LEGISLATIVE COUNCIL

Tuesday, 5 July 2022

The PRESIDENT (Hon. T.J. Stephens) took the chair at 14:16 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

SUPPLY BILL 2022

Assent

Her Excellency the Governor assented to the bill.

NATIONAL GAS (SOUTH AUSTRALIA) (MARKET TRANSPARENCY) AMENDMENT BILL

Assent

Her Excellency the Governor assented to the bill.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the Minister for Aboriginal Affairs and Reconciliation (Hon. K.J. Maher)—

Fee Notices under Acts—
- Controlled Substance Act 1984—Pesticides
- Food Act 2001
- Landscape South Australia Act 2019
- Liquor Licensing Act 1997 No. 2
- Retirement Villages Act 2016
- SACE Board of South Australia Act 1983
- South Australian Public Health Act 2011
- South Australian Skills Act 2008
- Tobacco and E-Cigarette Product Act 1997

Notices under Acts—
- Emergency Services Funding Act 1998—
  - Declaration for Vehicles and Vessels
  - Declaration of Levy and Area and Land use Factors

Regulations under Acts—
- Emergency Services Funding Act 1998—Remissions-Land—Miscellaneous
- Termination of Pregnancy Act 2021—General

By the Minister for Industrial Relations and Public Sector (Hon. K.J. Maher)—

Regulations under Acts—
- Work Health and Safety Act 2012—Prescription of Fee

By the Attorney-General (Hon. K.J. Maher) on behalf of the Minister for Primary Industries and Regional Development (Hon. C.M. Scriven)—

Corporation By-laws—Roxby Downs—No. 3—Cats

Fee Notices under Acts—
- Cost of Living Concessions Act 1986

Fisheries Management Act 2007 No. 2
Fisheries Management Act 2007—Fishery Licence and Boat and Device Registration Application and Annual Fees No. 2
Regulations under Acts—
Fisheries Management Act 2007—
Blue Crab Fishery—Quota
Lakes and Coorong Fishery—Quota
Marine Scalefish Fishery—Quota
Miscellaneous Fishery—Quota
Miscellaneous Fishery—Quota—No 2
Rock Lobster Fisheries—Quota
Rock Lobster Fisheries—Quota—No 2
Vongole Fishery—Quota
Motor Vehicles Act 1959—Conditional Registration
National Gas (South Australia) Act 2008—Market Transparency
Passenger Transport Act 1994—Vehicle Age Limits
Planning, Development and Infrastructure Act 2016—General—Certificates of Occupancy
Rail Safety National Law (South Australia) Act 2012—Fees and FOI
Management Plan for the South Australian Commercial Gulf St Vincent Prawn Fishery 2022

By the Attorney-General (Hon. K.J. Maher) on behalf of the Minister for Forest Industries (Hon. C.M. Scriven)—

Fee Notices under Acts—
Forestry Act 1950

Ministerial Statement

SPURR, MR W.

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:20): On behalf of the Minister for Tourism in another place, I table a statement made today.

Personal Explanation

MEMBER FOR BLACK'S REMARKS

The Hon. T.A. FRANKS (14:38): Under standing order 173, I seek leave to make a personal explanation.

Leave granted.

The Hon. T.A. FRANKS: In recent days, the Leader of the Opposition, the member for Black, described me by name to a media conference using a term that, according to the dictionary definition, means either 'extremely violent' or 'suffering from a bite-induced affliction'. I assure the council that I am certainly not in need of a tetanus booster but, more presciently, I neither incited nor condoned violence.

Parliamentary Procedure

ANSWERS TABLED

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

Question Time

ABORIGINAL AFFAIRS ACTION PLAN

The Hon. J.S. LEE (14:40): I seek leave to make a brief explanation before asking a question of the Minister for Aboriginal Affairs about the Aboriginal Affairs Action Plan.

Leave granted.

The Hon. J.S. LEE: The initiatives outlined in the South Australian government's Aboriginal Affairs Action Plan 2021-22 focus on delivering positive outcomes in areas of employment and business growth, improving the quality of government services and designing and implementing measures that will strengthen the capability of Aboriginal corporations and organisations. My questions to the minister are:

1. Will the minister make an official commitment to supporting the ongoing development of the Aboriginal Affairs Action Plan?

2. Will the minister commit to implementing the 41 initiatives outlined in the action plan, and when will the minister implement them?

3. Will the minister guarantee that state government agencies will continue to report to the government, and will he will commit to publishing the status updates on the Aboriginal Affairs website to maintain accountability?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:42): I thank the honourable member for her question. The first Aboriginal Affairs Action Plan, from memory, had 30-something individual actions. About two-thirds of those were continuations of things individual government departments were already doing, a number under the former Labor government. A number of those remaining one-third were modifications of things being done by departments under the former Labor government, and there were a handful of new actions put in the first Aboriginal Affairs Action Plan.

The second iteration of the action plan had, I think, 41 actions. Of those, I think 30 were carryovers from the former Aboriginal Affairs Action Plan. We certainly expect government departments, in doing their work, to take into account the needs of Aboriginal people and Aboriginal communities, and those actions they have been taking that were collated into a glossy brochure at some cost we will expect government departments to continue doing.

ABORIGINAL AFFAIRS ACTION PLAN

The Hon. J.S. LEE (14:43): Supplementary: when do we expect the government to release a 2022-23 Aboriginal Affairs Action Plan?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:43): We are focused on government departments doing things they ought to be doing for Aboriginal communities, not collating them at cost into glossy brochures.

ABORIGINAL AFFAIRS ACTION PLAN

The Hon. J.S. LEE (14:43): Supplementary: is the minister confirming that his government is abolishing the action plan altogether in that collation?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:43): What I am confirming is that we expect government departments will be abiding by things that provide advantage to Aboriginal people and Aboriginal communities.

ABORIGINAL AFFAIRS ACTION PLAN

The Hon. J.S. LEE (14:43): Supplementary: can the minister confirm who has oversight of implementation of those initiatives that were set by the action plan?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:44): As the previous two iterations of the action plan set out, oversight by and large was by those departments responsible for them, I think.

ABORIGINAL AFFAIRS ACTION PLAN

The Hon. J.M.A. LENSINK (14:44): Further supplementary arising from the original answer: do I take it that the minister does not believe there is any value in some transparency across government by publishing such an action plan?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:44): No, I did not say that.

ABORIGINAL AFFAIRS ACTION PLAN

The Hon. J.M.A. LENSINK (14:44): Further supplementary.

The Hon. K.J. Maher: From the original answer?

The Hon. J.M.A. LENSINK: From the original answer—

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —and quoting the use of the minister's words 'glossy brochure'. What advice has he received and what representations have been made that anybody has found the action plan offensive?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:44): I don't think I suggested that anyone found the action plan offensive. I did suggest, though, that we expect government departments to do those things they can reasonably do to advance the lot of Aboriginal people in this state.

ENVIRONMENT AND WATER DEPARTMENT

The Hon. J.S. LEE (14:45): I seek leave to make a brief explanation before asking questions of the Attorney-General regarding the operation of the Freedom of Information Act.

Leave granted.

The Hon. J.S. LEE: During the course of an external review of a freedom of information determination, the Ombudsman found that the Department for Environment and Water had refused the release of relevant documents that had been, wittingly or unwittingly, written in a manner that would exempt them from release. Although the Ombudsman agreed the documents should not be made public, he stated:

> I consider that the breadth of the exemption contained in clause 1(1)(e) and the success at which the agency has woven a tenuous thread of a cabinet deliberation and decision through its internal discussions in order to attract the confidentiality of cabinet to sit at odds with the underlying principles of the FOI Act.

My questions to the Attorney-General are:

1. What action is the Attorney-General taking to ensure there is adequate compliance with the FOI Act that is congruent with the legislation's original intent to provide legitimate transparency?

2. Has the Attorney-General made efforts to review the current provisions of the FOI Act to decipher whether any amendments are necessary to avoid the potential evasion of public scrutiny?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:47): I thank the honourable member for her questions. I will need to check, but if my memory serves me correctly the particular determination that the honourable member was referring to—I think it was something to do with the History Trust or Ayers House that was being criticised. So I take the honourable member's points into consideration and, if she wishes us to, we can have a good review of all the decisions by the now Leader of the Opposition, David Speirs, to see what sort of compliance the environment department (that he led) had with determinations and if, in fact, there were misuses of exemptions.

I thank the honourable member for drawing the house's attention to that. I think that is very useful. In terms of reviews of any particular act, we are always keen to see if there can be improvements on the way legislation works for South Australians.

DOMESTIC AND FAMILY VIOLENCE

The Hon. J.M.A. LENSINK (14:47): I seek leave to make a brief explanation before directing a question to the Attorney-General on the subject of domestic and family violence.

Leave granted.

The Hon. J.M.A. LENSINK: A number of honourable members would be aware that one of the specific challenges in the domestic and family violence space is that intervention orders which have been placed for good reason may be withdrawn on the request of the victim, sometimes against the advice of SAPOL and/or their legal counsel. Last year, the former Attorney-General, the Hon. Vickie Chapman, wrote to the Director of Public Prosecutions and the Commissioner of Police seeking their views on policies which exist in Tasmania and the ACT which encourage a pro-arrest and pro-prosecution approach to domestic violence charges. My questions to the Attorney-General are:

1. Has he been briefed on this issue?

2. Has he received, as the new Attorney-General, a reply from the DPP and/or the Commissioner of Police?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:49): I thank the honourable member for her question. I don't recall specific briefings on that issue, but I will go away and check whether there has been something that's been prepared or put forward. It is a very important matter. I know that between myself and the minister in another place, the member for Reynell, the Hon. Katrine Hildyard, we are looking at ways we can do things and make sure legislation operates to protect victims of domestic violence in the greatest possible way. So I will double-check to make sure that the work that has been done is being taken into account.

CANINE COURT COMPANION

The Hon. R.P. WORTLEY (14:49): My question is to the Attorney-General. Will the Attorney-General inform the council about the Office of the Director of Public Prosecutions' new canine court companion?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:49): I thank the honourable member for his question and his interest in these sorts of areas. I can inform the chamber that I was extremely pleased recently to be able to meet, congratulate and, most importantly, pat and give a hug to the most recent recruit to the Office of the Director of Public Prosecutions and particularly their court companion program.

Zeb, who I should clarify is a two-year-old labrador, is the new canine court companion whose new job it is to help put vulnerable witnesses and victims at ease as they make their way through the often daunting criminal justice system. Zeb is specially trained by his Guide Dog SA trainer to sit and provide company, comfort and a sense of calm to victims and witnesses of crime, particularly children who may become anxious or distressed in their encounters with the criminal justice system.

Zeb is the second dog to take on this important role after his predecessor Zero, who sadly passed away late in January this year and who was South Australia's inaugural canine court companion. Since starting his paw patrol in March 2019, Zero accompanied more than 300 child and adolescent victims and witnesses who were involved in the criminal justice system. Having an opportunity to spend some time with Zeb recently, I certainly felt the calming effects that his company brings and can only imagine how much he would raise the spirits and soothe anyone going through the stress of a criminal court system as a victim or witness.

Zeb is now a few months into his on-the-job training, which includes becoming comfortable with his work environment, and will be ready for in courtroom hearings, I am informed, by the end of this year. I am very excited to hear reports back from the DPP that once Zeb commences his full-time role he will make a remarkable impact on vulnerable witnesses and victims experiencing the legal system.

I would like to thank Guide Dogs SA for the work that they do and Zeb, the new canine court companion, for the important work he has started to undertake and that he will engage in over the next year or so. Speaking to Aaron Chia, the Chief Executive Officer of Guide Dogs SA/NT, he was able to inform me that Zeb has a very relaxed demeanour and will be a calming influence for children and others who need support when participating in the South Australian criminal justice system.

As I have said, Guide Dogs SA/NT does remarkable work in training dogs to support people with all kinds of needs, and it's greatly appreciated the role that Guide Dogs SA/NT has played in training Zeb for the important role he is undertaking in his career at the DPP.

AGED-CARE CCTV TRIAL

The Hon. F. PANGALLO (14:52): I seek leave to make a brief explanation before asking the Attorney-General representing the Minister for Health and Wellbeing in another place a question about CCTV cameras in aged-care facilities.

Leave granted.

The Hon. F. PANGALLO: Three years ago, South Australia had the opportunity to lead the country in this area when it partnered with a world leader in the provision of monitored CCTV technology, Care Protect, to undertake a trial of CCTV cameras in the bedrooms of residents in state-owned aged-care facilities. With a $500,000 federal government grant, the former Liberal government touted the trial as an Australian first. However, Care Protect withdrew, citing concerns its IP was being seriously compromised.

What was initially to be a trial in at least five aged-care homes was slashed to only two small facilities at Northgate House and Mount Pleasant aged care in the Adelaide Hills. We have since learned the original budget of $500,000 for the 12-month trial in at least five homes has blown out to at least $785,000, at last account, for cameras in only two homes. My questions to the minister are:

1. What were the results of the trial?

2. Will he table a copy of the final report to parliament?

3. Have the cameras remained in operation at the two sites, and will the exercise be extended?

4. What was the total cost of the trial?

5. Does the government have plans to introduce CCTV cameras in the bedrooms of residents at more state-operated aged-care sites?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:54): I thank the Hon. Frank Pangallo for his question and his ongoing and committed deep interest in this. I know he has asked many questions about aged care. I will make sure I pass on those questions to the minister in the other place and have a reply brought back for him.

OPERATION IRONSIDE

The Hon. H.M. GIROLAMO (14:55): My questions are to the Attorney-General regarding Operation Ironside. Who has the minister met with in relation to considering and identifying the resources the Legal Services Commission requires to defend charges across from the Operation Ironside—

The Hon. K.J. Maher: So the legal—

The Hon. H.M. GIROLAMO: Required for the Legal Services Commission, required to defend charges arising from Operation Ironside. What unbudgeted funds will be needed to be invested in the Legal Services Commission to resource the needs of these proceedings? Has the minister met with the Legal Services Commission following budget estimates to identify and resolve resourcing issues?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:55): I thank the honourable member for her question.

Certainly, as part of Operation Ironside, we recognise that there will be significant extra activity in our court and legal system. As part of Operation Ironside, the Australian Federal Police identified users of ANOM, and on 7 June 2021 the platform was shut down and various arrests were made.

It is alleged that the distribution of the encrypted communications network ANOM installed on android devices to those arrested in South Australia was predominantly, but not exclusively, controlled by associates of outlaw motorcycle gangs. As of June 2022, around 90 persons have been arrested and charged by SAPOL. A variety of charges have been laid, including conspiracy to murder; conspiracy to cause serious harm; participating in a criminal organisation; money laundering; arson; and trafficking in large commercial quantities of methamphetamine, fantasy, MDMA, cocaine, heroin and cannabis, amongst other offences, including particularly drug offences.

I am informed that there have been seven additional arrests since 7 June 2021, including some within recent months. I will not comment specifically on the matters that are proceeding through police investigation, but I can say that there are a number of cases where alleged offenders remain in custody or are on bail. I am advised that, in terms of the criminal justice system, there are significant resources from the police department being put towards the investigations in relation to this area. The DPP will, as these go through the system, have additional resources to cater for their needs. The court system will have additional resources to cater for their needs.

The honourable member asked particularly in relation to the Legal Services Commission. There has not been a request yet from the Legal Services Commission for additional funding in relation to Operation Ironside. I asked for advice on this not long ago. I think there are pretty strict provisions in the legislation that do not allow me to talk about who the Legal Services Commission does or doesn't represent. However, there is particular funding set aside for major needs of the Legal Services Commission in terms of big and complicated trials.

Even though I can't talk about who is or isn't represented, I am not sure it is still ascertained how many, if any, of the Operation Ironside defendants will call on the Legal Services Commission. Certainly, where there have been very major complicated trials or needs for Legal Services Commission funding, that has been discussed and talked about, but I am not aware of any requests for that happening as yet. I have met with representatives of the Legal Services Commission numerous times since becoming Attorney-General and that has not been raised with me yet, but if and when it does that is something we will consider.

NAIDOC AWARDS

The Hon. R.B. MARTIN (14:59): My question is to the Minister for Aboriginal Affairs. Will the minister inform the council of the recent NAIDOC Awards luncheon?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (14:59): I thank the honourable member for his question. I am very happy to inform him of this event that occurred just yesterday. We are towards the beginning of NAIDOC Week nationwide, which runs from Sunday 3 July to Sunday 10 July, with events being held right across Australia to celebrate the history, culture and achievements of Aboriginal and Torres Strait Islander people. Get up! Stand up! Show up! is this year's theme. It is a call for action to bring about systemic change and reflect on and acknowledge the history of this country and the significant acts and achievements of Aboriginal people in their own country.

A highlight each year of NAIDOC Week is the Premier's NAIDOC Awards, which is now combined with the community awards over a lunch at the start of NAIDOC Week. I had the privilege of attending the NAIDOC Awards lunch yesterday, where the Premier's NAIDOC Awards were awarded. Although historically the Premier's NAIDOC Awards has had a sole winner, 2022 quite appropriately had dual winners to acknowledge the impact that both an Aboriginal man and an Aboriginal woman have on their communities. Uncle Jeffrey Newchurch and Aunty Kunyi June McInerney were the joint winners.

The Premier's NAIDOC Awards is one of the main ways the South Australian government observes and celebrates NAIDOC Week each year. For more than a decade now, the Premier's NAIDOC Awards have recognised outstanding achievements and services of extraordinary South Australians who have made a significant difference to the lives of Aboriginal people in the state.

Previous winners have included Uncle Moogy Sumner last year; Uncle Lewis O'Brien in 2019; Aunty Joyleen Thomas in 2018; Uncle Frank Wanganeen and Aunty Alice Rigney, who received a posthumous award in 2017; Wendy Edmondson in 2016; and Lavene Ngatokorua and Kali Hayward in 2015.

The lunch, as well as being a celebration for the Premier's awards and community awards, was also an important opportunity to reflect on the achievements of Aboriginal people. I am pleased that, as Minister for Aboriginal Affairs, I was able to attend with a number of my ministerial colleagues, including the Premier, who attended on this occasion. I note that almost all my ministerial colleagues attended, and it was well reflected upon that almost all the state cabinet attended the NAIDOC lunch awards yesterday. I think it was important that the ministers who attended did not just sit on one table and talk to each other, they were spread throughout the event on various tables, as I think Uncle Jeffrey Newchurch noted in a radio interview this morning.

I would like to conclude by thanking all those involved in organising not just this event but all the events that are spread out in NAIDOC Week: the NAIDOC Committee, ably led for quite a number of years now by Aunty Joyleen Thomas, and the team at Aboriginal Affairs and Reconciliation, with the event emceed by Kirstie Parker. I thank all those who attended.

INSTITUTIONAL RACISM

The Hon. T.A. FRANKS (15:02): I seek leave to make a brief explanation before addressing a question on the topic of institutional racism to the Minister for Aboriginal Affairs and the Minister for Public Sector.

Leave granted.

The Hon. T.A. FRANKS: This week is NAIDOC Week. We celebrate and recognise the history, culture and achievement of Aboriginal and Torres Strait Islander peoples, but unfortunately we still have a long way to go. I note that SAPOL have a target by 2030, under their Diversity and Inclusion Strategy, to have Aboriginal and Torres Strait Islander people make up at least 3 per cent of their workforce. At present, however, they only make up 1.35 per cent of the SAPOL workplace. There is also a current recruitment drive for SAPOL.

Earlier this week, my office was contacted by a constituent who had been interested in applying for a position with SAPOL. This person is currently a government employee—in fact, they work for the MFS—and they passed all the necessary tests. I note however that, after they were shortlisted and passed all those relevant tests, they were then rung and told that their application for state police clearance could not be processed because their mother's maiden name and date of birth are not known to them. The reason for this is that their mother is a stolen generations person. My questions to the minister are:

1. Is this acceptable?

2. What actions will the Malinauskas Labor government take to address this institutional racism either through the Premier's task force or elsewhere?

3. Will the minister undertake to commit to an audit that this institutional racism is not endemic across other public sector agencies?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:04): I thank the member for her question, and it is a very important one, particularly in NAIDOC Week this week. On the circumstances that the member has described, I am concerned that someone could, on the circumstances the member has described, be disadvantaged because their parent was stolen.

As in decades gone by, many, many Aboriginal children were stolen, without their consent, without their family's consent. I certainly will be asking for a full briefing on this particular matter. I might talk to the honourable member later to get details, which appropriately are not shared publicly, so I can make sure this is fully followed up. I will look at any other areas in the public sector that this might also affect.

I know over the last couple of decades that I have been involved in politics and Aboriginal affairs, this comes up in a number of areas—Aboriginal people trying to apply for passports because

they have won an arts or a peace prize and want to go overseas but, through no fault of their own, as members of the stolen generation or born at a time when dates of birth weren't recorded, have had difficulties. In this day and age, I don't think that is good enough, and I certainly will follow it up.

OPERATION IRONSIDE

The Hon. L.A. CURRAN (15:06): I seek leave to make a brief explanation before asking a question of the Attorney-General regarding Operation Ironside.

Leave granted.

The Hon. L.A. CURRAN: The recent state budget provides funding for Operation Ironside related matters. My questions to the Attorney-General are:

1. Have additional judge's associates been appointed under the funding for Operation Ironside?

2. If yes, how many have been appointed?

3. When will they commence?

4 Can the minister provide an update on the impact of Operation Ironside proceedings on productivity in our courts, in particular the District Court?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:06): I thank the honourable member for her question. The honourable member is correct that there was additional funding provided in this budget for courts. It included a number of elements for courts' operations, and one of those was for judge's associates. I don't have the details as to how many or when they will start, but I am happy to take that portion of the question on notice and bring back a reply.

As I answered to the honourable member's colleague earlier in question time, this is a very significant criminal justice undertaking with just under 100 people having been arrested, which is exactly why extra funding has been provided. It will help with security in courts, judge's associates, court layouts and also extra funding for the DPP. We want to make sure we can have the matters from Operation Ironside moved through the justice system—the police, the prosecutions and the courts—efficiently and effectively, but without funding that could impact on other things that courts would otherwise do, and we want to make sure we have as little disruption or impact on those as well.

ABORIGINAL FRONTLINE LEADERSHIP PROGRAM

The Hon. J.E. HANSON (15:08): My question is to the Minister for Aboriginal Affairs. Will the minister inform the council about the work of the Aboriginal Frontline Leadership Program?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:08): I thank the honourable member for his question and his interest in this area, particularly Aboriginal people and work in the public sector. The South Australian Aboriginal Frontline Leadership program is run by the Office of the Commissioner for Public Sector Employment and works to support Aboriginal employees across the state government. It is tailored to advance the skills of those people wishing to increase their knowledge for leadership positions or to develop their leadership capabilities.

Participants take part in the program over six months and undertake a range of activities, including workshops, online modules and networking activities, all aimed at supporting future leaders to build their skills. Other activities include manager training, where participants learn more about the day-to-day challenges of leadership by working alongside a manager for a period of time. Throughout the program, participants hear from experienced leaders both from within the SA public sector and from other fields.

The program is targeted towards ASO2 to ASO6-level employees and equivalents. In this way, it helps people early in their journey in the SA public sector to develop and realise their aspirations and step up into management and leadership roles. Although this program, like so many

others, has had to shift to more online times in the last few years due to COVID-19 restrictions, feedback from participants remains positive.

I had the very good fortune of attending the recent closing day for this year's program and to be able to speak to and answer a range of questions from attendees. The Aboriginal affairs portfolio touches on many areas across government and it was a great opportunity to speak with up-and-coming Aboriginal leaders working in all different areas across different departments and agencies. Whether it's in government, in business or anywhere else in our community, I am pleased that we are increasingly making the most of these opportunities to support future Aboriginal leaders.

I would like to thank those government departments and agencies that sponsored places for their staff to take part in the program, including my own department, the Attorney-General's Department. Work like this plays a small part in helping overcome barriers that still exist in our society for Aboriginal people to reach their full potential, and it's work that I am keen to see continue. As has been already noted a number of times, this week being NAIDOC Week it's a good opportunity for other organisations to consider how they can support Aboriginal employment and leadership as well.

Many organisations are implementing and carrying out work according to their established reconciliation action plans, and it's exactly these kinds of outcomes that these plans should be working to address and produce. I want to pay tribute to everyone involved in the Aboriginal Frontline Leadership Program for their efforts and I look forward to participating in future rounds of this important program.

PORT LINCOLN ROADS

The Hon. S.L. GAME (15:11): I seek leave to make a brief explanation before addressing a question to the minister representing the Minister for Infrastructure and Transport on roads in and around Port Lincoln.

Leave granted.

The Hon. S.L. GAME: We have been contacted by constituents deeply concerned that roads and related trucking in and around Port Lincoln is dangerous. With the cancellation of the grain rail service in May 2019, the number of grain trucks heading to Port Lincoln has increased immensely. These trucks need to drive straight in through the main areas of the town, areas that were not designed for trucks. It's an injury or even a fatality waiting to happen.

The Port Lincoln grain storage silos create a massive bottleneck. At harvest time, conservatively, there would be 50 to 80 fully loaded B-double trucks per day entering from the Tod or Port Lincoln highways. Added to this, the road surfaces are not industrial standard for heavy truck usage and as a result potholes are multiplying. Roads right across the area are being destroyed by the constant flow of heavy vehicles.

Regardless of the grain rail closure being a private commercial decision, road safety is the government's responsibility. Truck drivers keep our state moving and farmers in business and it's imperative they are able to do their job safely. The people of Port Lincoln deserve to be able to drive through their own town safely as well.

In the budget papers there is an allowance to investigate options around Port Lincoln over the next four years as part of the rural road safety package. My question to the minister is: what action is the government going to take this year to make the roads safer in and around Port Lincoln?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:13): I thank the member for her important question. I will pass it on to my colleague in another place who has the portfolio responsibilities for transport and bring back a reply.

FACIAL RECOGNITION TECHNOLOGY

The Hon. S.G. WADE (15:13): I seek leave to make a brief explanation before asking questions of the Attorney-General regarding facial recognition technology.

Leave granted.

The Hon. S.G. WADE: It has recently been reported that major Australian retailers Kmart, Bunnings and The Good Guys have been using facial recognition technology on their patrons, including children, in some of their stores, mostly without the customers' knowledge. The technology in question captures and stores the biometric information of individuals, commonly known as a faceprint. A survey has found that 76 per cent of respondents were unaware that facial recognition technology was being used by retailers, with 76 per cent expressing concern regarding the secure storage of faceprint data.

A motion was recently passed unanimously by the Adelaide City Council outlining its commitment to refrain from using facial recognition technology until this parliament considers how biometric surveillance should be regulated. My questions to the Attorney-General are:

1. Is the Attorney-General aware of whether retailers are using facial recognition technology in any of their South Australian stores and, if so, precisely how it is being used?

2. Has the Attorney-General commenced consultation with a view to developing state legislation that regulates the use of facial recognition technology in South Australia?

3. Will the Attorney-General endeavour to ensure this technology is not used in the retail sector in South Australia until sufficient safeguards are in place to protect the privacy and civil liberties of South Australians?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:15): I thank the honourable member for his question, it is certainly one that has garnered significant public attention over the last few weeks. I might first address the question of the Adelaide City Council and the potential police use of the Adelaide City Council's new CCTV technology that I think was the catalyst that gave rise to much of the public debate recently.

