LEGISLATIVE COUNCIL

Thursday, 20 October 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.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

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

Reports, 2021-22—
Child Development Council
Education Standards Board (Education and Early Childhood Services Registration and Standards Board of South Australia)
Investigation by Office of the Chief Psychiatrist—Women and Children's Hospital—Parents for Change Complaint Response—September 2022
Maternal and Perinatal Mortality in South Australia, 2019
Pregnancy Outcomes in South Australia, 2019
Progress review on implementation of the Oakden Report Response Plan and future priorities for the Specialist Aged Care Reform Program—
June 2022—Final Report
South Australian Abortion Reporting Committee—Report, 2019
South Australian Abortion Reporting Committee—Report, 2020

By the Minister for Industrial Relations and Public Sector (Hon. K.J. Maher)—
Office of the Commissioner for Public Sector Employment—Report, 2021-22
Office of the Commissioner for Public Sector Employment—State of the Sector 2022

Ministerial Statement

HIGH MURRAY RIVER FLOWS

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:18): I table a ministerial statement made today in another place by the Minister for Infrastructure and Transport, Energy and Mining on the topic of high Murray River flows, impact on ferry operations.

Question Time

FORESTRY PLANTATIONS

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:19): I seek leave to make a brief explanation before asking the Minister for Primary Industries and Regional Development a question regarding new forestry plantations.

Leave granted.

The Hon. N.J. CENTOFANTI: Under the federal government funding commitment of $86 million to assist with the establishment of new forestry plantations, the federal government will fund 40 per cent of the government contribution to the grants programs in each state or territory and the participating state or territory is expected to fund 60 per cent of the government contribution. My questions to the minister are:

1. What funding was allocated in this year's state budget to this program?

2. Are you committed to securing an agreement with the federal government under this program?

3. How much funding will the state government commit in future budgets to secure an agreement with the federal government under this program?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:20): The state government is continually looking for opportunities to increase timber supply in a sustainable way, taking into account all users of other resources, such as water. We will continue to work with the new federal government to explore any opportunities to work together as well as with industry to this end.

FORESTRY PLANTATIONS

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:20): Supplementary: will the minister commit to securing an agreement with the federal government under the $86 million forestry plantations grant program?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:21): I just answered that question. It was the same question.

The Hon. N.J. Centofanti: You haven't answered it.

The Hon. C.M. SCRIVEN: Yes, I did.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Girolamo has a supplementary question.

FORESTRY PLANTATIONS

The Hon. H.M. GIROLAMO (14:21): Could you please quantify how much was in the state budget for forestry?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:21): The state government will continue to explore opportunities to partner with the federal government and industry to increase timber supply.

RIVERLAND

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:21): I seek leave to make a brief explanation before asking a question of the Minister for Primary Industries and Regional Development regarding the Riverland.

Leave granted.

The Hon. N.J. CENTOFANTI: The Riverland has suffered negatively from recent media reporting related to high river flows. As the minister responsible for regional development, can the minister update the house about how she is supporting the Riverland community and encouraging South Australians to continue to visit this great region?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:22): I think we are all concerned. I am sure we would all join together in the concerns that we do have for the potential flooding in the Riverland. We certainly are hopeful that the flows will not be such as to cause widespread damage and I know there are a number of plans in place to ensure that that is mitigated.

I refer members to a number of points that are in the ministerial statement that I tabled from the Hon. Tom Koutsantonis in the other place. The Malinauskas government is embarking on a six-week campaign to ensure that the River Murray communities are afforded the best possible protection from floodwaters heading to South Australia.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN: It's a shame that those opposite are not interested to hear of the suite of things we have put in place for the Riverland. I hope they will listen to the answer.

The Hon. N.J. Centofanti interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN: I think some background is certainly in order if people are to understand fully what some of our Riverland communities are facing. The latest modelling by the Department for Environment and Water is predicting flows of up to 120 gigalitres per day.

Members interjecting:

The PRESIDENT: I can't hear the minister. Please continue.

Members interjecting:

The PRESIDENT: I can't hear. Please continue.

Members interjecting:

The PRESIDENT: I would like to be able to hear the answer. Please continue.

The Hon. C.M. SCRIVEN: The latest modelling by the Department for Environment and Water is predicting flows of up to 120 gigalitres per day by early December. We have various state agencies, including the South Australian State Emergency Service, SA Police and the Department for Environment and Water, working closely with local government to ensure that the community, businesses and visitors are well prepared for the higher water levels.

Following concerns about levies managed by councils and private landholders being raised by DEW, the government will send a team to the Riverland this week, if it hasn't already done so, to undertake geological surveys of the levies. They will work with councils and private landholders to ensure their levies can offer a level of protection to the community. Agencies are also continually monitoring weather forecasts, projected water flows and any associated risks, and the government will activate the state emergency centre if the risk of flooding increases.

I have certainly heard some of the media from residents and business owners in the Riverland, asking people to continue to visit. One of the caravan parks, I recall, said that they were fully booked for this weekend and encouraged people to be aware of the flooding risks but not to be so concerned as to think that they should not be continuing to support the businesses there. PIRSA has a representative on the Riverland zone emergency support team and that is one other aspect of how we are continuing to support Riverland communities.

RIVERLAND

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:25): Supplementary: minister, what can you tell Riverland businesses you are doing to encourage people to continue to visit the region?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:25): I think I have just answered that question. I think there is a role for all of the community, including media, and I am glad to say that media has been covering some of that, because of course that is how a lot of messages will go through. We again want to make sure that there is not panic but there is awareness, and we certainly look forward to continuing support for the Riverland communities, including businesses.

RIVERLAND

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:26): Supplementary: when will the minister next be visiting the Riverland?

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! I actually didn't hear the supplementary question, so I can't even rule on it. Will you stand up and repeat it, please, and then we will work out whether—

The Hon. N.J. CENTOFANTI: Yes, with pleasure, Mr President.

The PRESIDENT: So your supplementary question was?

The Hon. N.J. CENTOFANTI: When will the minister be next visiting the Riverland?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:26): I am not quite sure how that does arise from the original answer, but given that I have already—

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! Minister, you did give quite a wideranging answer, which is why I think the supplementary question is in order. You may answer it how you see fit.

The Hon. C.M. SCRIVEN: Indeed.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN: I would be happy to answer it if those opposite would actually want to listen to it, but since they are making so much noise they are clearly not interested.

Members interjecting:

The PRESIDENT: Very fair comment. Order!

The Hon. C.M. SCRIVEN: Given that in the six months that I have been minister I have visited the Riverland, I think, four times so far, all of those times have been very, very useful—

Members interjecting:

The PRESIDENT: Order! The Leader of the Government won't bait the opposition.

The Hon. C.M. SCRIVEN: —and I note that the Minister for Environment and Water has also visited on a number of occasions, as well as other ministers. In fact, the first time that I visited, which I think was within four weeks of becoming minister, at that time people I was visiting with said, 'It's so wonderful to see a government minister. Under the previous government, we saw the environment minister'—according to them—'once and then he never came back again.' That is the then environment minister, who is now Leader of the Opposition, who according to what those people said visited the Riverland once and then was never seen again.

Members interjecting:

The PRESIDENT: The Hon. Mr Hunter, I liked you more when you had your mask on.

The Hon. I.K. Hunter: I will put it back on for you, sir.

The PRESIDENT: Thank you. The honourable Leader of the Opposition, your third question.

REGIONAL GROWTH FUND

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:28): I seek leave to make a brief explanation before asking a question of the Minister for Primary Industries and Regional Development regarding grants.

Leave granted.

The Hon. N.J. CENTOFANTI: Under the Regional Growth Fund, the previous Liberal government initiated an Opening our Great Outdoors grant, which was targeted at supporting economic-generating regional tourism activities. According to the Auditor-General's Report, released

on Tuesday, 43 applications were received and only six have been approved, for a total of $4.8 million.

The opposition has been contacted by a number of constituents about seeking an update on the progress of their applications because, as the minister likes to say, the communication they have received is zero, zilch, none. My question to the minister is: do the minister and her department intend to approve any further applications, and if not, why haven't the minister and her department informed the unsuccessful candidates of the outcome?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:29): I thank the honourable Leader of the Opposition for her question. The Opening our Great Outdoors fund was a nature-based tourism grants fund, which, as I understand it, was almost a direction from the then Minister for Environment in the former government, an informal direction. It used the funds from the Regional Growth Fund.

The Regional Growth Fund, apparently, according to the way it is described in the guidelines, is for broad-ranging regional growth projects. This one was limited to tourism. It is debatable whether that really met the intent of the Regional Growth Fund. No doubt some of the applicants and some of the projects and proposals would have merit; however, on coming to government, it became clear that the Regional Growth Fund guidelines needed to be reviewed.

The honourable Leader of the Opposition mentioned the Auditor-General's Report. I would like to mention the Auditor-General's Report as well. In the report, it says that the Regional Growth Fund is a fund over 10 years. 'Its purpose is to unlock new economic activity in regional South Australia'—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN: —'deliver critical economic infrastructure to create direct benefit across regional industries'—

Members interjecting:

The PRESIDENT: I can't hear when you are all talking at the same time. Minister, please continue, and I would like to hear you in silence.

The Hon. C.M. SCRIVEN: —'and strengthen regional communities.' The Auditor-General goes on to say, 'We have raised issues about the grant assessment and approval process for the RGF in previous years.'

Members interjecting:

The PRESIDENT: Order! Minister, please continue.

The Hon. C.M. SCRIVEN: The Auditor-General goes on, 'In 2021-22'—

Members interjecting:

The PRESIDENT: Order! Minister, please continue.

The Hon. C.M. SCRIVEN: The Auditor-General goes on:

In 2021-22 we reviewed PIRSA's management of RGF grants and the guidelines and approvals in place before the election in March 2022. References to the Minister below refer to the former Minister for Primary Industries and Regional Development.

No planned program evaluation for the RGF

The SA Government—

Members interjecting:

The PRESIDENT: Members on both sides!

Members interjecting:

The PRESIDENT: Order! Minister, please finish. Conclude your remarks, please.

The Hon. C.M. SCRIVEN: The Auditor-General said, 'The SA Government does not currently have a grant management guideline.' He went on to make a number of other remarks. PIRSA, of course, was invited to give a response. The Auditor-General's Report also says:

There have been various competitive, strategic and special grant rounds over the past four years. We were advised, however, that PIRSA currently does not have a plan to evaluate the RGF grant program…

PIRSA provided the following response to our finding:

'The RGF commenced under the former Government in 2018 with a strategic and competitive pool of funding. Since that time, at Ministerial [discretion], the fund has been modified to include many programs with different application processes and eligibility criteria.'

The Hon. N.J. Centofanti interjecting:

The PRESIDENT: The honourable Leader of the Opposition!

The Hon. C.M. SCRIVEN: The report goes on:

'Due to the highly variable nature of the program this presents a challenging environment for PIRSA to conduct a full evaluation of the RGF and all its sub-programs.'

The Hon. I.K. Hunter: Ministerial failure. Liberal government ministerial failure.

The PRESIDENT: The Hon. Mr Hunter, let your minister finish. Please conclude your remarks, minister, so we can move on.

The Hon. C.M. SCRIVEN: Certainly. I understand that the opposition would be most uncomfortable to be hearing these remarks from the Auditor-General's Report.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN: The Auditor-General's Report went on to outline a number of applications and assessments that did not necessarily indicate clear recommendations from PIRSA.

Members interjecting:

The PRESIDENT: Order! Members on both sides! Minister, sit down, please.

The Hon. N.J. Centofanti: Zero, zilch, nothing. It's outrageous.

The PRESIDENT: The honourable Leader of the Opposition! I would like to hear the conclusion to the answer, which I am sure is about to come, and then we will move on. Minister, please conclude your remarks, if you have anything else, and then let's move on.

The Hon. C.M. SCRIVEN: Thank you, Mr President. I will round up rather than going into full detail about the various things in the report, noting that some expenses in a grant application did not appear to be eligible, that there was not a clear recommendation from PIRSA to a grant that was approved by the minister, and so on. As a result of all of these, I determined that we needed to review the Regional Growth Fund guidelines. That is going through at the moment, and when that review is complete—

Members interjecting:

The PRESIDENT: Order! The honourable Leader of the Opposition! That is enough from you.

The Hon. K.J. Maher: I have never seen behaviour like this in the chamber. It's appalling behaviour.

The PRESIDENT: Now that is outrageous. Minister, please conclude. I have had enough.

The Hon. C.M. SCRIVEN: If I can finish my sentence. I would be delighted to complete my answer.

The PRESIDENT: Just finish. Come on, finish up.

The Hon. C.M. SCRIVEN: Yes. Once that review is complete there will be further information available. I do note that a number of the proposals to that fund certainly had merit and I will look forward to making announcements in the future.

KANGAROO ISLAND, FERAL PIGS

The Hon. R.P. WORTLEY (14:36): My question is to the Minister for Primary Industries and Regional Development. Will the minister update the chamber on the eradication of feral pigs on Kangaroo Island?

Members interjecting:

The PRESIDENT: Can we actually listen to the answer before we even start to interject?

The Hon. H.M. Girolamo interjecting:

The PRESIDENT: Order, the Hon. Ms Girolamo!

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:36): I thank the honourable member for this question. Last week, I was pleased to visit Kangaroo Island, which of course is a beautiful part of our state. I was joined by the local member of parliament representing the Kangaroo Island area, the member for Mawson in the other place. We had the opportunity to speak with farmers and PIRSA staff about a range of biosecurity matters, including the ongoing efforts to eradicate feral pigs from Kangaroo Island.

Members interjecting:

The PRESIDENT: The honourable Leader of the Government, the honourable Whip and the Hon. Mr Wortley, it is your question, please listen to the answer.

Members interjecting:

The PRESIDENT: It is not a conversation, the Hon. Mr Wortley. Minister, please continue.

The Hon. C.M. SCRIVEN: The eradication efforts started in the wake of the devastating 2019-20 bushfires. The project has removed 861 feral pigs, with fewer than 30 pigs estimated to remain. The final thermally assisted aerial cull will take place between April and June next year when it is hoped to eradicate all feral pigs from the island.

The three-year $5.6 million program to eradicate feral pigs is a partnership between the Department of Primary Industries and Regions, the Kangaroo Island Landscape Board and the National Parks and Wildlife Service, who worked closely with Livestock SA, KI Land for Wildlife and other local stakeholders, including landowners, to find and destroy feral pigs. It is funded by the state and commonwealth government Disaster Recovery Funding Arrangements (DRFA). This project has been made possible through the Local Economic Recovery Program, funded by the Australian and South Australian governments under the Disaster Recovery Funding Arrangements.

