability. We are interested in ideas about ways to improve the provisions that guide all councils' financial accountability, to deliver a system of local government that council constituents see as robust, sustainable and transparent.

Thirdly, efficient and transparent local government representation. The review will also incorporate a review of the 2018 local government elections. This review may consider all aspects of local government elections: for example, voting methods, the voters' role, the timing of elections, the role of candidate donations and information provided to voters.

Fourthly, simpler regulation. This review is an opportunity to identify statutory requirements whose costs outweigh their public benefits.

On behalf of the minister I also note that the government has tasked the South Australian Productivity Commission to inquire into local government costs. The commission is inquiring into local government costs and efficiency. The inquiry will examine trends in local government costs and the drivers of these costs, as well as developing and analysing measures of efficiencies. Mechanisms and indicators that might be used by local government to measure and improve performance will also be identified. The commission will provide advice and recommendations on options for improving efficiency in local government operations.

The Marshall Liberal government looks forward to the outcomes of the report and the discussion paper to inform its local government reform bill. With that, I urge members to support the second reading of the bill.

The council divided on the second reading:

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

AYES

| | | |
|---|---|---|
| Darley, J.A. | Lee, J.S. | Lensink, J.M.A. |
| Lucas, R.I. (teller) | Stephens, T.J. | Wade, S.G. |

NOES

| | | |
|---|---|---|
| Franks, T.A. | Hanson, J.E. | Hunter, I.K. |
| Maher, K.J. (teller) | Ngo, T.T. | Pangallo, F. |
| Parnell, M.C. | Scriven, C.M. | Wortley, R.P. |

PAIRS

| | | |
|---|---|---|
| Dawkins, J.S.L. | Bourke, E.S. | Hood, D.G.E. |
| Pnevmatikos, I. | Ridgway, D.W. | Bonaros, C. |

Second reading thus negatived.

## CRIMINAL LAW CONSOLIDATION (ASSAULTS ON PRESCRIBED EMERGENCY WORKERS) AMENDMENT BILL

*Final Stages*

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

## STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) (NO. 2) BILL

*Introduction and First Reading*

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

## EDUCATION AND CHILDREN'S SERVICES BILL

*Conference*

The House of Assembly requested that a conference be granted to it in respect of certain amendments to the bill. In the event of a conference being agreed to, the House of Assembly would be represented by five managers.

**The Hon. R.I. LUCAS (Treasurer) (17:07):** I move:

That a message be sent to the House of Assembly granting a conference as requested by that house; and that the time and place for holding the same be the Plaza Room on the first floor of the Legislative Council on Wednesday 31 July 2019 at 5pm and that the Hon. J.A. Darley, the Hon. T.A. Franks, the Hon. K.J. Maher, the Hon. F. Pangallo and the mover be the managers on the part of this council.

Motion carried.

## LOBBYISTS (RESTRICTIONS ON LOBBYING) AMENDMENT BILL

*Introduction and First Reading*

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

## EDUCATION AND CHILDREN'S SERVICES BILL

*Conference*

The House of Assembly agreed to the time and place appointed by the Legislative Council for holding the conference.

At 17:21 the council adjourned until Wednesday 31 July 2019 at 14:15.

*Answers to Questions*

**SERVICE SA**

In reply to **the Hon. J.A. DARLEY** (16 May 2019).

**The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment):** The Minister for Transport, Infrastructure and Local Government has provided the following advice:

The range of transactions currently available in person at Service SA centres will continue to be available through that service channel. There are currently over 200 different transaction types of which 87 transactions are customer facing. A transaction is defined as a customer interaction in which a record is updated, a payment is made or an official document is issued.

Higher volume transactions that require attendance at a Service SA centre include surrendering a number plate, new learner's permit, issue of a provisional licence, licence transfer and change of number plate.

Online transactions represent 47 per cent of the overall volume of the annual 8.4 million transactions processed across all channels in 2017-18. Transactions not currently available online are being reviewed to determine their suitability and whether there is a legislative or policy reform required to offer them online. The Department for Transport, Infrastructure and Local Government continue to pursue regulatory reform to reduce the reasons why customers need to visit a Service SA centre.