I am informed that any use that would be made by someone like the police would be subject to Premier and Cabinet Circular 12, known as the Information Privacy Principles Instruction, which requires that use, including by SAPOL, of personal information access would likely fall into section 8 of that Information Privacy Principles Instruction, which states:

> Personal information should not be used by an agency for a purpose that is not the purpose of collection or a purpose incidental to or connected with that purpose (the secondary purpose) unless…the agency has reason to suspect that unlawful activity has been, is being or may be engaged in, and discloses the personal information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities

In addition, the use of listening and optical surveillance devices—which would almost certainly include CCTV cameras—is regulated by the Surveillance Devices Act 2016. I am advised that the Surveillance Devices Act currently provides a framework for when listening devices, optical surveillance devices, tracking devices and data surveillance devices can be used, and there are penalties for breaches of that act.

I am advised that the Surveillance Devices Act predominantly applies to private activities and conversations and does not typically apply to activities that occur in public places; however, it may be that some of the provisions of the Surveillance Devices Act are relevant to these situations, particularly those that relate to the use or communication of information derived from a listening or surveillance device.

I have been informed, upon request, that there is national work currently underway in relation to the specific use of facial recognition technology, and I am awaiting a briefing on where that national work is up to and what the likely results are.

FACIAL RECOGNITION TECHNOLOGY

The Hon. S.G. WADE (15:17): A supplementary question arising from the answer: could the Attorney-General advise who is undertaking the national work, whether it has been completed, and when he would expect to receive the briefing on it?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:17): In terms of when it is to be completed, I did ask that and what the status will be. I am awaiting a response on that, but I am happy to bring back a

reply. Regarding the exact bodies undertaking that work, I am also happy to make sure I get that correct and bring a reply back to this chamber.

FACIAL RECOGNITION TECHNOLOGY

The Hon. T.A. FRANKS (15:18): A supplementary: does the minister mean the UTS and their draft model law when he says 'the national work' that is being done?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:18): I will double-check on that. The briefing I have received is there is national work underway. I will check who is undertaking that national work and certainly the involvement of South Australia and what we plan to do with it.

FACIAL RECOGNITION TECHNOLOGY

The Hon. T.A. FRANKS (15:18): Supplementary: what is the legal standing, and what are the penalties for noncompliance with circular 12?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:18): Again, I will double-check, but I would have thought they are the general disciplinary actions that would be taken against public sector employees for breaches of circulars. I will double-check what they are and that they are what would be enforced for those sorts of breaches.

FACIAL RECOGNITION TECHNOLOGY

The Hon. S.G. WADE (15:19): Supplementary: could I also ask the minister whether the relevant police operating instructions, which I think are called police general orders, highlight the relevance of the information privacy principles or whether individual police officers are meant to make themselves aware of a DPC circular?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:19): I think the principles that apply to these sorts of circulars for public sector agencies and instrumentalities are not always reflected in individual agencies needing to inform their employees of those. I am not sure whether it appears—and I think the member is right—in police general orders or not, but that doesn't mean that it doesn't apply to that agency.

FACIAL RECOGNITION TECHNOLOGY

The Hon. S.G. WADE (15:20): Final supplementary: considering the community's sensitivity around facial recognition technology, wouldn't the minister consider it advisable that police be alerted to their responsibilities under the information privacy principles?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:20): I have every confidence the police commissioner alerts those who work in the police to their legal requirements.

NEWCHURCH, UNCLE JEFFREY

The Hon. T.T. NGO (15:20): I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs a question on the NAIDOC Awards.

Leave granted.

The Hon. T.T. NGO: The minister mentioned earlier to the house that Uncle Jeffrey Newchurch won the Premier's NAIDOC Award. I know that he is a great Australian and great friend of mine, who assisted me on various projects, especially the Vietnamese boat people monument project. Will the minister give the house further information about Uncle Jeffrey Newchurch?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:21): I thank the honourable member for his question. I am more than happy to give further explanation to the chamber about the reasons why Uncle Jeffrey Newchurch was one of the co-recipients of this year's NAIDOC Award. Most people in this chamber would have had things to do with Uncle Jeffrey Newchurch over the many years of his involvement

in public life. I know that he played a crucial role in one of the great projects the Hon. Tung Ngo was involved in, the boat people's memorial down by the River Torrens and its intersection with Kaurna people, and many things on Kaurna country that Uncle Jeffrey Newchurch has been involved in over many years.

As I outlined in reply to a question earlier today, the Premier's NAIDOC Award went to both a male and a female Aboriginal South Australian this year, and the intention is that that will continue into the future, that both an Aboriginal man and an Aboriginal woman will receive this award. The male award winner was Uncle Jeffrey Newchurch, an incredibly well-deserving and well-regarded Aboriginal elder in South Australia.

Uncle Jeffrey is a Narrunga and Kaurna man. He was born at the former mission at Point Pearce on Narrunga country on the Yorke Peninsula. He was educated there before beginning his secondary education at Maitland Area School. I was not aware of this, but yesterday I learnt that Uncle Jeffrey later went on to become the first ever Aboriginal student at Scotch College in Adelaide. Many in this chamber would have crossed paths and know Uncle Jeffrey for his extensive community work and, importantly, providing cultural advice and guidance to non-Aboriginal people in Adelaide.

He has held many committee and advisory positions and helps connect non-Aboriginal people with the oldest living culture on the planet and ensures that Aboriginal cultural authority is recognised and respected. Some of the many positions Uncle Jeffrey has held include with the City of Holdfast Bay as a member of their Kaurna Cultural Heritage Advisory Group, with the Royal Adelaide Hospital and the Women's and Children's Hospital as an adviser, and as a member of the City of Adelaide Reconciliation Committee. These are just some of the many projects to which Uncle Jeffrey has lent his knowledge and ability.

He was instrumental in the setting up, as some members of this place would have been involved, of Puti on Kaurna Yerta, or bush on Kaurna land. His leadership and direction was pivotal in ensuring that project had input from Aboriginal people and Aboriginal ways of thinking after services for Aboriginal community members.

In recent years, Uncle Jeffrey has also played a key role, working with the government and the South Australian Museum, in the repatriation of old people back to Kaurna land. Through the site Kaurna Wangayarta at Smithfield, the remains of many old people have been returned to country, and I know from experience, both last year and this year, of the incredible and meaningful moving ceremonies that have seen hundreds of remains of Aboriginal old people return from institutions to be reburied on Kaurna land.

One of the projects and undertakings I know Uncle Jeffrey is particularly passionate about is his work mentoring young Aboriginal people. He speaks powerfully about the importance of supporting young people to reach their full potential and also for them to connect with their culture and with the rich history that lives on through elders in this state.

I know, as many people do here, Uncle Jeffrey well and have been grateful for his advice and guidance over many years and for the advice and guidance he provides governments at all levels, state, federal and local, in supporting Aboriginal people. I know, speaking over the last few days to Uncle Jeffrey, he recalled fondly only a couple of weeks ago spending time with the new federal minister for Indigenous peoples, Linda Burney, at the AIATSIS conference in Queensland recently and providing the federal minister with the benefit of his advice and views and next steps forward, as he regularly does provide me with the benefit of that advice.

I think Uncle Jeffrey is an incredibly deserving winner of the Premier's NAIDOC Award, and it was a touching moment to see him receive that award from the Premier yesterday.

INDIGENOUS COMMUNITIES, ELECTRICITY

The Hon. C. BONAROS (15:26): I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs a question about electricity consumption in remote Aboriginal communities in South Australia.

Leave granted.

The Hon. C. BONAROS: As at 1 July this year, people living in community housing on the APY lands and some other remote Aboriginal settlements in SA, namely, Yalata and Oak Valley, are being charged for the first time for electricity consumption following new regulations made under the Electricity Act 1996. In addition to being charged for electricity usage for the first time, concerns have been raised around mandated prepayment as the only payment option for certain customers and the ability for self-disconnection. I am advised that this new system impacts about 10 townships and 15 Aboriginal communities in SA. My questions to the minister are:

1. Have you consulted all of the communities and other key stakeholders impacted by this decision in your capacity as Minister for Aboriginal Affairs?

2. Have concerns been raised with you in your capacity as Minister for Aboriginal Affairs, and if so, what are these concerns?

3. Are any other electricity customers in South Australia subject to the same mandatory prepayment method of payment being proposed under the changes?

4. Whilst, again, not made under your portfolio, are you concerned about the detrimental impacts these regulations will have on Indigenous communities on the lands?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:27): I thank the honourable member for her questions. They are important questions. The regulations that are made in the scheme, as the honourable member has pointed out, do not fall under my ministerial portfolio areas, they are under the Minister for Energy, but certainly it is something that over the winter break I will be taking some time and consulting with a number of the communities affected.

I anticipate I will be visiting probably a majority of the communities that are affected in the APY and Maralinga Tjarutja lands over the course of the winter break, and it is certainly something I will raise to take some advice on. I know that there are different views on this in Aboriginal communities and among those who look at and assess policies in not just energy but the Aboriginal affairs setting, and I certainly will be keen to undertake consultation with those directly affected but also those that provide services.

INDIGENOUS COMMUNITIES, ELECTRICITY

The Hon. T.A. FRANKS (15:28): Supplementary: is the minister aware of similar practices rolled out in the Northern Territory, and what has been the implications of that in that territory?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:28): I thank the honourable member for her question and, again, I will be seeking further information. My understanding is that the Anangu Pitjantjatjara Yankunytjatjara lands and the Maralinga Tjarutja lands now remain the only jurisdictions in Australia, according to the information I have received, that don't have some sort of price set for electricity. Just across the border from the APY in the NT in places like Mutitjulu or in WA in Wingellina, there are charging-for-electricity schemes in place. I certainly will be seeking to understand what has happened when those first came into play and the effects that they have had.

INDIGENOUS COMMUNITIES, ELECTRICITY

The Hon. C. BONAROS (15:29): Supplementary: as part of the undertakings given by the Attorney and minister, will he also ensure that the many criticisms that have been raised by stakeholders around consultation process are addressed appropriately?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:29): I thank the honourable member for her question and, yes, I am keen to understand those as well.

DOMESTIC AND FAMILY VIOLENCE

The Hon. J.M.A. LENSINK (15:30): My question is to the Attorney-General regarding domestic and family violence reforms. Can the Attorney advise what his role is in relation to domestic and family violence reforms and what measures he has initiated since he has become the Attorney-General?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:30): I thank the honourable member for her question. Certainly in relation to family and domestic violence, it is an area that is shared across both myself and the minister in another place, the member for Reynell, the Hon. Katrine Hildyard. We and our officers have had a number of discussions and are looking at both policy and legislative reform we can implement in this area.

DOMESTIC AND FAMILY VIOLENCE

The Hon. J.M.A. LENSINK (15:30): Can the Attorney advise whether it is himself or whether it is the minister for the status of women who has policy lead?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:31): Certainly. In different aspects we will both have responsibilities. As the honourable member would be aware, much of the legislative response to things that affect family and domestic violence are contained in many of our criminal codes, whose acts are committed to the Attorney-General, but the policy to get there is certainly something that is shared between the minister in another place and myself.

LEGAL SERVICES COMMISSION

The Hon. R.P. WORTLEY (15:31): My question is to the Attorney-General. Will the Attorney-General update the council about the recent reopening of the Legal Services Commission office in Noarlunga?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:31): I thank the honourable member for his very important question, and I am certainly happy to update the member about the recent reopening of the Legal Services Commission's Noarlunga office.

In recent weeks, I had the great pleasure and honour of opening the redeveloped Noarlunga office of the Legal Services Commission. The Legal Services Commission is South Australia's largest provider of free legal assistance and has renewed and redeveloped its office at Noarlunga House in Ramsay Place to boost its delivery of legal assistance with family law, criminal law and civil law; legal assistance for victims of domestic violence; free legal advice and information about a wide range of common legal issues; and legal representation to eligible applicants.

The reopening of the office was well attended by a range of stakeholders in the legal sector and local community members. I was pleased to be joined by the Hon. Katrine Hildyard, the member for Reynell; Mr Simon McMahon, the acting Mayor for the City of Onkaparinga; and Senior Sergeant Stuart Bainbridge from SAPOL's prosecution branch.

I was informed that the commission's presence in Noarlunga dates right back to 1983, which was a big year in Australian history, with Bob Hawke first becoming prime minister, winning the America's Cup that year, and of course the opening of the Noarlunga office of the Legal Services Commission, so three very big things happened that year. Also, 1983 was the year of the devastating Ash Wednesday bushfires, which caused so much damage throughout South Australia, particularly in the Hills and the South-East of the state.

The Noarlunga office has been completely redesigned and refurbished to make sure it meets the contemporary needs of the clients in this community. The commission established its presence in Noarlunga in the early 1980s, recognising the needs of the community, and for residents in the southern suburbs to be able to access justice if they were not able to access it otherwise. Like many parts of our state, there are significant rates of disadvantage in some parts of the southern community, and that disadvantage often goes hand-in-hand with a lesser ability to access the legal system.

In the 1980s, the government and the commission foresaw the impending population growth in the southern area and the need for such legal services and assistance to be available to that expanding community. As was the case way back in the early 1980s, there remains a need for this sort of legal assistance in this area, so I am pleased that in response the Legal Services Commission

is now delivering from a much more fit-for-purpose office some life-changing services for many people, as it has done over a number of decades.

Over the years, I am informed that thousands of members of the community have accessed services from the Legal Services Commission Noarlunga office, and I am very pleased that they can access it now in a building that is a contemporary building for the provision of these sorts of services to the community. I wish the Noarlunga office of the Legal Services Commission well over the decades to come.

LEGAL SERVICES COMMISSION

The Hon. H.M. GIROLAMO (15:35): Supplementary: can the Attorney please confirm that other legal services offices won't be closed?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:35): I am not aware of any intention for the Legal Services Commission to close offices.

HOUSING VACANCY RATES

The Hon. R.A. SIMMS (15:35): I seek leave to make a brief explanation before addressing a question without notice to the minister representing the Minister for Human Services on the topic of vacant properties.

Leave granted.

The Hon. R.A. SIMMS: The latest census data shows that 83,821 privately owned units, apartments and houses were unoccupied in August last year. While these properties sit vacant, over 17,000 South Australians are on the waiting list for social housing and 3,000 of those are listed as category 1. If only a quarter of these currently vacant houses were released into the housing market, either as rentals or for sale, it would add 20,000 homes to the supply.

The government has committed to building just 400 new social homes, but it will take time for them to be built. My question to the minister therefore is: given the immediacy of the housing crisis gripping the state and the huge number of currently vacant properties, what does the government plan to do to entice private property owners to release these properties back into the housing market?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:36): I thank the honourable member for his very important question. I will refer that to the relevant minister in another place and bring back a reply.

PARLIAMENTARY SECRETARY

The Hon. H.M. GIROLAMO (15:37): I seek leave to make a brief explanation before asking a question of the Parliamentary Secretary about her role.

Leave granted.

The Hon. H.M. GIROLAMO: Last sitting week, the Parliamentary Secretary advised the council that she receives an extra 20 per cent loading for her role as Parliamentary Secretary, in response to questions. However, her response failed to provide any detail in response to several other questions asked, so I ask again: does the Parliamentary Secretary have a permanent office allocated to her in the Department of the Premier and Cabinet, and can she also confirm to this chamber whether she has been allocated ministerial staff?

The Hon. E.S. BOURKE (15:37): I thank the honourable member for her question and her great interest in what I do on a daily basis. I do have an office in the Premier's office, as Assistant Minister to the Premier, and I do have staff, because, as the Hon. Jing Lee had staff members, so do I. That is what happens when you do become the Assistant Minister to the Premier, or Parliamentary Secretary.

PARLIAMENTARY SECRETARY

The Hon. H.M. GIROLAMO (15:38): Supplementary: how many staff? I think it is a valid question.

The PRESIDENT: Parliamentary Secretary, I will allow the question. You can answer it how you see fit.

The Hon. E.S. BOURKE (15:38): I have a staff member allocated to me as a Legislative Council member, and I also have two staff members allocated to me to support me. They are not my staff members. They are part of the broader team, so they are not my staff directly.

PARLIAMENTARY SECRETARY

The Hon. H.M. GIROLAMO (15:38): Supplementary: does the Parliamentary Secretary think she deserves 20 per cent for going to parties?

The PRESIDENT: No, I am not going to allow it, and we don't need a point of order.

NAIDOC WEEK

The Hon. R.B. MARTIN (15:39): My question is to the Minister for Aboriginal Affairs. Will the minister inform the council on the NAIDOC events being held in Port Augusta?

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (15:39): I thank the honourable member for his important question, as we are in the middle of NAIDOC Week. Many country areas in South Australia celebrate NAIDOC Week in many different ways and have done for a long period of time. Port Augusta is one of the regional centres that celebrates in many different ways and has done for many years.

I am informed that there are a large range of events in Port Augusta to celebrate NAIDOC Week. I understand there are over 20 formal NAIDOC events being held over the seven days of NAIDOC Week for the whole community to participate in. It is fantastic to see so many events being held across the community to celebrate the history, culture and achievement of Aboriginal and Torres Strait Islander people.

The events in Port Augusta include (and I am sure I will miss some out, so they are not limited to): smoking ceremonies, particularly a moving one that I have seen pictures of to celebrate the start of NAIDOC Week; the MoZzi x Inkatja: A New Moon exhibition; a Colour Run; the Port Augusta NAIDOC Awards; Yarns Around the Campfire; Culture Day; a quiz night; NAIDOC Youth Day; Nunga Screening; a community breakfast; the Port Augusta march; the Youth Centre Family Day; and the Port Augusta NAIDOC Ball.

I would like to mention a couple of the events in particular. The Colour Run was held on Monday 4 July and I think is a unique part of the Port Augusta NAIDOC tradition now. It has been a success in recent years and draws in many community members to actively participate while also promoting healthy lifestyles. A few years ago, I didn't run, but I ambled in the Port Augusta NAIDOC Colour Run, and was bombarded by great bursts of bright colours, wearing my white T-shirt in the run.

The other events, particularly including the Port Augusta NAIDOC Awards that I was fortunate to attend in previous years as well, recognise the significant contribution that Aboriginal people have made not just to the Port Augusta area but that Port Augusta Aboriginal people have made to the wider South Australian community and Aboriginal community.

Bills

RETURN TO WORK (SCHEME SUSTAINABILITY) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 16 June 2022.)

The Hon. H.M. GIROLAMO (15:42): I think we can all agree that the process for this bill has been nothing short of shambolic, as our leader has said. I keep imagining that if we were still in government and we mismanaged a bill in the same way the Labor Party has, there would be uproar. It is a disgrace how poorly managed this process has been. I only hope that more respect is given to the parliament by the Labor Party when managing future bills. The people of South Australia and all key stakeholders—

The Hon. R.P. WORTLEY: Point of order: I cannot even hear this contribution with everyone talking. I think the Hon. Ms Girolamo deserves a bit more respect than what is happening.

The PRESIDENT: Your point of order is noted, the Hon. Mr Wortley. Thanks for bringing it to my attention. The Hon. Ms Girolamo, please continue.

The Hon. H.M. GIROLAMO: As I am sure everyone in this chamber is aware, the original amendment bill was introduced into this house on 2 June 2022, which was the same day that Labor released its first budget and the same day that the ReturnToWork board announced an increase to the average premium rate for 2022-23. It was utterly inappropriate to introduce a significant bill in this fashion, trying to sneak past the media during their lockdown and drown out this story with other major budget headlines.

Then it got worse: on the day we were told this bill must pass parliament, the government went ahead and withdrew it from the chamber at the very last minute. I have several things to put on the record in regard to this. The next day, the bill was introduced in its updated form into the other place by the Minister for Police, Emergency Services and Correctional Services. I am still not entirely sure how this aligns to his portfolio, but that is another story.

The opposition received a copy of this updated bill at 10am and the final version at 1.30pm, just prior to question time. In the lead-up to this, the government provided a total of three dot points on a page and all but asked the opposition to trust them on the amendments. It is important to highlight that the bill before us in the chamber today is vastly different to what we saw a few weeks ago. It is not a few changes to the original plan or minor updates following feedback from stakeholders.

On this topic of feedback from stakeholders, interestingly, last year the Hon. Kyam Maher, Attorney-General and Leader of the Government in this place, made comments about potential changes to the Return to Work scheme's Impairment Assessment Guidelines that were proposed by former Treasurer, the Hon. Rob Lucas. The Attorney-General said in this place on 8 September 2021, and I quote:

> The Law Society, lawyers and doctors have all raised very significant concerns. Those representing workers in the union movement have raised very significant concerns. Most importantly, the proposals from the Premier and the Treasurer struck fear into the hearts of injured workers, who were guilty of nothing more than being in the wrong place at the wrong time…

Since the government's amendment bill was introduced on 2 June 2022, I and other members in this parliament have received correspondence from the Law Society, Lawyers for Workers SA and lawyers who act on behalf of injured workers, raising their concerns. We have also heard through media streams that the union groups are in dismay by the decision by the government and have openly stated that they had not been consulted by Labor prior to hearing about the introduction of the bill. The Attorney also said on 8 September 2021, and I quote:

> If there is nothing to hide in these changes, as the Treasurer initially pretended, the government needs to explain why these stakeholder groups were not even initially informed.

My question to the Attorney is: does he have anything to hide? Why has this process been utterly shambolic? Why was consultation not performed from the beginning? Attorney, if you could go back in time, would this bill have been handled differently? I think we all know the answer to that question.

Since 15 June 2022, we the opposition, being myself, the leader and the shadow treasurer in the other place, have done what the government should have done before introducing either of these bills. We have consulted, consulted and consulted. We have met directly with Business SA, the Housing Industry Association, Australian Hotels Association and the Ai Group. We have also spoken to numerous businesses and workers along the way. I am very confident to say that I believe that this work should have been done by the government before drafting a bill.

Now to where we find ourselves today: as I said earlier, a completely different bill is before us in the chamber today. The original bill was no more than two pages long. This one is 13 pages, with over 30 amendments lodged. It proposes considerable changes to the operation of the Return to Work scheme and the existing act. Whilst we hope these changes prevent hikes in premiums for businesses, we also hope that changes to the whole person impairment threshold from 30 per cent to 35 per cent will not create issues for workers.

We do not want to see workers worse off. This is also now up to the government to manage these changes going forward. I call on the government to guarantee that no worker will be worse off and no business will be worse off by this revised bill. It is imperative that the new government take responsibility for this important legislation. This is Labor's bill and their proposal—a second attempt, claiming to benefit all. Only time will tell.

The question remains: why was there such a rush for this bill to be moved through without consultation or even time for the opposition and crossbench to understand the context first? We, the opposition, asked for actual actuarial advice and an independent peer review to be provided and tabled to the chamber before the decision on the bill before us could be made today. This important audit information should have been requested by the government, not the opposition. Whilst the actuarial advice has been provided, it also highlights the possibility that premiums may still move.

We understand this is not an exact science. It will be the responsibility of the government to monitor and manage Return to Work so that premiums remain low and do not escalate. PwC has performed the independent review of the data and emphasises the uncertainty associated with the eventual claims outcomes and the potential impacts on the break-even premiums. I call on the Attorney to table this actuarial advice to the chamber.

On finishing, it is important that we remember that this bill was drafted by the government for the government. They are now responsible for how the amendments are delivered and how the scheme is run going forward. Key business groups are supportive of the bill. After consultation, we will support the bill, as we always strive to support the business community, which continues to face challenging times, including significant rising costs of doing business.

But let's be clear: it is up to the government to guarantee that average premium rates for 2023-24 do not exceed 1.9 per cent. This is what the business community has been told by the government and it is now up to the government to deliver. We are proud of how we have handled this bill by engaging with the business community and understanding the feedback from key stakeholders. We have always looked, and continue to look, at this matter from the best interests of the business community. Now it is up to the government to deliver.

The Hon. T.A. FRANKS (15:50): I rise on behalf of the Greens to speak to this bill. The weeks since this bill was first introduced have been a whirlwind. We have finally seen the government consult and listen to injured workers, to unions, to business and to lawyers. This flurry of activity is the work that should have been done before any legislation reached parliament, but I suppose it is better late than never.

I want to be clear, however: this is not how we should be legislating. This process has been completely backwards right from the start, with the surprise introduction of the first bill. I want to thank everyone who approached me and my office with their feedback and concerns regarding this—and that—legislation. It is through your work and your advocacy that we have landed at least somewhere better than that original bill that was proposed.

The Greens appreciate that—although not in the original drafting of this bill—the government will explicitly enshrine the Summerfield principles in this legislation, as flagged in their amendments. I do note here that there are concerns that Summerfield could still be unpicked and that in briefings the government has committed to the Greens to coming back and making further legislative changes to fix this, should that occur. This is encouraging, but I will be asking the government to make that commitment on the record during this debate in the council so that we can have greater certainty.

We really must examine why a court decision that essentially upholds what is already permissible under the act is being treated as something that undermines the existing Return to Work scheme. The idea that because of this decision the scheme is no longer viable and that premiums

must rise to unheard of heights is a joke. It ignores the history of the Return to Work Act itself. It ignores years' worth of court decisions upholding workers' rights to have their injuries combined for assessment and it ignores the ReturnToWork board and corporation's fundamental mismanagement of the scheme over the past few years.

The Summerfield decision, and the Preedy decision before it, is not new. The act as written is not new. At the end of the day, the reason we are here is that this government is being effectively held hostage by its own board. Instead of having a thorough, well thought out and consultative review of the act and the scheme, we have whatever this has been over the past few weeks.

We have to ask: why has the board failed to account for the impact of the scheme with regard to the Preedy and Summerfield court decisions, particularly once it became quite apparent that the ReturnToWork corporation's loss in these cases was inevitable? Why did they continue to waste money that could have gone to injured workers on fighting these fruitless cases? Why have they utterly failed to account for the proper implementation of what the act and the scheme envisioned in the first place when it came to the combination of injuries and assessments? These questions remain unanswered and largely, it seems, uninvestigated. During multiple briefings we have asked for copies of board minutes and correspondence covering the period of these court decisions. We are yet to receive those documents.

Further, it is quite well known that the ReturnToWork corporation has regularly failed to act not only on court decisions such as Preedy and Summerfield, it has also routinely failed to comply with the rulings of the South Australian Employment Tribunal. This has been commonplace to the extent that the tribunal have been deeply scathing of the corporation in its rulings. Even back in 2020, the tribunal was warning that unless the ReturnToWork corporation actually started complying with rulings and fixed its 'unsatisfactory conduct', South Australian businesses could face increased premiums as costs rise.

In Return to Work Corporation of South Australia v Leighton, the tribunal dismissed the corporation's appeal with scathing comments about ReturnToWork's conduct. The tribunal noted, in its decision:

> A failure to comply with orders made by the Tribunal increases cost to the parties, the costs paid by employers by way of premiums in the scheme, the cost to the community more generally associated with those impacts and unnecessary costs thrown away through the wasted resources of the Tribunal. The conduct of other matters, including matters where the parties have dutifully complied with orders made, are unnecessarily delayed. There are a number of reasons as to why an occasional lapse in compliance with orders, rules and practice directions of the Tribunal may occur. However, there can be no justification for the persistent failure to comply in this matter with the associated failure to communicate with the Tribunal.
>
> In most instances, parties are represented by members of the legal profession. That has been so in this matter. There is a professional duty to comply with orders of the Tribunal and to keep the Tribunal properly informed of important developments in the preceding. In this case the deficiencies are also associated with the corporation which is a regular party to proceedings in this jurisdiction and that is an additional concern.
>
> The deficiencies in this matter are not isolated. Indeed, they may have become too commonplace in this jurisdiction. Perhaps the Tribunal has been too tolerant in the past in relation to the failure to comply with its orders in a timely matter. Parties should not expect such an approach to be ongoing.

Sure enough, in the years since we have not seen the conduct of the corporation improve. They have continued to fail to account for certain decisions, and we are now faced with the threat of an increase in premiums above 2 per cent unless (we are told) parliament acts, and that action (the government has been told by the corporation) should mean less access to fair compensation for injured workers because, apparently, and according to ReturnToWorkSA, too many workers accessing the compensation—that on paper, in the act, is rightfully owed them—threatens the scheme.