While on Kangaroo Island last week it was great to speak with PIRSA's pig eradication coordinator, Matt Korcz. Matt is one of five PIRSA staff working full-time on the pig eradication efforts. I understand feral pigs were actually released by early settlers on the island as a hunting resource, and as a result of that, I must say terrible decision, we have seen in particular the western half of Kangaroo Island inundated with the feral pest.

Feral pigs rip up pastures, they prey on native flora and fauna, they pollute water sources, damage fencing and have also been known to prey on lambs. However, one of the outcomes of the devastating bushfires on Kangaroo Island back in 2019-20 was the significant dent in the feral pig population that occurred.

I understand that before the fires the feral population was as high as 10,000 pigs, and as a result of the fires close to 90 per cent were wiped out—90 per cent—and this has allowed for a collaboration between the local landscape board, the commonwealth and state governments, and industry to work together towards fully wiping out this pest from the island once and for all.

I want to particularly thank the PIRSA staff working on this cull for their dedication to the project. The complete eradication of feral pigs will lead to many benefits for the island. I am advised also that the program is running ahead of schedule. I'm looking forward to further being updated on the cull when it gets underway again between April and June next year. As I said previously, we believe there to be fewer than 30 remaining feral pigs, and I look forward to being able to update the council once more when the eradication efforts are complete.

KANGAROO ISLAND, FERAL PIGS

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:40): Supplementary: given the minister's comments involving the damage that feral pigs do to—

The PRESIDENT: Just ask the question. Don't give an explanation.

The Hon. N.J. CENTOFANTI: What is the Malinauskas government doing to help control feral pigs on the mainland?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:40): Certainly, feral pests of all sorts, including pigs and also deer, for example, are an ongoing problem. They have different levels of intrusion into different parts of the state. I think it's fairly well accepted that it's impossible to eradicate feral pigs on the mainland. Of course, it was even considered impossible on Kangaroo Island prior to the fires, when those fires wiped out 90 per cent of the feral pig population. So there are ongoing attempts and programs to address the many different feral pests that we have on the mainland, and there are a number of programs, some of which I have spoken about before in this place.

HOMELESSNESS

The Hon. R.A. SIMMS (14:41): I seek leave to make a brief explanation before addressing a question without notice to the Minister for Regional Development on the topic of homelessness in the Riverland.

Leave granted.

The Hon. R.A. SIMMS: Yesterday, the honourable Minister for Climate, Environment and Water, Susan Close, provided a ministerial statement on the forecast high flows and rainfall expected in the River Murray over the next few months. In her statement, the minister highlighted that it is the highest seen since 1974, nearly 50 years ago, and it's likely to affect South Australian communities living in the Riverland.

Earlier this month, the Local Government Association of South Australia called on the state government to address regional housing issues, given so many people are struggling to find homes. According to homelessness advocate Shane Maddocks, the chief executive of ac.care, regional towns are on the 'precipice of an unprecedented homelessness crisis'. The latest Australian Bureau of Statistics data on homelessness estimates that 344 people are experiencing homelessness in the Murray and Mallee regions where high flows are predicted. With high flows and wet weather expected while some people are sleeping rough and in tents, my questions to the minister are:

1. How many people are currently sleeping rough in areas where high flows and wet weather are predicted?

2. What is the government doing to protect those experiencing homelessness in the regions that could be affected?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:42): I thank the honourable member for his important question. Some of that detail I will need to get from the minister in the other place and bring that back to the chamber, which I am happy to do. However, in a general sense for background, it might be worth placing on the record some of the other information around the housing situation in terms of the rising waters of the River Murray.

I am told that the South Australian Housing Authority has advised that there are not any public housing properties in the Riverland immediately at risk from flooding, but of course the agency

continues to monitor that situation in consultation with the various other agencies that are looking at the issues around flooding.

The South Australian Housing Authority is also responsible for emergency relief during major incidents and is represented at the State Emergency Centre to coordinate with other agencies. It's one of the agencies that has been represented on the emergency support team that I referred to in one of my earlier answers, of which PIRSA is also a member. That support team has been meeting for the last six weeks and will continue to do so as required.

As part of the emergency relief responsibilities, the South Australian Housing Authority has identified locations for emergency relief centres if they are required in coming weeks and months. Of course, we hope that they are not, but if they are, they have already identified locations. They have identified hotels and motels in affected areas and they have contact details in the event of activating large-scale emergency accommodation.

They have also contacted organisations like Lions and Rotary, which may be asked to assist in emergency relief work. I am also advised that the authority will work with the local homelessness service provider to conduct assertive outreach to vulnerable communities along the riverbank. Those are some of the actions currently underway, and I will take the remaining questions and refer them to the appropriate minister in the other place.

HOMELESSNESS

The Hon. R.A. SIMMS (14:44): Supplementary: can the minister confirm what arrangements are in place for those who are sleeping in tents who cannot be contacted by government agencies?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:45): I would expect that the assertive outreach to which I referred is probably incorporating that into their work. We know there are vulnerable communities but also others who may not have ready contact, so that sort of assertive outreach is part of that. Again, if there is additional information I can provide once I have referred it to the minister in the other place I will do so.

LIVESTOCK INDUSTRY

The Hon. J.S. LEE (Deputy Leader of the Opposition) (14:45): I seek leave to make a brief explanation before asking the Minister for Primary Industries and Regional Development a question about technology to assist livestock farmers.

Leave granted.

The Hon. J.S. LEE: Pioneering South Australian satellite communications company Myriota has recently announced that it has joined forces with water pump manufacturer Grundfos Australia to build and sell a unique solar powered and satellite connected system that allows farmers to remotely monitor water pumps and water tanks. Myriota's satellite connected sensors are attached to Grundfos' European manufactured, solar powered water pumps, so farmers can then use a mobile app to track water levels, with 12 updates daily.

At a time when farmers across the country are struggling with chronic labour shortages, the system is designed to save time, fuel and labour by negating the need for farm and station workers to manually check water levels to ensure stock have access to a drink. Ten of those new water pumps are now in operation at trial sites across North Queensland, the Northern Territory and regional New South Wales. My questions to the minister are:

1. Has the Malinauskas Labor government received any correspondence from Grundfos Australia or Myriota, or a third party representing them, seeking support or incentives to establish trials in South Australia?

2. Has the minister met with any representatives from those companies?

3. Has the Malinauskas Labor government offered any support or incentive to Myriota to establish trials of this groundbreaking technology in South Australia?

4. Has the minister received a briefing from her department on this groundbreaking technology to support a South Australian company?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:47): I thank the honourable member for her question. In terms of whether the Malinauskas Labor government has received any correspondence from the various parties to which the honourable member referred, I am happy to take that on notice. It's a fairly broad question, though, I might say, whether any member of the government has received correspondence from those various parties. I will see what I am able to bring back.

Where there are important technological innovations and advances, it is something our government is always keen to find out more about. The honourable member has mentioned a particular company. What I would normally do, if approached by a particular company, is invite them to contact the department and potentially meet appropriately, for reasons of transparency, with those who may be able to give them advice or, for example, talk about whether the equipment or innovation is perhaps appropriate for one of the demonstration farms.

I was very pleased, a few weeks ago, to be able to visit the demonstration farm at Struan in the South-East and see a lot of the innovations and agtech that has been available for people to see there. It's an important part of farmers being able to, if you like, touch and feel and talk to people about where things might be appropriate for their own needs.

In terms of whether I have met, I could check my diary but, given that the Leader of the Opposition is always FOI-ing my diary, I suggest that the honourable member speaks to her colleague and she can find out for herself.

LIVESTOCK INDUSTRY

The Hon. J.S. LEE (Deputy Leader of the Opposition) (14:49): Supplementary: has the minister received a briefing at all from her department regarding any requests for a meeting from those companies I mentioned?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:50): I'm happy to take that on notice. Given, however, it is—

The Hon. N.J. Centofanti interjecting:

The Hon. C.M. SCRIVEN: Perhaps the former Minister for Primary Industries didn't get out to the regions as much as I am. Perhaps he didn't spend a lot of time meeting people in agriculture, in primary production, in forestry and regional development. Perhaps it's a matter of whether you want to take on the additional workload, which I am so pleased to be able to do, and get out and about. It doesn't include keeping a ready reference in my mind of every briefing that I have had in terms of specific technology. However, I think agricultural advances and agtech are incredibly important, so I am happy to take it on notice and bring some information, if appropriate, back to this chamber.

SHOP TRADING HOURS

The Hon. R.B. MARTIN (14:51): My question is for the Minister for Industrial Relations and Public Sector. Can the minister please outline the different approaches that have been taken regarding shop trading hours reform in recent years?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:51): I thank the honourable member for his exceptionally important question and his longstanding interest in this matter. I am at the outset very pleased that we are seeing, and I believe debate has concluded in the other place in relation to what will be the biggest changes in years and, in fact, I think the biggest changes this century to shop trading hours laws.

The honourable member asked: can I outline the differences that we have seen over recent years? I think I can. I think I can outline the Liberal Party's views and approaches to shop trading hours as ideological zealotry compared to sensible, consultative reform. What we saw under the last term of government were attempts at absolute and complete deregulation of shop trading hours. We

saw that in the face of South Australia having the enviable place of the highest penetration of independent grocery retailers in the country.

We see in South Australia family-owned South Australian businesses like Foodlands and IGAs holding something like a third of the market for supermarkets in South Australia compared to single digits in other states—three to four times the amount of locally-owned businesses, compared to those national supermarket chains, that provide local jobs for South Australians, not just in the retail sector but importantly those supermarket chains, as we have canvassed in here before, stocking much greater percentages of South Australian-made and innovated food products and other products.

What we are seeing now in South Australia, as I said at the outset, are the most significant changes in shop trading hours this century. We have seen a different approach, that zealous, ideological, must completely deregulate and decimate South Australian business approach, attempted by the Liberal Party. We have seen from amendments that were moved in both chambers that the Liberal Party haven't changed their stripes. They are still keen for deregulation without consultation that goes much, much further. That's what we have seen, as opposed—

Members interjecting:

The Hon. K.J. MAHER: Do you know what? It failed dismally—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: —which could be the motto of the South Australian Liberal Party: failed dismally.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: Numerous attempts at this ideological overreach failed dismally time and time again. What we have seen over four years of government is that ideological pushing of complete and utter deregulation no matter what the cost to South Australian jobs fail dismally.

What we have seen in about seven months of the Labor government is the most significant reforms this century—the most significant reforms this century—in shop trading hours. We are seeing extra time on Sunday for shop trading hours. We are seeing the legislative ability for shops, except for the bigger supermarkets, to open on Boxing Day. We are seeing legislatively protected those three days before Christmas shopping until midnight—the weekdays before Christmas—and of course Black Friday shopping in November.

I am proud to be part of a government that stands in stark contrast to the dismal failure of the Liberal government, which could not get any reform whatsoever, to be part of the government that has already delivered in short time the biggest reforms we have seen this century in shop trading hours.

Members interjecting:

The PRESIDENT: Order! Minister Scriven, order!

SHOP TRADING HOURS

The Hon. L.A. CURRAN (14:55): At what point will the ministers opposite spend more time governing and getting on with their job now that they are in government than focusing on the former Liberal government—it has been seven months now!

The PRESIDENT: I was going to say that that is not a point of order. However—

The Hon. L.A. Curran: It was a supplementary question.

The PRESIDENT: It's not a supplementary.

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:55): That's an excellent question, a very good

question, because in seven short months we have done more in this sort of reform than the Liberal Party did in four long years. In seven short months we have done more than they did in four long years. I have to say that, if they keep it up, as they have shown they will do, this ideological overreach, I wish them another happy 16 years in opposition.

SHOP TRADING HOURS

The Hon. J.M.A. LENSINK (14:56): Supplementary arising from the original rant.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Lensink has a supplementary question arising from the original answer.

The Hon. J.M.A. LENSINK: How does the minister reconcile his rant with the fact that there was record employment under the Marshall Liberal government? Today, the unemployment statistics have gone up again under his new government.

Members interjecting:

The PRESIDENT: Order! Attorney, you did talk about employment, so I think there is a link to that.

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:57): As I have said, South Australia was very fortunate that every single member of this chamber, except for the Liberals, protected the economy from their ideological overreach. They were exceptionally fortunate that we had the Greens to stop their overreach; we had SA-Best to stop their overreach; we had the Hon. John Darley in this chamber to stop their overreach.

If they had got their wish to make sure South Australian food manufacturers were worse off, we would have seen job losses in South Australia, so I am very proud we did what we could to protect jobs in the South Australian economy and didn't let the ideological wreckers from the other side have their way.

SHOP TRADING HOURS

The Hon. H.M. GIROLAMO (14:57): Supplementary: for the record, and for the people of South Australia, are you ruling out any further changes to operating hours and public holidays trading for the foreseeable future under your government?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:58): We think we've got the balance right. We spent a long time consulting with retailers, we spent a long time consulting with those who represent workers. We have the other side continuing their tirade against working South Australians.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: We have them deriding those who would dare to talk to people who represent workers. I have to say that I am proud to do that. I will keep talking to unions, and if the other side thinks it's a good idea to deride union members—

Members interjecting:

The PRESIDENT: Order! Minister, can you please conclude your remarks. We have had seven questions so far, we have to move this on.

The Hon. K.J. MAHER: Having got the balance right, we have no intention of further deregulation reform in shop trading hours.

URGENT MENTAL HEALTH CARE CENTRE

The Hon. S.L. GAME (14:59): I seek leave to make a brief explanation before addressing a question to the Attorney-General, representing the Minister for Health and Wellbeing, on the Urgent Mental Health Care Centre.

Leave granted.

The Hon. S.L. GAME: This centre opened in 2021 and was in response to the more than 25,700 mental health presentations to Adelaide metropolitan emergency departments in 2020, a number that had been steadily growing for years. It provides alternative space for care for those experiencing a mental health crisis without referral 24 hours every day of the year, connecting people in crisis with both trained mental health professionals and people with lived experience. In many ways, it has been incredibly successful.

The two biggest barriers to this facility helping people are (1) that there is only one, located on Grenfell Street in the city and many people experiencing a severe mental health crisis are unable to travel what might be a significant distance to attend this specialist facility; and (2) that the community simply does not know about the Urgent Mental Health Care Centre.