The following transaction types are currently available online:

| No | Transaction |
|---|---|
| 1. | Renew vehicle registration |
| 2. | Reprint registration receipt (tax invoice) |
| 3. | Transfer registration |
| 4. | New owner re-registration |
| 5. | Submit a Notice of Disposal |
| 6. | Add/View Common Expiry Date for Client |
| 7. | Allocate Common Expiry Date for Vehicle |
| 8. | Set up Direct Debit |
| 9. | Cancel registration |
| 10. | Renew a number plate agreement |
| 11. | Order a special plate |
| 12. | Order replacement plates |
| 13. | Download registration details certificate |
| 14. | Apply for an unregistered vehicle permit |
| 15. | Apply for a registration information search |
| 16. | Renew driver's licence |
| 17. | Renew learner's permit |
| 18. | Replace licence or permit |
| 19. | Apply for a Driver Licence Report |
| 20. | Change address |
| 21. | Renew a disability parking permit |
| 22. | Replace a disability parking permit |
| 23. | Issue a proof of age card |
| 24. | Make a vehicle inspection booking |
| 25. | Oversize & Overmass vehicle permits—New vehicle listing (Form A) |
| 26. | Oversize & Overmass vehicle permits—New vehicle permit (Form B) |
| 27. | Oversize & Overmass vehicle permits—Renew vehicle permit (Form C) |
| 28. | Oversize & Overmass vehicle permits—Outstanding permit payment |
| 29. | Pay a transport expiation |

**EXPORT ACCELERATOR PROGRAM**

In reply to **the Hon. K.J. MAHER (Leader of the Opposition)** (18 June 2019).

**The Hon. D.W. RIDGWAY (Minister for Trade, Tourism and Investment):** The Hon Tim Whetstone MP, Acting Minister for Trade, Tourism and Investment, has been advised:

1. All grant recommendations made in round 2 of the South Australia Export Accelerator (SAEA) program for 2018-19 have been executed. There were no additional recommendations made.

2. There were not any grants to the SAEA applicants that have been provided without a recommendation by the Department for Trade, Tourism and Investment.

**EXTREME WEATHER RESPONSE**

In reply to **the Hon. T.A. FRANKS** (18 June 2019).

**The Hon. J.M.A. LENSINK (Minister for Human Services):** The South Australian Housing Authority has advised:

After the decision to activate a Code Blue or Code Red has been made, the South Australian Housing Authority (SAHA) sends a formal activation email to the following partner agencies:

- Uniting Communities
- Baptist Care SA
- Hutt St Centre
- St John's Youth Services
- St Vincent de Pauls Society
- Catherine House
- Anglicare SA
- SYC Inc.
- Neami National
- Common Ground
- Shelter SA
- SACOSS
- Adelaide City Council
- SAPOL

SAHA also sends the formal activation email to regional managers requesting they notify their local partners and stakeholders. These partners can include local council, local homelessness agencies, local networks, and other service providers.

**DEER CULLING**

In reply to **the Hon. T.A. FRANKS** (19 June 2019).

**The Hon. J.M.A. LENSINK (Minister for Human Services):** The Minister for Environment and Water and the Department for Environment and Water has advised:

1. On 30 April and 1 May 2018, the Department for Environment and Water (DEW) conducted an aerial shooting operation (the operation) in the southern Fleurieu region for the purposes of deer culling.

I am advised that prior to conducting the operation, landowners were given an opportunity to elect to participate and shortly before it commenced, DEW undertook a neighbour notification process via Australia Post. A phone call, letter or email was sent to all properties that directly adjoin the control area, advising them of the upcoming operation, using contact information extracted from the Land Titles office using ArcGIS. This notification provided landowners with an opportunity to contact DEW with questions or concerns about the proposed operation.

As the member is aware, an error occurred in relation to this operation, namely shooting occurred on a property where the landowner had not elected to participate in the operation. I am advised that only one landowner was affected by this error. Upon receiving notification of the error, DEW immediately ceased all aerial shooting operations and commenced an investigation into the incident.

I am advised that following that investigation, DEW has provided further training to relevant staff involved with the planning phase of aerial shooting operations and have also implemented a number of additional requirements to strengthen existing protocols, to prevent the reoccurrence of this error.

I am advised that one of the additional requirements is to apply a more stringent verification process, to confirm that landowners who have elected to participate in the operation have been accurately identified. Additional staff are now used to provide multiple reviews of the control area prior to the operation. I am advised that all landowner

participants in the aerial shooting operation must now be contacted within 72 hours of the scheduled clearance occurring.

2. Please refer to response provided in question 1.

**HOUSING SA**

In reply to **the Hon. J.E. HANSON** (19 June 2019).

**The Hon. J.M.A. LENSINK (Minister for Human Services):** The South Australian Housing Authority (SAHA) has advised:

As published on the Department of Human Services website, maintenance work categorised as priority 1 starts within four hours of it being reported.

**PUBLIC TRANSPORT PRIVATISATION**

In reply to **the Hon. J.E. HANSON** (3 July 2019).

**The Hon. R.I. LUCAS (Treasurer):** I have been advised the following:

My office has not received any correspondence from Ms Paula Luethen MP, Member for King, against the privatisation of the public transport rail network.