The scheme is broken. It needs a proper and open review. Undercutting injured workers cannot be the answer. Injured workers should not have to suffer in poverty to cover ReturnToWorkSA's negligence. The ReturnToWork board and corporation have kept premiums artificially low by essentially breaking, or at least not implementing, the law as intended and as supported by multiple court decisions.

It is clear more than ever that the ReturnToWork board and corporation have fundamentally mismanaged the scheme, and injured workers continue to pay the price for their incompetence. If a

workers compensation scheme is deemed to be unstable when it actually has to provide compensation to workers, it is not a scheme worth having and perhaps we should start from scratch. Most importantly, a government elected off the back of a labour movement should not be making injured workers bear the cost of the mistakes of an unelected board.

It has been abundantly clear, from every conversation we have had along the way in consulting and considering this and the previous bill, that something is wrong. This board has been unaccountable and lacking in transparency and has wilfully ignored and failed to account for their court losses over a series of years. Businesses have received artificially low insurance premiums while injured workers have missed out on fair compensation as a result. This cannot be how a workers compensation scheme operates, and the Greens will be having more to say about the ReturnToWork board itself, and what we can and must do to fix that, later this week.

The unionists, the workers, the doorknockers and campaigners who got this government into power probably still have blisters on their feet to show for that hard work, yet is this legislation really how the Malinauskas government thanks them for their efforts? Does the Malinauskas Labor government represent the labour movement, thanking them for their support through those years in opposition and thanking them for their hard work to get a Labor government back at both a state and federal level by immediately discarding them after those elections, by ignoring their concerns, their voices and their feedback?

Is this the future Labor said it was standing for throughout its campaign? I hope not. A future where injured workers are discarded for the whims of an unelected board, a future where the labour movement is tossed aside to placate businesses and corporations ahead of considering other options, is a bleak future. I am quite confident that that is not the future South Australians voted for.

Having said all that, the Greens do recognise that this bill is an improvement on the original version put forward and that the government has gone further to address concerns and fix problems with its suite of amendments. But what continues to be our key concern is the fact that, despite the positive steps forward, taken with enshrining the Summerfield principles and providing better access to redemptions, this bill still raises the whole person impairment threshold to be considered a seriously injured worker up to 35 per cent for physical injuries.

It is the opinion of the Greens that the 30 per cent threshold for both physical and psychiatric injuries was already too high, which we flagged during the original debate back in 2014. Even then, this means that pretty much only those with near catastrophic injuries would meet that test. I cannot imagine a 35 per cent threshold being any better for workers, even when the government argues that workers will be able to combine their injuries now, which would make the threshold more attainable for some. Arguably they already could—that is the point really—and they have already struggled to meet the 30 per cent threshold for fair compensation.

We are not unique in our concerns around the already high and about-to-be-higher threshold. Back in 2017, the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation conducted an inquiry into the Return to Work Act and scheme. That committee's report notes the problems and inconsistencies with this threshold, stating:

> The committee notes the whole-person impairment assessment is not necessarily indicative of an individual's ability to work. The Australian Education Union and others argued by solely using this threshold it will result in workers who are unable to work but still have their payments ceased at 104 weeks as they do not meet the criteria for ongoing support.

Further, witnesses providing evidence to that committee described the threshold as an 'actuarily devised contrivance'. I cannot see how this debate and this bill do anything other than prove that true. These numbers, these arbitrary thresholds, do nothing to aid injured workers and are designed purely for the financial benefit of the scheme and the corporation.

While we were glad to see the withdrawal of the original bill, and we voted for that to be discharged, it must be said that the current bill as it stands, unamended, has some quite serious and concerning deficiencies that would leave workers worse off. For one, the bill as introduced does not actually enshrine the Summerfield principle, which was one of the main reasons we were told the legislation would be brought forward. This is proposed to be addressed in government amendments

to the bill. I do commend the work of the Hon. Connie Bonaros on this matter in particular, but it is rather a large oversight to have missed in the original version of this bill.

Further, unamended the bill would deny lump sum economic loss payments for a number of workers who sustain later work injuries after a first work injury. The proposed amendments to section 56(6) mean that any worker who suffers a further injury unrelated to their first injury will no longer receive any lump sum if their subsequent injuries are determined as less serious than their first injury, regardless of how that injury impacts their ability to work. This is deeply concerning and has been raised as an issue with us by several stakeholders, though we are pleased that the government has now filed amendments that will remove those changes.

That being said, it is concerning that this change was entertained in the first place. Perhaps this could have been avoided had the bill been properly consulted upon from the outset and not put together in such a rush. I could go on, but I want to get on with the debate today. There are multiple sections of this bill that have needed serious work over the past few weeks and, while that work has now largely been done and is reflected in the amendments that have been filed, it is concerning to think that the government has not thought to do this work in the first place, and that it has fallen on unions, businesses, lawyers and workers to identify some of the serious deficiencies and omissions in the original government bill.

The Greens do appreciate the constructive nature with which the government has handled our concerns and the concerns raised, and their willingness to make these amendments, but we, like many others, have been frustrated that the consultation process essentially has happened backwards, and that is what we are left with: trying to find small fixes for suboptimal legislation.

With that in mind, the Greens are of the view that many amendments need to get through this committee stage and be made to make this legislation more tolerable, because unamended the bill is a disaster, and we flag now that any future reviews of the Return to Work scheme and legislation, which the government has committed to do, need to be far more thorough, timely and well consulted. We cannot and we will not accept further attacks on injured workers.

I note, and I am sure others will as well, we will have many questions during the committee stage and look forward to the minister's prompt and detailed responses, placing those matters on record. It is vital that we have complete information when voting on this bill, and the Greens will be watching and participating in that debate on the proposed amendments closely. I flag that that debate will shape our vote at the third reading.

I also note correspondence that I received yesterday from Dale Beasley, who is the Secretary of SA Unions. He wrote to me following an executive meeting of SA Unions:

Dear Tammy,

It is the strongly held view of SA Unions that the precedent set by the outcome of the Summerfield case represents the true and proper application of the law. Those principles are foundational and protecting the combining principles of Summerfield has been a central concern of the union movement as we have engaged with the government over their Return to Work Amendment Bills.

The bill proposed by the government does not have our universal support, there are many things which we advocated for and some of those things were not achieved. However, the current package of amendments do contain protections of the Summerfield principles and many other measures which we support and, importantly, the government have also committed to reviews of the system to consider its management and effectiveness, and how both could be improved in an ongoing manner.

Faced with the alternatives; the original Bill that proposed to undo the Summerfield decision, or continued litigation of combination injuries, it is difficult to see how passing the government's current Bill with the amendments currently proposed that add protections for injured workers, could be criticised.

As far as unions are concerned, the work to improve the right of injured workers does not stop here. The Return to Work system is still one stacked against injured workers and our united union movement is committed to continue campaigning for improvements to ensure workers received the highest possible levels of support. We will continue pursuing necessary improvements to the system, be they legislative, organisational, or cultural and hope that we will continue to be able to rely on your support.

Kind regards,

Dale Beasley

Secretary of SA Unions

I share that with the council because I received that after 4pm yesterday, so I know not all members of the council may have been privy to that particular correspondence. With that, we do intend to support the second reading and participate in the committee stage and reserve our right at the third reading.

The Hon. C. BONAROS (16:07): I rise to speak on behalf of SA-Best on the Return to Work (Scheme Sustainability) Amendment Bill 2022. Many members of the community, myself and my parliamentary colleague the Hon. Frank Pangallo included, have been deeply disturbed at the government's proposed drastic changes to legislation, affecting, and I quote:

> ...some of the most vulnerable injured workers in South Australia…
>
> The Law Society…and doctors have all raised very significant concerns. Those representing workers in the union movement have raised very significant concerns. Most importantly, the proposals…[have] struck fear into the hearts of injured workers, who were guilty of nothing more than being in the wrong place at the wrong time when they were injured and having the wrong government in at the time…
>
> Many unions, many medical practitioners, many with great experience in practice in this area, and lawyers have expressed significant concerns about the impacts of these changes, but many of these key groups were not even consulted. If there is nothing to hide in these changes…the government needs to explain why these stakeholder groups were not even initially informed.
>
> This is not an academic or theoretical exercise…[We are] acting on genuine concerns that have been genuinely expressed.

If you think you have heard those quotes before, you are right and must have been paying attention during last year's debate on the Impairment Assessment Guidelines bill, introduced and passed in this place following the former Treasurer's underhanded amendment of the guidelines. Those familiar words are extracts from the Hon. Kyam Maher's second reading contribution to that bill; he was shadow attorney at the time and industrial relations officer. His words are just as applicable today as they were last year when they were echoed in this place, but how the tables have turned.

What we are being asked by this new, and increasingly arrogant, according to some, government has been to blindly rush through amendments, and amendments to those amendments, and new bills to extremely complex legislation while all the external experts and stakeholders who operate and function in this area of the law every single day of the week are pleading for caution and further engagement.

Since the act commenced on 1 July 2015, workers comp laws in South Australia have been in a state of flux. There is absolutely no other way to describe it. This has resulted in a long-term state of uncertainty for any worker trying to access coverage of the act. One of the objects of the act is to reduce disputation and adversarial contests to the greatest possible extent, yet this has been severely compromised, and in many cases defeated by uncertainty.

In comparison to the compulsory third-party motor vehicle accident scheme, which I understand has seen only one judgement delivered by the District Court since 2013, there has been no end to litigation under the 2014 Return To Work Act, changes which I might add were implemented in this jurisdiction under the former Labor government by the architect of the scheme, the former Attorney-General and industrial relations minister John Rau. There have been literally hundreds, if not thousands, of decisions from the South Australian Employment Tribunal, as well as many from the Supreme Court.

Cynical people will say it is because workers are greedy and push the envelope or because their lawyers are greedy and push the envelope. I wholeheartedly disagree with both of those assessments. A consistent experience people have had since the act came into force has been the stubborn approach of the ReturnToWork corporation in how it has managed the scheme. This stubborn approach predated the 2014 act.

The way the scheme was managed by the former WorkCover Corporation under the Workers Rehabilitation and Compensation Act 1986 was just as stubborn. A refusal to resolve claims by way of agreement, usually under redemption agreement, was said to be a policy implemented by the corporation. It meant workers who were keen to resolve entitlements and move away from the scheme were refused, and hence they stayed on the books. These workers built up over time and

became the unfunded liability that was the justification at the time by the government of the day—the Labor government of the day—and the former industrial relations minister of the day, John Rau, to axe the 1986 act and establish the 2014 act.

If the former industrial relations minister and Attorney-General thought that this was a good legacy to leave for our state then he was absolutely mistaken. If this sounds familiar, it should, because it is exactly what the public is now being told. During the transitional period between 1986 and the 2014 act, the corporation saw fit to offer redemptions. There was no change in the terms of the legislation, which meant redemptions were now, as a matter of policy, appropriate. The corporation just allowed it.

In contrast, most self-insured employers, including government departments, were able to competently manage the 1986 scheme as they did, not issue blanket refusals to resolve long-term claims, and generally approach the administration of their matters as commercially minded insurers should to avoid long-term liability wherever possible through appropriate mechanisms under the legislative scheme. Most self-insurers did not bat an eyelid when the first bill was introduced in this place, the Summerfield bill, because they know how to effectively manage their operations, and do so from a commercially minded perspective.

But when that 2014 act commenced there was great uncertainty. Legal challenges began quickly because there were poorly drafted transitional provisions meaning very deserving workers, through no fault of their own, missed out on weekly payments entirely. They included a worker who despite a serious back injury sustained in the workplace continued to work and was not in receipt of payments on 30 June 2015, and missed out on payments as a result, despite needing surgery for an undoubted compensable injury.

The workers who missed out due to the transitional provisions were, generally speaking, people who had properly engaged and returned to work before 1 July 2015. This was a perverse outcome, which tended to punish people who achieved one of the objects of the 2014 act. This unfair outcome has become a recurring theme under the 2014 act, the Labor government's 2014 act, the former industrial relations minister and Attorney-General, John Rau's, 2014 legacy to this place, as it had a tendency to punish people who return to work, struggle and attempt to prevail upon the scheme to compensate them.

Even seriously injured workers who had managed to return to work were precluded from payments because of the terms of the transitional provisions. The point in raising the current problematic transitional provisions is to highlight the very problematic transitional provisions in the current bill that we are now deliberating on. They will have consequences leading to long-term pain, both physical and financial, for many workers.

The point is also to illustrate that workers have not been trying to fleece the scheme, nor have their legal representatives been trying to fleece the scheme. The unrelenting legal challenges since 1 July 2015 have been about basic entitlements to things like the two years of income support and preapproval for surgery.

The Supreme Court has ruled on many aspects of that 2014 legislation, and by and large those rulings have not favoured workers' interests. They include the construction of the provisions used to calculate average weekly earnings that informs the quantum of income support payments, the limitation of the application of the preapproval of medical expense provisions, pre-existing and unrelated physical and psychiatric impairments, and supplementary income support payments after surgery.

It could be reasonably said that the only significant outcome to litigation workers have been able to achieve is a combination of impairments. In a scheme where the degree of impairment which results from a compensable injury is entirely determinative of future rights and entitlements, it cannot be underestimated how important the outcome of the combination litigation has been to workers' rights in South Australia.

The court's decision in Summerfield—and I think by now we all know about the Summerfield judgement and precedent—did not arise suddenly or without warning to the board of the corporation, as has been alluded to by the Hon. Tammy Franks. Combination has been a hot topic since late 2014, when it was known that the 2014 act was going to require many workers in receipt of payments

under the 1986 act to join more than one impairment together to be able to survive the seriously injured test.

The legal challenges began with cases decided under the 1986 act. The first case the Full Court considered, the test for combination under section 43(6) of the 1986 act, was Marrone [2013] SASCFC 67. In 2013, the only relevance of the provision was to quantify how much compensation a worker would receive by way of a lump sum for non-economic loss. The outcome did not determine entitlement periods or long-term rights.

The limited role of section 43(6) was referred to by the Chief Justice in his reasons for decision, and the Full Court reconsidered section 43(6) in the Mitchell case of 2019. Importantly, Mitchell concerned combination for a worker who was trying to establish his rights as a seriously injured worker transitioning from the old act to the new act.

The SAET ruled at first instance and on appeal to the full bench that impairments resulting from the reasonable medical and surgical treatment the worker had undergone in respect of his compensable back injury were from the same trauma. Hence, the worker's many impairments were combined. The Full Court rejected this and affirmed the reasoning of Marrone.

In the background, another dispute was proceeding between a worker named Preedy and the corporation under the 2014 act. Mr Preedy suffered an injury to his right shoulder in compensable circumstances and sought treatment with a physiotherapist. During the course of physio treatment, he suffered an injury to his neck, requiring serious surgery in the form of a fusion. His case was that the two impairments, right shoulder and neck, should be combined because the neck injury resulted from having physiotherapy, the reasonable treatment made necessary only because of the compensable right shoulder injury. Mr Preedy's case was ultimately heard by the Full Court, and on 15 June 2018 it was decided in his favour.

It is safe to say that, as of 15 June 2018, the board of the ReturnToWork corporation has known that section 22(8)(c) has been interpreted unanimously by the Full Court of the Supreme Court to mean something different from 'same trauma', meaning a departure from the meaning attributed to 'same trauma' in Marrone, and it was to be a causal test. At paragraph 55, the court said:

> However, the causal test propounded in s22(8)(c) can be demonstrated by way of illustration where a worker suffers an injury to her right knee at work which causes her to favour that leg with the result that the added pressure on the left knee causes injury to that knee. The worker suffers two separate impairments: one to each leg. Those impairments can be said to be from the same injury or cause, namely, the injury to the right knee. But even if the impairment to the left leg is not from the injury to the right knee, the impairment of the left leg can be said to have been caused by the injury to the right knee.

The court could not have been clearer: the test for combination under the 2014 act was a causal test, allowing for combination of impairments because they were from the same cause rather than impairments arising from exactly the same event or series of events. Yet despite this decision and its clear implications on the scheme, in the following years the board reduced premiums in its decisions.

At the same time, the corporation refused to acknowledge this decision as being a correct interpretation of the law. It soldiered on, stubbornly making submissions in court proceedings subsequent to 15 June 2018, suggesting Preedy had been decided incorrectly and urging the SAET to adopt a different interpretation of the law.

Meanwhile, on 11 April 2019, the Full Court overturned the full bench of the SAET's decision in Mitchell, finding section 43(6) of the old act did not allow for combination of impairments resulting from the adverse consequences of medical and surgical treatment, but this decision only related to the terms of the old act and the words 'same trauma'. It had no application to the new act or the words 'impairments from the same injury or cause', as found in section 22(8)(c).

In the Summerfield litigation, the corporation tried to get a different outcome from Preedy, despite the Full Court having authoritatively ruled upon the meaning of 22(8)(c) in that earlier case. A unanimous decision of the Full Court in Summerfield left absolutely no doubt, and that is that what the court had authoritatively said in Preedy was correct. The refusal by the High Court to grant special leave compounded the result, and the Summerfield litigation came to an end on 5 November 2021.

With the end of the Summerfield litigation, workers in South Australia embroiled in a complex and convoluted scheme finally understood where their rights and entitlements were likely to begin and end when it came to assessments of multiple impairments. Subsequently, the corporation began to offer commercial resolutions of claims to workers who looked like they may be seriously injured because their impairments, only decided in contested litigation in the SAET, would exceed 30 per cent, but only people who had an injury date before 1 July 2015, the so-called transitional claims.

The corporation has continued to refuse to commercially negotiate with people who have had injuries after 1 July 2015, preferring as a matter of policy to put them on the scheme long term, despite the preparedness to take a heavily discounted sum of money to depart the scheme, thus limiting the liability—that is why we are all here, because of this liability—of the scheme and providing certainty for all concerned.

Fast-forward to 2 June of this year, and parliament was presented with a bill that, according to the government, sought to mitigate the impact of Summerfield to prevent a significant rise in premiums for South Australian businesses. The Premier was adamant that this was absolutely the approach that we should take, that he was not going to sacrifice businesses in this state over this legislation, that they needed to be preserved.

The people who did not need to be protected, though, were our injured workers. We were told that, while the scheme initially factored in 60 seriously injured workers, in reality the number is more likely to be 90 to 100. Without legislative amendments, that number would double to 200, and the scheme would require an extra $1.3 million per claim to remain fully funded.

We were told by the government that, if it did not pass this bill before the winter break—not much has changed in terms of that message—the board would be left with no other option than to bring forward its decision to give businesses sufficient notice of a significant rise in the 2023-24 premiums, premiums that would not be due payable for some 11 months. Premiums would rise to 2.2 per cent, which coincidentally would also trigger a review under the legislation, or higher and would devastate business confidence and inconveniently, as I said, trigger a parliamentary legislative review of this failed scheme.

Unions and lawyers expressed their absolute outrage at the rushed introduction of a bill that sought to do away with accrued rights of injured workers while simultaneously shifting the goalposts for future injured workers. But within two weeks, the government had bowed to that pressure. The Premier fronted up to a media conference, flanked by business and union leaders, all apparently in agreement at a new proposal to lift the impairment threshold to 35 per cent for seriously injured workers in exchange for the preservation of the Summerfield precedent.

We saw the bill that we have before us introduced subsequent to that press conference. I think at this point it is probably worth reflecting on some of the comments that were made at that time. The ALA, for one, expressed great concern that the current bill is being rushed through the parliament. The Law Society of South Australia was extremely concerned about the time frames and the real risk of unintended consequences.

Despite having stood next to the Premier and indicated their support for what they thought was an understanding of what they would see, we saw the same level of concern being expressed by the unions in relation to the new bill that was introduced into parliament. Despite an overwhelming call for more time, we have been told by the government in no uncertain terms that if this bill, the one we are now debating, does not pass before the winter break—that is, by Thursday this week—the premiums will increase and ReturnToWork will challenge Summerfield. That is what we are being told.

It would be absolutely devastating to injured workers if the bill were to pass in its current form, so we all find ourselves in the very unfortunate position of having to effectively try to make a bad bill better. Make no mistake: without amendments, this bill will be worse than the first bill proposed by this government.

Let me make it very clear for the record that without amendments, which all members have now had the benefit of seeing, we will not be supporting this bill. Without changes regarding the Summerfield decision and some other key provisions that should have been incorporated in this bill, we will not support this bill. Without consideration of transitional provisions that prevent the

retrospective application of this bill, we will not be supporting this bill. We are not in the comfortable position of considering where we will find ourselves if this bill does not pass but the impacts that this bill will have on injured workers if it does pass.

There will be a number of amendments that will be moved, and we will be speaking further to those as they come up for debate, but I do want to reflect on a few other things that happened in the course of this debate and some of the comments that I have just made. Most of us were here last year when the former minister, Rob Lucas, and former industrial relations minister sat in this place, sat in that chair over there, and issued a direct warning to this parliament, to those opposite, that this issue was absolutely coming their way. It was coming our way.

Of course, he was clever enough to make a series of critical decisions before he left. I might say it in jest, but I am sure that he has been sitting at home with a bowl of popcorn and Maltesers absolutely enjoying the entertainment that this has provided to him from where he sits now. He was clever enough at the time to appoint the former architect of this scheme, John Rau, to the ReturnToWork board before he left.

The cynic, or perhaps the realist, in me cannot help but think that the former minister knew precisely what was coming their way. He was clever enough not to deal with this issue before an election and open that Pandora's box that would have absolutely resulted in his and the former government's demise. That happened anyway, but there is no part of me that questions that that was not a consideration made by the former minister. Whoever had to deal with this issue after the election had a rude surprise coming their way, and as it turns out it is this government and this Premier and this industrial relations minister that got that rude surprise.

Of course, none of us expected, I do not think, that they would handle it the way they did. It is important to note at this point that when I asked the chief executive of ReturnToWork, Mr Mike Francis, when the Premier was first advised about this bill, his advice to me was that the Premier received the original proposed reforms—that is, the Summerfield bill, the bill that overturned Summerfield—in April of this year, just weeks after coming into government. The first time we learned of the changes was when they were introduced in this place at the beginning of June, I think it was 1 June.

The union movement did not learn about this bill until about one or two days before its introduction into this chamber, into this place. Not only did the Premier fail the opportunity to consult on the proposed changes more broadly, he failed to advise his own union rank and file members about what was coming their way. One or two days before the introduction of the bill in this place, that is when they learnt about these changes.

He sat on that bill between April and June when he could have been out consulting with the unions, he could have been out consulting with the legal profession, he could have been out consulting with the broader community about the impacts that this bill would have. He did none of that. He did absolutely none of that, and instead tried to hide behind budget day hype when he introduced the bill into this place. That is when we all learnt about the Summerfield bill that was introduced into this place.

I said it then and I will say it again: that was, and remains, the single biggest act of bastardry and betrayal that this state has ever, ever seen by a government. You would struggle to find a single member of the Labor Party who would disagree with that. Absolutely, I put my house on it that you would struggle to find a single member of this Labor Party who would disagree with that assessment.

We certainly heard from the unions loud and clearly at that point. It smacked of absolute hypocrisy that the Labor Party, who talk about protecting the rights of workers, would introduce a bill and try to ram it through parliament in one week without having consulted not only with the legal profession and injured workers but their own member base. The union movement did not know about this bill in that time that was available to the Premier.

This government treated voters like absolute mugs, and injured workers even worse. It is always the easiest option to take away the rights and entitlements that apply to injured workers. It is always the easiest option to target our most vulnerable members of the community. This approach

is one, of course, that is not new to this government. It was done in 2014 when they moved their previous reforms and it is one that successive governments have continued to practise.

Nobody wants to see premiums rise and businesses suffer, that is not what any of us want. None of us want that burden, but sabotaging injured workers, ignoring their rights to compensation, removing accrued rights to compensation, rights that have been accrued over years—in some cases, we are told, over decades—rather than addressing the broader systemic issues, has not and never will be the answer. We do not need more bandaids. We need to look at the functions of the board and the scheme in its entirety, and that is one thing this government and the previous government and the former Labor government have absolutely failed and refused to do. That is how we find ourselves in this position today.

Had it not been for the pressure applied by the union movement I am not convinced we would be here today considering the amendments we are considering. We know that, and the Premier knew that at the time, but what followed, and what led to the withdrawal of the original bill, is even worse, because those crisis meetings we all knew about that were taking place over that long weekend resulted in a number of undertakings by the Premier. It resulted in a press conference with the unions on one side and the business sector on the other where the Premier said, 'Don't worry folks, we've got this in hand, we're going to fix the bill. We're going to put a new bill into parliament and it's going to fix the Summerfield issue, it's going to address the issue of premiums, and all is going to be right.'

That happened after a morning of phone calls to call-back radio where we had every business sector in the state pleading with the opposition and the crossbench to support the Summerfield bill, to support the original bill. There is not one major business group that I did not hear call in that morning, and say, 'We are urging the opposition and we are urging the crossbench to support the Summerfield bill.'

Within 15 minutes of those phone calls having taken place on air, the Premier was standing in the foyer of Old Parliament House, flanked by the business sector and by the unions—those same business sector representatives who had just been on radio urging us to support a bill that this government intended to withdraw that very day. There was no transparency, no accountability, and absolutely zero honesty on the part of the Premier in the way he conducted himself.

I will say this on behalf of the unions: I do not fault them for standing next to the Premier and agreeing with a number of undertakings that were given to them. I think they pushed this issue hard enough for us to end up with a second bill, which was absolutely required, and the withdrawal of that first bill, but not one of them expected to see a bill subsequently introduced into this place, on the same day, that did not codify Summerfield. That is precisely the reason we were withdrawing the first bill: to codify Summerfield.

We were given a bill that was worse than the first one; we were given a bill that had fewer protections in it than the first one. It does zero of what the Premier had told those stakeholders he would do in terms of undertakings. It beggars belief that he would think this would be acceptable. But we all know that the Premier is not going to end up with egg on his face twice. Unlike the land tax deal, where he cannot unscramble the egg, he has gone away quietly and tried to find a resolution, tried to find a resolution to an issue that he knows is going to result in an even worse outcome than the first bill.

Can I say that the work that went into finding that resolution was done by everyone but the Premier, it was done by everyone but the government. It is the countless hours that individuals from the legal profession and from the union movement, and everyone else who has an interest in this area, has put into this bill that has finally resulted in some amendments that will improve a bill that is otherwise absolutely futile, absolutely pointless, absolutely worse than the first bill introduced in this place.

We did not get here because of our appeals to the Premier. We got here because of our appeals to the sectors who are involved, who were willing to invest the time and effort into making some improvements to what would have been an absolutely catastrophic outcome for the betterment of injured workers, the people we seem to forget at every step of the way throughout these debates, the lowest hanging fruit, the most vulnerable members of the community, who are always sacrificed for bandaid fixes to crappy schemes.

That is how we find ourselves here. That is an absolute atrocity and we should all hang our heads in shame if we think that is a good way to make laws. It should not fall on the legal profession, it should not fall on the unions, it should not fall on stakeholders to fix a government's mess, but that is precisely what it has taken to get us here. I will say that I am extremely grateful to all the individuals who have invested countless hours to ensure that there are improvements to this bill, not because they have any vested interests but because, unlike the government, they are gravely concerned about the impacts of this scheme on injured workers.

We on the crossbench are gravely concerned about the impacts on injured workers, and we are also concerned about the business sector and about premiums and about the concerns that have been raised, but fixing a problem for one sector should not result in absolutely catastrophic outcomes for injured workers, and that has been a habit of this jurisdiction for as long as I can remember, and it is one that we need to move away from.