I have personally asked many people in my social circle, members of the community and individuals who I meet through my position in parliament and I am yet to meet anyone outside of the mental health field who is actually aware of the centre. My questions to the Attorney-General representing the minister are:

1. What is the information dissemination and advertising strategy for the existing Urgent Mental Health Care clinic?

2. What is the time line on the new pending northern clinic run by the Sonder allied health group?

3. Since Labor has promised to take mental health care seriously, how many other urgent acute mental health drop-in centres is the Malinauskas government planning to open across South Australia?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:01): I thank the honourable member for her question and her interest in this area. I will refer her questions to the minister in another place and bring back a reply.

PIRSA SCORECARD

The Hon. H.M. GIROLAMO (15:01): I seek leave to make a brief explanation before asking the Minister for Primary Industries and Regional Development a question about the PIRSA scorecard.

Leave granted.

The Hon. H.M. GIROLAMO: In parliament on Tuesday, the minister said that, and I quote:

> When the 2021-22 PIRSA scorecard is released, it will be wonderful to see spirits featured for the first time…

My question to the minister is: given the PIRSA scorecard is now finalised, when will the PIRSA scorecard be released?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:01): I think that I did not say that the PIRSA scorecard was finalised. The data that goes into the PIRSA scorecard is quite vast. I don't recall exactly when the scorecard was released most recently, but certainly it has been since I have been minister and since the change of government. I am happy to check with my department what the usual time frames are and bring an answer back to the honourable member.

PIRSA SCORECARD

The Hon. H.M. GIROLAMO (15:02): Supplementary: will this be a priority to deliver this in a timely basis, and what are the results looking like so far?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:02): I expect that the scorecard will be released in the same type of time frame as it has previously. I don't recall any criticism of the previous government for their time frames; I certainly didn't raise any criticism of their time frames. I think it's really important that,

when we are looking at the sort of information and data that goes into the scorecard, it's relied upon for a large number of purposes, so it's very important that it is collated and analysed and presented in a way that is easily accessible and easy for people to use. So that's my expectation going forward.

FRUIT FLY

The Hon. T.T. NGO (15:03): My question is to the Minister for Primary Industries and Regional Development. Will the minister update the chamber on the use of sniffer dogs to detect fruit fly?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:03): I thank the honourable member for his question and his ongoing interest in our horticulture and agricultural industries. I am very pleased to advise the chamber that two detector dogs have been trained and have started a trial to find fruit fly larvae in orchards and help the Department of Primary Industries and Regions in our fight against the outbreaks in the Riverland.

Two detector dogs, Max, who is a four-year-old border collie cross koolie, and Rylee, who is a three-year-old German Shepherd, graduated on 29 September, following their final exams in Mypolonga. They graduated from a four-month training program and it was my delight and privilege to see them the next day when they appeared to be enjoying their work incredibly enthusiastically and having a very great time, as well as being incredibly useful, of course, in this trial. The dogs began work in the field as part of a month-long trial, which will decide the ongoing use of this new and innovative tool for finding fruit fly.

The difference, I guess, with using detector dogs is that the detector dogs have the potential to cover large areas of land very quickly, and that way they can support the PIRSA field teams in their search by identifying potential hotspots which require further investigation. The detector dogs search all the trees in the orchard and they work in a kind of pendulum motion. They are off lead and they are ahead of the handler. The dogs lie down if they detect the larvae, and that is how they inform the trainer of their find.

The training involved hiding irradiated larvae, which are secured in a mesh bag and either buried in the ground or hung from trees in an orchard. That is what they would lie down in front of when they found it. The irradiated larvae are from the Port Augusta Sterile Insect Production Facility and they are safe to use in the training. I am very interested to see the outcome of this trial of detector dogs in the Riverland fruit fly response. If successful, following appropriate analysis, we will be able to continue using them as a response tactic.

The way that teams currently locate fruit fly larvae—this is human teams—is by searching the fruit trees for signs of fruit fly damage and then they have to actually open up the fruit, cut it open, to be able to inspect further. The detector dogs will potentially enhance this good work by helping to identify possible hotspots in large areas of land much faster than could be done otherwise.

Finding Queensland fruit fly larvae early is important in preventing it from spreading and becoming more established. Detector dogs are increasingly being used to identify pests, and this is the first time they have been used to detect Queensland larvae infestations in fruit. Detector dogs have been successfully used to find Mediterranean fruit fly larvae in a controlled environment overseas. In that case, the dogs searched 100 pieces of fruit in less than seven minutes and identified three infested fruits as a result.

We are committed to keeping South Australia fruit fly free because it allows industry a distinct advantage in overseas markets. This trial is one of the many ways the state government is responding to fruit fly outbreaks in the Riverland.

FRUIT FLY

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (15:07): I thank the minister for that information. Can the minister inform the chamber how long the trial is intended to go for?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:07): Certainly. I did mention that in my answer, but it's a one-month trial.

MEDICAL SPECIALISTS, ENTERPRISE BARGAINING

The Hon. C. BONAROS (15:07): I seek leave to make a brief explanation before asking the Minister for Industrial Relations a question about enterprise bargaining negotiations.

Leave granted.

The Hon. C. BONAROS: Our hardworking and dedicated public health visiting medical specialists, the very same specialists who joined the public sector on the frontline of our public health service when COVID hit, have said they feel abandoned by the state government. They believe they are the victims of payback by the government for not being as vocal as the very vocal and prominent nurses' union or ambulance union during the state election earlier this year.

Why else, they argue, would they be offered a paltry 1.5 per cent pay offer over three years as part of their current enterprise bargaining negotiations with the government? Compare that to the nurses, who have just won a deal including annual 3 per cent increases, two $1,500 cash payments, $2.50 daily car parking and free public transport, and the ambulance officers, who were granted an annual pay increase of 2.5 per cent backdated to the expiry of the last enterprise agreement in 2018. For the record, those frontline troops very much deserve every penny they get.

As the SA Salaried Medical Officers Association's chief industrial officer, Bernadette Mulholland, tells me, the current visiting medical specialist enterprise agreement expired 15 months ago and the new offer is 1.5 per cent over three years. She and her members believe that is an insulting pay offer and sends a very clear message from the government that unions that run ads telling people how to vote are well paid while unions that merely advocate for members and their public are not. My questions to the minister are:

1. Why is the state government treating our highly valued and in demand public health system's visiting medical specialists as lesser employees?

2. What do you say to these dedicated medical specialists who believe that the offer is an insult and shows the government does not value or respect them as much as other public health professionals?

3. Do you believe such offers are counterproductive to retaining or recruiting medical staff, especially given the staff shortages that currently exist across our health system?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:09): I thank the honourable member for her question. Firstly, what I would say to those who work on the frontline is: thank you for your services, particularly during the COVID era, when frontline health professionals were some of the heroes of the Australian workforce.

In terms of enterprise bargaining and offers that are being made, I will take a tiny bit of time to inform the honourable member and the chamber of traditionally how the enterprise bargaining negotiations with salaried medical officers, clinical academics and also visiting medical specialists have generally worked in South Australia. For many years, and certainly both former Liberal and former Labor governments, there has been a nexus between what is negotiated for salaried medical officers that is then flowed on to the two other groups: clinical academics and visiting medical specialists.

Earlier this year, I think it was February, the negotiations with salaried medical officers were concluded. That covers almost 4½ thousand salaried medical officers in our public hospitals around South Australia. Earlier this year, what was agreed to by the union and what was ratified was 1.5 per cent a year over three years.

As I have said, what has happened for many years under both Liberal and Labor governments is that the same conclusion that is reached with those 4,461 (that is the latest figure I have) salaried medical officers is flowed on to those other two cohorts: clinical academics—I am informed there are around 59 in headcount of clinical academics in our system in South Australia—and visiting medical specialists—I am told their headcount is 216, although that equates to only about 32 FTEs because many do it on a few hours a week basis.

It is absolutely consistent with what has happened for many years under both Labor and Liberal governments. The government has offered to flow on what was negotiated, reached and ratified earlier this year with the 4½ thousand salaried medical officers to those other two cohorts—that is, the few dozen FTEs in clinical academics and visiting medical specialists—of that 1½ per cent.

I can understand the rhetoric that the union uses. Unions, I understand, have a role to play and a job to do in advocating for their members, but it is the case that, for many years, the salaries and outcomes that have been reached for what is now about 4½ thousand salaried medical officers have been flowed on to those other two cohorts. That is exactly what we are doing, as governments of both persuasions and stripes have done in the past in South Australia.

MEDICAL SPECIALISTS, ENTERPRISE BARGAINING

The Hon. C. BONAROS (15:12): Supplementary: are those offers just outlined by the Attorney counterproductive to retaining or recruiting medical staff, especially given the shortages that currently apply across the health system?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:12): I thank the honourable member for her follow-up question. It is the case that this has been the situation for many, many years, as I said, under both Labor and Liberal governments in South Australia. I am not sure, if you were to amortise it as a full yearly wage, what the wage of a visiting medical specialist or a clinical academic would be, but I am quite sure that would be very substantial and certainly a lot more than the salaried medical officers, whose agreement was concluded, I think, as I said, in February.

I don't think it is just the wages for some of the upper echelons of those medical specialists that are taken into account. There are many other factors, including working conditions but also lifestyle choices people make about where they choose to live and work, including family, cost of living and housing prices. I take the honourable member's point, but I think there will be other factors taken into account. In answer, I don't think it is counterproductive to keep employing the same formula that has been used over many years in South Australia.

MEDICAL SPECIALISTS, ENTERPRISE BARGAINING

The Hon. C. BONAROS (15:13): Further supplementary: does the minister acknowledge the shortages across our health system and that this has not helped in terms of retention of those medical officers whom we have just spoken about?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:14): I thank the honourable member for her question. In terms of the specifics of attraction and retention in the health system, I would not want to say something without my colleague the health minister providing some advice. As I have said, I think when you are talking about some of the clinical academics or visiting medical specialists, wages will be a component but certainly not necessarily the determinative component of a decision to work in South Australia or otherwise.

ELECTION COMMITMENTS

The Hon. S.G. WADE (15:14): My question is to the Leader of the Government. Will the leader table a full list of election commitments that the leader's party made before the 2022 state election?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:14): I thank the honourable member for his question, and I invite him to look at the records that have been publicly available and to do his own homework.

Members interjecting:

The PRESIDENT: Order! Order! Right, that's enough! The Hon. Mr Wade has a supplementary question.

ELECTION COMMITMENTS

The Hon. S.G. WADE (15:15): My supplementary question is: to what sources does the leader refer?

The Hon. K.J. Maher: Sorry, what was the question?

The Hon. S.G. WADE: To what sources of the election commitment list do you refer? You said, 'Look at the sources.'

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:15): Certainly in the lead-up to the election there were press releases, there were many outlets where our Labor election commitments were held. They were on websites, on glossy documents, on brochures, on media releases. There were any number of places that our election commitments were put before the people of South Australia.

I can go through some of our election commitments, some of the more well-known ones, seeing that the honourable member is so interested in what our election commitments were. He has asked a question and a supplementary about our election commitments, so I am happy to inform him of what some of them were.

One of them is not building a $600 million basketball stadium. That was a very strong election commitment of the South Australian then Labor opposition, now Labor government. That was one of our major election commitments: not to build a $600 million basketball stadium, and to put that money into the health system in South Australia. I am sure the honourable member will be very familiar with why that's important for South Australia.

That election commitment was weighed up by the good people of South Australia on 18 March when they decided to cast their ballots, and certainly that election commitment not to build a basketball stadium was one that found significant favour with the people of South Australia. I will tell you another one of our election commitments, seeing the member is that interested he has asked a question and a supplementary question about it. We have talked about it already today.

Another one of our election commitments was to reform shop trading hours. In fact, our election commitment was to deliver the biggest reform to shop trading hours—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: —this century. The good people of South Australia once again weighed up what do they prefer: the sensible, well thought out, albeit biggest reforms of shop trading hours this century that the Labor opposition was then offering, or the ideological zealotry of the Liberal Party for total and utter deregulation and decimating our independent grocery sector. The good people of South Australia on that election commitment weighed up what they would prefer and they decided that they preferred what the South Australian then Labor opposition was offering.

There were many other election commitments, because the honourable member is that interested he has not only asked a question but a supplementary question about our election commitments. Another one of those was to invest in kickstarting a hydrogen industry in South Australia. We made a commitment for a $593 million hydrogen plant in South Australia that has been announced. I'm sure, sir, that you will be very interested the placement of that hydrogen facility has been announced in the Upper Spencer Gulf, a part of the state that has provided so much economically for this state and has an ability to in the future. The people of South Australia—

The Hon. T.A. FRANKS: Point of order: I believe in answering questions ministers are not required to place things on the public record on the public record again, so is the minister conceding that this is not on the public record?

The PRESIDENT: No. Conclude your remarks, minister.

The Hon. K.J. MAHER: Thank you, sir, I will conclude my remarks. As I have mentioned, some of the other policies that the then Labor opposition took to the state election: not building a basketball stadium, putting that money into hospitals; sensible reform on shop trading hours as

opposed to complete deregulation; and, as I have mentioned, an investment in a renewable energy future and jobs in South Australia through the hydrogen plant were all things that were weighed up by the people of South Australia and they decided they didn't like what they saw from the four years of the Liberal government.

Bills

SUCCESSION BILL

Introduction and First Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:20): Obtained leave and introduced a bill for an act to consolidate and amend the law relating to wills, probate and administration, the administration of deceased estates, intestacy and family provision, to repeal the Administration and Probate Act 1919, the Inheritance (Family Provision) Act 1972 and the Wills Act 1936, to make related amendments to various other acts, and for other purposes. Read a first time.

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:21): I move:

That this bill be now read a second time.

I am pleased to introduce the Succession Bill 2022. This bill represents some of the most extensive reform to succession law in South Australia since the development of the Inheritance (Family Provision) Act in the 1970s.

The process leading to the development of this bill started in 2011 when the then Attorney-General, the Hon. John Rau, invited the South Australian Law Reform Institute to identify areas of succession law that were most in need of review, to conduct a review of each of these areas and to recommend reforms. SALRI's Advisory Board identified seven topics for review and established a Succession Law Reference Group to assist. The reports produced by SALRI between 2014 and December 2017 were:

- Securities Guarantees for Letters of Administration;
- State Schemes for Storing and Locating Wills;
- Small Estates and Minor Succession Disputes;
- South Australian Rules of Intestacy;
- Management of the Affairs of a Missing Person;
- Review of the Inheritance (Family Provision) Act 1972 (SA); and
- Who May Inspect a Will.

I wish to place on the record an acknowledgement of the work of the former government, which introduced a version of this bill to parliament late last year before parliament was prorogued. The bill I introduce today has many common features to the previous iteration, updated to include various amendments that were filed to deal with some technical matters.

The bill enacts the recommendation from these seven SALRI reports that are legislative in nature and have been accepted by the government. Most significantly, this bill repeals the Administration and Probate Act, the Wills Act and the Inheritance (Family Provision) Act and consolidates the provisions into this one new act.

The bill also makes consequential and related amendments to the Aged and Infirm Persons' Property Act, the Guardianship and Administration Act, the Law of Property Act, the Public Trustee Act, the Supreme Court Act and the Trustee Act. Having one piece of legislation to deal with all aspects of succession law will greatly enhance usability of the legislation, particularly for laypeople, who may have to act as an executor or administrator of an estate.

For many people, the death of a family member will be the first time they ever need to deal with this legislation, and it is important to make it as easy to understand as possible. It became apparent during the drafting of the bill that many of the terms used in the legislation were significantly outdated (including a reference to the reign of King Charles II in the definition of 'will') and sometimes refer to common law concepts that no longer exist or practices that had fallen out of use many decades earlier.

The bill modernises and updates the language used, where possible, to make the legislation simpler and easier to understand. The bill reorganises the provisions that are to be consolidated from other legislation, so that the bill is set out in a logical manner.

Part 1 contains the preliminary provisions, such as the interpretation provisions; part 2 contains provisions relating to wills; part 3 deals with administration and probate; part 4 with the administration of deceased estates; part 5 with intestacy; part 6 with claims for family provision; followed by miscellaneous provisions in part 7.

As the bill is lengthy, I will provide only a short overview of each part and highlight some of the more significant changes in each part of the bill. Part 1 contains the preliminary provisions. In the definition section, some of the definitions have been modernised or simplified, where possible; for example, the definition of a will has been modernised and is based on the definition used in interstate legislation.

Part 2 contains the provisions that formerly made up the Wills Act. There were very few recommendations from SALRI that dealt with the provisions of the Wills Act, and therefore the changes to this part of the bill are focused on modernising and simplifying the language where that has been possible.

One of the SALRI recommendations that does come within this part of the bill is a new provision that gives a certain class of person the right to inspect the will of a deceased person. The classes of person include persons named in the will, beneficiaries, surviving spouses and domestic partners or former spouses and domestic partners, parents or guardians of the deceased, and persons eligible to a share of the estate under the rules of intestacy had the person died intestate. Persons with claims against the estate in law or equity can also inspect the will, but only with permission of the Supreme Court if they have a proper interest in the matter and it is appropriate for them to do so.

Part 3 of the bill contains provisions relating to the granting of administration or probate and incorporates a small number of amendments arising from the SALRI recommendations. The Supreme Court has been given the power to pass over applicants for a grant of probate or administration, to appoint another person who they consider to be appropriate, and to vary or revoke such a grant.

One of the other significant inclusions in part 3 of the bill are the provisions introducing a deemed grant model for the administration of small estates. This was a SALRI recommendation from the report on the administration of small deceased estates. These provisions allow the Public Trustee to give notice to the Registrar of Probate that they intend to administer a small estate (of a value of $100,000 or less) under the deemed grant provisions.

The Public Trustee will not have to apply for a formal grant of letters of administration and will instead be taken to have a deemed grant of administration. The Public Trustee will be required to gazette a notice that they are electing to administer an estate under the deemed grant, and also publish it on a website approved by the minister.

This will make the process for the administration of small estates by the Public Trustee simpler and less costly, which is important for small estates so that the estate does not get unnecessarily reduced by fees and costs. It will also provide an alternative process for the Public Trustee to use rather than the Public Trustee administering small estates informally.

Part 4 of the bill deals with the process of administering deceased estates and contains a number of changes recommended by SALRI. Some of the significant inclusions in part 4 give the court additional powers to hold executors and administrators to account in relation to the administration of estates.

This includes new powers to require an executor or administrator to give an undertaking to the court, as well as a wide range of powers to remedy loss if an executor or administrator failed to perform their duties. For example, the court may order the executor or administrator to pay into the estate an amount equivalent to the financial benefit obtained by the executor or administrator as a result of their failure.

The court may also order the executor or administrator to compensate persons who have suffered loss, or give any other order that the court considers appropriate. These provisions provide an important mechanism to ensure that the beneficiaries of estates can hold executors and administrators to account for failing to undertake their duties.

On SALRI's recommendation, the bill allows persons who hold small amounts of money or personal property of a deceased estate to give it directly to the surviving close family of the deceased without needing a grant of probate or administration. This will apply to money or property up to the value $15,000. This is intended to allow, for example, banks to transfer the money in a bank account belonging to the deceased to the person's surviving spouse in a much faster time frame than if a grant of probate were required. This money can often be vital for the surviving spouse's immediate day-to-day living expenses, and therefore it is important this can be done and accessed as quickly as possible.

One addition to the bill that came from stakeholder feedback is the inclusion of a provision to codify the application of assets and the payment of debts and liabilities in solvent states. There are existing provisions dealing with insolvent estates, but South Australia currently relies on the common law for solvent estates.

Reliance on the common law has meant that the rules are more complex to apply to South Australia, and a clear, codified formula will be beneficial for executors and administrators when dealing with such deceased estates. Therefore, a provision has been included at clause 83 that is based upon provisions used in the Victorian legislation.

Part 5 of the bill contains the provisions that deal with intestate estates, which is an estate where the deceased person died without a valid will. SALRI made a number of recommendations in their report on the laws of intestacy; however, a significant number of those recommendations endorsed maintaining the status quo, and therefore no legislative amendments were required to implement those recommendations.

One of the changes that was recommended was to increase the amount of the preferential legacy received by the surviving spouse of the intestate. The preferential legacy is a payment that a surviving spouse receives from the deceased estate. It has been increased from $100,000 to $120,000.

Another change is that the distribution on intestacy has had one additional degree of relatives. The grandchildren of relatives of the fourth degree, in effect the children of the first cousins of the intestate, are included in the distribution order before the estate passes to the Crown. This change has been undertaken as there was a preference expressed to SALRI during their public consultation that people would prefer their estate to pass to a more distant relative if there is one, rather than to the Crown.

There is also a catch-all provision where a person with a just and moral claim can apply to receive the estate if there are no relatives in the chain of distribution. Therefore, there is a mechanism to allow even a very distant relative to receive the estate instead of it passing to the Crown. Where there are a number of relatives in the chain of distribution, the distribution of the estate is on a per capita basis—that is, in equal portions—to the children and grandchildren of the intestate but on a per stirpes basis (inheriting a portion through your parent) in all other cases.

It has also been clarified that a spouse or domestic partner of an intestate has no entitlement to any part of the intestate's estate if they are a party to a prescribed order or agreement. The intention of these changes is to provide that spouses or domestic partners who have separated but not legally ended their relationship through divorce or removal from the relationships register, and have finalised the financial matters between them, are removed from the order of inheritance for intestate estates.

Part 6 of the bill deals with claims for family provision and contains the provisions formerly in the Inheritance (Family Provision) Act. In the feedback received by SALRI during the preparation of their report into family provision it was generally agreed that claims under the family provision act are too easy to make and not enough weight is placed on the wishes of the testator.

There are often, from the consultation, unmeritorious claims made by beneficiaries who do not need the financial support, and currently there is very little disincentive against making claims as costs are borne by the estate. Therefore, in order to rebalance the wishes of the testator with the right of beneficiaries to make a claim where they have not properly been provided for, the categories of claimants who are automatically entitled to bring a claim under the family provision sections of the bill have been narrowed.

Former spouses and domestic partners are excluded from making a claim for family provision if they have been party to a prescribed agreement or order, similar to the exclusion from the order of inheritance of intestate estates. This is to, for example, prevent long-divorced former spouses from making claims from an estate years after the marriage has ended and the financial matters were settled.

The position in relation to adult stepchildren has also been clarified. In order to be eligible to make a claim, an adult stepchild has to demonstrate that either:

- they are disabled and significantly vulnerable by reason of their disability; or
- they were genuinely dependent on the deceased at the time of their death; or
- they cared for, or contributed to the maintenance of, the deceased immediately before their death; or
- they significantly contributed to the estate of the deceased; or
- assets accumulated by the stepchild's parent substantially contributed to the estate of the deceased person.

The last category of claims will ensure that adult stepchildren have a way to make a claim on their step-parent's estate where their own parent had left assets to their spouse rather than directly provide for their children at the time of their own death.

Additionally, stepchildren who are minors are entitled to make a claim if they satisfy the court that they were wholly or partly (or were legally entitled to be wholly or partly) maintained by the deceased immediately before their death. Grandchildren of the deceased person will now have to satisfy the court that either their parents died before the deceased person or that the grandchild was wholly or partly (or was legally entitled to be wholly or partly) maintained by the deceased before they will be able to make a claim.

Section 116 now provides that, when determining whether to make a family provision order, the court's primary consideration is to be the wishes of the deceased person. The court may also order a party to proceedings to give security for costs that may be awarded against the party if it appears to the court that the party's claim for family provision is made without merit or the party is unwilling to negotiate a settlement of a claim for provision. This amendment is aimed at discouraging unmeritorious claims.

Part 7 of the bill contains the miscellaneous provisions. One significant addition in this part is a provision that will codify the rules that apply when there are simultaneous deaths of spouses or domestic partners. Currently, South Australia relies on common law rules in this situation, which means the rules in South Australia are different to other Australian jurisdictions. New provisions state that where there are simultaneous deaths, any jointly-owned property will devolve in equal share to each person's estate as if they were tenants in common.

An additional provision in part 7 has been included to codify the presumption of survivorship. This provision provides that, where two or more persons have died in circumstances where it is not possible to determine the order of death, that the deaths will, for the purposes affecting title to property, be taken to have occurred in order of seniority, with the eldest being presumed to have died first.

The Succession Bill 2022 represents the culmination of a number of years of work from SALRI, the Attorney-General's Department and parliamentary counsel on these reforms. As I said at the start, I want to acknowledge the work of the former government, particularly the former Attorney-General, the Hon. Vickie Chapman, who introduced a version of this bill last year.

Following the introduction of the bill today I intend to provide time for interested stakeholders to consider this iteration of the bill and to provide any further comments they may wish. My intention is to progress the bill through this place but not at a speedy resolution, and I do not expect this bill to be passed this year. The passage of the Succession Bill will give South Australia a modern, usable piece of legislation that will have benefits for the legal profession, the courts, the Public Trustee and the general public. I commend the bill to the house and seek to insert the explanation of clauses in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used in the measure.

Part 2—Wills

Division 1—Making, alteration, revocation and revival of wills

Subdivision 1—Property that may be disposed of by will

4—All property may be disposed of by will

This clause provides that a person may dispose of all of their property by will.

Subdivision 2—Testamentary capacity

5—Will of minor

This clause provides that a minor cannot make, alter or revoke a will unless they are or have been married or the will is made in contemplation of marriage. A will made in contemplation of marriage has no effect unless the contemplated marriage is solemnised.

6—Will of minor authorised by Court

This clause empowers the Supreme Court (the *Court*) to authorise a will to be made, altered or revoked for a minor.

7—Will of person lacking testamentary capacity authorised by Court

This clause empowers the Court to authorise a will to be made, altered or revoked for a person who lacks testamentary capacity.

Subdivision 3—Execution and attestation of wills

8—Requirements as to writing and execution of will

This clause sets out how a will is to be made and executed.

9—Exercise of power of appointment by will

This clause sets out how a will is to be made and executed where a person holds a power of appointment exercisable by will.

10—Will of ADF member on active service

This clause allows a person on active duty as a member of the Australian Defence Force to dispose of property by a nuncupative will.

A 'nuncupative will' is a verbal will, 'depending merely on verbal evidence, being declared by the testator *in extremis* before a sufficient number of witnesses and afterwards reduced to writing'—*Wharton's Legal Lexicon*

13th edition (1925) p.603. 'The English Statute of Frauds, 29 Car. 2 c. 3 restricted nuncupative wills, except when made by mariners at sea, and soldiers in active service'.

11—Validity of will

This clause provides for a will to be valid if executed in accordance with this measure and empowers the Court to admit to probate a will that has not been executed in accordance with this measure if the Court is satisfied that it expresses the testamentary intentions of the deceased and the deceased intended the document to constitute their will. It also provides for a document not to be admitted to probate if the Court is satisfied that it expresses an intention by the deceased to revoke it.

12—Will not void by incompetency of witness

This clause provides that a will is not invalid only because a person who attests its execution is, or has become, incompetent to prove the execution of the will.

13—Gifts to attesting witness

This clause provides that a will or testamentary provision of a will is not void only because it is attested by the spouse or domestic partner of the testator or by a person who has or may acquire an interest in property subject to the will or provision.

14—Creditor attesting to be admitted as witness

This clause provides that a creditor, or spouse of domestic partner of a creditor, who attests the execution of a will by which property is charged with a debt can be admitted as a witness to prove the execution of the will or its validity or invalidity.

15—Executor to be admitted as witness

This clause provides that an executor of a will is not incompetent to be admitted as a witness to prove the execution of the will or its validity or invalidity just because they are the executor.

Subdivision 4—Alteration, revocation and revival of wills

16—Alteration of will

This clause sets out how a will may be altered.

17—Revocation of will

This clause sets out the circumstances in which a will or part of a will can be revoked.

18—Effect of marriage or registered relationship on will

This clause provides that a will is revoked by the marriage of the testator or the testator commencing a registered relationship. However, wills made on or after a certain date are not revoked if they were made in contemplation of the marriage or registered relationship.

19—Effect of end of marriage or registered relationship on will

This clause sets out the effect on a will of the end of a marriage (by divorce or annulment) or the end of a registered relationship.

20—Effect of change in testator's domicile

This clause provides that a change in a testator's domicile after a will is executed does not revoke the will or invalidate it or change its construction.

21—Revival of revoked will

This clause sets out the circumstances in which a will, or part of a will, that has been revoked is revived.

Division 2—Rectification of wills

22—Rectification of will by order of Court

This clause empowers the Court to order the rectification of a will if satisfied that it does not accurately reflect the testamentary intentions of the deceased.

Division 3—Construction of wills

23—When will takes effect

This clause provides that subject to a contrary intention appearing in a will, a will takes effect as if it had been executed immediately before the testator's death.

24—Interests in property will disposes of

This clause provides that if an interest in property disposed of by a will is disposed of before the testator's death, the will operates to dispose of the remaining interest of the testator in that property.