We need to look at systemic issues around this, we need to consider reviews of the board, the functions of the board and the way we deal with redemptions, the way we keep people on the scheme and everything else that goes along with it, rather than always targeting the most vulnerable people who are at the end of this scheme.

I think I have said enough for now. I will have more to say as we get through the provisions of the bill, but like the Hon. Tammy Franks we reserve our position in terms of the final passage of this bill, pending the outcome of consideration of those amendments.

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (16:41): I thank honourable members for their contribution to the second reading stage. Since this bill passed the house significant work has been done, as members have outlined, in relation to amendments and reforms in this bill, and significant further work has been done in terms of confirming the actuarial and financial projections in relation to potential reforms.

ReturnToWorkSA has sought and received advice from its independent actuary Finity, as it had previously on the impacts of changes in the bill. That advice was provided on 1 July 2022, and the results of a peer review of that advice that I understand had been worked on prior to that in conjunction with the actuarial advice, was provided by PwC on 3 July 2022. Both those documents and a covering document from the ReturnToWorkSA corporation were provided yesterday by email to members of this council. Having regard to these actuarial assessments, ReturnToWorkSA has confirmed its early advice that it is likely, if the bill is passed, that the board will be able to consider the average premium rate setting of 1.90 per cent for the 2023-24 financial year.

Over the past few weeks, the government has consulted very widely with affected stakeholders. There have been many meetings and discussions from a wide range of organisations, and this bill has benefited from the input from the wide range of organisations. There have also been very constructive discussions with other members of parliament in relation to the bill and the amendments that we will be considering shortly.

I take this opportunity to thank all stakeholders who have had an input into the development of these amendments and their detailed and constructive feedback. The government has carefully considered all the feedback it has received and has prepared a package of amendments to ensure the bill reflects the policy and intent as clearly as possible.

The government has had a number of priorities in these amendments. While amendments have been suggested to make the drafting of the bill clearer, to make the operation of the bill fairer or to reduce the scope for further legal disputes over interpretation of the bill, the government has been very happy to consider and has reflected the vast majority of those suggestions in the changes that are put forward in amendments. However, we have been clear that any amendment that is likely to put upward financial pressure on the scheme and increase the average premium rate will not be supported. The package of amendments that have been filed have been developed in close consultation with ReturnToWorkSA to ensure they do not put upward pressure on the average premium rate for the scheme.

Amongst other technical and drafting clarifications, the amendments include codifying the Summerfield decision within the legislation, fairer rules for interim seriously injured workers who cannot yet undertake their permanent impairment assessment, changes to ensure seriously injured workers who accept a lump sum payment under proposed section 56A are not disadvantaged compared to other workers who receive lump sum compensation, ensuring the language for combination of impairments is consistent between key provisions dealing with permanent impairment assessments, and revoking the second edition Impairment Assessment Guidelines that had previously been published and replacing them with the former first edition guidelines for future assessments.

I look forward to the committee stage of the bill and receiving questions and progressing this over the coming hours.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. C. BONAROS: My question is to the minister. What instructions will the minister provide to ReturnToWork in respect of its conduct in litigation before the Court of Appeal where the question of combination arises, principally in the matters of Williams and English, where the corporation has been contending Summerfield as 'plainly wrong'—if this bill is to pass?

The Hon. K.J. MAHER: I thank the honourable member for her question. There are, as always happens, matters ongoing that concern the interpretation of the boundaries around many parts of the operation of the scheme, including the Summerfield decision. The most directly relevant to the boundaries of the Summerfield decision are the matters of Williams and English, which have been joined for hearing before the Court of Appeal. I am advised that if this bill is passed the ReturnToWorkSA corporation will not be seeking to argue in these cases that the Summerfield decision is plainly wrong and be overturned.

The Hon. C. BONAROS: On the flip side, what will be the position of ReturnToWork if the bill does not pass with those amendments around Summerfield?

The Hon. K.J. MAHER: If this bill does not pass, then ReturnToWork will continue with the litigation in its form as is ongoing—are my instructions.

The Hon. T.A. FRANKS: Just a supplementary on that: what is the form of that advice from the board to the minister?

The CHAIR: You are going to need to repeat that, I think.

The Hon. T.A. FRANKS: What is the form that that advice took that was provided to you? Was it in writing? Was it a piece of correspondence? Was it verbal? Who was it from?

The Hon. K.J. MAHER: I thank the honourable member for her question. I have received verbal advice from the corporation, and I am placing that verbal advice on the record here, so I would expect that that is what will happen, should this bill pass.

The Hon. T.A. FRANKS: So the corporation could not be bothered writing it down in a letter and sending it to you or even an email or a text message?

The Hon. K.J. MAHER: I thank the honourable member for her question. I do not think it is a case of not being bothered. It is something that had been discussed. It is what the advice has been and particularly having placed that advice on the record here, I would expect that to be followed.

The Hon. T.A. FRANKS: Why did the board or the government not make any provisions for the possibility that they could lose the court cases of Preedy and Summerfield, and subsequent appeals, particularly after the first one was lost?

The Hon. K.J. MAHER: I thank the honourable member for her question. I know it is something that has been asked a number of times. That was the response to the single judge of SAET, the full bench of SAET. The single judge of the Supreme Court, then the full bench of the

Supreme Court all happened under the previous Liberal government. It would be up to Rob Lucas and others to answer why the government did not take action at that time, but that is a quite reasonable question and one that I think the Hon. Connie Bonaros canvassed reasonably well in her contribution.

The Hon. C. BONAROS: Can I just confirm, for the record, in the most recent hearings that have taken place, has the position of ReturnToWork been to seek instructions on whether to proceed with Summerfield and, in the English case, whether they have sought instructions on how to proceed with the Summerfield case and also a Full Court of the Appeal Court?

The Hon. K.J. MAHER: What is it that the member would like me to clarify beyond what I—

The Hon. C. BONAROS: There are matters that are still being heard by the court at the moment in relation to Summerfield. What has been ReturnToWork's position in relation to Summerfield in those cases? Perhaps that is a better way of framing the question.

The Hon. K.J. MAHER: If I need further clarification I am happy for the honourable member to ask me, but my advice is the minister does not give instructions to the corporation on the running of cases. What I have been advised is that if this bill passes the argument that the Summerfield principles are plainly wrong will not be pursued because Summerfield will be codified in this legislation. The scope of the application of Summerfield in individual cases will still be something that is subject to litigation.

The Hon. C. BONAROS: This is a very important question because it goes to the heart of some of the issues that we are being asked to decide today and, despite the absence of written advice, I am asking the minister again to just confirm for the record that if this bill were to pass with the Summerfield provisions in place then ReturnToWork would be abandoning the challenge on the basis that Summerfield is plainly wrong; is that correct?

The Hon. K.J. MAHER: As I said, that is what I am advised and that is what ReturnToWork have said, that they will be abandoning that argument that Summerfield was plainly wrong.

The Hon. C. BONAROS: Given the importance of this issue and given that it goes to the heart of the issue, if the outcome of this bill is that it does not pass in the form that is acceptable to the government, however that may look at the end of the debate, then those challenges to the Summerfield decision will continue?

The Hon. K.J. MAHER: Yes, that is my advice.

The Hon. C. BONAROS: In terms of another element of this bill, the bill refers to a date fixed by proclamation. When does the government actually intend to proclaim this bill?

The Hon. K.J. MAHER: My advice is that a large part of the bill is intended to be proclaimed at the start of August, but other parts that require more operational work will come into effect at a later date. The transition provisions for the seriously injured worker threshold will be operational from 1 January 2023, but the very large part of the bill from early August.

The Hon. C. BONAROS: So those provisions around codifying Summerfield are intended to take effect from the August date that the minister has referred to?

The Hon. K.J. MAHER: My advice is yes.

The Hon. H.M. GIROLAMO: In regard to the actuarial advice, can I please ask that that advice, along with the PwC report, be tabled?

The Hon. K.J. MAHER: I am very happy to do that. The reports were sent around, I think, to the opposition and to members of this chamber. I am happy to seek leave to table a letter from the ReturnToWorkSA corporation, dated 3 July 2022. I also table a report from Finity actuaries, dated 1 July 2022, and a report from PwC, dated 3 July 2022.

Leave granted.

The Hon. H.M. GIROLAMO: Just following on from that, the scheme actuarial advice provides a range based on sensitivity analysis. One scenario describes that it is quite possible that

premiums could exceed 2.2 per cent. Is the Attorney confident that the business community is aware of these possible outcomes and the nature of it?

The Hon. K.J. MAHER: My advice is that the actuarial advice from Finity accounts for a whole range of different scenarios: low impact, high impact, mid-range impact and a range for each of those. Based on Finity's advice, which feeds into what ReturnToWork then set as the average premium rate, the advice is that the likely average premium rate, based on the actuarial advice, would be 1.9 per cent.

The Hon. H.M. GIROLAMO: Following on from that, have the proposed changes or amendments coming through today been factored into that advice?

The Hon. K.J. MAHER: The advice was based on the bill as it passed the House of Assembly. The amendments that have been put forward have been developed with ReturnToWork to make sure they do not put upward pressure on a premium rate.

The Hon. C. BONAROS: Again, because it goes to the core of the deliberations today, what advice has the board given to the government about premium impacts if this bill does not pass this week and the timing of any action by the board in that regard?

The Hon. K.J. MAHER: I thank the honourable member for her question. The advice we have—based on previous work that Finity, the actuaries, have done, peer reviewed, like this one was, by PricewaterhouseCoopers and then considered by the corporation about what the average premium rate would be—has been that, in the absence of legislative change, the average premium rate would be in the order of 2.2 per cent.

The advice from the ReturnToWork board—I cannot remember exactly the number of weeks, but a month or so ago—was that, in the absence of legislative change before the winter break, they would intend to meet sometime in the middle of the year to determine the rate for the 2023-24 financial year and set the rate based on the advice to the corporation, which the corporation have said is in the order of 2.2 per cent.

I think after a request from the Leader of the Opposition in relation to the board, the board reconfirmed their intention that that would happen sometime in the middle of the year in the absence of legislative change.

The Hon. C. BONAROS: To confirm for the record, would those notices then be issued to businesses?

The Hon. K.J. MAHER: Yes. My advice is that those notices would then be issued to businesses, largely on the basis of such a dramatic increase—from the year before, it would be in the order of something like a 30 per cent increase in premiums—to give businesses enough time to have notice of what they would be facing in the 2023-24 financial year.

The Hon. C. BONAROS: Those premiums would not be payable for some 11 months in the proceeding period, though.

The Hon. K.J. MAHER: That is correct. They would not be payable for some months, but the decision was, with such a dramatic increase, to give some certainty to businesses. It became very clear in discussion with stakeholders. There are a number of businesses, for example in the building industry, with fixed-term contracts who need to factor their costs of business into what they do into the future. That was a decision of the board, to flag that in advance so that businesses would know what they were up for, essentially.

The Hon. C. BONAROS: To confirm, we have received advice that there is no mechanism in the bill to withdraw, retract or change those premium rates once that notice has been issued; is that actually the case?

The Hon. K.J. MAHER: My advice is that that is correct. There is no mechanism to revisit the premium once a decision has been made.

The Hon. H.M. GIROLAMO: Has the government received any advice regarding the impact on the scheme's funding ratio and also the impact on the unfunded liability?

The Hon. K.J. MAHER: In relation to this bill?

The Hon. H.M. GIROLAMO: In relation to this bill.

The Hon. K.J. MAHER: My advice is that the combination of measures taken in this bill is estimated to reduce the unfunded claims liability in the order of $400 million.

The Hon. C. BONAROS: Has the government costed the scheme if it were to be prospective as opposed to retrospective in its application?

The Hon. K.J. MAHER: Could the member perhaps explain further, so that I am answering the question correctly?

The Hon. C. BONAROS: The bill has retrospective application. If it were to be prospective in its application, from a date, has the government taken that into account in terms of its costings to the scheme?

The Hon. K.J. MAHER: My advice is, whilst there is not the separate, big-part actuarial work in relation to that, the effect of not setting that transitional period would mean that $400 million in unfunded liabilities that you would reduce would not be reduced. You would not get the scheme back into its target funding range, and it would be, I think, highly unlikely the scheme would be able to perform under 2 per cent, as is the legislated target.

The Hon. H.M. GIROLAMO: In regard to the funding ratios, you mentioned before about the $400 million, which is great. What is the impact then on the scheme's funding ratio with the changes to the new—

The Hon. K.J. MAHER: The $400 million?

The Hon. H.M. GIROLAMO: Yes, assuming that that is the flow-on.

The Hon. K.J. MAHER: I am advised it takes the scheme back into its target funded ratio of between 90 per cent and 120 per cent. The estimate is that it would be in the order of somewhere around 95 per cent funded.

The Hon. H.M. GIROLAMO: Is the minister confident that the rate will still sit around 1.9 per cent moving forward if the proposed bill goes into operation—if the proposed bill does happen?

The Hon. K.J. MAHER: On the advice I have received, that is the estimated outcome if this bill passes with the amendments, that it will sit, all other things being equal, for the 2023-24 financial year around 1.9 per cent. Of course, massive movements in the world economy will affect it. That is why I said all other things being equal, but for the known knowns now, that is the estimate.

The Hon. H.M. GIROLAMO: Will the government rule out any additional loading or deficit repair levies going forward? Will it be calculated?

The Hon. K.J. MAHER: My advice is that there is no intention to set some sort of separate deficit levy. My further advice is that there would not be a need to, because you are in the target funding range.

The Hon. T.A. FRANKS: I think that something should be put on the record, so I am going to ask it as a question for the minister, even though it is publicly available information. What have been the premiums for each year, annually, of the workings of this scheme?

The Hon. K.J. MAHER: I have the last three years for the honourable member. For the 2020-21 year the average premium rate was 1.65 per cent, for 2021-22 it was 1.70 per cent, and for 2022-23 it has been set at 1.8 per cent.

The Hon. T.A. FRANKS: With respect, actually the full set of figures will provide a clearer picture, for the record.

The Hon. K.J. MAHER: I can provide that. It is in the ReturnToWork covering letter to the actuarial advice. In 2017-18 the average premium rate was 1.8 per cent, in 2018-19 it was 1.7 per cent, in 2019-20 it was 1.65 per cent, in 2020-21 it was 1.65 per cent and in 2021-22 it was 1.7 per cent, and the premium set for 2022-23 is 1.8 per cent.

The Hon. T.A. FRANKS: In terms of the Preedy decision in 2018, why then did premiums go down?

The Hon. K.J. MAHER: That would be one I would have to take on notice. I can bring back a reply in relation to that year, what the factors were that informed that.

The Hon. T.A. FRANKS: As a supplementary to that, and the minister may care to bring this back, has the minister been able to access the information of the actuarials following the Preedy decision in 2018 and what preparations the corporation made at that point?

The Hon. K.J. MAHER: I thank the honourable member for her question. I do not have—and if they are already non-public actuarial assessments I expect I will not be able to access them, as a new government. I will certainly make inquiries, and I undertake to provide what I can to the honourable member.

The Hon. H.M. GIROLAMO: Referring back to the 90 to 120 per cent range, what specific changes in this bill helped to secure that range and how confident are you that that will be achieved?

The Hon. K.J. MAHER: The combination that was considered in the actuarial work and the peer review that take into account the transitional provisions that reduced the unfunded liability by that estimated $400 million, the provisions that raised the WPI from 30 to 35 per cent, and the election for a payment of that lump sum economic loss combined, is what is estimated to bring the scheme back into the financials that allow the average premium rate to be set at 1.9 per cent, as well as the funding ratio to be within that range of 90 to 120 per cent.

The Hon. C. BONAROS: I am just going to go back to the transitional provisions that we discussed. Should the government's amendments around those provisions be successful in this debate, what undertaking is the government willing to make to ensure that ReturnToWork facilitate appointments to take place prior to that 1 January 2023 date that he has referred to?

The Hon. K.J. MAHER: I thank the honourable member for her question. It is one that has been raised in the consultations. I can certainly say it is my expectation, and I have passed that on to the corporation, that nothing will be done that will hold up those assessments for your WPI. If there are any stakeholders involved that are finding any problems or concerns I am very keen to hear that.

The Hon. C. BONAROS: I am hoping that, in addition to nothing being done to hold it up, there will be a proactive approach in terms of ensuring those appointments are facilitated as far as practicable.

The Hon. K.J. MAHER: I can assure the honourable member that is being passed on as well.

The Hon. C. BONAROS: Can I ask a question about the undertakings the government gave to stakeholders, unions and businesses, indeed anyone else they have been dealing with, in terms of the ReturnToWork board, its policies and management of the scheme? What were the undertakings given to the unions and the business sector as part of that—I am not sure if we call it an MOU, I am not sure what it was—in relation to the management of the scheme?

The Hon. K.J. MAHER: There were a number of suggestions, as we have traversed these changes that have been put forward, that we think are sensible suggestions. We have committed to making sure there is a review of the policies and procedures and practices of ReturnToWork, and we are keen to see that happen. I know the honourable member herself has a motion before the chamber for a select committee and when we get to it, I think, later in the week we will continue discussions to see if that can play a part in that as well.

The Hon. C. BONAROS: I want to tease that out a little further and perhaps break down the specific commitments that were given. My understanding is that there is a systemic review that has been agreed to take place in 2027. Prior to that—and leaving aside the motion that is going to be debated in this place tomorrow—there are a number of other reviews involving perhaps interstate jurisdictions and so forth that have been agreed to. Can we have a breakdown of those reviews that have been agreed to by the government?

The Hon. K.J. MAHER: Suggestions have been made, and we have taken them on board, in relation to the comment the member previously made regarding undertaking a review into practices, policies and procedures. It has been suggested—and we think it is a good idea, a sensible thing—that a much broader systemic review take place in a number of years' time. That would be

able to look at a whole range of things, including how these particular changes we are making today are having effect. In legislation we often see clauses for reviews, and we are happy to agree to suggestions that we do that in a number of years' time. If my memory serves me correctly, I think the commitment in relation to assessing was a review in 2027.

The Hon. C. BONAROS: Can the Attorney explain how that date was arrived at, 2027, whatever date that may be, but the year perhaps?

The Hon. K.J. MAHER: I do not think there was any particular science behind the date of 2027; I think it was to give time for these changes to be properly understood. It is for a review sometime in the future. We often see clauses in bills for a review a number of years in the future. It was not a date informed by something expected to happen at that date, but so that there was time to look at these changes and see their effect.

The Hon. C. BONAROS: Perhaps other than a state election, but we will leave that aside for the moment. Just going back to the undertakings given in relation to facilitating appointments, for the record can you also confirm that there will be no unilateral cancelling of appointments in relation to having those assessments done? We have confirmed that we are going to be proactive in our approach. I would like confirmation that we are not going to have any unilateral cancellation of appointments leading up to that 1 January 2023 time frame that has been alluded to.

The Hon. K.J. MAHER: My advice is that the corporation cannot think of a reason why an appointment would be cancelled unilaterally, and that is certainly not the intention.

The Hon. C. BONAROS: The government has indicated that there will be another bill brought to this place later this year. Can the minister outline what he understands will be covered by that bill to date? Bearing in mind that, as a result of this bill, there may be other factors that fall into that same basket, but at this point in time what is his understanding of what that bill will cover?

The Hon. K.J. MAHER: I thank the honourable member for her question. It is something I traversed I think in the second reading speech of the original bill that was brought to this chamber, that we would spend some months looking particularly at section 18 of the act on returning people to work and looking at ways that that section could work better if there are legislative and policy changes that give better effect to the intention of the act, that is, it is in injured workers' interests and business interests that people are returned to work.

We will look particularly at section 18, at ways workers can return to work in a better way. I said in the second reading speech in relation to the first bill that we will spend those months over the winter break in particular to look to do that. If there is anything we did not contemplate in the bill before us, we are open to that as well.

The Hon. H.M. GIROLAMO: In regard to the $400 million being covered by the unfunded liability, in the first bill it was indicated that the range could be up to $1.2 billion or $1 billion. If we take $400 million off that we still potentially have a substantial unfunded liability that could be as high as $600 million or $800 million. Can you explain how that will be covered, and also explain the potential impact on the scheme's funding ratio, given that that range of 90 to 120 per cent is quite a big range?

The Hon. K.J. MAHER: I thank the honourable member for her question. My advice is that that reduction of $400 million would bring it back into that target funding ratio. Between 90 to 120 per cent is a range, but by reducing it by $400 million you would bring it back into that targeted funding ratio.

The Hon. H.M. GIROLAMO: You are confirming that it is likely to be the lower end of the 90 per cent, or are you saying that it could be at 120 per cent? What has been factored into the actuarial reports?

The Hon. K.J. MAHER: My advice is that, with the reduction of $400 million on outstanding liabilities of the corporation, that would get you well back into the target range and be a funding ratio of about 95 per cent.

The Hon. C. BONAROS: Can the minister tell us what level of engagement has occurred over this bill or the previous bill with self-insurers?

The Hon. K.J. MAHER: My advice is that there has been communication with SISA (Self Insurers of South Australia) about what has been put before parliament and no concerns were indicated.

The Hon. C. BONAROS: Did they provide a reason as to why there were no concerns raised on behalf of their membership?

The Hon. K.J. MAHER: I will take that on notice and check, but my advice is there has been communication, given what I have now. If there is further I can add, I am happy to go back and do that for the honourable member.

The Hon. C. BONAROS: I just have one overarching question for the minister. Given what he has said about the Summerfield precedent if this bill is not passed and the intention of the board to issue notices around premiums, what is the government's position in terms of its overall plan if this bill is not to pass? What will be the effect of that? What do you plan to do?

The Hon. K.J. MAHER: If this bill is not passed, based on all the advice we have, it is likely that premiums will be set in the middle of the year for the 2023-24 financial year at 2.2 per cent. I do not instruct the corporation in relation to individual pieces of litigation. If this bill is not passed, as I indicated before, I am sure the corporation will continue with the current direction of litigation, particularly in the Williams case.

The Hon. C. BONAROS: Has the government given any consideration to what it would do in light of those outcomes in terms of any further legislative reform?

The Hon. K.J. MAHER: I think the government would have made an attempt to make reform that brings the premium back. We would have tried, it would have failed and the premium would go up, and the corporation would continue on its trajectory in terms of what it is putting forward to challenges in the courts.

The Hon. H.M. GIROLAMO: Where are we currently sitting with the unfunded liability? Assuming the bill goes through, can you confirm for the record what the unfunded liability is likely to be and how many years it is going to take to pay back?

The Hon. K.J. MAHER: I am going to try to get this right, and if I need to stop and add and correct I will. My advice is that without something to constrain the unfunded liabilities it is likely that there would have to be a reasonably aggressive strategy to get the unfunded liabilities further under control, because it would be difficult to meet the target funding range.

With the mitigation that this bill provides, I am informed that it will not be as necessary to be as aggressive in recovering the unfunded liabilities. I am informed it will take, either way, some years to pay off, but that is influenced by a whole range of things; that is, the performance of the scheme, international markets, investments. It is not intended either way, whether this bill passes or not, that it would be paid off quickly. It will be some years.

The Hon. H.M. GIROLAMO: So the unfunded liability: what do you believe it is going to be sitting at, or what are you forecasting it to be?

The Hon. K.J. MAHER: My advice is that the estimate of the full impact over time—the estimate of the Summerfield decision—would be in the range of $1 billion and maybe even more, but that is taking into account the full impact over time. My advice is that the estimated changes on this will reduce it by about $400 million, but it is possible it could be a better result than that given that the changes will come into effect now rather than the estimate of what the full impact of Summerfield would be. I am advised that if this bill comes into effect the estimate is it could be as low as a $400 million deficit, that we might see not just $400 million but, with the effect of this bill, the possibility of not seeing increases in costs. Reducing it to a $400 million liability is the estimate advice I have received.

The Hon. H.M. GIROLAMO: In regard to that, potentially there is either around $400 million or $500 million that still needs to be paid back, assuming this bill goes through. That will need to be factored in along with the break-even premiums, so obviously a portion of that will be applied each year to the premium and passed on to businesses?

The Hon. K.J. MAHER: My advice is a deficit in this range is factored into the estimated 1.9 per cent APR, taking into account other things like the BP advice.

The Hon. C. BONAROS: I have a couple of questions around Impairment Assessment Guidelines. Has ReturnToWork calculated the net impact of the change in threshold from 30 to 35 per cent; that is, how many seriously injured workers will that impact in terms of changing the threshold from 30 to 35 per cent?

The Hon. K.J. MAHER: The way that I have been advised is that currently there are about 100 seriously injured workers a year. The estimate from the Summerfield decision is approximately 200 injured workers a year. The effect of the rise from 30 to 35 would see the estimate being 140 to 170 injured workers per year, so the estimate is somewhere between 30 and 60 injured workers.

The Hon. C. BONAROS: Just to confirm, assuming all things go smoothly with the Impairment Assessment Guidelines consultation process in relation to the third revised set, and noting that we are in due course going to consider amendments intended to enshrine the first version of those IAGs, is it the government's intent that doing both those things will somehow mitigate some of the adverse impact?

The Hon. K.J. MAHER: My advice is that the advice at the time, apparently, was that when we went from the first to the second set it would not have a material impact, and the advice that I have is that going back from the set that currently goes to what was there before therefore also will not have a material impact.

The Hon. C. BONAROS: Just on those numbers that the minister referred to—because I think it is important to get this on the record, given the public comments that have been made by the Premier about this bill—we have talked about the scheme originally anticipating 60 seriously injured workers, and then it was 90 and now we are envisaging 200. The CEO of ReturnToWork, Mr Francis, confirmed with me, and I would like the minister to confirm the same, that in respect of both these bills the impact on workers is not actually limited to those 200. The impacts could very well impact workers into the thousands. That is the advice that we have received at briefings with the CEO of ReturnToWork. I would like that confirmed on the record.

The Hon. K.J. MAHER: Yes, while it will have an impact on those numbers for those who reach the seriously injured worker test threshold, there are each year a few thousand who do not meet that threshold and receive lump sum payments. The codifying that this bill contemplates certainly has the potential to impact all of those in terms of combining injuries, even though it does not meet the threshold.

The Hon. C. BONAROS: I am not going to pretend for a moment to be an economist or anyone experienced in actuarials—and I think the Hon. Ms Girolamo has handled those questions very well—but it has been put to me that we should place on the record that, when we are talking about this unfunded liability, we are not actually talking about a debt, we are talking about an arithmetic calculation, and it is only one that would apply if all workers were paid out their entitlements on any given day, based on the averages that have been provided to us by ReturnToWork.

The Hon. K.J. MAHER: My advice is that the way the scheme is accounted for is that, in the year that an injured worker is determined to come into the scheme, the scheme anticipates and collects what the whole cost would be. So the year an injured worker comes into the scheme, their whole cost is accounted for, for their lifetime under the scheme.

The Hon. H.M. GIROLAMO: Can I confirm that it is a contingent liability? Is it contingent on being drawn down, or is it basically that you have an accurate amount that you are going to be paying out?

The Hon. K.J. MAHER: I thank those with much greater accounting knowledge than mine for their questions. We have people from the scheme here today; we do not have accountants here today. I am happy to take that on notice and provide the honourable member with a reply because we do not have the people who do that here at the moment.

Clause passed.

Clause 2 passed.

Clause 3.

The ACTING CHAIR (Hon. R.A. Simms): There is an amendment to clause 3 in the name of the Hon. Cory Bonaros—apologies, honourable member, I've done that before!

The Hon. C. BONAROS: I can be Cory today if you like, Acting Chair.

The ACTING CHAIR (Hon. R.A. Simms): The Hon. Ms Bonaros, would you like to speak to your amendment?

The Hon. C. BONAROS: Thank you, Acting Chair. I am trying to think of something to call you, but nothing is springing to mind. Thank you, Mr Lucas—that was low, wasn't it?

The ACTING CHAIR (Hon. R.A. Simms): Touché.

The Hon. C. BONAROS: I move:

Amendment No 1 [Bonaros–1]—

Page 3, lines 5 and 6 [clause 3(2)]—Delete subclause (2)

This amendment seeks to delete subclause (2) of clause 3 of the bill. The concept of stability under Return to Work is not currently defined but does appear in section 22 of the act and is an important concept. A legislative definition of 'stability' should, from my viewpoint and certainly from that of members of the legal profession whom I have consulted with, be considered by the parliament and not be made by reference to the guidelines, given the significance of its role in assessments of permanent impairments under the act.

'Stability' and 'maximum medical improvement' are defined two different ways in both Impairment Assessment Guidelines; that is, version 1 and version 2. The bill does not provide certainty to which definition would apply at any one time, so it is not appropriate, based on the advice that we have received, to define the term by guidelines. We are effectively referring to another instrument to define that term.

I am absolutely wholly supportive of the parliament, this place, amending the act to define 'stability', particularly for workers who have a progressive terminal illness such as dust diseases, but I think this needs to be considered by parliament and a definition needs to be enacted in the legislation itself.

We should be consulting with groups that specialise in the types of terminal illness and disease matters that are affected by these provisions to ensure the definition properly addresses the perceived shortfalls of the current scheme. I have to say I understand that the government's intent here was a good one, but concerns have been raised about the unintended consequences potentially of that good intent. If I can give you an example, if we have a worker with a terminal diagnosis under the current scheme, it allows for an insurer to argue, for instance, that the worker's injury has not stabilised until death, meaning that they do not receive the right to a permanent impairment assessment.

I do note that this issue arose in the case of Symeon v Southern Cross Care. The worker in that case was faced with the very real potential that, without the intervention of the tribunal, they would not have received an impairment assessment because Southern Cross Care refused to accept that their injury had stabilised because it was terminal and she was still alive. It should not have got to that point, basically, I think is the advice that we have had.

It is a failing of the scheme that the worker had to pay for legal representation to come to court just to get to square one of an assessment, and we are very fortunate that in that case a decision was made where they did in fact get to square one. That is the practical reality of the absence of this definition, but the concern that has been raised about the definition that has been provided via another instrument, which will be disallowable by this parliament, is that it may have some unintended consequences. We do not know which guidelines we are necessarily talking about. There is a third set of guidelines that are going to be canvassed.

It should come as no surprise that, and I have made this clear to the minister, I have had ongoing discussions with legal professionals who represent workers in the dust diseases area. This is an area that impacts them, but I think they need to be part of the discussion in terms of further

consultation around this provision. Whilst I appreciate the government's attempt to try to remedy an issue that was raised with them, the concerns that have been raised with us are that this may have some unintended consequences or there is a lack of clarity around it, and that this is an issue that should be further contemplated by parliament.

I am hoping the government will tell us that, as part of any further reforms, this is one of the issues that will be considered in terms of providing a definition of 'stability' in the act itself, subject to that level of consultation that needs to take place.

The Hon. K.J. MAHER: I wish to place on the record that we will be supporting the Hon. Connie Bonaros's amendment. She has characterised it quite correctly. This was an attempt to address concerns for diseases that necessarily do not stabilise, like dust diseases, but we do take on board the Hon. Connie Bonaros's point that it may well be better to regularise that in legislation rather than leave it up to another instrument that could be subject to change. The honourable member is right. It was coming from a good place, but we do take on her point and it is something we are happy to look at in the future and in the course of the things that are coming for the next tranche.

The Hon. T.A. FRANKS: My question had been twofold: how did the government envisage the definition of 'stabilise' to affect cases where we do see the gradual onset of injury or degenerative injuries and conditions? Supplementary: how then does the government respond to the Law Society's suggestion that it may not be appropriate for terms in an act to be divined solely by subordinate legislation, in this case the Impairment Assessment Guidelines?

The Hon. K.J. MAHER: I thank the honourable member for her question. To the second one first: yes, we accept that. We accept that it is a better way to do it, to do it in the legislation itself rather than in instruments such as guidelines, and that is why we will be supporting the Hon. Connie Bonaros's amendment. I will just add, too: the first question is that is what we would have had a look at in terms of putting in guidelines, how that would be defined to take into account those sort of degenerative diseases that have no prospect of stabilisation, like dust diseases. That is something now we will look at in the coming months, rather than in the guidelines—looking at how we might give effect to that in the legislation itself.

The CHAIR: The Hon. Ms Girolamo, would you like to indicate the opposition's position?

The Hon. H.M. GIROLAMO: Sure. The opposition would like to indicate that they support the Hon. Ms Bonaros's amendment.

The Hon. T.A. FRANKS: Chair, for the sake of the record and your ability to count, the Greens support the Hon. Connie Bonaros's amendment.

The CHAIR: I am not sure whether I should be taking exception to that.

The Hon. T.A. FRANKS: It was given with love.

The CHAIR: Well, I will accept it. Thank you.

Amendment carried; clause as amended passed.

Clause 4 passed.

Clause 5.

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

Amendment No 1 [IndRelPubSec–1]—

Page 3, line 13 [clause 5(1), inserted subsection (2)(a)]—Delete ‘work injury has’ and substitute:

work injury or injuries have

Amendment No 2 [IndRelPubSec–1]—

Page 3, line 17 [clause 5(1), inserted subsection (2)(b)]—Delete ‘work injury has’ and substitute:

work injury or injuries have

These amendments are technical amendments that have been identified. The legislation refers to 'work injury has'. Given that the intention of this bill is to codify the Summerfield principle of

combination, we are changing 'work injury' to 'work injury or injuries' to note that it can be multiple injuries. I move those amendments standing in my name to clarify that language.

The Hon. T.A. FRANKS: I actually had some questions about this amendment of the government. How many workers will now no longer be able to access ongoing compensation as seriously injured workers should the whole person impairment threshold be raised to 35 per cent for physical injuries?

The Hon. K.J. MAHER: I thank the honourable member for her question. It is one I think the Hon. Connie Bonaros asked before. The scheme has about 100 seriously injured workers at the moment. The estimate was that the effect of the Summerfield decision would raise that to about 200 seriously injured workers. If you have Summerfield stand but raise it from 30 to 35 per cent, the estimate is there would be 140 to 170 seriously injured workers, so that is 40 to 70 more than without Summerfield but, conversely, 30 to 60 fewer than if Summerfield just by itself, unabated, stood. So 40 to 70 more than pre-Summerfield, but the estimate is 30 to 60 fewer than if it was not raised to 35 per cent.

The Hon. H.M. GIROLAMO: In regard to the actuarial notes, the bill does little to risk a tail liability based on behavioural incentives, to accumulate for the purpose of ensuring you have a whole person injury, or substantial. How does the minister intend to deal with this issue to ensure that additional costs are not incurred in the event that whole person injury rates escalate?

The Hon. K.J. MAHER: My advice is that is one of the factors that is taken into account actuarially, that is built into the range of the premium, that the corporation intends to proactively manage claims for seriously injured workers and to look at ways to return workers to work as early as reasonably possible given the circumstances, to look to take into account that sort of behavioural change that the actuaries build into their assessments.

The Hon. H.M. GIROLAMO: In regard to amendments Nos 1 and 2, the opposition will be supporting both those amendments.

The Hon. C. BONAROS: I indicate we will be supporting these two amendments.

Amendments carried.

The CHAIR: The next indicated amendment I have is amendment No. 3 in the name of the Attorney. I also have amendment No. 2 in the name of the Hon. Ms Bonaros, which is virtually identical. I believe the Attorney's was filed first.

The Hon. K.J. MAHER: I indicate that, on the basis of discussions with the Hon. Connie Bonaros, the government does not intend to move our amendment No. 3 in favour of the amendment the Hon. Connie Bonaros will be moving momentarily.

The Hon. C. BONAROS: I move:

Amendment No 2 [Bonaros–1]—

Page 3, line 22 [clause 5(2), inserted subsection (3)]—Delete 'Pending stabilisation of a worker's work injury or work injuries' and substitute:

Pending an assessment of permanent impairment

The amendment speaks to the current wording of 21(2). The only eligibility for interim seriously injured workers assessment is that you have not had the final assessment, but when you do it will be 30 per cent or more. This amendment seeks to keep the status quo.

Importing the concept of stability, based on the advice we have received, creates additional hurdles for seriously injured workers to meet, which is not desirable and does not achieve the bill's policy intent, or the government's intent, in terms of keeping the scheme viable and providing fair compensation. This is because it will give insurance companies another basis to deny claims that are otherwise legitimate.

I will give an example for members: a person who has had three surgeries would be deemed stable, but cannot have their final assessment because they have more surgeries on the horizon, potentially, and undergoing a different form of treatment in the meantime, so they are not then regarded as interim seriously injured workers. In practice this is likely to be used as a loophole to

deny seriously injured workers access to interim coverage, when they are not needing imminent major treatment like surgery.

A person who legitimately may need coverage under the act may not be covered because of the word 'stability'. This walks back the proposed policy shift on interim seriously injured workers, which was intended to produce an additional requirement that you established that your injury had not stabilised, which has the capacity to produce even more unintended consequences, and arguably then more legal challenges and greatly diminished outcomes. It is on that basis that we are proposing this amendment.

The Hon. K.J. MAHER: For the sake of completeness, given that it is almost identical to the government amendment, we agree with the amendment and the explanation put forward by the Hon. Connie Bonaros.

The Hon. H.M. GIROLAMO: The opposition is happy to support this amendment.

Amendment carried.

Sitting suspended from 18:01 to 19:45

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

Amendment No 4 [IndRelPubSec–1]—

Page 3, line 36 to page 4, line 30 [clause 5(2), inserted subsections (4) to (4e)]—Delete inserted subsections (4) to (4e) and substitute:

(4) An interim decision under subsection (3)—

(a) must be made in accordance with any requirements or principles prescribed by the regulations; and

(b) will have effect until—

(i) an assessment of whole person impairment has been made and determined under Division 5; or

(ii) it appears that, due to a material improvement in the worker's likely degree of whole person impairment, the worker's degree of whole person impairment is no longer likely to be—

(A) in the case of physical injury—35% or more; or

(B) in the case of psychiatric injury—30% or more.

(4a) Before bringing an interim decision to an end under subsection (4)(b)(ii), the Corporation must—

(a) give the worker at least 3 months written notice of its intention to bring the interim decision to an end under that subsection; and

(b) give the worker a reasonable opportunity during that 3 month period to furnish information to satisfy the Corporation that it is appropriate for the interim decision to continue.

For the benefit of the committee, I might just go through in a little bit of detail now some of the amendments that have been put forward that are consequential or directly related to this amendment, because there are a number that follow. After discussions with the Hon. Connie Bonaros—she has amendments that are very similar or directly related to some of these—we will proceed with the government ones, and I understand the Hon. Connie Bonaros will not be moving her amendments as a result of the government ones.

I have moved amendment No. 4 and I will speak to it in just a moment. Related to that or consequential are government amendments Nos 8, 15, 16 and 23. On the basis of the government moving those amendments I understand that the Hon. Connie Bonaros will not be proceeding with the substantive amendment on this area, which is Connie Bonaros No. 4, but also the ones that are consequential or directly relate to that, which are Bonaros amendments Nos 3, 13, 17, 18 and 19. They are interrelated, but I thought it would be important just to get on the record what are almost test suggested clauses, if you like, for those suggested clauses that depend upon this one.

Government amendment No. 4, and this particular amendment—and then we will talk about the ones that follow it afterwards—are amendments that simplify provisions relating to interim seriously injured workers compared to the original bill. The amendments make clear that interim seriously injured workers can only have payments discontinued if they are no longer likely to reach the serious injury status, and the corporation is required to give at least three months' notice before discontinuation of those payments.

The Hon. C. BONAROS: I rise to indicate, as the minister has said, that I will not be moving those amendments, but will support the government's amendments, which result in largely the same outcome despite getting there in a slightly different way. The intent of the amendments is the same; we have just chosen a different route to get to the same outcome. I might speak to them now.

The government amendments, and indeed the amendments that we had sought, address serious shortfalls which are evident in the bill. I think it is actually fair to say that this is one of the non-negotiables in terms of amendments to the bill in addition to the Summerfield amendments. The Law Society, legal representatives, ALA, unions have all contacted my office, and I am sure that of other members as well, to indicate that in its original form as proposed around these amendments this bill would have been disastrous in its effect, in its application.

That is because they would see interim seriously injured workers constantly under threat from having their rights removed within short spaces of time, namely, 12 months, and needing them to go before a tribunal to dispute interpretation of 'stabilise' at the end of each 12-month period. This involves of course more legal costs, more costs to the scheme, and I think, as raised by the legal profession, it completely undermines the policy intent of the government in terms of its original bill, and the objectives of the act in particular, which is to provide fair compensation to seriously injured workers.

I am satisfied on the basis of feedback that the concerns now would be largely ameliorated with the proposed amendments. I am confident that the bill in its original form could not have been the result of consultation with any group representing employees, workers, including union movements, given the serious shortfalls and massive undermining of workers' rights at the worst possible time of their lives, had we proceeded with the original proposal of the bill.

I think the government's latest amendments do strike the right balance in amending these concerns, and again I am pretty sure that without these amendments this certainly would have been a dealbreaker for many of the stakeholders who engaged with government in terms of what needed to be done to bring this bill up to scratch. Notwithstanding that, I think also the government would have had a very difficult time in trying to convince all of us that their policy intent around interim seriously injured workers was actually being achieved by the original proposal that had been proposed in the bill.

That was not reflected in any of the conversations that we had, and I do not think it was reflected in any of the feedback to the government, but I think this set of amendments—whichever one you had gone for—I think the government's chosen suite of words deals with the same issues that we tried to address in ours, but I think it overcomes those hurdles, and is therefore a welcome addition to the bill. For those reasons, we will be supporting this set of substantive and consequential amendments that relate to it.

The ACTING CHAIR (Hon. T.T. Ngo): Could I just get the Hon. Ms Connie Bonaros to confirm that she will not be moving amendments Nos 3, 4, 13, 17, 18 and 19?

The Hon. C. BONAROS: My understanding is I will not be moving 3, 4, 13, 17, 18 and 19.

The Hon. H.M. GIROLAMO: I will just briefly comment that the opposition will be supporting this amendment as well.

Amendment carried; clause as amended passed.

Clause 6.

The ACTING CHAIR (Hon. T.T. Ngo): We will move to amendment No. 5 by the Hon. Ms Bonaros.

The Hon. K.J. MAHER: If I may just speak on clause 6 generally before we get to the Hon. Connie Bonaros's amendments. There are three groups of amendments that the Hon. Connie Bonaros and I have both proposed to clause 6 that go to a very similar thing. I understand the first amendment to clause 6 is the Hon. Connie Bonaros's amendment No. 5.

The honourable member will not be moving that and in preference, once we get to it, my amendment No. 34 does the same thing, and I think from our discussions that the Hon. Connie Bonaros will support that. Then, once we get to the Hon. Connie Bonaros's amendment No. 6, it is substantially the same as my amendment No. 5, and I will not be moving my amendment No. 5 in preference of the Hon. Connie Bonaros's amendment No. 6.

Finally, on clause 6, the Hon. Connie Bonaros's amendment No. 7 and my amendment No. 6 have substantially the same effect, and I understand the Hon. Connie Bonaros will not be moving her amendment in preference to the slightly different wording in the government amendment No. 6. We have had a lot of discussions. I think that is where we are headed in relation to that—I am getting some nods—if that is helpful to the committee.

The Hon. C. BONAROS: I indicate that I will not be moving amendment No. 5 [Bonaros-1], but will instead be supporting the government's alternative amendment that deals with the same issue.

The ACTING CHAIR (Hon. T.T. Ngo): If that is the case, then we will move on to clause 6, amendment No. 6 by the Hon. Ms Bonaros.

The Hon. K.J. MAHER: I indicate that I will not be moving my amendment No. 5 and that I will be supporting the Hon. Connie Bonaros's amendment No. 6.

The Hon. C. BONAROS: I move:

Amendment No 6 [Bonaros–1]—

Page 5, after line 26—Insert:

(2a) Section 22—after subsection (8) insert:

Note—

The Parliament confirms that this subsection is to be interpreted and applied in accordance with the principles enunciated in the reasons of the Full Court of the Supreme Court in *Return to Work Corporation of South Australia v Summerfield* [2021] SASCFC 17.

(2b) Section 22—after subsection (9) insert:

(9a) For the purposes of this section, an assessment (or parts of an assessment) may be undertaken by more than 1 accredited medical practitioners and their assessments combined so as to create 1 assessment.

The amendment seeks to insert a note into the bill which reads:

The parliament confirms that this subsection is to be interpreted and applied in accordance with the principles enunciated in the reasons of the Full Court of the Supreme Court in Return to Work Corporation of South Australia v Summerfield [2021] SASCFC 17.

I think it is pretty explanatory on the face of it what this amendment does. It seeks to codify the Summerfield precedent that has been the subject of the debates that we have had and the discussions that have taken place during these debates.

After seven years of litigation, the correct approach to the assessment of multiple impairments was finally and successfully addressed by the South Australian Supreme Court, which has accurately and correctly interpreted section 22(8)(c) where multiple impairments from the injury or cause are to be combined.

The decision of the court is a critical aspect of how the scheme is to operate where multiple impairments are to be assessed and taken into account when determining lump sum entitlements and whether a worker is a seriously injured worker. It is critical for working people in South Australia who have had the misfortune to suffer a workplace injury to know their rights and where they stand when it comes to assessing their impairments, and that certainly has been lacking until the court's

final ruling in Summerfield. Without this certainty, workers, employers and insurers do not know where they stand and the operation of the scheme is absolutely undermined.

The Summerfield decision correctly identified parliament's intent with respect to how multiple impairments from the same injury are to be treated. It is also the reason why the first bill, the codification of Summerfield, is intended to make it abundantly clear that it is this parliament's intention that section 22(8)(c) and combination generally under the act occur in accordance with the court's reasons in the Summerfield decision. To the degree the earlier bill suggested otherwise, it is parliament's intention to abandon the concept of same trauma where it related to the treatment of multiple impairments.

I have spoken already about the policy intent of this and, indeed, the politics around this during the second reading debate and in some of my earlier contributions. I will not expand on them now, but I think the underlying premise for this amendment is important to place on the record. I look forward to the support of this amendment from the chamber.

The Hon. T.A. FRANKS: I just indicate we understand that there is a combination of both government and the Hon. Connie Bonaros's amendments being put to effect the same thing. We support the process as outlined by both the Hon. Connie Bonaros and the Hon. Kyam Maher and believe that confirming the intent to stick to Summerfield principles is something strongly welcomed by the Greens. Indeed, for a bill that we were told was brought on by the result of the Summerfield decision and that the government promised in its arrangements and negotiations that it would enshrine, it is actually good to see it finally explicitly placed into the legislation and we welcome that.

The Hon. H.M. GIROLAMO: The opposition will also be supporting this amendment. We are supportive of it given that it provides more clarity on the bill, especially around Summerfield.

Amendment carried.

The ACTING CHAIR (Hon. T.T. Ngo): The next amendment is amendment No. 7 [Bonaros-1]; is that correct?

The Hon. C. BONAROS: For the record, I indicate I will not be moving amendment No. 7 [Bonaros-1] but will be supporting the government's amendment No. 6 [IndRelPubSec-1].

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

Amendment No 6 [IndRelPubSec–1]—

Page 5, lines 27 and 28 [clause 6(3)]—Delete subclause (3) and substitute:

(3) Section 22(10) and (11)—delete subsections (10) and (11) and substitute:

(10) Subject to subsections (12) to (15) (inclusive), if—

(a) a worker has had a whole person impairment assessment under this section; and

(b) another impairment from the same injury or cause develops or manifests itself after that assessment,

then that other impairment—

(c) will be assessed separately; and

(d) —

(i) will not be combined in any respect (whether under this section or sections 56 or 58) with the impairment or impairments that have already been assessed; but

(ii) may be combined with any other impairment from the same injury or cause that has also developed or manifested itself after the earlier assessment.

Example—

A worker suffers impairments arising from injuries A and B which both arise from the same cause. The worker has those impairments assessed under section 22. After the assessment of the impairments arising from injuries A and B,

> the worker develops further impairments from injuries C and D which arise from the same cause as injuries A and B. The worker is entitled to be assessed for the impairment arising from injuries C and D and to combine the impairments from those injuries. However, the worker cannot combine the impairments arising from injuries C and D with the impairments arising from injuries A and B under this Act.

This is a substantially similar amendment to the one that the Hon. Connie Bonaros is not moving. This amendment spells out what the intention is in a post-Summerfield understanding of combination of injuries and importantly provides, as part of the legislation, an example of how the combination works, in particular in relation to the one assessment rule. It provides an example of how it is possible to combine injuries after the one assessment.

The Hon. C. BONAROS: I rise to indicate, as I said, our support for this amendment. It is supplemental to the Summerfield codification. It is a significant amendment that will provide great certainty for workers and employers with respect to the so-called one assessment principle. Parliament's attention is with respect to subsequent impairments that develop or manifest after the first assessment is made that will be compensable and assessable but not combinable with the earlier assessment.

The current working of section 22(10) is very unclear and produces unfair outcomes, particularly for catastrophic-type industries such as terminal dust diseases. Parliament's review and amendment of this provision is necessary to ensure the unintended and unfair consequences of the current provision—including, for instance, impairments that tend to develop or manifest gradually and which can have profound and adverse consequences on a worker's health and wellbeing—are overcome.

Without this amendment, for instance, someone with a terminal dust disease may be denied the right to a further assessment for subsequent impairment that develops or manifests later, even where that impairment is both compensable and validly assessable. It is on those grounds that we say this amendment is absolutely necessary and supplements the Summerfield codification. As such, we will be supporting it.

The Hon. H.M. GIROLAMO: The opposition will also be supporting this amendment.

Amendment carried; clause as amended passed.

Clause 7.

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

Amendment No 7 [IndRelPubSec–1]—

Page 5 lines 36 to 39—This clause will be opposed

This amendment deletes a clause that refers to 'recovery/return to work services' in the same provision that deals with medical expenses. Our advice is that there are conflicting single-member decisions in SAET about whether recovery/return to work services are a form of medical expenses. The amendment ensures that the bill applies to these services regardless of the outcome of any interpretive dispute in this area.

The Hon. C. BONAROS: I rise to indicate our support for this amendment.

The Hon. H.M. GIROLAMO: The opposition also supports the amendment.

Clause negatived.

Clause 8 passed.

New clause 8A.

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

Amendment No 8 [IndRelPubSec–1]—

Page 6, after line 3—Insert:

8A—Amendment of section 48—Reduction or discontinuance of weekly payments

(1) Section 48(2)—after paragraph (h) insert:

(ha) the worker—

(i) has been receiving weekly payments on the basis of an interim decision under section 21(3); and

(ii) the interim decision is brought to an end under section 21(4)(b)(ii); or

(2) Section 48—after subsection (10) insert:

(10a) If the Corporation is acting under subsection (2)(ha)—

(a) the notice under subsection (6) must be given as soon as practicable after the decision is made (but not necessarily before it takes effect); and

(b) subsection (10) does not apply.

This is to insert a new clause that, in effect, will mean that SAET can continue payments to interim seriously injured workers during a dispute.

The Hon. C. BONAROS: I indicate our support for this amendment.

The Hon. H.M. GIROLAMO: The opposition also supports the amendment.

New clause inserted.

Clause 9 passed.

New clause 9A.

The Hon. C. BONAROS: I move:

Amendment No 8 [Bonaros–1]—

Page 6, after line 14—Insert:

9A—Amendment of section 54—Redemptions—liabilities associated with medical services

Section 54(2)—delete subsection (2)

The amendment would allow any worker to enter into an agreement with their insurer to redeem medical expenses, even if they are seriously injured. The current act prohibits workers who are seriously injured workers from redeeming future medical expenses, even when they have the legal and medical advice that it is in their best interest to do so. A lifetime right to medical expenses for seriously injured workers marries them to the insurer for life and takes away their autonomy, their right to privacy and their right to decide for themselves what treatment and when they will seek such treatment without having to justify a case to a manager as to why that treatment is necessary.

Case managers have the right to delve very deeply into the privacy aspects of an injured worker's medical records, to demand to see medical records and notes, even if those records are not related to the injury in question, because they say they need to make sure that the medical treatment is not for some other medical condition the worker may be suffering from. This means that medical treatment records for very personal medical conditions are routinely obtained and gone over with a fine-tooth comb by insurers who may be trying to find any reason possible to deny medical treatment funding.

In theory, it may sound like it does not happen, but we are advised that this happens very regularly for injured workers who find themselves in this category. For many workers, the thought of this being a lifelong marriage to an insurance company for basic medical treatment is too much and creates a relationship fraught with anxiety and oftentimes conflict.

The amendment I am moving would allow a worker, properly advised by a legal practitioner and a medical practitioner, to enter into an agreement with the insurer to redeem that entitlement. This is currently available for seriously injured workers in respect of income support, and I believe it should be available for medical expenses as well. There have been lots of reasons that we have

heard around this issue, not many that I can think that actually justify not redeeming medical expenses.

We have had cases in support of this, where people have actually wanted to uproot and leave the country but have been tied to an insurer on the basis that those medical expenses are paid for here, so they cannot just get up and decide to leave and perhaps go back to their country of origin or know that they cannot return and choose to retire to another place because they are forever tied to the WorkCover scheme. That is not good for anybody. It is not good for the scheme. It is absolutely not healthy for the scheme, and it is absolutely not healthy for a seriously injured worker.

The amendment supports the government policy intent to keep the scheme viable by allowing suitably advised workers to redeem future entitlements rather than remain on that system for life. There is a saying that has been going around for some time when it comes to WorkCover, which basically is: if you were not broken before you entered the scheme, then you will certainly be broken by the time you come out of it. That is not something that any of us in this place should be proud of. It is something that we should absolutely, as a parliament, hang our heads in shame about.

This is yet another amendment that seeks to effectively bring an end to what is often described as a very unhealthy, ongoing, lifetime commitment that someone has to a scheme, when all they really want is to get on with their lives, put this issue behind them, put it to bed and move on. Having them tied to the scheme for the purpose of medical expenses being paid for, at the expense of their own privacy and self-autonomy being degraded to the extent that it is—and in practice we know that happens often—is not acceptable.

I have used the example time and time again when I have spoken to people about this of the poor old worker who develops polyps and has an argument with ReturnToWork about whether their polyps have been the result of their injury sustained at work or some other matter that is private to their own lives, and they are having to justify seeking medical treatment to ReturnToWork about something like that. I think it is particularly degrading, humiliating and completely inappropriate and does not serve the scheme well. Indeed, it undermines the overall policy intent of the scheme when we talk about keeping that scheme viable and letting people move on with their lives.

It is for those reasons that I am really urging everybody in this place, the government included, to consider this amendment favourably. I do not think you will find a lot of opposition to it. Self-insurers have also expressed, certainly to me, that this would assist greatly in terms of their model of dealing with these in a commercially viable way. If they could have access to this, in the cases where somebody wants it, then they would. I think we also need to give people the respect and dignity they deserve to manage their own medical affairs and also their own financial affairs.

One of the justifications for not supporting this that was put to me was that, 'Well, somebody might blow the money,' much like we had with the big screen TVs and bonus payments where people cannot be responsible for their own finances. I think that is insulting and offensive to the workers who are covered by these provisions, and I am urging all honourable members to consider it favourably.