25—When a disposition is not to be rendered inoperative

This clause provides that no conveyance or other act made or done after the execution of a will of or relating to any real or personal property comprised in the will (except an act by which the will is revoked) prevents the operation of the will with respect to such property or interest in that property as the testator had power to dispose of by will at the time of their death.

26—General disposition of land includes leaseholds

This clause provides that subject to a contrary intention appearing in a will, a general disposition of land in a will is to be construed to include leasehold estates.

27—What general disposition of property subject to power of appointment includes

This clause provides that subject to a contrary intention appearing in a will, a general disposition of real property in a will is to be construed to include any real property which the testator has power to appoint, and operates as an execution of that power, and a general disposition of personal property in a will is to be construed to include any personal property which the testator has power to appoint and operates as an execution of that power.

28—Effect of disposition of real property without words of limitation

This clause provides that subject to a contrary intention appearing in a will, a disposition of real property by a will to a person without words of limitation is to be construed as passing the whole estate or interest in the property.

29—What a residuary disposition includes

This clause provides that subject to a contrary intention appearing in a will, if a disposition of real property or an interest in real property in a will fails or is void because the beneficiary dies during the lifetime of the testator or the disposition is contrary to law or otherwise capable of taking effect, the property or the interest in the property will be included in any residuary disposition contained in the will.

30—How requirements to survive with issue are to be construed

This clause sets out how the words 'die without issue', 'die without leaving any issue', 'have no issue' or other words in a disposition of property to a person in a will importing a want or failure of issue of the person are to be construed.

The word 'issue' is a legal term that has several meanings, in this context it means 'offspring of parents'—*Wharton's Legal Lexicon* (1925) p.465.

31—Disposition to children or other issue who leave issue living at testator's death does not lapse

This clause provides subject to a contrary intention appearing in a will, a disposition of property in a will to a person who is a child or other issue of the testator, and who is not determinable at the time or before the person's death, does not lapse if the person dies during the testator's lifetime leaving issue and any such issue is living at the time of the testator's death. Instead the disposition has effect as if the testator had died intestate leaving only issue of that person surviving.

32—Construction of dispositions of real property to trustee or executor

This clause provides rules for the construction of dispositions of real property by will to a trustee or executor.

33—Disposition of estates tail do not lapse

This clause provides that subject to a contrary intention appearing in a will, if a person to whom real property disposed of by will for an estate tail or an estate in quasi tail dies during the testator's lifetime leaving issue who would be heritable under the entail and any such issue are living at the time of the testator's death, the disposition does not lapse but takes effect as if the death of that person had happened immediately after the testator's death.

An 'estate tail' (or 'entail' or 'tail') (from the French verb *tailler* meaning *to cut*) is defined in *Wharton's Law Lexicon* (1925) p.831 as 'a freehold of inheritance, limited to a person and the heirs of his body general or special, male or female, and is the creature of the statute *De Donis*. The estate, if the entail be not barred, reverts to the donor or reversioner, if the donee dies without leaving descendants answering to the conditions annexed to the estate upon its creation, unless there be a limitation over to a third person on default of such descendants, when it vests in such third person or remainder-man'.

34—Effect of referring to valuation in will

This clause provides that if a will refers expressly or by implication to a valuation made or accepted for the purpose of assessing succession duty or any other form of death duty, that reference is, if the valuation contemplated

by the reference is not required under the law of this State or of any other place, to be construed as if it were a reference to a valuation made by a competent valuer.

Division 4—Wills made outside the State

35—Interpretation

This clause defines terms used in Division 4.

36—Application of system of law

This clause sets out rules for determining which system of law is to be applied in the case of a will if under this measure the internal law in force in any country or place is to be applied in the case of a will, but there are in force in that country or place 2 or more systems of internal law relating to the formal validity of wills. It also contains rules for determining whether the execution of a will conforms to a particular law and rules with respect to formal requirements where a law in force outside South Australia falls to be applied in relation to a will.

37—General rule as to formal validity

This clause provides that a will executed outside South Australia is to be treated as properly executed for all purposes if its execution conformed to the internal law in force in the place where it was executed, or in the place where, at the time of its execution or of the testator's death, the testator was domiciled or had their habitual residence, or in a country of which, at either of those times, the testator was a national.

38—Additional rules as to validity

This clause sets out more rules about the validity of wills executed outside South Australia.

39—Validity of statutory wills made outside State

This clause provides that a statutory will made according to the law of the place where the deceased was resident at the time of execution will be regarded as a valid will of the deceased. A statutory will is a will executed by virtue of a statutory provision on behalf of a person who, at the time of execution, lacked testamentary capacity.

40—Operation of international wills provisions not limited by this Division

This clause provides that Division 4 does not limit the operation of Division 5.

Division 5—International wills

41—Application of Convention

This clause provides that the Annex to the *Convention providing a Uniform Law on the Form of an International Will 1973* signed in Washington D.C. on 26 October 1973 has the force of law in South Australia. The text of the Annex is set out in Schedule 1 of this measure.

42—Persons authorised to act in connection with international wills

This clause authorises Australian legal practitioners and public notaries of an Australian jurisdiction (Commonwealth or a State or Territory) to act in accordance with an international will. An international will is a will made in accordance with the Annex to the Convention.

43—Witnesses to international wills

This clause provides that the conditions requisite to acting as a witness to an international will are governed by South Australian law.

44—Application of Act to international wills

This clause clarifies that the provisions of this measure that apply to wills extend to international wills.

Division 6—Deposit of and access to wills

45—Will may be deposited with Registrar

This clause allows wills to be deposited with the Registrar.

46—Delivery of wills by Registrar

This clause sets out the circumstances in which the Registrar is required to give a will deposited with the Registrar to a person, such as, for example, if the testator applies to be given the will or if the testator has died and the executor or person entitled to apply for letters of administration applies to the Registrar to be given the will.

47—Failure to retain does not affect validity of will

This clause provides that a failure of the Registrar to retain a will does not affect the will's validity.

48—Persons entitled to inspect will of deceased person

This clause sets out a list of persons who are entitled (at their own expense) to inspect or be given a copy of a will (or both) by the person who has possession or control of the will. It also requires the person who has possession or control of a will to produce it to a court if required to do so and empowers the Court to make an order requiring a will to be inspected by a person (including a creditor) who has or may have a claim at law or in equity against the estate of the deceased person.

Part 3—Probate and administration

Division 1—Interpretation

49—Interpretation

This clause defines terms used in Part 3.

Division 2—Granting and revoking of probate and administration

Subdivision 1—Court's practice in testamentary jurisdiction

50—Practice of Court

This clause provides for the practice of the Court in its testamentary jurisdiction to be the same as the practice of the Court in its jurisdiction under section 5 of the *Administration and Probate Act 1919* and section 18 of the *Supreme Court Act 1935* immediately before the commencement of this measure.

Subdivision 2—Registrar of Probates

51—Registrar of Probates

This clause provides for the office of Registrar of Probates to continue in existence and for there to be such deputy or acting Registrars of Probate and other officers as may be necessary for the proper administration of this measure. A person is not eligible for appointment as the Registrar or an acting or deputy Registrar unless they are a legal practitioner of at least 5 years standing. A person may only be appointed as the Registrar or an acting or deputy Registrar on the recommendation of the Chief Justice and the Registrar or a deputy Registrar must not be dismissed or reduced in status except on the recommendation or with the concurrence of the Chief Justice.

52—Registrar's powers and authorities

This clause provides that the Registrar has the same powers and authorities with respect to proceedings in the Court as immediately before the commencement of this measure.

53—Exercise by Registrar of jurisdiction, powers or authorities of Court

This clause provides that the Registrar may, to the extent authorised by the Rules of Court, exercise the jurisdiction, powers and authorities of the Court whether arising under this measure or otherwise, and subject to the Rules, an appeal lies to a Judge against a judgment, determination, order, direction or decision given or made by the Registrar in the exercise of a jurisdiction, power or authority of the Court.

54—Probate of will deposited with Registrar

This clause enables an executor of a will deposited with the Registrar to apply for probate if the testator dies.

55—Registrar to obtain direction of Judge in doubtful case

This clause allows the Registrar to obtain the direction of a Judge if the Registrar has doubt in any particular case whether probate or administration should be granted or whether the Registrar should exercise a power or discretion relating to the Registrar's office. If the Registrar obtains a direction, the Registrar must act in accordance with it,

Subdivision 3—General provisions relating to granting and revoking of probate and administration

56—Grant of probate or administration to adults only

This clause prevents the grant of probate or administration to a person under the age of 18.

57—Effect of probate and administration granted interstate or overseas

This clause enables interstate grants of probate or administration to be registered by the Registrar and have the same force, effect and operation as a local grant. It also enables foreign grants of probate or administration to be sealed by the Court and have the same force, effect and operation as a local grant.

58—Provisions for evidence in case of foreign will

This clause enables probate or administration of a foreign will to be granted by the Court in non-contentious cases if the consul or consular agent for the relevant country testifies that the will is valid according to the law of that country, or evidence taken (on commission) in the relevant country is given in support of the will and of the proof of the law affecting the validity of the will.

59—Appointment of joint administrators

This clause allows administration to be granted to more than 1 person.

60—Examination of witnesses

This clause empowers the Court to call and examine persons in proceedings in respect of testamentary matters.

61—Order to produce document purporting to be testamentary

This clause empowers the Court to issue subpoenas for the production of documents being or purporting to be testamentary.

62—Caveats

This clause allows caveats against the grant of probate or administration to be lodged in the Probate Registry of the Court.

63—When persons interested in real property affected by a will are to be served with proceedings

This clause requires devisees and other persons who have or pretend to have an interest in real property affected by a will to be served with proceedings if proceedings are taken for proving the will in solemn form, revoking probate of the will on the ground of invalidity, or if the validity of the will is disputed in a contentious cause or matter. It also sets out the circumstances in which the Court can proceed without serving the persons interested in the real property with proceedings.

64—Grant of administration to duly authorised attorney

This clause provides that if a person who is entitled to be granted probate or administration is outside the State, the person may, by power of attorney, appoint the Public Trustee or a person within the State to act for them, and administration may be granted to the Public Trustee or the other person on behalf of the person who appointed them on such terms and conditions as the Court thinks fit.

65—After grant of administration no person to have power to sue as executor

This clause provides that after a grant of administration no person has power to sue or prosecute any action, or otherwise act as executor of the deceased, as to the estate comprised in or affected by the grant, until that administration has been revoked.

66—Rights of executor renouncing, not acting, or not appearing when cited, to cease as if not named in will

This clause provides that if a person renounces probate of a will of which they are appointed executor, or an executor survives the testator but dies without taking probate, or an executor is cited to take probate but does not appear to the citation, the right of that person or executor in respect of the executorship wholly ceases and the representation of the testator and administration of their estate goes, devolves and is committed in the same manner as if the person had not been appointed executor.

67—Grant of probate or administration to person other than the person otherwise entitled

This clause empowers the Court to grant probate or administration to a person other than the person otherwise entitled to probate or administration if the Court considers it appropriate for the proper administration of the deceased estate and it is in the interests of the persons who are or may be interested in the estate. It also empowers the Court to pass over a person in granting probate or administration if there are reasonable grounds for believing that the person has committed an offence relating to the deceased's death.

68—Special administration

This clause provides that if an executor or administrator is living outside the State at the expiration of 12 months from the death of a person, the Court may grant some other person special administration limited to the collection, management and distribution of the estate of the deceased. If the original executor or administrator returns to the State and the Court is satisfied that they intend to remain here until the estate has been duly administered, the Court may revoke the grant of special administration.

69—Revocation of grant of probate or administration not to prejudice legal action

This clause provides that if proceedings against an executor or administrator are commenced before the revocation of the grant of probate or administration, the Court in which the proceedings are pending may order the revocation of the probate or administration, and the grant of any probate or administration which has been made consequent on the proceedings, to be notified on the record. If proceedings are commenced against an administrator who obtained special administration, the Court in which such proceedings are pending may order the revocation of the special administration.

70—Protection to persons acting in reliance on probate or administration

This clause provides that the revocation of a grant of probate or administration does not render the executor or administrator liable for any prior act done by the executor or administrator in good faith and in reliance on the grant of probate or administration.

If a person acting in good faith and in reliance on a grant of probate or administration, deals with an asset of the estate of a deceased person, the person incurs no personal liability by so doing despite that the grant of probate or administration may subsequently prove to be invalid or be revoked. However, this clause does not affect the rights that may lie against a person to whom property has been invalidly transferred, or to whom a payment has been invalidly made, by an executor or administrator.

71—Statement of assets and liabilities to be provided with application for probate or administration

This clause requires a person who applies for the grant of probate or administration or for the sealing of any grant of probate or administration made by a court outside Australia to disclose to the Court the assets and liabilities of the deceased known to the person at the time of making the application.

If an interstate grant of probate or administration is registered under clause 57, the executor or administrator must, in accordance with the rules, disclose to the Court the assets and liabilities of the deceased person known to the executor or administrator at the time that the grant was registered (but not assets situated outside South Australia or liabilities that arose outside the State).

Also, an executor, administrator or trustee of the estate of a deceased person (being an estate in respect of which a grant of probate or administration has been made or sealed by the Court) must disclose to the Court any assets or liabilities of the deceased person (not being assets or liabilities previously disclosed under this clause) which come to the knowledge of the executor, administrator or trustee while acting in that capacity.

The clause also prohibits an executor, administrator or trustee of an estate from disposing of an asset of the estate of a deceased person in respect of which disclosure has not been made to the Court.

72—Obligation of person dealing with asset to ensure that it has been properly disclosed

This clause requires a person who deals with an asset of the estate of a deceased person that is required to be disclosed under clause 71 to satisfy themself that the asset has in fact been so disclosed.

Subdivision 4—Small estates

73—Deemed grant of probate or administration to Public Trustee for small estate

This clause enables the Public Trustee to administer a small estate without applying for a grant of probate or administration if the Public Trustee gives notice of the Public Trustee's intention to administer the estate in accordance with this clause. A small mestate is an estate not worth more than the maximum monetary value (i.e. $100,000 or such other amount as may be fixed by the Minister from time to time by notice in the Gazette or calculated in accordance with a formula or methodology determined by the Minister by notice in the Gazette from time to time). However, if in the course of administering a small estate, it is found to be worth more than 120% than the maximum monetary value, the Public Trustee must apply for a grant of probate or administration in respect of the estate.

Part 4—Administration of deceased estates

74—Interpretation

This clause defines terms used in Part 4.