The Hon. K.J. MAHER: I thank the honourable member for bringing this amendment forward. It certainly is an issue that in consultation over the last few weeks has been canvassed, raised and discussed with stakeholders. The honourable member is right: the policy intent behind the ability to allow injured workers to get off the scheme and allow them to get on with their lives is not inconsistent with what the honourable member is moving. We will not be supporting this amendment, but we understand the policy intent behind it.

As I said, in consultation there have been differing views about it. We are not closed off to considering it when we bring forward other changes, but until we have more discussions we will not support the amendment at this time. That does not mean we will not support something like this in the future. I can confirm that, regardless of whether this amendment gets up or not, it will not add any financial cost to the scheme.

The Hon. R.A. SIMMS: I rise on behalf of my colleague the Hon. Tammy Franks to indicate our opposition to the amendment. We understand that this amendment could make a real difference to workers who no longer wish to be attached to the scheme, but we also understand the concerns raised by the union and the government about the workers no longer being able to afford the medical

treatment they may later need in life. We would be open to this amendment at a later date if there has been more consultation and more consideration and, indeed, additional safeguards. My colleague Tammy Franks may have something additional to add.

The Hon. T.A. FRANKS: No, I am good.

The Hon. H.M. GIROLAMO: We will be supporting this amendment. I thank the Attorney for confirming that it does not necessarily have an impact on the scheme's premiums. From our perspective, we are always supportive of people being independent of government, and I think this is a good opportunity for this amendment to go through and for people to have that freedom and not be tied to the scheme any longer than they have to be.

The committee divided on the new clause:

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

AYES

Bonaros, C. (teller)	Curran, L.A.	Franks, T.A.
Girolamo, H.M.	Lee, J.S.	Lensink, J.M.A.
Pangallo, F.	Simms, R.A.	Wade, S.G.

NOES

Bourke, E.S.	Game, S.L.	Hanson, J.E.
Hunter, I.K.	Maher, K.J. (teller)	Martin, R.B.
Ngo, T.T.	Wortley, R.P.	

PAIRS

Centofanti, N.J.	Pnevmatikos, I.	Hood, D.G.E.
Scriven, C.M.		

New clause thus inserted.

Clause 10.

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

Amendment No 9 [IndRelPubSec–1]—

Page 6, after line 20—Insert:

(2a) Section 56(5)—delete subsection (5) and substitute:

(5) If a worker suffers 2 or more impairments arising from the same injury or cause, those impairments will be assessed together and combined to determine the degree of impairment of the worker (using any principle set out in the Impairment Assessment Guidelines).

This amendment is an aid to clarity. It seeks to match the language of section 22(8)(c), that of same injury or cause, rather than same trauma. Given the bill adopts and codifies the Summerfield decision, this removes a potential element of confusion that could have the unintended consequence of leading to further litigation, which none of us wants. I understand that it is substantially almost similar to the Hon. Connie Bonaros's amendment No. 9 as well, which I understand the honourable member is supporting in favour of the amendment I have just put forward.

The Hon. C. BONAROS: Yes, that is the case, Chair. I rise to indicate our support for the amendments to 56(5) and 58(6) which complete the codification of the Summerfield judgement and ensure consistency of language and concepts concerning the treatment of multiple treatments for same injury or cause.

The ACTING CHAIR (Hon. T.T. Ngo): The Hon. Ms Bonaros, could I confirm that you are not moving your amendment No. 9; is that right?

The Hon. C. BONAROS: I am not moving my amendment No. 9.

Amendment carried.

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

Amendment No 10 [IndRelPubSec–1]—

Page 6, line 21 to page 7, line 11 [clause 10(3)]—Delete subclause (3)

This seeks to delete subclause (3) which means it does not have any impact on changes where a worker has more than one entitlement. In effect, it does nothing one way or another in relation to issues that are before the court in relation to the Jackermis litigation.

The Hon. C. BONAROS: I rise to indicate that we will be supporting this amendment. The government bill amending 56(6) produced arbitrary and unreasonable results which are not acceptable, and certainly were not acceptable by stakeholder groups including the Law Society, legal representatives and the union movement.

The government has indicated that it will review the operation of 56(6) in the future following the further appeal of the decision of Jackermis to the Court of Appeal. I intend to hold the government to account on that in due course to require legislative review of this section should the Court of Appeal rule adversely on its interpretation, resulting in an unfair outcome to injured workers. I note for the record that I will not be moving my amendment but that the government has undertaken to review section 56(6) and I intend to hold them to that irrespective of the outcome of the Jackermis case and support this amendment that it is moving.

Amendment carried.

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

Amendment No 11 [IndRelPubSec–1]—

Page 7, after line 11—Insert:

(3a) Section 56(8) and (9)—delete subsections (8) and (9) and substitute:

(8) Only 1 claim may be made under this Division in respect of any impairments that have been combined as provided by section 22 and this section (and any impairment or impairments that are not combined under section 22 will not be combined under this section).

This amendment removes the ability to have different arrangements by regulation. There are currently no circumstances prescribed by the regulation. The amendment seeks to reflect what section 22(10) as modified now states and is moved to avoid any doubt of the clause.

The Hon. C. BONAROS: We will be supporting this amendment.

The Hon. H.M. GIROLAMO: We will be also supporting the amendment.

Amendment carried; clause as amended passed.

Clause 11.

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

Amendment No 12 [IndRelPubSec–1]—

Page 7, after line 23 [clause 11, inserted section 56A]—After subsection (1) insert:

Note—

A lump sum payment will be calculated in accordance with section 56, subject to the operation of this section.

This amendment provides guidance. It is attempting to clarify how a lump sum election payment is calculated for the avoidance of doubt. The note specifies that election payments are calculated in accordance with section 56.

The ACTING CHAIR (Hon. T.T. Ngo): Do any honourable members want to speak on this? The Hon. Connie Bonaros?

The Hon. C. BONAROS: Other than to indicate our support for this amendment, no.

Amendment carried.

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

Amendment No 13 [IndRelPubSec–1]—

Page 7, line 29 [clause 11, inserted section 56A(3)]—Delete 'the election takes effect' and substitute:

the lump sum payment is made

This amendment seeks to ensure that an injured worker who makes an election under proposed section 56A will continue to receive weekly payments until they receive the lump sum election payment.

The Hon. C. BONAROS: I rise to indicate our support for this amendment.

Amendment carried.

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

Amendment No 14 [IndRelPubSec–1]—

Page 7, lines 30 and 31 [clause 11, inserted section 56A(3)(a)]—Delete 'within the meaning of section 24(1)'

This amendment is intended to avoid any potential difference in reading the application between section 24(1) and section 33(2)(c) regarding recovery/return to work services.

Amendment carried.

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

Amendment No 15 [IndRelPubSec–1]—

Page 7, line 31 [clause 11, inserted section 56A(3)(a)]—

After 'for the work injury' insert:

or injuries for which the election is made

This is a technical amendment that clarifies that, in the context of physical injury, a single work injury or multiple work injuries may result in permanent impairments, and therefore changes the words 'for the work injury' to 'or injuries for which the election is made'.

Amendment carried.

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

Amendment No 16 [IndRelPubSec–1]—

Page 7, line 32 [clause 11, inserted section 56A(3)(b)]—Delete 'for the work injury' and substitute:

for—

(i) the work injury or injuries for which the election is made; or

(ii) another impairment arising from the same cause as the work injury or injuries for which the election is made.

This is another technical amendment to give effect to what is intended by the bill. It deletes 'for the work injury' and substitutes 'the work injury or injuries for which the election is made; or' and subparagraph (ii) 'another impairment arising from the same cause as the work injury or injuries for which the election is made.'

Amendment carried.

The Hon. C. BONAROS: I move:

Amendment No 11 [Bonaros–1]—

Page 7, lines 33 to 37 [clause 11, inserted section 56A(4)]—Delete subsection (4)

This amendment seeks to delete proposed subsection 56A(4) from the bill. The government bill provided that where an injured worker reaches a seriously injured worker threshold of 30 per cent for psychiatric injury and a seriously injured worker threshold of 35 per cent for physical injuries, if the worker elected to receive an economic lump sum payment they would no longer have the entitlement to compensation as a seriously injured worker on account of their psychological injury. This amendment deletes that clause.

It is an extremely small cohort of people who find themselves in that position, and it is utterly unacceptable that the bill, in its original form, sought to take away rights from a person who was seriously injured in respect of both physical and psychological harm. It is important to note that there is absolutely no justification for the deprivation of those rights.

The advice I have received from ReturnToWork and the briefings we have had from the government is that in four years there have been just 10 cases that would fall in that basket of entitlements that the government sought to remove from the scheme. Each year there are only seven workers who actually manage to reach the pure psychological harm impairment threshold—seven in a year—and over four years there have been only 10 injured workers who have managed to satisfy this particular provision. Of the seven in a year, we are told that four cases reach a 30 to 35 per cent threshold and only three cases ever make it over 35 per cent.

That is an extraordinarily low number of people, and shows just how high we have set the benchmark when it comes to pure psychological harm. That is one of the terms of reference that has been included in the committee which will be voted on tomorrow. It is particularly important that we focus on this and on the way we treat pure psychological harm, particularly in today's environment and given the overtures that have been made by this government in relation to their commitment to dealing with mental illness across their policies as a government.

For the record, if there is any provision in this bill that is mean-spirited, spiteful and absolutely opportunistic on the part of ReturnToWork then it has to be this one. I suppose the minister can indicate for the record, or otherwise, whether that was snuck into this bill as a mean-spirited cost-saving measure. In reality, we know that the cost savings attributable to this provision are very low because of the very high benchmark. It is almost impossible to reach that threshold, so to deny someone those payments because they have received an economic loss lump sum payment would, as I said, the utterly unjustifiable and a complete deprivation of rights for those individuals.

I am glad the government has seen sense and supports this amendment, and I urge all honourable members to do the same.

The Hon. K.J. MAHER: I indicate that, for many of the reasons outlined by the Hon. Connie Bonaros and the niche way this would apply if it stood in the bill, given the very, very small numbers, we will be supporting the Hon. Connie Bonaros's amendment. I indicate we will not be proceeding with my amendment No. 17, which goes to the same matter.

Amendment carried.

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

Amendment No 18 [IndRelPubSec–1]—

Page 8, lines 10 to 17 [clause 11, inserted section 56A(7)]—Delete subsection (7) and substitute:

(7) If a worker makes an election under this section, the worker is entitled to continue to receive weekly payments under section 41 as a seriously injured worker until the day immediately preceding the day on which the lump sum payment under section 56 in respect of the election is paid.

This amendment provides a safeguard to seriously injured workers who elect to take a lump sum. It means they will continue to receive weekly payments up until the day before they receive the lump sum payment.

Amendment carried.

The Hon. K.J. MAHER: I move my amendment in an amended form:

Amendment No 19 [IndRelPubSec–1]—

Page 8, lines 18 to 26 [clause 11, inserted section 56A(8)]—Delete subsection (8) and substitute:

(8) There will be a reduction of the lump sum payable under section 56 to a seriously injured worker who makes an election under this section by the amount of any weekly payments made to the worker after the end of the period of 104 weeks from the date on which the incapacity for work first occurs, other than weekly payments made in accordance with subsection (7) after—

(a) in the case of an election made by a 50% or more WPI worker—the day on which the relevant application is referred to the Tribunal under this section; or

(b) in any other case—the day on which the election is received by the Corporation.

This amendment seeks to ensure that all seriously injured workers get the benefit of the first 104 weeks of weekly payments. It also seeks to provide parity for seriously injured workers who can directly elect and those who need to apply for an election and require the approval by the tribunal.

The Hon. H.M. GIROLAMO: What is the cost and potential impact on premiums of that change?

The Hon. K.J. MAHER: We tested all the amendments the government is supporting or putting forward, and the advice we have is that it is estimated that they will not have any material impact that could put pressure on the average premium rate.

The Hon. H.M. GIROLAMO: If that is the case, then the opposition is happy to support it.

Amendment carried.

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

Amendment No 20 [IndRelPubSec–1]—

Page 8, line 39 [clause 11, inserted section 56A(11)]—After 'for the purposes of subsection (5)(b)(i)' insert:

if satisfied that the election is in the best interests of the worker

This is for clarification. It seeks to make clear what the tribunal must determine in respect of an approval for an election to receive a lump sum payment in lieu of ongoing weekly payments for a worker whose injuries have been assessed at over 50 per cent of the whole person impairment test. It inserts, after 'for the purpose of the subsection (5)(b)(i)' new words 'if satisfied that the election is in the best interests of the injured worker'.

The Hon. H.M. GIROLAMO: The opposition will support this.

Amendment carried.

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

Amendment No 21 [IndRelPubSec–1]—

Page 9, line 19 [clause 11, inserted section 56A(17)]—After 'to an' insert:

application for an

This is a very minor technical amendment to clarify and to make it abundantly clear that the corporation will be liable for costs associated with an application made by the worker under the proposed section 56A(17).

The Hon. H.M. GIROLAMO: The opposition is happy to support this amendment.

Amendment carried; clause as amended passed.

New clause 11A.

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

Amendment No 22 [IndRelPubSec–1]—

Page 9, after line 24—Insert:

11A—Amendment of section 58—Lump sum payments—non-economic loss

(1) Section 58(6)—delete subsection (6) and substitute:

(6) If a worker suffers 2 or more impairments arising from the same injury or cause—

(a) those impairments will be assessed together and combined to determine the degree of impairment of the worker (using any principle set out in the Impairment Assessment Guidelines); and

(b) the worker is not entitled to receive compensation by way of lump sum under subsection (4) in respect of those impairments in excess of the prescribed sum.

(2) Section 58(9) and (10)—delete subsections (9) and (10) substitute:

(9) Only 1 claim may be made under this Division in respect of any impairments that have been combined as provided by section 22 and this section (and any impairment or impairments that are not combined under section 22 will not be combined under this section).

I understand from discussions that the Hon. Connie Bonaros will not be moving her amendment No. 12. They are very similar and seek to do the same thing—that is, to aid clarity. The amendment seeks to match the language of section 22(8)(c)—that of 'same injury or cause' rather than 'same trauma'. Given the adoption in the proposed amended bill of the Summerfield decision, this removes potential elements of confusion or litigation.

The Hon. C. BONAROS: I indicate for the record that I will not be moving my amendment.

The Hon. H.M. GIROLAMO: The opposition will be supporting.

New clause inserted.

Clauses 12 and 13 passed.

Clause 14.

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

Amendment No 23 [IndRelPubSec–1]—

Page 10, lines 35 and 36 [clause 14, inserted paragraph (ba)]—Delete ‘not to extend the period of operation of an interim decision under section 21(4b)’ and substitute:

to bring an interim decision under section 21(3) to an end under section 21(4)(b)(ii)

This amendment is consequential on government amendment No. 4 that we canvassed much earlier, at clause 5. It deletes the words 'not to extend the period of operation of an interim decision under section 21(4b)' and substitutes the words 'to bring an interim decision under section 21(3) to an end under section 21(4)(b)(ii)'.

The Hon. H.M. GIROLAMO: The opposition will also support this amendment.

Amendment carried; clause as amended passed.

New clause 14A.

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

Amendment No 24 [IndRelPubSec–1]—

Page 10, after line 36—Insert:

14A—Amendment of section 115—Powers of Tribunal on application

Section 115(1)—before paragraph (a) insert:

(aa) in the case of an application for an assessment of whole person impairment under Part 2 Division 5—give directions the Tribunal considers necessary to expedite the assessment; or

This amendment allows for the tribunal to have power to give directions to expedite a whole person impairment assessment under section 22 of the act.

The Hon. H.M. GIROLAMO: The opposition are also happy to support this amendment.

New clause inserted.

Clauses 15 to 17 passed.

Schedule 1.

The CHAIR: We have amendments to the schedule. I have amendments in the name of the Attorney-General, but also the Hon. Ms Bonaros that appear to be quite similar.

The Hon. K.J. MAHER: It might be useful just to make some general comments about the schedule, the amendments we have provided and an explanation of the transitional provisions we are going to consider. The government amendments include several provisions which are designed to ensure the transition provisions operate as clearly as possible. It may assist members if at the outset I provide a plain language explanation of how they are intended to apply to injured workers currently on the scheme.

For existing seriously injured workers, workers who have been determined to be seriously injured will continue to be treated as seriously injured under the bill. There will be no change in the entitlement of those workers. Existing seriously injured workers, other than those with an injury attributable to trauma before 1 July 2015, will also be eligible to elect to receive a lump sum payment under the proposed section 56A, and the calculation of this payment is subject to certain modifications in recognition of the fact that many existing seriously injured workers will have already been in receipt of weekly payments for a period of time.

In relation to new seriously injured workers, the increase in the serious injury worker threshold to 35 per cent for physical injuries will come into effect on 1 January 2023, and all workers will be subject to that higher threshold if the date of their final examination is later than 1 January 2023, other than those workers taken to be interim seriously injured workers prior to that date. For existing interim seriously injured workers, if a person is taken to be an interim seriously injured worker before 1 January 2023, referred to in the amendments as a category 1 seriously injured worker, the worker will continue to be treated as an interim seriously injured worker.

Also, the worker will have an additional 12 months to undergo their permanent impairment assessment before they are subject to the higher 35 per cent seriously injured threshold for physical injuries that will then apply to those workers from 1 January 2024. If the worker chooses to undergo their impairment assessment prior to 1 January 2024, the worker will be treated as seriously injured if they have a whole person impairment of 30 per cent or more.

Also, the worker will be eligible to elect to receive a lump sum payment under section 56A. However, the calculation for payment is subject to certain modifications that reflect the fact that (a) they have already been in receipt of weekly payments for a period of time and (b) they have been assessed as seriously injured at 30 per cent, and therefore the maximum lump sum compensation is calculated at a maximum of 29 per cent. If the worker does not undergo their impairment assessment prior to 1 January 2024, then they will be subject to the higher 35 per cent seriously injured threshold for physical injuries.

Finally, for new interim seriously injured workers, if a person is taken to be an interim seriously injured worker after 1 January 2023 date, referred to in the amendments as category 2 seriously injured workers, the worker will be subject to the higher 35 per cent seriously injured threshold for physical injury. The worker will be able to elect to receive lump sum payments under section 56A.

However, the calculation for payment is subject to certain modifications for the fact that they have already been in receipt of weekly payments for a period of time. However, the maximum lump sum payment will be calculated by reference to the higher 35 per cent seriously injured workers for psychiatric injuries. For psychiatric injuries, there will be no changes for those psychiatric injuries that result in serious injury and therefore will not have an election option. That is just by way of how, as amended, the intended transitional provisions are intended to work.

The CHAIR: The Hon. Ms Bonaros, are you going to speak to this amendment?

The Hon. C. BONAROS: Thank you, Chair. I have competing amendments on this one. As a bundle, it is amendments 14, 15, and 16. Can I move them as a package, Chair?

The CHAIR: No.

The Hon. C. BONAROS: Or at least move the first one?

The CHAIR: No. Attorney, are you going to move your amendment?

The Hon. K.J. MAHER: Sorry, I have amendment 25 standing in my name. This amendment is in effect consequential on amendment 32, and amendment 25 seeks to insert the definitions of the category 1 and category 2 seriously injured workers I referred to in my summary of how the transitional period of the amended bill would work. This is consequential on one that comes further. I move:

Amendment No 25 [IndRelPubSec–1]—

Page 11, after line 13 [Schedule 1, clause 1(1)]—Insert:

Category 1 seriously injured worker means a worker who, at any time during the period appointed by proclamation for the purposes of this definition (the *Category 1 designated period*), is (or becomes) an interim seriously injured worker;

Category 2 seriously injured worker means a worker who, at any time during the period appointed by proclamation for the purposes of this definition, being a period commencing immediately after the end of the Category 1 designated period, becomes an interim seriously injured worker;

compensating authority means the Corporation or a self-insured employer;

If it aids the committee, this might be regarded as a test clause on the differences between what we are proposing under our transitional scheme and what the Hon. Connie Bonaros is proposing under hers. I think this is probably a useful test clause to see which version of the transitional scheme the committee prefers. It might be worth having the full debate on this clause about the differences in what we are proposing. I might allow the Hon. Connie Bonaros to speak on this amendment and to treat it as a test of which version of the package is preferred by the committee.

The Hon. C. BONAROS: I think that is clear. I know that my substantive amendment to this is No. 15, and 14 and 16 are consequential on 15. It is my intention to move those amendments in competition to the government's amendments, on the basis that the amendment would allow eligible injured workers to save their claim to be seriously injured at 30 per cent, by putting in a valid claim for compensation by 1 January 2023.

Based on the advice I have received, and many in this place have received, I have moved this because it is deemed necessary, because the person assessment scheme is managed exclusively by insurers who, regardless of whether we like to admit it or not or face the reality or not, hold all the power as to when and how assessments are undertaken and when they take place, even with the ability to unilaterally cancel appointments without any notice to workers.

I note that at the outset, at clause 1, the minister made a number of undertakings around encouraging ReturnToWork to be proactive in this area, to do the right thing in terms of their intended amendment over mine, but the fact still remains that under the government's proposal, as opposed to ours, the insurers will hold all the power when it comes to when and how assessments will take place.

This means government transitional provisions, which allow only six months for this complex and very convoluted process to occur, are in my view inadequate and could and will result in many people missing out. I think that is utterly unacceptable. I think the scheme can be properly managed with the amendment that has been provided, which has been the subject of very thoughtful consideration and deliberations by the legal profession and requires a valid claim to have been brought by the designated date.

If a worker is not able to arrange their own assessment, and where an insurer fails to take action timely enough and that examination takes place before 1 January 2023, that worker loses out. The government transitional provisions do not provide adequate protection to those workers, short and simple. I say that against the backdrop of the best undertakings that this government has given to ensure that there is a proactive approach. The reality of the situation is that there will be workers who miss out as a result of these transitional provisions over our transitional provisions if they were to be supported.

I do not support, and cannot support, retrospective amendments where workers are not in control of how and when their appointments take place. That lies purely and solely with insurers. I find it astounding that we would support something that would put more workers in that position, where they simply do not have control over when that appointment will take place, if indeed it will in fact take place.

This is the effect of the government's amendment over my amendment—and I can count a room so I am sure I know where this is going to go. But as a matter of the public record, if we are to lose this amendment, which unfortunately I am confident will be the case—unless I have managed to convince the opposition—I would ask the minister again to confirm for the record the government's intention when it comes to ReturnToWork, encouraging them to be proactive to ensure that workers do not miss out, encouraging them to ensure that everything is done to provide workers with the ability to undergo their assessments and, again, that there will be no unilateral cancellation of appointments without any notice to workers.

This is a really critical amendment for us. It is one that has really been driven home by the legal profession in particular in terms of its impact on those workers and, I have to say, I will be bitterly disappointed if we lose on this issue. At the same time, I am seeking very firm undertakings from the government about the direction that ReturnToWork will take to ensure that if their amendment is successful and ours is not, that that damage is minimised as much as possible for those injured workers.

The Hon. K.J. MAHER: I thank the honourable member for her contribution. I will take the last points first. I can reiterate the advice I have been provided with before, that there will not be unilateral cancellation of appointments for no reason. I can reiterate what I have put on the record before that I will continue to inform the corporation that it is not only my expectation that they will not do anything to make it harder to get appointments but will actually help facilitate appointments. I have to say, though, the government will not be supporting Connie Bonaros's amendments 14, 15 and 16.

It is true that whenever you put a date on something there is going to be someone who falls one day one side of it and another day the other side of it and whenever you put a percentage on impairments, there is going to be someone under 1 per cent and someone over 1 per cent. That is the difficult, unfortunate nature whenever you have these legislative schemes of putting boundaries somewhere, that there will be people either side of it.

The reason that we just cannot accept these amendments is the financial harm it will do to the scheme. Our advice is that the effect of the amendments that the Hon. Connie Bonaros is putting forward would undo a very, very large amount of the $400 million of past liabilities that it sought to recover. The advice is that there is no possibility that the corporation can give the assurance that rates would stay at under 2 per cent if these amendments were accepted.

The Hon. C. BONAROS: Given the response by the minister, I would ask him again to clarify at this juncture for the record the relevant days that have been stipulated by the government. I think that is really important because of the days that have been stipulated, the 1 January 2023 and the subsequent 2024 date, and how they will apply in relation to your provisions. I do so on the basis that that is one of the criticisms that has been raised about 'relevant day' not being actually defined in the bill, so we do not know what that day is.

We have two dates that have been given to us by the government, but I think going forward and, again, given that we have talked about costs to the scheme, I can see where this amendment is going. I think it is really important at this stage to confirm the 1 January 2023 date so there can be some certainty for workers and the legal profession in terms of when this bill will come into operation, but also the postponed date for interim workers. I think that is delayed by a year, is my understanding: 1 January 2024. I am asking the minister to provide those relevant days that they understand will be the dates that apply under these sections, on the record, so we all know what those days are.

The Hon. K.J. MAHER: I thank the honourable member for her question. To confirm, and I think this is what she has asked for, the relevant date when it changes from 30 per cent to 35 per cent for a seriously injured worker is 1 January 2023. For someone who is already classed as an interim seriously injured worker, that relevant date becomes a year later, on 1 January 2024.

The Hon. H.M. GIROLAMO: The opposition will be supporting the government's amendments and not supporting Ms Bonaros's. The Attorney outlined for us previously the financial implications and was very much talking our language, so at this stage we would support the government's amendments.

The committee divided on the amendment:

Ayes.....13
Noes 4
Majority 9

AYES

Bourke, E.S.	Curran, L.A.	Game, S.L.
Girolamo, H.M.	Hanson, J.E.	Hunter, I.K.
Lee, J.S.	Lensink, J.M.A.	Maher, K.J. (teller)
Martin, R.B.	Ngo, T.T.	Wade, S.G.
Wortley, R.P.		

NOES

Bonaros, C. (teller)	Franks, T.A.	Pangallo, F.
Simms, R.A.		

Amendment thus carried.

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

Amendment No 26 [IndRelPubSec–1]—

Page 11, lines 16 to 19 [Schedule 1, clause 1(1)]—Delete the definition of *designated worker* and substitute:

> *designated worker* means a worker who, in relation to a physical injury, has been assessed to be a seriously injured worker under Part 2 Division 5 of the principal Act;
>
> *interim seriously injured worker* means a worker who is taken to be a seriously injured worker under section 21(3) of the principal Act pending an assessment of permanent impairment under Part 2 Division 5 of the principal Act;

This change is consequential to the government's amendments Nos 32 and 33, as I outlined previously.

The Hon. H.M. GIROLAMO: The opposition will support this amendment.

Amendment carried.

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

Amendment No 27 [IndRelPubSec–1]—

Page 11, after line 20 [Schedule 1, clause 1(1)]—Insert:

> *relevant day* means a day appointed by proclamation as the relevant day for the purposes of the provision in which the term is used.

This is an updated definition as a consequence of government amendment No. 33, which is to come.

The Hon. H.M. GIROLAMO: The opposition are happy to support the amendment.

Amendment carried.

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

Amendment No 28 [IndRelPubSec–1]—

Page 12, line 3 [Schedule 1, clause 2(3)]—Delete 'trauma' and substitute:

> cause

This amendment is to make sure the transitional provision is consistent with section 22 of the act and deletes the word 'trauma' and substitutes the word 'cause'.

The Hon. H.M. GIROLAMO: The opposition support this amendment.

Amendment carried.

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

Amendment No 29 [IndRelPubSec–1]—

Page 12, lines 8 to 12 [Schedule 1, clause 2(4)]—Delete subclause (4) and substitute:

(4) For the purposes of this clause, the final examination relating to a worker by an accredited medical practitioner is the last attendance when the accredited medical practitioner needs to see the worker in order to enable the accredited medical practitioner to complete and issue the permanent impairment assessment report under section 22 of the principal Act (even if that report is subsequently substituted, supplemented or expanded).