75—Vesting of intestate estate on person's death

This clause provides that if a person dies wholly or partially intestate, the person's estate, in so far as it is not affected by a will, vests in the Public Trustee from the time of the person's death until administration is granted in respect of the estate. A person dies wholly intestate if they die without making a will. A person dies partially intestate if they die leaving a will that does not effectively dispose of either the whole or part of their estate (see clause 3(1)).

76—Vesting of land on person's death

This clause provides that on a person's death, any land forming part of their estate (subject to any mortgage, trust or equity affecting the land) vests in their executor(s) if disposed of by will, or in the case of undevised land (land not disposed of by will), in the Public Trustee (and any land so vested, and any proceeds of the sale of the land, are assets in the hands of the executor and are disposable and distributable for the payment of debts and liabilities of the deceased as if the land had been a chattel real forming part of the deceased's estate).

A 'chattel real' is an estate in land that has a definite duration, a period during which the estate is to endure—*Wharton's Legal Lexicon* (1925) p.160.

77—Vesting of intestate estate on grant of administration

This clause provides that on the grant of administration of a deceased person's estate, the estate that vested in the Public Trustee at the time of the person's death under clause 75 vests in the grantee(s) (and any land so vested

and any proceeds of the sale of the land, are assets in the hands of the administrator and are disposable and distributable for the payment of debts and liabilities of the deceased as if the land had been a chattel real forming part of the deceased's estate).

78—Administrator to hold intestate property on trust

This clause provides that the administrator of an intestate estate holds the estate on trust for the persons entitled to share in the estate in accordance with Part 5. Subject to that Part, the administrator may sell, or convert into money, the whole or any part of the intestate estate.

79—Court's powers in relation to management of undevised land

This clause empowers the Court to give directions relating to the management of undevised land on the application of an executor or administrator or a person beneficially interested in the land.

80—Court may order partition of undevised land

This clause empowers the Court to appoint 1 or more arbitrators to effect a partition of undevised land if the Court is satisfied that it would be advantageous to the parties interested.

81—General duties of executors and administrators

This clause sets out the general duties of executors and administrators.

82—Power of executor or administrator to sell real property for payment of debts

This clause empowers executors and administrators to sell land forming part of a deceased estate in order to pay any debts of the estate.

83—Payment of debts and liabilities in the case of solvent estates

This clause provides that if the estate of a deceased person is sufficient to pay all its debts and liabilities, the estate will be applicable towards the discharge of debts and liabilities payable out of the estate in the order set out in that clause.

84—Mortgages and charges on land not be paid out of deceased's residuary or personal estate

This clause provides that if real property is charged with a property debt, the person beneficially entitled to that property through the deceased person is not entitled to have the debt satisfied out of other property forming part of the estate and the real property charged with the debt is primarily liable for the payment of the debt with which it is charged. This rule is subject to a contrary intention signified expressly (and by distinct reference to the money charged) in the deceased's will or a deed or other document.

85—Specialty and simple contract debts of deceased persons to stand in equal degree

This clause provides that despite any Act or law to the contrary, no debt or liability of a deceased person is entitled to priority or preference only because the debt or liability is secured or arises under a bond, deed or other instrument under seal or is otherwise made or constituted a specialty debt rather than a debt under a simple contract, and all the creditors of the person are to be treated as standing in equal degree and are to be paid accordingly out of the assets (whether legal or equitable) of the deceased person.

A 'specialty debt' is a debt secured by writing under seal—*Wharton's Legal Lexicon* (1925) p.807.

86—Filing of declaration that estate is insufficient to pay debts and liabilities

This clause allows an executor, administrator or creditor of a deceased person to file with the Registrar a declaration that the executor, administrator or creditor (as the case may be) believes that the estate of the deceased person is insufficient for the payment of its debts and liabilities. If such a declaration is filed, the executor or administrator must administer the deceased estate, in so far as it concerns the payment of liabilities, in the same manner (as far as practicable) as it would have been administered for the benefit of creditors under a decree of the Court.

87—Rules in insolvency administration to prevail in certain cases

This clause provides that if an estate is found insufficient to pay the debts and liabilities of the deceased or a declaration that the estate is insufficient has been filed, the same rules are to apply as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future or contingent liabilities respectively, as are in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt.

88—How estate is to be administered

This clause provides that where the Court or the Public Trustee is administering an estate, or an estate is being administered by an executor or administrator under clause 86, the executor or administrator has no right of retainer, and a creditor who has at any time obtained judgment against the executor or administrator does not, by

reason of the judgment, have any priority over other creditors, and subject to this measure legal assets are to be administered in the same way as equitable assets.

89—Court may order sale of property belonging to minor

This clause empowers the Court to order the sale of any real or personal property or part of it (whether or not specifically devised or bequeathed) that belongs to a minor or to which a minor is beneficially entitled if the Court considers it for the benefit of the minor that the sale should be effected.

90—Court may give permission to postpone realisation or carry on business

This clause empowers the Court to permit an executor, administrator or trustee of a deceased person, or the Public Trustee, to postpone the realisation of the estate or trust property and carry on the business or affairs of the testator or intestate, and for that purpose to use the estate of the testator or intestate, or such portion of it as the Court directs.

91—Administrator to pay over money and deliver property to Public Trustee

This clause requires an administrator possessed of or entitled to any real or personal property in the State belonging to a person lacking legal capacity, or not resident in the State and having no duly authorised agent or attorney in the State, to pay over money and deliver property to the Public Trustee.

Subject to the provisions of any will or instrument of trust, the Public Trustee may, if satisfied that it would be advantageous to the beneficiaries, authorise the sale of any trust property not exceeding $4,000 in value to the administrator, or to the administrator jointly with any other person, despite the fact that the property has not been offered for sale by public auction or otherwise.

Subject to the provisions of any will or instrument of trust, the Public Trustee may, in the Public Trustee's discretion, realise or postpone the realisation of any property received by the Public Trustee under this clause.

92—Statement and account to be provided to Public Trustee

This clause requires an administrator to provide the Public Trustee with a statement and account, verified by the administrator by statutory declaration, of all of the estate of the deceased and of the administration of it by the administrator within 6 months after administration has been granted, or within such longer period as the Public Trustee may allow.

93—Court may order provision of statement and account

This clause empowers the Court to order an administrator of a deceased estate to provide the Public Trustee with a statement and account, verified by the administrator by statutory declaration, of all of the estate of the deceased and of the administration of it by the administrator.

94—Proceedings to compel provision of statements and account

This clause enables the Public Trustee or any person interested in the estate of a deceased person to cause an administrator who fails to provide a statement and account under clause 92, or fails to comply with an order of the Court under clause 93, to be summoned before a Judge to show cause why the administrator should not provide the statement and account to the Public Trustee immediately.

95—Public Trustee, executors, administrators and trustees may obtain judicial advice or direction

This clause requires the Public Trustee, when in difficulty or doubt, to apply to the Court for advice or direction as to any matter related to the administration of an estate or the construction of a will, deed or other document. It also allows an executor, administrator or trustee, when in difficulty or doubt, to apply to the Court for advice or direction as to any matter related to the administration of any estate or the construction of a will, deed or other document.

96—Commission may be allowed to executors, administrators and trustees

This clause empowers the Court to allow an executor, administrator or trustee, whether of the estate of a deceased person or otherwise, such commission or other remuneration out of the estate or trust property, and either periodically or otherwise, as the Court considers just and reasonable.

97—Court may require undertakings from executor or administrator

This clause empowers the Court to require an executor or administrator to give undertakings as to the manner in which the administration of a deceased estate is to be conducted or accounted, or any other matter that, in the opinion of the Court, may assist in the proper administration of a deceased estate.

98—Remedy if executor or administrator fails to perform duties etc

This clause empowers the Court to make orders against an executor or administrator if they fail to perform any duties required of them by law in the administration of a deceased estate, or they fail to comply with an undertaking as to the administration of a deceased estate or fail to comply with any direction of the Court or the Registrar as to the administration of a deceased estate. An order may be made on the application of a person aggrieved by the failure.

The Court may by order require the executor or administrator to pay into the estate of the deceased person an amount equivalent to any financial benefit the executor or administrator has obtained (whether directly or indirectly) as a result of their failure or compensate any person who has suffered loss or damage as a result of their failure (or both) and may make any other order that the Court considers appropriate to compensate persons who have suffered loss or damage as a result of the failure of the executor or administrator.

99—Payment of interest on legacies

This clause requires interest to be paid at the prescribed rate if a legacy of a specified amount under a will is not paid in full to the beneficiary of the legacy on or before the relevant date (the date fixed by the will, for the payment of the legacy or if no date is fixed by the will the first anniversary of the testator's death).

However, payment of interest on a legacy is subject to a contrary intention in the will about whether interest is payable, the time from which interest is payable, or the rate of interest payable. The clause also provides for interest to be paid at the prescribed rate if a legacy payable to a spouse from an intestate estate in accordance with Part 5 is not paid in full on or before the first anniversary of the deceased's death.

100—Payment of money and personal property without grant of probate or administration

This clause provides that a person who holds money or personal property for a deceased person of not more than $15,000 in value may, without requiring the production of a grant of probate or administration, pay the money or transfer the personal property to a surviving spouse or domestic partner or a child of the deceased.

Part 5—Intestacy

Division 1—Interpretation

101—Interpretation

This clause defines terms used in Part 5 and contains other interpretation provisions.

Division 2—Election by spouse or domestic partner to acquire interest in dwelling

102—Election by spouse or domestic partner to acquire interest in dwelling

This clause provides that if the intestate estate of an intestate who is survived by a spouse or domestic partner includes an interest in a dwelling in which the spouse or domestic partner of the intestate was residing at the date of the intestate's death, the spouse or domestic partner may elect to acquire that interest at its value as at the date of the death of the intestate.

If the spouse or domestic partner makes such an election, the amount to which they are entitled out of the intestate estate will be reduced by the value of that interest and if the value of that interest exceeds the amount to which they are entitled out of the intestate estate, they must, on making the election, pay into the intestate estate the difference between that value and the value of their interest in the intestate estate.

However, if an intestate is survived by a spouse and 1 or more domestic partners, or by no spouse but 2 or more domestic partners, and the estate includes an interest in a dwelling in which the both the spouse and 1 or more domestic partners, or two or more domestic partners, were residing at the date of the intestate's death, then, instead of the making of an election under this clause, any of those persons can apply to the Court for an order authorising the acquisition of the interest.

103—Restriction on right of spouse or domestic partner to acquire interest in dwelling

This clause requires the approval of the Court for an election to be made under clause 102 if the dwelling forms part of a building and the deceased's estate includes an interest in the whole of the building, or the dwelling forms part of a registered or registrable interest in land and the deceased estate includes an interest in the whole of that interest and part or all of the land is used for agricultural purposes, or if the dwelling forms part of a building used as a hotel, motel, boarding house or hostel at the date of the intestate's death.

The Court may not give approval unless satisfied that the acquisition of the interest in the dwelling by the spouse or domestic partner of the intestate is not likely to substantially diminish the value of the assets in the estate of the intestate or make the disposal of the assets of the intestate estate substantially more difficult.

104—Restriction on right of administrator to sell interest in dwelling

This clause prohibits an administrator from disposing of an interest in a dwelling in which the spouse or domestic partner of the intestate was residing at the time of the intestate's death unless the period for the making of an election under clause 102 has expired and no election has been made, or the dwelling has ceased to be the ordinary place of residence of the spouse or domestic partner. If an application is made to the Court for its approval to make an election, the administrator must not dispose of the interest in the dwelling pending determination of the application.

A spouse or domestic partner of an intestate may continue to reside in a dwelling in relation to which the spouse or domestic partner may make an election under clause 102 until the period within which the spouse or domestic partner may make an election has expired or if a person has by virtue of a mortgage or charge the right to enter into possession of the dwelling or to dispose of the interest—until that right is exercised (whichever occurs first).

Division 3—Rules governing distribution of intestate estates

105—General rules as to distribution of intestate estate

This clause sets out general rules as to the distribution of an intestate estate to the spouse or domestic partner of the deceased, children of the deceased and other relatives. If the intestate is not survived by any relatives the intestate estate vests in the Crown.

The clause provides for the spouse or domestic partner of an intestate to receive a preferential legacy if the deceased is survived by the spouse or domestic partner and by children and the estate is worth more than the preferential legacy, which is $120,000 if the entitlement arises during the financial year in which this clause comes into operation, or if the entitlement arises during a financial year commencing after the commencement of this clause—$120,000 or, if the Minister has, by notice in the Gazette, determined a higher amount to be the preferential legacy applying during that financial year, that higher amount.

However, if a spouse or domestic partner is entitled to a preferential legacy and to 1 or more statutory legacies, the preferential legacy is an amount equal to the highest amount fixed by way of statutory legacy under the laws of other States or Territories under which the spouse or domestic partner is entitled to a statutory legacy subject to the following qualifications: (1) amounts received by the spouse or domestic partner by way of statutory legacy under any of those laws are taken to have been paid towards satisfaction of the preferential legacy of the spouse or domestic partner, and (2) if any of those laws contain no provision corresponding to (1), no amount is payable by way of preferential legacy until the entitlements of the spouse or domestic partner under those laws are satisfied, or the spouse or domestic partner renounces their entitlements to payment, or further payment, by way of statutory legacy under those laws.

106—Division of estate if intestate is survived by spouse or domestic partner, or both

This clause sets out the entitlements of a spouse or domestic partner to the personal goods of the deceased and entitlements where a deceased person is survived by both a spouse and a domestic partner. If there is a dispute between the spouse and domestic partner as to the division of personal goods between them, the administrator may sell the goods and divide the proceeds between the spouse and domestic partner equally.

The Court may, on application by the surviving spouse or domestic partner of an intestate, make an order that the estate of the intestate be distributed between the spouse and domestic partner of the intestate in such shares as it considers just and equitable. However, if the Court considers it just and equitable to do so, the Court may make an order allocating the whole of the estate to either the surviving spouse or the domestic partner to the exclusion of the other.

107—Spouse or domestic partner not entitled to intestate estate in certain cases

This clause provides that a spouse or domestic partner of an intestate has no entitlement to any part of the intestate's estate if, immediately before the death of the intestate, an agreement or order of a prescribed kind relating to the interests in property as between the spouse or domestic partner and the intestate was in force.

108—Distribution among children and grandchildren of intestate

This clause sets out rules governing the distribution of an intestate estate, or part of an intestate estate, among the children and grandchildren of the deceased.