Example 1—

If an accredited medical practitioner sees a worker, and then following that appointment determines that they do not need to see the worker again, then the final examination will be the date of that last attendance. This is even if the accredited medical practitioner determines they do not need to see the worker again but does require an x-ray or other test to be obtained.

Example 2—

If an accredited medical practitioner sees a worker, and then following that appointment determines they need further tests and will need to see the worker again following those tests, then the final examination will be the date of that further attendance (as long as the accredited medical practitioner does not need to see them again in order to complete and issue the permanent impairment assessment report under section 22 of the principal Act).

This is an amendment to aid clarity to make it very clear and as straightforward as possible when the final examination is considered to have taken place.

The Hon. H.M. GIROLAMO: We are very glad that it is straightforward and as simple as possible, so we are happy to support the amendment.

Amendment carried.

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

Amendment No 30 [IndRelPubSec–1]—

Page 12, line 13—Delete the heading to clause 3 and substitute:

3—General provision and thresholds—seriously injured workers

It is a change in the title of the clause to read that the general provisions and thresholds relate to seriously injured workers.

The Hon. H.M. GIROLAMO: The opposition are happy to support the amendment.

Amendment carried.

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

Amendment No 31 [IndRelPubSec–1]—

Page 12, lines 15 and 16 [Schedule 1, clause 3(a)]—Delete paragraph (a) and substitute:

(a) a worker who has been assessed to be a seriously injured worker under Part 2 Division 5 of the principal Act immediately before the designated day will continue to be regarded as a seriously injured worker; and

This is a technical clarification. It is an amendment to the definition of 'designated worker', which was changed by amendment to a worker who has been assessed to be a seriously injured worker under part 2 division 5 of the principal act in relation to a physical injury only.

The Hon. H.M. GIROLAMO: The opposition are happy to support this amendment.

Amendment carried.

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

Amendment No 32 [IndRelPubSec–1]—

Page 12, after line 19 [Schedule 1, clause 3]—Insert:

(2) In the case of a Category 1 seriously injured worker—

(a) in relation to an assessment of the degree of whole person impairment made before the designated day—after the assessment is made the worker will be regarded as a seriously injured worker for the purposes of the principal Act if the worker is assessed to have a degree of whole person impairment that is 30% or more under Part 2 Division 5 of the principal Act; and

(b) in relation to an assessment of the degree of whole person impairment made on or after the designated day—after the assessment is made the worker will be regarded as a seriously injured worker for the purposes of the principal Act if the worker is assessed to have a degree of whole person impairment that is—

(i) in the case of psychiatric injury—30% or more under Part 2 Division 5 of the principal Act; and

(ii) in the case of physical injury—35% or more under Part 2 Division 5 of the principal Act.

(3) In the case of a Category 2 seriously injured worker, in relation to an assessment of the degree of whole person impairment made on or after the designated day, after the assessment is made the worker will be regarded as a seriously injured worker for the purposes of the principal Act if the worker is assessed to have a degree of whole person impairment that is—

(a) in the case of psychiatric injury—30% or more under Part 2 Division 5 of the principal Act; and

(b) in the case of physical injury—35% or more under Part 2 Division 5 of the principal Act.

This amendment relates to transitional provisions, general provisions and thresholds for seriously injured workers.

The Hon. H.M. GIROLAMO: The opposition are happy to support this amendment.

Amendment carried.

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

Amendment No 33 [IndRelPubSec–1]—

Page 12, line 20 to page 13, line 25 [Schedule 1, clauses 4 and 5]—Delete clauses 4 and 5 and substitute:

4—Elections—seriously injured workers

(1) This clause applies in relation to the operation of section 56A of the principal Act, as enacted by this Act.

(2) If a worker is a designated worker before the designated day, the worker may make an election under section 56A on or after the relevant day and subclause (4) will apply in relation to the worker.

(3) If—

(a) a worker is a Category 1 seriously injured worker; and

(b) the worker is assessed to have a degree of whole person impairment that is 30% or more under Part 2 Division 5 of the principal Act; and

(c) that assessment is made before the designated day,

the worker may make an election under section 56A and subclause (4) will apply in relation to the worker.

(4) If this subclause applies in relation to a worker, section 56 (as amended by this Act) and section 56A (as enacted) of the principal Act will apply subject to the following modifications and qualifications:

(a) the age factor (AF) applying in relation to the worker will be taken to be the worker's age at the date of the election rather than the relevant date as it applies in relation to the worker under section 5 of the principal Act;

(b) the total payment under section 56 that the worker can receive cannot exceed the prescribed sum applicable for 29% whole person impairment;

(c) section 56A(8) will apply so that the only amounts to be deducted are weekly payments made to the worker under section 41 of the principal Act where—

(i) the payments are made on or after the designated day under this subclause and before the date of the election; and

(ii) the payments are made after the period of 104 weeks from the date on which the incapacity for work first occurs, other than weekly payments made in accordance with section 56A(7) after—

(A) in the case of an election made by a 50% or more WPI worker—the day on which the relevant application is referred to the Tribunal under section 56A; or

(B) in any other case—the day on which the election is received by the Corporation under section 56A.

(5) If a worker—

(a) is a Category 1 seriously injured worker who is assessed to be a designated worker on or after the designated day under subclause (3); or

(b) is a Category 2 seriously injured worker,

the worker may only make an election under section 56A if the worker is assessed to have a degree of whole person impairment that is 35% or more under Part 2 Division 5 of the principal Act and, in the case of a Category 1 seriously injured worker, subclause (6) will apply in relation to the worker.

(6) If this subclause applies in relation to a worker, section 56 (as amended by this Act) and section 56A (as enacted) of the principal Act will apply subject to the following modifications and qualifications:

(a) the age factor (AF) applying in relation to the worker will be taken to be the worker's age at the date of the election rather than the relevant date as it applies in relation to the worker under section 5 of the principal Act;

(b) section 56A(8) will apply so that the only amounts to be deducted are weekly payments made to the worker under section 41 of the principal Act where—

(i) the payments are made on or after the designated day under this subclause and before the date of the election; and

(ii) the payments are made after the period of 104 weeks from the date on which the incapacity for work first occurs, other than weekly payments made in accordance with section 56A(7) after—

(A) in the case of an election made by a 50% or more WPI worker—the day on which the relevant application is referred to the Tribunal under section 56A; or

(B) in any other case—the day on which the election is received by the Corporation under section 56A.

(7) Despite any other provision, a worker who is a seriously injured worker as a result of an injury that is attributable to a trauma that occurred before 1 July 2015 is not entitled to make an election under section 56A of the principal Act.

5—Interim decisions under section 21(3) of Act

(1) This clause applies in relation to the application of the amendments made by section 5(2) of this Act.

(2) In this clause, a reference to the *relevant provision* is a reference to subsection (4)(b)(ii) of section 21 of the principal Act as enacted by section 5(2) of this Act.

(3) The amendments made by section 5(2) of this Act apply as follows:

(a) in relation to a Category 1 seriously injured worker—

(i) the principal Act as amended by section 5(2) of this Act will apply from the designated day under this subparagraph; and

(ii) until the designated day under this subparagraph, the amendments will apply as if a reference to 35% in the relevant provision were a reference to 30%; and

(iii) on and after the designated day under this subparagraph, in relation to a worker with a physical injury, the compensating authority may also act under the relevant provision if it appears that the worker's likely degree of whole person impairment is not likely to be 35% or more;

(b) in relation to a Category 2 seriously injured worker—the principal Act as amended by section 5(2) of this Act will apply from the designated day under this paragraph.

This is an amendment in relation to transitional provisions, election for seriously injured workers and interim decisions under section 21(3) of the act.

The Hon. H.M. GIROLAMO: The opposition are happy to support the amendment.

Amendment carried.

The CHAIR: Now we have competing amendments, the first one being in the name of the Attorney-General, amendment No. 34, and then also amendment No. 20 in the name of the Hon. Ms Bonaros. Attorney, would you like to speak first?

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

Amendment No 34 [IndRelPubSec–1]—

Page 14, lines 1 to 10 [Schedule 1, clause 6(4) and (5)]—Delete subclauses (4) and (5) and substitute:

(4) Despite any other provision of the principal Act or this Act, in the case of a worker whose injury or injuries have stabilised, and who on or after the commencement of this subclause gives a written notice to the compensating authority selecting a particular accredited medical practitioner to undertake an assessment under section 22 of the principal Act of the degree of impairment resulting from the injury or injuries, the Return to Work Scheme Impairment Assessment Guidelines published March 2015 apply in relation to the injury or injuries rather than the version of the Impairment Assessment Guidelines applying immediately before the commencement of this subclause, unless the Return to Work Scheme Impairment Assessment Guidelines published March 2015 already applied, in which case, that version will continue to apply.

This in effect reverts the Impairment Assessment Guidelines back to the first edition of the guidelines, rather than the second edition of the guidelines. As was outlined earlier in debate today, the advice was that the second edition did not have any material impact on costs and reverting back to the first edition of the guidelines therefore will not have a material impact on costs.

The Hon. C. BONAROS: I have amendment No. 20 [Bonaros-1] that deals with the same issue.

The CHAIR: The Hon. Ms Bonaros, the advice we have, and we are checking it, is that there is a feeling that, if you lost amendment No. 5, basically amendment No. 20 becomes irrelevant.

The Hon. C. BONAROS: I have some clarity. I think it is my amendment No. 5—

The CHAIR: Your amendment No. 5, which was not successful.

The Hon. C. BONAROS: —which was not successful, but I will speak to the government amendment, which will be moved—

The CHAIR: Yes, but you probably do not want to move yours.

The Hon. C. BONAROS: —in place and again results in the desired outcome around IAGs. I will still move amendment No. 20 [Bonaros-1] subsequent to this as a separate amendment. That is my understanding. Is that everyone's understanding?

The CHAIR: Our understanding is that you actually cannot because you lost your amendment No. 5, but you can seek a bit of advice.

The Hon. C. BONAROS: I move:

Amendment No 20 [Bonaros–1]—

Page 14, lines 1 to 10 [Schedule 1, clause 6(4) and (5)]—Delete subclauses (4) and (5) and substitute:

(4) The relevant compensating authority must, on application under this subclause by a prescribed worker, arrange for a re-assessment of the degree of whole person impairment applying in relation to the prescribed worker in respect of the relevant injury to be undertaken in accordance with the version of the Impairment Assessment Guidelines applying under section 22(4a) of the principal Act, as enacted by this Act (and the assessment and determination of the degree of whole person impairment applying in relation to the prescribed worker in respect of the relevant injury in accordance with the re-assessment will apply for the purposes of the principal Act despite any previous assessment or determination in respect of the relevant injury).

(5) Section 22(4a) of the principal Act, as enacted by this Act, applies subject to subclauses (2) and (3).

(6) In this clause—

prescribed worker means a worker who suffered an injury and whose degree of whole person impairment in respect of the injury was assessed under the Impairment Assessment Guidelines applying on and after 24 August 2021.

I will speak to the government's amendment and my amendment together and make the case for both of them, which I said were effectively standalone provisions and that ours was an interpretive one which added to the government's amendment as opposed to replacing it. Members will recall that we dealt with the issue of the Impairment Assessment Guidelines earlier at [Bonaros-1] 5.

I will outline the reasons why we are moving this amendment No. 20 as follows. Earlier in the debate, I indicated that the minister and I had basically taken a different approach to reach the same outcome. It turns out that that different approach also results in some technical and procedural issues that had not been anticipated.

Effectively, to get to the crux of the issue, members will recall that—and I have said this before on the record—last year the former minister sought to implement a second set of guidelines which radically undermined working people's entitlements by adversely changing how impairments would be assessed.

Those guidelines applied from 24 August 2021 onwards. They ultimately became subject to extensive debate in this place and, after consistent criticism from groups like the Law Society, the ALA, the legal profession and the medical profession, the former minister was forced to authorise an additional period of consultation, but ultimately and unfortunately largely adopted changes put forward by ReturnToWorkSA—changes that were not supported by most stakeholders, including, importantly, medical assessors who have many compelling reasons why guidelines would produce injustice and inappropriate outcomes.

During that debate, we queried whether the minister at the time had gone beyond the scope of what parliament had intended by trying to manage the viability of their scheme by radically altering the guidelines and circumventing the role that this parliament plays in terms of substantive changes to legislative instruments.

The guidelines must be a disallowable instrument and subject to parliamentary scrutiny, and we have dealt with that in the context of this debate. But based on the debate that we had at the time when Rob Lucas was here, there is absolutely no question that this minister and this parliament were put on notice, as I said earlier, about further changes that would be coming and fall on whichever party ultimately formed government.

As I said again during the second reading debate, the architect of this scheme did nothing before the election and the problem was indeed handballed to Labor, as soon as they formed government, and ultimately given to the Premier in April. Again, as I said earlier, the Premier gave up the opportunity to consult on that ultimatum. In fact, the first we learnt of it was in June when he first introduced that bill into this place.

He sat on it for over a month before coming into this place with the original bill, which sought to radically alter the scheme of the act by treating workers differently, depending on how they were

injured, ripping away previously accrued rights to compensation, and overnight changing thousands of people's rights to compensation without notice. The Premier tried to convince us that the impact of that bill would have been minimal. As I said earlier, when asked the exact same question, the CEO of ReturnToWork, Mike Francis, confirmed that the extent of those changes would impact workers in their thousands.

The government amendment, which we are seeking to support and then amend, addresses this issue by reverting to the first edition of the guidelines for anyone who has not had an assessment pending the consultation intending to replace all IAGs, and we think that is a good thing. We also think it is a very good thing that we are now making those disallowable instruments undergo parliamentary scrutiny before they come into effect.

The reason this amendment is so important is that, frankly, what we have seen as a result of both debates we have had on this issue is that neither the former government nor this government can be trusted when it comes to these sorts of reforms that affect injured workers, and it has been established that representations made may not ultimately be acted on. This government said, 'Trust us. We will come up with a third version of guidelines, which do what we say they will do.'

The problem with that, of course, is that is what the former person sitting in this minister's chair said, and we ultimately ended up with something that looks very much like what ReturnToWork had suggested. There is a very strong case to argue that that was a tokenistic gesture by the former minister in terms of any consultation. We are and remain concerned, as a result of the way we have handled this bill, that we cannot leave this to chance.

Clearly, this government cannot be trusted in terms of doing the right thing by injured workers when it comes to those Impairment Assessment Guidelines. I qualify that by saying that we have done one thing well, that is, to revert back to the original guidelines; that is something we agree with. This amendment is a safeguard to ensure for the time being that, at the very least, people will not be subject to what I will call the Lucas guidelines for want of a better term.

When it comes to amendment No. 20, which is the one I will speak to now and I have said is interpretive in its application, that particular amendment will apply to a very small number of people who were unfairly treated by the Lucas guidelines. It is a very small number of people who have had their assessment already processed under those guidelines, and we anticipate that it is a very small number because those guidelines have only become operational since August of last year. They have not been in place for very long, but they would have seriously undercut workers' rightful entitlements.

Amendment No. 20 would allow those workers to have a review of that assessment using the first guidelines. That will apply to everyone else and restore their basic compensation entitlement which was unfairly taken away by the Lucas guidelines. In moving this amendment, I also ask the minister to confirm for the record what we can expect.

Now that we have effectively said that we will undo the Lucas guidelines to an extent and replace them with the Rau guidelines, for want of a better term, what will the process be when it comes to the third set of guidelines that we have indicated will be drafted? They will, as I understand it, have to be the subject of consultation and will also be a disallowable instrument, so we will have the opportunity to scrutinise them further. How will the two coexist effectively, and what will that process entail in terms of the consultation for the third set of guidelines?

Again, I make the point that the reason for this addition to the government's amendment is purely and simply to apply to that very small number of injured workers who had their assessment already proceed under the Lucas guidelines and, as a result of that, their entitlement to compensation was unfairly taken away from them.

The Hon. K.J. MAHER: I thank the honourable member for her contribution and for bringing forward this amendment. The government appreciates the intent behind the amendment in relation to those first and second sets of guidelines; however, the government will not be supporting the amendment. We are advised it would introduce significant operational complexity for the corporation, its agents and self insurers in terms of having the possibility of, in effect, two sets of guidelines running at the same time.

Whilst we absolutely appreciate the honourable member's intention in moving this, there could be some circumstances where workers may apply to overturn their assessment based on the second set of guidelines and seek to revert back to the first set of guidelines without knowing what the assessment was going to be, and there is a real possibility that some workers could find themselves with an assessment that is worse than the first one. There is that possibility, particularly if an injury between the two guidelines may not be as severe as first assessed. While we appreciate the intentions behind the guidelines, we will be opposing this amendment in preference to what we have moved.

I think the honourable member had questions in relation to whether we are moving to a new set of guidelines. My advice is that there are elements of the former government's second guidelines that do clarify things that are beneficial, but there are significant elements that are not beneficial. However, we will consult very thoroughly on any replacement to the guidelines before any are brought into effect.

The Hon. H.M. GIROLAMO: The opposition will be supporting the government's amendment and not supporting amendment No. 20 from the Hon. Connie Bonaros. I am pleased to hear that there will be thorough consultation. That is something we would all like to see more of going forward. I am relatively new to this place, but this is an absolutely epic number of amendments that we have had to go through, and I think all of us here would like to see changes made to the way the government approaches bills, especially bills that are this important and this complex.

As a former auditor, I know how long it would normally take to do actuarial checks and balances, and I appreciate that the government was able to deliver that within the tight time frame. However, that would have put enormous pressure on ReturnToWork and PwC to deliver that in the time frame. We will support the government's amendment, especially if it does decrease operational complexity and provide further safeguards.

The Hon. C. BONAROS: I would like to add just one thing for the record, and I think this is important. I accept what the outcome is going to be, but I want to make it clear that we support—in fact, it is in line with our amendments—moving from the Lucas guidelines to the Rau guidelines. It may procedurally be a difficult task but, for the record, it is important to note that the advice I have is that there is absolutely nothing in here that could possibly result in a worker being worse off.

In fact, what we are offering them is the opportunity to choose to have the assessment that was done under the Lucas guidelines reassessed under the Rau guidelines. That is entirely consistent with what the government has said in its amendment, where it says that the Rau guidelines are the ones that are going to apply. I understand procedurally that it is going to be technical; however, to suggest—as I understand has been the case—that there could be workers who are potentially worse off as a result of the addition of my amendment No. 20 is, I maintain, factually incorrect.

What we are actually doing is giving those workers who were assessed between August and whenever it was under the Lucas guidelines the opportunity to be reassessed under the very guidelines that the government is now putting in the legislation. I think that is a very important clarification to make, and I am hoping that the minister will be open to further considering this issue in terms of that.

Again, for the record, we are not doing anything that is going to adversely impact injured workers, or make them worse off, by seeking to add this interpretive note that allows them to have their assessment reassessed under the Rau guidelines, which are consistent with the government's position.

The Hon. T.A. FRANKS: For the sake of clarity, the Greens, out of an abundance of caution, are going to be supporting the government's approach. Largely, people have the same intent here, there is no dispute on the principles, and, loath as I am to say this, we will certainly all be embracing that intent to go to the Rau guidelines as opposed to the Lucas guidelines. I never thought I would say those words.

The Hon. K.J. Maher's amendment carried.

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

Amendment No 35 [IndRelPubSec–1]—

Page 14, after line 16 [Schedule 1, clause 7]—Insert:

(2) Subclause (1) does not apply in relation to the Impairment Assessment Guidelines that apply under clause 6(4).

This is consequential to amendment No. 34.

Amendment carried.

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

Amendment No 36 [IndRelPubSec–1]—

Page 14, lines 17 to 19 [Schedule 1, clause 8]—Delete clause 8 and substitute:

8—Supplementary income support

The amendment made to the principal Act by section 8 of this Act applies in relation to surgery approved by a compensating authority—

(a) before the designated day in relation to surgery that is conducted on or after the designated day; or

(b) on or after the designated day.

The clause of the bill that addresses the anomaly in relation to supplementary income support for injured workers who undergo approved surgery will be expanded to surgery approved prior to the designation day.

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendments.

Third Reading

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (21:53): I move:

That this bill be now read a third time.

The Hon. T.A. FRANKS (21:53): At this third reading stage, given the Greens' position to consider the debate and formulate our final position, I just wish to place on the record that we do oppose the bill in its final form. While there have been some significant improvements, it is not something that we feel we want to take ownership of going forward. We just want to put that on the record because, while Labor and Liberal often are in furious agreement with regard to these workers compensation return to work bills, this was a far better debate than the one in 2014, I must say. There was a very different attitude, so I do thank the government for that particular aspect. If you think that this was a rushed bill, then you have not seen that many bills yet.

I want to also place on the record the confusion about the medical expenses lump sum payment. Our concern was that that had not been consulted on. What I would say to the government and those who are concerned that that needs to be further consulted on is there was a process fix there, and that particular clause can be enacted once the consultation has happened rather than be brought back for the next round, which was the advice that we had been given.

So we can have that particular clause consulted on. The minister has the power to enact that much later than the rest of the legislation, should he need to have that consultation process, and I think the principle, however, was not disagreed with, and so the principle will be now in the legislation, and should there need to be further work done it will put a time on that work to be done more quickly.

Bill read a third time and passed.

Address in Reply

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 16 June 2022.)

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector) (21:57): I had sought leave to conclude my remarks, and I had very few remarks left to go when we finished last time. In conclusion, I would like to congratulate the Governor on her speech and note the significant contribution to the debate made by so many other members in the Address in Reply.

There have been some very interesting contributions made by quite a number of members, both about members of the former government and the things that occurred under them that they were proud of and also about the commitments made by the current government, some which were outlined in the speech from the Governor.

With those comments, I conclude my remarks and look forward to delivering the Address in Reply to Her Excellency.

The Hon. C. BONAROS (21:58): I rise briefly to speak in reply to the address of Her Excellency the Hon. Frances Adamson AC to the opening session of the Fifty-Fifth Parliament and thank her for the opening and for her service. We welcome the 14 new members of parliament who were elected by the people of South Australia on 19 March 2022. We offer our warmest wishes and welcome to this place the Hon. Reggie Martin, the Hon. Laura Curran and the Hon. Sarah Game.

It feels as though you have been here forever now. It is an honour and a privilege to share this chamber with all of you, and we look forward to working alongside you. It is encouraging to see gender balance has been achieved for the first time in the Legislative Council—very encouraging indeed. We are finally leading by example in this place.

To the outgoing members: Rob Lucas, John Darley, John Dawkins, Russell Wortley—no, not Russell Wortley; he's here, the Hon. Russell Wortley—we say thank you for many years of service to South Australia. I am confident that all of you, except for the Hon. Russell Wortley, are enjoying a healthy retirement by now. All I can say about the Hon. Russell Wortley is give us all something of what you have because you seem to have this Teflon effect that keeps you coming back to this place for more.

To our SA-Best candidates who put themselves up for election—Ian Markos, Dr Keyvan Abak and Tom Antonio—we extend our deepest appreciation for all your hard work during the campaign. I know this was an extraordinarily difficult campaign, and you have all made significant contributions to the South Australian community, and we wish you well as you continue to do so.

There is absolutely no question that our three candidates at this election, despite not being successful in their election, worked tirelessly throughout the campaign period, as did all people who put themselves up for election at this election and every other election. When you come from the crossbench and minor parties, I can tell you that it is a thousand times more challenging than having a big party machine behind you to help you through that very complicated process, but we are extraordinarily proud of the way that you handled the election campaign, your dedication, all your unwavering support and all your hard work.

And of course to our loyal and dedicated volunteers, all of us in this place rely absolutely on the tireless efforts of volunteers. When it comes to election campaigns in particular, we call on these people every four or eight years to help us through what is a ridiculously busy, excruciating, stressful, and busy campaign period, so from the bottom of our hearts I thank you all again for your tireless support.

We are a very small party and we could not do what we do or achieve what we achieve without the loyalty of our hardworking supporters and volunteers. Of course, to our staff who are asked to go above and beyond after hours, when they are not getting paid, and work for free to help with the campaign, we are extremely thankful. I am extremely grateful and thankful also to my colleague the Hon. Frank Pangallo. It is hard being a crossbench party; it is hard being a small party. There is a lot of work, it is intense, and somehow we still manage to get to the finish line every time. We are not always successful—we were not successful this time—but I think what that shows us is nothing but the fact that we have to work harder and we have to work smarter.

To the South Australian Electoral Commission, we thank you for all your hard work, both publicly and behind the scenes, to ensure every South Australian was able to exercise their democratic right to vote after two years of the pandemic. This year, I suppose, there has been an extra layer of complexity for ECSA because they have had a by-election very shortly after the election, and in between a state election and a federal election. We understand that this has been an extraordinarily busy period for them, and we are thankful for not only their support but their efforts to make that one-on-one contact with party members like me who when I have a question I pick up the phone and ring them, and they answer and they provide those responses.

This was an unprecedented election for many reasons. We did see a one-term government—and I am sorry to say this to the opposition—fall to its knees while another party in this place ran a very disciplined, focused and strategic campaign led by the now Premier. It was on full display for all to see.

I said sometime out from the election that there was absolutely no question that this would be an election based largely on a health crisis in this jurisdiction. I maintain that position, and I think absolutely it had a huge impact on the ultimate results of the election we saw, but there are a number of things that I do not think any of us did foresee at this election.

When I say that we need to work harder and smarter, it is because this election was unprecedented in many ways. I think that people who do not ordinarily engage with politics as much as some of us probably voted with their feet in terms of a conscience vote or a protest vote for the first time in a long time, and that was on full display for all of us to see. We effectively saw the now opposition being sidelined as part of that process.

I will say this for the record: at the time that we came back to this parliament we saw what—respectfully to you, Mr President—I described as an extraordinary coup of the election of a member of the Liberal Party as President of the Legislative Council. I nominated a parade of Labor members, with the expectation that none of them were going to accept that nomination because, as I said at the time, despite it being convention that Labor would take the seat of the presidency, I think the huge difference between the two major parties that was on display was the absolute discipline and military focus of the Labor Party throughout the campaign and subsequent to that campaign.

They are a party whose members are all well aware that by one of them accepting the nomination of President its position on the floor of this chamber would have been weakened. That is not a criticism of you, Mr President. I am just stating the obvious facts. That is what happened when we came back to this place, but it is a reflection of the way the Labor Party has conducted itself.

The flip side to that is also the Labor Party's extraordinary attitude since they have taken government in thinking that this house will wave through anything that it deems to be their policies. That is simply not the way the house of review, the house of transparency, works in this jurisdiction. The numbers are such in this place that the crossbench will always play an absolutely critical and vital role in holding the government to account. I think we have just seen a display of that to an extent in terms of reforms that this government would have liked to see rammed through this place in record time without any consultation or scrutiny whatsoever.

I guess the one message I have for the government of the day is that I hope that is not a sign of things to come over the next four years in this place, because we on the crossbench certainly take our role in this place very seriously and we expect that this chamber takes its role very seriously. We will do absolutely everything to hold whoever it is that is in government, whether it is Labor or Liberal, to account and to ensure that the decisions that are passed ultimately by this place are subject to parliamentary scrutiny and pass the pub test when it comes to the public.

If there is one thing I can say about the way I approach my politics in this place—and I am not sure how others do it, but there is one thing you cannot do to anyone who is on the crossbench and that is take away our voice in parliament. You cannot shut us up. We all have an equal right to speak in this place. We all have an equal right to make our views known and we all have an equal right to ensure that the public of South Australia knows what decisions are being made, because they impact them directly.