109—Distribution among relatives of intestate

This clause sets out rules governing the distribution of an intestate estate among the relatives, or the children of the relatives, of the deceased. The term *relative* is defined in clause 101 to mean a relative of the first, second, third or fourth degree. A relative of a first degree is a parent of the deceased, a relative of the second degree is a sibling of the deceased, a relative of the third degree is a grandparent of the deceased, and a relative of the fourth degree is a sibling of a parent of the deceased.

110—Intestate estate passes to Crown if no surviving beneficiaries

This clause provides that if an intestate is not survived by any person entitled to the intestate estate under this Part, the Crown is entitled to the whole of the intestate estate. However, the Minister may, on application for a waiver of the Crown's rights, waive the Crown's rights in whole or in part in favour of:

- dependants of the intestate; or
- any persons who have, in the Minister's opinion, a just or moral claim on the intestate; or
- any person or organisation for whom the intestate might reasonably be expected to have made provision; or
- the trustees for any person or organisation mentioned in a preceding paragraph; or
- any other person or organisation.

Division 4—Distribution of intestate estates according to Court approved agreements

111—Court may approve distribution of intestate estate in accordance with agreement

This clause empowers the Court to order that an intestate estate, or part of an intestate estate, be distributed in accordance with the terms of an agreement approved by the Court. An application for such an order may be made by the administrator. The Court may make such an order if all persons entitled to share in the distribution of the intestate estate, or part of the intestate estate, under Division 3 are parties to the agreement and have been given notice of the application under this clause in accordance with the Rules of Court and the Court is satisfied that the terms of the agreement are, in all the circumstances, just.

Division 5—Miscellaneous

112—Value of intestate estate

This clause provides that the value of an intestate estate is to be calculated by deducting from the gross value of the estate the debts and liabilities of the deceased, funeral and testamentary expenses and the costs of administering the estate, and if the deceased is survived by a spouse or domestic partner, the value of the deceased's personal goods.

113—This Part not to affect operation of Part 6

This clause provides that Part 5 does not affect the operation of Part 6 in relation to an intestate estate.

Part 6—Family provision

114—Interpretation

This clause defines terms used in this Part.

115—Persons entitled to claim under this Part

This clause sets out the classes of relatives of the deceased entitled to claim the benefit of this Part, namely, the spouse, the domestic partner, a former spouse, a former domestic partner, a child, a step-child, a grandchild, a parent and a sibling. However, the entitlements are not absolute.

A former spouse or domestic partner of the deceased is only entitled to claim if they satisfy the Court that—

(a) they were, immediately before the death of the deceased, legally entitled to receive maintenance from the deceased; or

(b) they were not, immediately before the death of the deceased, a party to a financial agreement or property settlement of a kind prescribed by the regulations for the purposes of this clause.

A step-child of the deceased is only entitled to claim if they satisfy the Court that—

(a) they are disabled and significantly vulnerable by reason of their disability; or

(b) they were dependent on the deceased at the time of the deceased's death; or

(c) they cared for, or contributed to the maintenance of, the deceased person immediately before the person's death; or

(d) they substantially contributed to the estate of the deceased person; or

(e) assets accumulated by a parent of the step-child (other than a step-parent) substantially contributed to the estate of the deceased person.

A step-child of the deceased who is a minor is also entitled to claim if they satisfy the Court that they were maintained wholly or partly, or were legally entitled to be maintained wholly or partly, by the deceased person immediately before the person's death.

A grandchild of the deceased is only entitled to claim if they satisfy the Court that the grandchild's parents died before the deceased person or the grandchild was maintained wholly or partly, or was legally entitled to be maintained wholly or partly, by the deceased person immediately before the deceased's death.

A parent of the deceased is only entitled to claim if they satisfy the Court that—

(a) in the case of a deceased person who died in a residential facility—the parent cared for, or contributed to the maintenance of, the deceased person immediately before the person entered a residential facility; or

(b) in any other case—the parent cared for, or contributed to the maintenance of, the deceased person immediately before the person's death.

A sibling of the deceased is only entitled to claim if they satisfy the Court that—

(a) in the case of a deceased person who died in a residential facility—the sibling cared for, or contributed to the maintenance of, the deceased person immediately before the person entered the residential facility; or

(b) in any other case—the sibling cared for, or contributed to the maintenance of, the deceased person immediately before the person's death.

116—Persons entitled may obtain order for maintenance etc out of estate of deceased person

This clause provides that, subject to this Part, if—

(a) a person has died domiciled in this State or owning real or personal property in this State; and

(b) by reason of the person's testamentary dispositions, or the operation of Part 5, or both, a person entitled to claim the benefit of this Part is left without adequate provision for their proper maintenance, education or advancement in life,

the Court may, in its discretion, on application by or on behalf of a person so entitled, make an order (a *family provision order*) that such provision as the Court thinks fit be made out of the estate of the deceased person for the maintenance, education or advancement of the person so entitled.

In determining whether to make a family provision order, the wishes of the deceased person is the primary consideration of the Court. The Court must have regard to—

(a) any evidence of the deceased's reasons for making the dispositions in the deceased's will (if any); and

(b) the applicant's vulnerability and dependence on the deceased; and

(c) the applicant's contribution to the estate of the deceased person; and

(d) the character and conduct of the applicant.

The Court may have regard to any other matter that the Court considers relevant.

In determining whether to make a family provision order, and the amount that a claimant should receive if a family provision order is made, the Court must take into account any government welfare payments that the claimant receives, or may be entitled to receive, and whether the making of a family provision order could worsen the claimant's financial position.

The Court may refuse to make a family provision order in favour of any person on the ground that the person's character or conduct is such as, in the opinion of the Court, to disentitle the person to the benefit of this Part, or for any other reason that the Court thinks sufficient.

117—Power to require security for costs

This clause empowers the Court to order a party to proceedings under this Part to give security for the payment of costs that may be awarded against the party if it appears to the Court that the party's claim for provision may be without merit or the party is unwilling to negotiate a settlement of a claim for provision.

118—Time within which application must be made

This clause provides that an application for a family provision order must be made within 6 months after the grant of probate or administration, but the Court may extend the time for making an application.

119—Provisions relating to family provision orders

This clause makes various provisions with respect to family provision orders, including the power of the Court to alter or rescind such orders.

120—Order to operate as will or codicil

This clause provides that, subject to this measure, every provision made by a family provision order will operate and take effect as if it had been made—

(a) if the deceased person died leaving a will—by a codicil to that will executed immediately before the person's death; or

(b) if the deceased person died intestate—by a will executed immediately before the person's death.

121—Court may fix periodic payment or lump sum

This clause provides that the Court may at any time fix a periodic payment, or lump sum, or a periodic payment and a lump sum, to be paid by any person, to represent, or in commutation of, the proportion of the sum ordered to be paid that falls on the portion of the estate to which the person is entitled, and to exonerate that portion of the estate from further liability. The Court may give incidental directions as to the payment or investment of the lump sum or the manner in which the periodic payments are to be made or secured.

122—Court may vary or discharge order

This clause provides that if the Court has ordered periodic payments, or has ordered a lump sum to be invested for the benefit of any person, the Court may inquire whether at any subsequent date the party benefitted by

the order has otherwise become possessed of, or entitled to, provision for the person's proper maintenance, education and advancement, and into the adequacy of that provision, and may discharge, vary, or suspend the order, or make such other order as the Court considers just in the circumstances.

123—Mortgage or assignment of provision invalid

This clause provides that no mortgage, charge or assignment of any kind whatever of or over the provision made by an order under this Part will, unless made with the prior permission of the Court, be of any force, validity or effect.

124—Liability of administrator after distribution of estate

This clause provides that an administrator of the estate of a deceased person who has lawfully distributed the estate or any part of the estate is not liable to account for that estate or that part of the estate (as the case may be) to any person claiming the benefit of this Part, unless the administrator had notice of the claim at the time of the distribution.

Part 7—Miscellaneous

125—Person disqualified from taking interest or share in deceased estate to be treated as having predeceased testator or intestate

This clause provides that if a person is for any reason disqualified from taking their share under a will as a beneficiary or taking their share in the distribution of an intestate estate, they will be treated as having predeceased the testator or intestate (unless a contrary intention appears in the will).

126—Presumption of survivorship

This clause provides that if 2 or more persons have died in circumstances rendering it uncertain which of them survived the other or others, such deaths will, for all purposes affecting title to property, be taken to have occurred in order of seniority, and accordingly the younger person will be taken to have survived the elder person for a period of 1 day.

127—Devolution of jointly-owned property in case of simultaneous deaths

This clause provides that if property is owned jointly and exclusively by 2 or more persons (other than as trustees) and all of the owners of the property die within 30 days of each other or in an order that is uncertain, the property devolves as if the joint owners had, at the time of their deaths, held the property as tenants in common in equal shares.

128—Safe custody of wills and other documents

This clause provides that the Governor may, with the concurrence of the Chief Justice, by notice in the Gazette, appoint places for the safe custody, under the control of the Court, of—

(a) wills deposited with the Registrar under this measure; and

(b) wills brought into the Court for any purpose; and

(c) wills of which probate has been granted; and

(d) wills in relation to which administration (with the will annexed) has been granted; and

(e) such other documents as the Court may direct.

129—Office copies of wills or probate or administration may be obtained

This clause provides that a person may, on payment of the prescribed fee, obtain an office copy of the whole or part of a will or of any grant of probate or administration.

130—Probate to be evidence of wills concerning real property

This clause provides that the probate of a will or letters of administration with the will annexed is evidence of the due execution of the will on all questions concerning real and personal property (and the copy attached or annexed to the probate or letters of administration, purporting to be a copy of the will, is evidence of the contents of the will). The probate of a will or letters of administration is evidence of the death, and of the date of the death, of the testator or intestate.

131—Will not to be registered or admissible as evidence until proved

This clause provides that a will of a person cannot be registered or be admissible in evidence, except in criminal proceedings or on application for probate or letters of administration, until administration in respect of the estate comprised in the application for probate or letters of administration has been granted.

132—Inspection of documents in Land Titles Registration Office or General Registry Office

This clause provides that if the inspection of a deed or other document in the Land Titles Registration Office or the General Registry Office is required by the Registrar for the purposes of this measure, the Registrar-General must produce the deed or document to the Registrar or a person appointed by the Registrar to make the inspection.

133—Power of Public Trustee to move for attachment of administrator

This clause empowers the Public Trustee to institute proceedings for the attachment of an administrator if in the Public Trustee's opinion grounds exist for the attachment of an administrator and it is necessary or desirable for the purpose of protecting the interests of any person that proceedings for the attachment of the administrator be instituted.

134—Restrictions on exercise of rights of retainer and preference

This clause provides that an executor or administrator of the estate of a deceased person must not exercise a right of retainer or preference unless the executor or administrator has reasonable cause to believe, and does believe, that the assets of the estate are sufficient to satisfy its liabilities.

If a right of retainer or preference is exercised in contravention of this clause, the Court may set aside any payment of money or disposition of property that has been made in such contravention and may make any other order that may be just in the circumstances. However, this clause does not prevent an executor or administrator from exercising a right to retain assets from the estate of a deceased person if the extent to which the executor or administrator exercises that right is not such as to confer on the executor or administrator a preference over other creditors of the estate.

135—Delegation

This clause allows the Minister to delegate functions and powers of the Minister under the measure.

136—Person making false oath commits perjury

This clause provides that a person who knowingly and wilfully makes a false oath or declaration under this measure or the Rules of Court is guilty of perjury.

137—Applications to Court

This clause requires applications to the Court to be made in accordance with the Rules of Court.

138—Rules of Court

This clause empowers the Court, or any 1 or more Judges of the Court, to make Rules of Court.

139—Regulations and fee notices

This clause empowers the Governor to make regulations and empowers the Minister to prescribe fees by fees notice under the *Legislation (Fees) Act 2019*.

Schedule 1—Annex to Convention providing a Uniform Law on the Form of an International Will 1973

This clause sets out the text of the Annex to the *Convention providing a Uniform Law on the Form of an International Will 1973*.

Schedule 2—Related amendments

Part 1—Amendment of *Aged and Infirm Persons' Property Act 1940*

1—Amendment of section 11—Variation or rescission of protection order

This clause amends section 11 to update a cross-reference.

2—Amendment of section 31—Expenses and remuneration of manager

This clause amends section 31 to update a cross-reference.

Part 2—Amendment of *Guardianship and Administration Act 1993*

3—Substitution of heading to Part 4 Division 3

This clause substitutes the heading to Part 4 Division 3.

4—Insertion of Part 4 Division 3A

This clause inserts new Division 3A in Part 4.

Division 3A—Administration orders (missing persons)

48A—Administration orders (missing persons)

Proposed section 48A empowers the Court to appoint 1 or more administrators of the estate of a person if—

(a) the person is a missing person; and

(b) it is not known whether the person is alive; and

(c) all reasonable efforts have been made to locate the person; and

(d) persons residing at the place where the person was last known to reside, or relatives or friends, with whom the person would be likely to communicate, have not heard from, or of, the person for at least 90 days; and

(e) it is in the best interests of the missing person to make an administration order.

The Court must not appoint a person as an administrator of a missing person's estate unless satisfied that the person is fit and proper to act as administrator, the person is competent to administer the missing person's estate, and the appointment would not give rise to a conflict of interest.

An administration order authorises the administrator to take such action as may be necessary or desirable for the payment of the missing person's debts, the maintenance and benefit of dependants of the missing person and the care and maintenance of property of the missing person.

An application for an administration order may be made by the missing person's spouse or domestic partner, by a relative, by another person who has an interest in the missing person's estate, or by the Public Trustee.

Part 3—Amendment of *Law of Property Act 1936*

5—Amendment of section 114—Power of Court to sell interest of Crown in real estate

This clause deletes subsection (3) from section 114 which is made redundant by this measure.

6—Repeal of section 115

This clause deletes section 115 which is made redundant by clause 110 of this measure.

Part 4—Amendment of *Public Trustee Act 1995*

7—Substitution of section 52

This clause substitutes a new section.

52—Deposit of certain wills and other documents with Public Trustee

Substituted section 52 provides that the following documents made be deposited for safe custody with the Public Trustee:

(a) a will of which the Public Trustee is appointed the executor or 1 of the executors;

(b) a will prepared by a legal practitioner who has died or has ceased, or is about to cease, the practice of the law in South Australia;

(c) a will held by a legal practitioner or legal practice that was executed by a testator who cannot be located; or

(d) a settlement, declaration of trust or other instrument by 30 which a trust is declared or created concerning property of any kind where the Public Trustee is appointed the trustee or 1 of the trustees; or

(e) any other document prepared by the Public Trustee.