For the remainder of time that I serve in this place, whether it is four, 12, or 36 years—God knows, I do not intend to be here for 36 years—I see my job as one to hold whoever is in government to account for their decision-making. For SA-Best as a political party, the election result was somewhat surprising and it showed us that, as I said before, we do need to work even harder and smarter than we have in the past.

There is absolutely no place for complacency, but there is absolutely, I think, a place for the centre of politics in this state and while the pendulum may have swung, I think there will come a time where it swings again. There is always, in my view, a place in the centre, as my mentor taught me. It is not always about the left or right of politics, it is about what is right and what is wrong. That is certainly the approach that I take when I sit in this role.

I would also say, and I make this comment because a lot of voters said to us, 'Some of these results are unbelievable in terms of how many seats one party got', who got a seat and the rest of it. I do not accept that. I actually think that people vote with their feet. It is a democratic election and they vote based on what they see. So, if anything, it should teach all of us that regardless of who and what party you are elected to in this place, there is always time for self-reflection about how you in your party go about making sure that voters are engaged with you and not turning away from where you stand in politics.

In our case, it is the centre of politics in favour of other political persuasions and that is certainly where I would like to remain. Our aim is to ensure that we present to the people of South Australia as a trustworthy, hardworking, strong and reliable political centrist party well into the lead-up to the 2026 election.

To the outgoing Liberal Party, can I say that, for the record, I think there were a number of things you did while you were in government that we supported wholeheartedly and you did very well and we maintain our support for those achievements. It is absolutely critical to also note that you did so in the most challenging of circumstances with the outbreak of the COVID-19 pandemic and the impacts that had on our community broadly. That is not an easy feat for anyone who is in government and trying to lead a state. So I think that, regardless of whether we were in a state of emergency, credit ought to be paid to those who led us through that and that was the Liberal government at the time.

South Australia will be recorded as one of the safest places in the world to live during COVID-19 and that is not through any lack of hard work on the part of the former government, on the part of the members of this place who supported some very drastic changes to our laws to ensure that the public was kept safe, on the part of our Chief Public Health Officer and her team and on the part of the police commissioner, who was the State Coordinator, and everyone else who was involved.

Of course, none of us could overemphasise enough the role that our health profession as an entirety has played in that. I think we all owe them a debt of gratitude for keeping us safe throughout that COVID-19 pandemic. We are still in the COVID-19 era and those doctors and nurses, medicos and ambos, frontline staff and administrative staff who work in our health sector continue—even under this government, despite the health crisis election that was—to bear the brunt of that pandemic on a daily basis, and we are by no stretch of the imagination out of the woods when it comes to the health crisis that this state has faced now for years.

Also, to the Labor government, well done and congratulations. As I said, what we were faced with was the full display of the Labor Party in full swing. Obviously, nothing was going to stand in their way of success at this election. We will continue to do what we do best in the Fifty-Fifth Parliament and hold the government of the day, now the Labor government, to account, highlighting their failures and successes and, where and when needed, collaborating with them on issues that warrant support.

Also, importantly, we will work with the rest of our crossbench colleagues—with the Hon. Tammy Franks, the Hon. Robert Simms and the Hon. Sarah Game—and of course the opposition until we strike the correct balance in the things that we do in this chamber week in and week out. With those words, I thank Her Excellency the Governor for opening this parliament. Here is to the next 3½ years.

The Hon. F. PANGALLO (22:16): I rise to speak in reply to the opening speech of Her Excellency the Governor, the Hon. Frances Adamson, for the Fifty-Fifth Parliament. I would like to acknowledge the words of my colleague the Hon. Connie Bonaros and all the others in this chamber who have spoken to the Address in Reply. Firstly, congratulations to the Labor Party on their decisive win at the March poll, and also welcome to the new members in this chamber and in the House of Assembly.

We also recognise all those candidates who threw their hat in the ring and took part in a show of democracy in this state. As my colleague has pointed out, it is extremely difficult for a small party, even individuals, to win a seat in parliament. It is an honour to win a seat. Speaking on my behalf, I still feel quite privileged to be fortunate enough to be in here. Of course, we now have some new members. It is gratifying to see so many female members, mostly on the Labor side, who have been elected. I note that many of them are already making excellent contributions.

The Hon. S.G. Wade: What about this place?

The Hon. F. PANGALLO: Well, I haven't finished my speech, Mr President.

The PRESIDENT: Order! Interjections are out of order.

The Hon. F. PANGALLO: I do make acknowledgements later on, but you cannot avoid the fact that there are not too many females in the House of Assembly on the Liberal side. Again, I am not going to be critical of that. That is the way the penny rolled and it is how democracy works in this state. In this place, I would like to welcome the Hon. Laura Curran, the Hon. Reggie Martin and the Hon. Sarah Game. I note the unexpected return of the Hon. Russell Wortley—reports of his demise were greatly exaggerated—and you, sir, as you return as President of the upper house.

To the Liberals, they do deserve recognition. They had to govern in, I would say, the most challenging time in the state's history. I would like to acknowledge the strong work that was done not only by the Premier and his ministers but also, in this place, by the ministers we had in the Legislative Council, including the Hon. Stephen Wade.

I was saying at the 2018 election and when the Liberals were elected to government that perhaps the hardest job in the cabinet would have been health minister. I would like to acknowledge that the Hon. Stephen Wade worked exceptionally hard in his position as health minister in the most trying of circumstances. He came in at a time when our health system was in utter chaos and in need of quick repair. I could not imagine the pressure he would have been under. I would also like to acknowledge his assistance when we needed to advocate for constituents. His door or his phone was always ready on that occasion. So thank you again to the Hon. Stephen Wade and the Hon. Michelle Lensink as well, when she was Minister for Human Services.

I will acknowledge that there was a strong endorsement of Labor and the Premier, the Hon. Peter Malinauskas, that they received at the election. Then we had to follow it up with a federal election and then we had a by-election. I must say that by the time all that ended I somehow had to question myself why I agreed to vote for the corflutes on our streets. In the end, we all thought perhaps we needed to have another think about it because it is such an exhausting job, as many would know, having to erect them across the state.

In relation to finding volunteers, I must say that on this occasion it was very difficult for the smaller parties to find volunteers, but I thank all the volunteers who worked not only for us, SA-Best, but for all the political parties. Having those workers is vital, particularly during an election campaign, and their assistance is certainly appreciated right up until polling day and then afterwards, having to take down those darn corflutes. It was good to see that most of them came down in the appropriate time.

I thank the Hon. Russell Wortley, who called me at one time and said, 'I have just noticed some of your corflutes are still up in a section of Adelaide.' He kindly offered to pull some of them down, and I must say I have also pulled some down, legally, of other parties when I noticed that they were not going to be coming down and they ran the risk of getting a fine. But, generally, I think everyone conducted themselves well with those corflutes.

I want to mention the number of commitments and promises the Labor Party made during the campaign, and they were significant—more than $3 billion worth of promises. I acknowledge that they have wasted little time in working to implement them, particularly the important ones in health and education. It was good to see that those two areas were getting priority, as they deserved.

While I welcome the huge spend allocated to health, it is apparent that Labor still has to put a dent into its main promise about the reduction in ramping. Our hospitals are still bursting at the seams. We need lots of doctors, nurses and paramedics. I note that other states are also clamouring for the same professionals, so I am wondering whether, in a short period of time, we could ever fulfil those jobs that are going to be on offer.

I also welcome the money to be spent jointly by the state and the federal governments on expanding the Flinders Medical Centre. I hope the government looks at finding an additional allocation of beds in the state. Quite clearly, the reason that we are having ramping should be quite evident: we do not have enough hospital beds in the system to cope.

We have a new hospital that does not have the same number of beds as the previous hospital. We have had the issue of COVID and other related illnesses, we have an ageing population and we have problems in our aged-care sector with lack of staff being able to cope with the pressures of looking after our aged. Many of them are also finding their way into the hospital system, which again causes issues. I still believe that South Australia may well be still one hospital short of what it needs.

While talking about hospitals, I note that the government intends introducing a bill later this week to make parking free at the Tea Tree Plaza shopping centre. I was quite concerned when it was announced they would be removing the free parking that was afforded to our frontline workers in our hospitals particularly. I think that is a really cruel blow at such a critical time. We are still not out of the COVID pandemic.

We are now approaching a difficult time with cost-of-living pressures that are making life difficult for many families, many professionals and many of those workers. I would have thought that the government would have taken that into consideration and extended that. I would also like to see some kind of a reward being given to all those frontline workers, recognising the efforts that they put in over the two or so years that we had to endure that pandemic.

I am a little confused also about the fate of the north-south corridor, with forecasts that the costs could blow out to perhaps as much as $14 billion. Again, I am wondering how we are going to be able to afford this as the dark economic clouds are starting to gather above us. I would hope that the minister, the Hon. Tom Koutsantonis, does give some serious consideration to a proposal that I think I have already floated in this place from former Department of Transport executive and well-respected engineer Mr Luigi Rossi, who has drawn up plans that would take at least a billion dollars off the cost of the north-south corridor and the section between Anzac Highway and Daws Road at Edwardstown.

It would involve removing those sections of tunnel and replacing them with an overhead roadway, which makes a lot of sense when you consider that predominantly it goes through industrial areas and it could save the government a lot of money and headaches in not only acquiring the property of the residents in those areas but also having to find or relocate the many businesses that will have to move should that project proceed with those tunnels.

Another perplexing thing about those tunnels was pointed out to me by Mr Rossi. While it connects close to that vital corridor that comes from the South Eastern Freeway and down Cross Road and South Road and onwards, I was quite perplexed to learn that those tunnels, by the laws that exist in this country, would not allow hazchem vehicles to use them. You have almost five or six kilometres that cannot be used by hazchem vehicles, and that includes fire appliances that would not be able to use them. You also could not have heavy vehicles that want to take that route coming from interstate or down the South Eastern Freeway. It is mind-boggling that that has been overlooked, and I hope there is a review of that to at least enable the freer flow of heavy vehicle traffic.

I note that the Premier was interviewed on Leon Byner's program on FIVEaa last week about various matters, including the contentious land tax reforms which, in opposition Labor, like us,

strongly opposed. The vote on that bill was only lost by one vote in this chamber. The Premier has steered clear of perhaps making a commitment about land tax—and that happened three years ago—yet Labor and the now Treasurer, Stephen Mullighan, mounted a number of forums throughout various electorates in and around Adelaide, hearing from those who would be affected and having them think that they were going to get a sympathetic ear if Labor won office.

There was no such thing, unfortunately, because the Premier says he will not be touching taxes. That might be a good thing but there are some taxes that probably need to be reviewed—that is one of them, and stamp duty is another. I note that the New South Wales government is also looking at eliminating stamp duty and replacing it, but as far as land tax, the Premier told listeners on FIVEaa that he cannot, to use his own words, 'unscramble the egg'. Unscrambling the eggs does not seem to have been a problem for the new government when it comes to ripping up a signed contract with Keolis Downer over the running of our trains and trams.

Unscrambling the egg was easy by reversing the previous government's foolish decision to axe the Adelaide 500 motor race, or repealing the electric vehicle tax. I believe we are about to see legislation in regard to that, but it really is out of kilter already because other states in the east have already moved to incorporate this tax as a means of raising revenue for roadworks once there are sufficient numbers of electric vehicles on the road. Yet, here in this state, we have gone totally against the grain and decided that, no, we are not going to impose that tax, when it was due to come into effect in 2027. That is not going to happen according to the Treasurer.

Goodness knows where the money is going to come from for road maintenance and building of roads. Here we are with up to $14 billion we might have to spend on the north-south corridor, yet an initiative that has been adopted not just in the Eastern States—and I think Tasmania is also looking at bringing it in—but also now in other countries in Europe where they have realised that when there are more electric cars on the road and fewer gas guzzlers, fuel excise taxes are going to diminish so they need to find alternative options, and of course you could do that with EVs. But here the government has decided that they can unscramble the egg and they intend to repeal that legislation.

I also note that there have been no incentives for the speedy uptake of electric vehicles, certainly not in the recent budget. In the legislation that was passed last year there was a provision which we helped to negotiate, that registration would be waived and also that there would be cash incentives, at least in regard to the first 7,000 electric vehicles that were sold. I will add, though, that SA-Best does support the return into government hands of our rail and trams, and we hope it is extended to buses as well.

We are also looking forward to the return of the Adelaide 500 to the streets of Adelaide at the best time of the year. I commend the Premier for his advocacy on that. I will say that we, as SA-Best, joined the Premier on a couple of those protests early on and I acknowledge the efforts by many car clubs in Adelaide and other individuals who expressed their desire to see that motor race return.

I note that the Premier also had the cheek to inquire about stealing the Formula One Grand Prix back from Melbourne. I am just wondering whether he did that or somebody did it with tongue in cheek, because one would have had to ask: if you have the Adelaide 500, where is the money going to come from to satisfy the needs of Formula One? Although I am quite confident that if Adelaide one day does snare the race back we could certainly put on a fine show, as we did between 1985 and 1995.

The cost of living is now going to be the biggest challenge faced by South Australians and also the new government, particularly after today's announcement by the Reserve Bank which hiked up the cash rate by a huge 50 basis points. That is quite a significant amount. There is going to be more pain, we are told, coming down the track before Christmas. This is now going to put enormous pressure on everything from groceries through to fuel—once the fuel excise comes off—and other costs such as power bills and other costs associated with increases in the cost of living. The pressures are going to be enormous for South Australians, and it is going to be a challenge for this government to be able to meet those needs that are going to be out there.

I think another big challenge for not only the federal government but also this state government is the chronic problem of housing affordability. We have seen figures recently that show just how many people are unable to either find a home or find a rental. There is also a problem with having adequate social welfare housing for low income families. Again, you have to blame successive governments for this, going back probably to the 1970s and 1980s when they started to slowly sell off Housing Trust properties. Rather than replenishing and adding to those numbers, we have seen fewer available and it has come to the point where there is now a bottleneck. There are just not enough properties for the demand that is out there.

I think it is disappointing—shocking, actually—to hear stories of people out there, even professional people, who cannot find appropriate accommodation and also seeing that people are forced to live in caravan parks, in tents that they have to erect, or even sleep in the back of their cars. Another big issue that still needs to be addressed is the increase in homelessness and people sleeping rough in the City of Adelaide. That also needs to be addressed, although I do note that in the budget there was an allocation of funds for welfare bodies to try to assist in that.

Mr President, one of the other big-ticket promises of the Malinauskas government is the hydrogen power station to be built in your neck of the woods in Whyalla. Hopefully, it will not disrupt the cuttlefish up there at Port Bonython. But again, it is a huge spend. It is a risk because there are not similar plants like this anywhere else in the world, but you have to give it to Labor and the Premier for their audacity and perhaps their lateral thinking in looking at providing additional supply of power to the state and also to a grid that is in need of instant repair. It is a grid that is lurching under the weight of demand, not just in this state but also elsewhere around the country.

With it, we are starting to find that power bills are going through the roof and hopefully we can see them come down, because before the Liberals won the last election, also Labor, they promised to bring down power bills, and that has not happened. We still have in South Australia the highest power bills of anywhere in the world, so those promises have not been kept. I acknowledge the work of previous Labor Premier Jay Weatherill and the Hon. Tom Koutsantonis in their push for renewables in this state where we now see the state as one of the leaders in the world for producing renewable energy with massive wind farms and solar farms.

I am also detecting that those providers, the owners of those facilities, are starting to game the system. Only last week, I received a video from a constituent living at the base of the Flinders Ranges. He called me and said, 'I have just gone past the wind farm near Port Augusta. It was an ideal day to produce electricity.' I think he said it was around 21 knots, a perfect day for those wind turbines to be moving. There were 46 of them, yet not one of them was moving. They were all shut down.

I wonder what the reason for that was last week. I am hoping that it was not an attempt to try to manipulate the wholesale price of electricity because, if it was, I think there needs to be an investigation, and I hope that the ACCC does start to investigate the manipulation of power prices in this country by some of the power providers.

Another thing I would welcome from the Malinauskas government is the placing of specialist teachers in our schools to work with students with autism or those with neurodiverse issues. This is a much-needed measure. I commend the Premier for recognising this need in our community. I do not think people are really aware of just how serious a problem it can be for many families that need to adjust their lives and also be able to work with kids who have these disorders.

It is a real challenge for them and it is also a real challenge for teachers in our schools to be able to recognise these problems. It was only a few years ago that these kids were not really well catered for in our public school system. Many of them fell through the cracks because the specialist teachers, specialist learning and specialist programs were just not there for these kids to be able to benefit from an education.

As we have seen, more kids are now being diagnosed with these neurodivergent disorders. They are in need of assistance and they are in need of help at school. It is a great initiative by Labor to ensure that there are specialist teachers in place in these schools to look after these kids to ensure that they do not miss out and they can make a valuable contribution to the community once they finish school rather than be forgotten or ignored. Again, commendations to Labor for that initiative.

I also note that there will be an additional five TAFE colleges built. They will be important in boosting much-needed skills in this state. We know that industry, particularly the construction industry, is suffering from the lack of skilled workers. There are not enough apprentices coming through the system. The demand that is going to be there for these skills, particularly in our defence industry, is something that requires a lot of work and dedication from governments to address this problem.

I am also pleased to see that there is additional funding going to the Australian Space Discovery Centre at Lot Fourteen. I actually made my first visit to that centre; it was the first time I was able to walk into Lot Fourteen. Previously, we had to get consent from a minister for a politician to be able to go in there. I was able to visit last Sunday with a group of people from the South Australian Italian Association, and we were hosted by Adjunct Professor Nicola Sasanelli. It was a tremendous experience to see what is going on in there.

Again, I have to commend the previous Liberal government for allocating funding for that—and the Labor government, I must say, as well played a part in that previously—ensuring that South Australia was now the focal point of a burgeoning space industry centred in South Australia, but certainly one in Australia. What is actually happening there, the extent of this industry and how much is involved is an eye-opener. I do not think many people out there realise what the demand will be of the space industry from a commercial aspect.

We know that already Australia is involved in space projects in collaboration with other countries like the United States, and also in an exploratory sense, but this is in a commercial sense. It is a multibillion dollar industry and it is one that is growing all the time. It was great to see that at Lot Fourteen there is active research work going on in the production of small, what they call, cube satellites and other microsatellites that are put into orbit from launch pads. In South Australia, we are going to have one certainly on the West Coast—there was a successful launch the other day from Arnhem—and also one in Central Australia. There will be launch pads in Queensland, and that is an indication of the demands that are going to be there for a commercial space industry.

These satellites are vitally important for various sectors of the community in industry and agriculture. They have been of great assistance in emergencies, such as bushfires. I would imagine that, with the crisis in the floods that have occurred on the east coast, space does actually play a vital role in the observation of many industries and also in our communications.

Let's not forget that is also an important role of this type of technology, the communications they provide, and not just through watching our streaming services on television, for instance, but for emergency services and others who rely on virtually instantaneous communications from satellites. We now take it for granted with GPS services in our vehicles and our phones, but that is only made possible by the satellites orbiting the Earth.

Something else you can see at Lot Fourteen in the space centre—again, this was quite an eye-opener for me—is the number of satellites that are in orbit around the Earth. Something like 27,000 pieces of metal are circling the Earth, and there are a great number that are either no longer in use or are discarded space junk. What has to happen in that regard is that they need to be able to monitor the movement of all those small satellites orbiting the Earth to avoid a potential collision. That is quite a job, when you see an image with all the satellites that are there.

The technology is here in Adelaide, as well as in other parts of the country, where they can manoeuvre satellites out of the way to prevent a collision of those objects. It was pointed out to us that you can come perilously close to closing down communications around the world if there are simultaneous collisions of satellites in orbit, that is how critical it is. It is ingenious how they can slightly change the direction of a small satellite to ensure there is no prospect of a collision happening. Again, this is all happening at Lot Fourteen, and you can go and see it. I am told that something like 600 visitors a week go there and are amazed at the work going on.

There is also incredible research going on there in conjunction with the space centre. One mentioned to me was about how we get rid of the space junk floating around the Earth. There is some research going on where they hope to scoop that junk and then use it for thrusting, as energy or power for spaceships. There is amazing work going on.

There is also work going on in regard to research for the manned Mars mission. Who knows when that will happen. I do not think it will happen in my lifetime, because if you look at the risks that are currently involved it could well be a suicide mission. However, there is active research going on at Lot Fourteen into the physicality of what would be involved for astronauts.

It was pointed out that an astronaut who spends 400 days on the International Space Station loses something like 10 years' worth of bone density and muscle in that time—10 years in 400 days—and it will take two years just to get to Mars. You can imagine the enormous strain that will put on a human body. So there is active research going on here.

I am sorry I have digressed, but I found it really interesting the other day to see what was going on there, because many people go past that place every day not thinking about what actually goes on behind those walls. It is not all about space exploration, putting a man on the Moon or Mars; it is also about the commercial realities of space and some new areas that are opening up, including space law.

We are also informed that there are only six treaties that actually cover space. That also needs to be addressed as well, along with things like who is in control of satellites and all that sort of stuff, important work that is going on there. Again, congratulations to both Labor and the Liberals for pouring money into that and giving us a centre that we should all be proud of. I am sure that one day it will put us right back into the race, as we were back in the 1960s when we had rockets taking off at Woomera. I would also thank Nicola and congratulate him on the work he has done. He informed me on the weekend that he is going to retire shortly, but he has done a fantastic job at Lot Fourteen.

Finally, I want again to acknowledge the service to the people of South Australia by all those members from this who either retired or were not re-elected in March: the Hon. Rob Lucas for his enormous contributions for over 40 years in this place, both in opposition and as a minister and Treasurer. I know that both my colleague Connie Bonaros and I valued his input, guidance and, I must say, his wit as well.

I acknowledge the Hon. John Dawkins, the previous President of the Legislative Council, and the Hon. John Darley. In the other place, I acknowledge the Hon. Dan van Holst Pellekaan, the Hon. Vickie Chapman, Mrs Carolyn Power, Mr Steve Murray, the Hon. Rachel Sanderson, Jon Gee, Peter Treloar, Corey Wingard and, of course, Frances Bedford and Richard Harvey, who are no longer in the House of Assembly—again, our thanks for their years of service to the people of South Australia. With that, I will end my filibustering and thank you.

Motion carried.

The PRESIDENT: I advise honourable members that Her Excellency the Governor will receive the President and members of the council at 3.30pm tomorrow for the presentation of the Address in Reply.

Bills

CIVIL LIABILITY (BYO CONTAINERS) AMENDMENT BILL

Final Stages

The House of Assembly agreed to the bill without any amendment.

Parliamentary Committees

LEGISLATIVE REVIEW COMMITTEE

The House of Assembly informed the Legislative Council that it had appointed the Hon. A. Piccolo to the committee in place of S. Andrews (resigned).

At 23:00 the council adjourned until Wednesday 6 July 2022 at 14:15.

Answers to Questions

WOMEN'S AND CHILDREN'S HOSPITAL

In reply to **the Hon. C. BONAROS** (4 May 2022).

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector): The Minister for Health and Wellbeing has been advised:

Progress has now been made to implement the recommendations of the review that was undertaken in relation to paediatric cardiac services in South Australia, including:

- The establishment and successful trial of the model of care for extracorporeal life support (ECLS) service.
- Employment of the additional skilled workforce, including cardiac surgeons and perfusionists for the ECLS service.
- Access to the instrumentation and equipment for ECLS procedures.
- Appointment of an ECLS nurse coordinator, to manage the service with engagement from key stakeholders.
- The draft MOU with Royal Children's Hospital (Melbourne) and Westmead Children's Hospital (Sydney) is in progress.

In addition, a commitment the Malinauskas Labor government has made, is investing $1 million over four years to HeartKids to establish:

- A specialised early intervention program for kids with congenital heart disease (CHD).
- A targeted mental health program for families affected by CHD.
- A regional support program, improving access to CHD services in rural and remote areas.

For more than two years the former Liberal government rejected HeartKids' pleas for support, leaving them struggling to meet growing demand.

TAFE SA

In reply to **the Hon. F. PANGALLO** (17 May 2022).

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector): The Minister for Education, Training and Skills has advised:

Debt currently owed to TAFE SA by its clients as at 30 April 2022 equates to $14.1 million.

I have been provided with the outstanding debt position for TAFE SA as at 30 April each year for the last three years showing no significant increase in that debt:

Year	Debtor Balance
As at 30 April 2020	$14.5 million
As at 30 April 2021	$14.7 million
As at 30 April 2022	$14.1 million

I have also been provided with the ageing of the debt as at 30 April 2022 and 86 per cent (or $12.1 million of the total debt of $14.1 million) has arisen in the current financial year:

Origin of Current Debt	Debt Balance	Ageing of Debt as at 30 April 2022
Pre 1 July 2020	$0.9 million	6%
1 July 2020 to 30 June 2021	$1.1 million	8%
1 July 2021 to Present	$12.1 million	86%
TOTAL	$14.1 million	100%

Treasurer's Instruction 5–*Debt Recovery and Write Offs* requires the chief executive to ensure TAFE SA establishes and implements policies for the management of debt recovery which aim to recover all amounts owing.

Before referral of a student debt to a debt recovery provider, TAFE SA undertakes an internal debt recovery process consisting of reminder letters, texts and telephone calls. These work to ensure student matters are managed compassionately and with due consideration to the individual circumstances of the student.

TAFE SA does not charge penalties for the recovery of moneys from the debtor. However, once the debt is referred to an external collection agency, the debtor is charged a commission-based percentage fee in relation to the debt collected on the account. On average this amounts to $55 per student debtor.

TAFE SA withholds parchments and statements of attainment if there is a remaining debt on a student account until the debt is paid in full.

Due to privacy considerations, TAFE SA is not able to disclose further information regarding individual amounts owed.

TAFE SA will not increase course fees to cover debts.

FRONTIER SOFTWARE CYBERSECURITY INCIDENT

In reply to **the Hon. F. PANGALLO** (18 May 2022).

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector): I have been advised:

The South Australian government responds to hundreds of cybersecurity incidents each year. It is generally not advisable to comment on the specifics of individual cybersecurity incidents, unless it is in the best interests of the community.

The breach notice sets out a range of actions that the South Australian government is requiring Frontier Software to undertake in remediating its failure to adequately protect the personal information of affected current and former public sector employees, this includes implementing the recommendations made by PricewaterhouseCoopers (PwC) as part of its independent post-incident review. Frontier Software will be responsible for meeting the third-party costs incurred by the South Australian government in responding to the cyber incident.

No decision has been made on whether Frontier Software's contract will be extended or renewed at this time. Frontier's compliance with the requirements of the breach notice will be an important consideration in making this decision.

Government officials were not involved in any discussions between Frontier Software and the cyber criminals. The information provided by Frontier at the time was simply that a ransom demand had been made. Frontier has refused to provide any further details regarding the nature of the ransom demands or their communications with the cyber criminals.

PORT AUGUSTA ALCOHOL RESTRICTIONS

In reply to **the Hon. S.G. WADE** (19 May 2022).

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector): The Minister for Consumer and Business Affairs, who has ministerial responsibility for liquor licensing, has advised:

The Minister for Consumer and Business Affairs can confirm that she has met with the Liquor and Gambling Commissioner and the member for Stuart and discussed the alcohol restrictions in Port Augusta.

WOMEN'S AND CHILDREN'S HOSPITAL

In reply to **the Hon. C. BONAROS** (2 June 2022).

The Hon. K.J. MAHER (Attorney-General, Minister for Aboriginal Affairs, Minister for Industrial Relations and Public Sector): The Minister for Health and Wellbeing has been advised:

The government is working with all staff and board members at the WCHN to deliver on our ambitious agenda for more doctors, nurses and mental health professions at the network to care for the children of SA.

Questions relating to the previous four years would be better referred to the previous Minister for Health and Wellbeing, the Hon. Stephen Wade MLC.