The Public Trustee must keep a register of wills deposited with the Public Trustee and no fee is payable for depositing a will, but a person may be charged a fee for searching for a will, recovery of a will or delivery of a will. The Public Trustee may destroy a will deposited with the Public Trustee if the testator has died and a reasonable period has elapsed during which a person might be expected to have sought access to the will.

8—Substitution of section 55

This clause substitutes a new section.

55—Regulations and fee notices

Substituted section 55 empowers the Governor to make regulations and empowers the Minister to prescribe fees by fees notice under the *Legislation (Fees) Act 2019*

Part 5—Amendment of *Supreme Court Act 1935*

9—Substitution of section 18

This clause substitutes section 18.

18—Testamentary jurisdiction

Substituted section 18 restates the Supreme Court's testamentary jurisdiction in modern language.

Part 6—Amendment of *Trustee Act 1936*

10—Amendment of section 91—Advice and directions of court and commission

This clause amends section 91 to update cross-references to legislation.

Schedule 3—Repeals and revocations

1—Repeal of *Administration and Probate Act 1919*

2—Repeal of *Inheritance (Family Provision) Act 1972*

3—Repeal of *Wills Act 1936*

4—Revocation of *Administration and Probate Regulations 2009*

These clauses are self-explanatory.

Schedule 4—Savings and transitional provisions

This Schedule allows proceedings commenced in the Supreme Court under an Act repealed by Schedule 3 that have not been finally determined before the designated day to be continued and completed under that Act as if this measure had not been enacted.

Debate adjourned on motion of Hon. H.M. Girolamo.

NEW WOMEN'S AND CHILDREN'S HOSPITAL BILL

Introduction and First Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:36): Obtained leave and introduced a bill for an act to facilitate the development of the new Women's and Children's Hospital and for other purposes. Read a first time.

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:37): I move:

That this bill be now read a second time.

This bill will facilitate the development of the new Women's and Children's Hospital, a world-class facility that will provide quality health care to South Australians for decades to come. The current site of the Women's and Children's Hospital has been serving the state as a hospital for over 140 years; however, the age of the building and the constraints of the site necessitates a new facility for the future.

This is a project that has been discussed for the past nine years; however, with not one sod turned yet on a site. The previous government promised to build a hospital to open in 2024; however, that time frame has continued to expand. The reason for the delays under successive governments is that the site that was earmarked, the triangle of land west of the current Royal Adelaide Hospital, is in reality far too small. Too many compromises would need to be made, too many complexities were involved in the construction and not enough forward planning for the future was possible.

One of the major concerns of clinicians was the suboptimal clinical layout that was anticipated, with hot floor services spread across separate floors. The other major concern was future capacity. The previous hospital design west of the Royal Adelaide Hospital would contain just one additional paediatric overnight bed compared with the current hospital.

Upon coming to government in March, the new Labor government was immediately briefed on the status of the project and was concerned to learn that the cost continued to go up, the time lines were continuing to push out and the clinical concerns could not be fully addressed on the site

that had been chosen. More importantly, the plans as they stood would not allow for either the Women's and Children's Hospital or the Royal Adelaide Hospital to expand in the future.

Former state coordinator Jim Hallion was appointed to lead an independent expert group that included the Women's and Children's Health Network chair, Mr Jim Birch. The review examined sites across the biomedical precinct for the new hospital. The review concluded that the previous site had many drawbacks and the highest ranking site was the site of the Police Barracks. Importantly, this is not only the highest ranking score overall but also the highest ranking clinical score. Therefore, the government has taken the decision to build the new hospital on this new site, a decision taken to secure the long-term future of the hospital for the next century.

The previous plans for the hospital, as I said, only had one additional overnight paediatric bed and only six additional beds overall. The revised plans on the new site will allow for 56 additional beds in the hospital and a capacity for 20 more. The previous plans allowed no room for either the Women's and Children's Hospital and the Royal Adelaide Hospital to expand, whereas the revised plan will allow for expansion of both hospitals.

The previous plan would have disrupted the Royal Adelaide Hospital during construction, whereas the new plan does not. The previous plan would have had critical care services across separate floors of the hospital, whereas the new plan will allow for hot floor services to be combined. The previous plans would have relied upon the Royal Adelaide Hospital for sterilisation, pathology, catering and helipad services, whereas the new plan will have those services inside the Women's and Children's Hospital.

The previous plans would have had the hospital bounded by roads and railways, whereas the new site will open up into the Parklands, with 30,000 square metres of inaccessible Parklands to be rehabilitated as part of the project, including new playgrounds for families to use.

To be clear, our government could have easily committed to the same site. It would have been politically expedient and these cost, time frame and functionality problems could have been attributed to the previous government. However, we decided that we needed to think for the long term and prioritise health. For decades to come, South Australians would have paid the price for building on the previous site.

A critical element of the project will be the construction of a new four-bed women's intensive care unit at the new hospital. This means that critically ill women can remain in the same hospital as their newborn baby. Dr Laura Willington, the medical head of the Women's Anaesthesia unit at the Women's and Children's Hospital, said about the plans:

> It means we will be able to take care of high-risk women in this hospital that we couldn't before because we don't have…intensive care facilities.

This legislation is being introduced to ensure the project can go ahead as expeditiously as possible. The hospital will be constructed on what is detailed in the legislation as the 'project site'. For the project site, the legislation facilitates ownership of the project site, planning consent and development approval and makes a determination with respect to heritage to enable the hospital to be constructed.

In addition to construction of the facility itself, building of the hospital will also require space for staging of equipment during construction, the realignment of Gaol Road, other roadworks and pedestrian and bike paths, augmentation of utility services, such as water, telecommunications, sewerage, stormwater, electricity and gas. The legislation establishes safeguards and limitations on various components of the site and its surroundings. It defines a 'project site' within which the hospital will be constructed, and support zones which may need to be utilised to facilitate construction, but with clear limits about what can occur in those zones.

From a state heritage perspective, all state heritage places within the project site are taken to have been removed from the South Australian Heritage Register. This does not apply to any sites outside of the project site, nor does it amend heritage legislation in any other way. The intention of the support zones is explicitly for developing the facilities and amenities in connection to the project and the purposes are defined in the legislation.

This, for instance, will permit access for vehicles and other construction equipment, the construction, realignment or altering of roads, paths, bridges, temporary buildings necessary to serve

construction, structures, installation or relocation of utility services, establishment of a temporary construction staging area and fences or barriers to ensure the safety of members of the public. These are all reasonable, necessary activities to be associated with constructing a facility of this size.

In addition to support zones falling within a defined area and only being specific items listed in the legislation, the bill imposes a positive and ongoing obligation for those utilised areas to be made good once their use is complete. This is an important commitment to remediate any Parklands that are impacted during development. This connects with the government's commitment to expand accessible open space Parklands as part of this development.

From a planning perspective, the Planning, Development and Infrastructure Act 2016 still applies to the development as modified. A planning application will still have to be made, albeit the development will be taken to be classified by the Planning and Design Code as a deemed-to-satisfy development. Critically, of course, building rules consent and final development approval will still also be required, which ensures the quality, safety and integrity of the facility that is being constructed.

The legislation will also provide powers in relation to the establishment of another section of Parklands for the use of the South Australia Police Mounted Operations Unit, otherwise known as the police horses. South Australia Police is undertaking a project in relation to determining the best approach to moving operations from the barracks site to new site facilities.

While a number of options are being considered in relation to the mounted operations, this bill will allow for a Parklands site to be identified and utilised by the police horses in their operations. This option will facilitate an efficient approach in assisting SAPOL to vacate the site, enabling the construction of the hospital as quickly as possible.

After listening to clinicians and seriously considering the healthcare needs of future generations, building this new hospital under this legislation will deliver the best health outcomes for South Australian women, children and babies into the future. This is a project that will enable better care for children, more expansion capacity for two hospitals, better clinical connection to services and more usable Parkland space connected to the hospital, and this will enable work to occur.

I commend the bill to the parliament and seek leave to insert the explanation of clauses without my reading them.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

The short title is the *New Women's and Children's Hospital Act 2022*.

2—Commencement

The measure will commence on a day to be fixed by proclamation.

3—Interpretation

Definitions are included for the purposes of the measure.

4—Effect of Act

The measure has effect despite any other Act or law of the State. It applies to land notwithstanding the provisions of the *Real Property Act 1886*.

Part 2—The project site

5—Project site

The *project site* is defined in this clause.

6—Vesting of project site

The Minister is authorised to vest (by plan or plans to be deposited in the GRO) the whole or any part of the project site in the Minister in an estate in fee simple (and the land so vested vests free from all dedications, encumbrances, estates and interests other than those indicated by the Minister in the plan or plans).

Part 3—The support zones

7—Support zones

Support zones and *support services and facilities* are defined.

Specified powers are conferred on the Minister for the purposes of the provision of support services and facilities in support zones in connection with the development on the project site. Provision is also made in relation to the exercise of those powers.

Part 4—Carrying out the project

8—Development assessment etc

Certain requirements under the *Planning, Development and Infrastructure Act 2016* apply to a development proposed to be undertaken on the project site or the support zones. Such development is taken to be classified by the Planning and Design Code as deemed to satisfy development and the State Planning Commission is taken to be the relevant authority for all purposes under that Act.

Except as is specified in the provision or as may be prescribed by the regulations, no assessment, decision, consent, approval, authorisation, certificate, licence, permit or permission, or consultation, notification or other procedural step, is required under a law of the State in connection with any action taken under the measure or the performance of functions under the measure.

9—Roads

The Minister is authorised to open or close any roads in connection with the development on the project site (both temporarily and on an ongoing basis).

Part 5—Miscellaneous

10—Relocation of certain SA Police facilities

The Minister is authorised to vest (by notice in the Gazette) a prescribed area (being an area of land delineated in a plan or plans to be deposited in the GRO) within the Adelaide Park Lands in the Minister responsible for the administration of the *Police Act 1998* for the purposes of the SA Police Mounted Operations Unit.

Section 8 of the measure is applied in relation to any development proposed to be undertaken on the prescribed area as if it were development proposed to be undertaken on the project site.

No compensation is payable by the Crown (including the relevant Ministers) in connection with the operation of the section.

11—Minister may make provision in relation to land or structures

The Minister is authorised to make provision (by instrument deposited in the GRO) relating to the status, vesting or management of land or structures or the delineation of land as the Minister thinks fit.

12—Duties of Registrar-General

The Registrar-General may be required to take certain steps for or in connection with action taken under the Act.

13—Other actions etc necessary to give effect to Act

The Minister responsible for the administration of the *Planning, Development and Infrastructure Act 2016* is authorised to make certain alterations to instruments under that Act at the request of the Minister responsible for the measure. Provision is also made in relation to the removal of State Heritage Places and Areas within the project site from the South Australian Heritage Register.

14—Certain fees etc. not payable

Fees and charges are not payable to the Adelaide City Council in respect of the exercise of functions under the measure.

15—Regulations

A regulation-making power is provided for.

Schedule 1—Project site and support zones

The Schedule sets out a map of the project site and support zones.

Debate adjourned on motion of Hon. H.M. Girolamo.

MAGISTRATES COURT (NUNGA COURT) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 October 2022.)

The Hon. C. BONAROS (15:46): I rise on behalf of SA-Best to speak on the Magistrates Court (Nunga Court) Amendment Bill 2022. The Nunga Court at Port Adelaide Magistrates Court, as we have heard, was the first culturally appropriate sentencing court to be established in Australia, commencing operation in 1999, and has since been expanded to include Murray Bridge and Maitland courts. It was pioneered by Magistrate Chris Vass, who acknowledged an overwhelming need for a specialist court to oversee sentencing, with the involvement of elders and respected persons from the Aboriginal community.

The court operates, as we have heard, in a less formal setting, with the aim of reducing offending, building and strengthening relationships with community, and providing holistic outcomes where appropriate. I commend everyone involved in establishing and paving the way for the establishment of that jurisdiction in South Australia as a first.

From data provided by the Attorney-General's Department, we know that the Port Adelaide Nunga Court dealt with 541 defendants in 2021-22, the Murray Bridge Nunga Court dealt with 54 and the Maitland Nunga Court dealt with five defendants. In order to be eligible, the defendant must be willing to plead guilty to a charge which can be finalised in the Magistrates Court.

I note that in jurisdictions with similar models there are exclusions that apply for certain types of offences. For example, in New South Wales sexual offences, child pornography offences and offences involving drugs and firearms are explicitly excluded, in the ACT and Victoria sexual offences are explicitly excluded.

SA-Best fully supports enshrining the Nunga Court via legislation to ensure its continuation into the future and as an acknowledgement to the work that has been done by that court in this jurisdiction as a first. In fact, we are so supportive of what is being proposed we would like to see the court expanded into the Youth Court, particularly for child protection matters involving Aboriginal and Torres Strait Islander children, but also in terms of the criminal jurisdiction of that court. There are communities that are crying out for a seat at the table when it comes to consideration of these matters, particularly in relation to DCP.

Some members may recall that last year I hosted a forum at Parliament House, where Nunga Babies Watch and the Grannies Group presented their stories and a carefully considered wish list of structural and systemic change. I have to say that the elders who attended expressed their sincere and deep gratitude for the opportunity to speak to members of parliament and their staff about the work they have done in this space.

I think the only disappointment on their part expressed to me was that it took as long as it did for them to have that audience here at Parliament House in the way that it was. I am grateful for everyone who attended. All we did was facilitate that forum to be hosted. I hope the Attorney and the government are open and willing to facilitate further such discussions here at Parliament House, where the views expressed by them can continue to be expressed.

They also presented us—and the Attorney attended—with some information that they have prepared for their broader communities in terms of where to go for help and what to do when DCP is involved and children have been removed from Indigenous families. They likened the exorbitant number of Aboriginal and Torres Strait Islander children in care to a second stolen generation. After hearing the harrowing stories they told and continue to tell and the lived experiences they continue to share with us, it is increasingly hard not to agree with that sentiment.

The involvement of elders and respected persons in these matters, with a focus on Aboriginal and Torres Strait Islander child placement principles, is one thing that would vastly improve outcomes for children who find themselves the subject of proceedings, and their families, and is something we need to be considering urgently, in my view. I acknowledge that there are measures in place, but more needs to be done to ensure a streamlined and consistent approach in terms of how we deal with these matters.

Establishing an independent Aboriginal-controlled panel to review DCP decisions and ensure accountability as part of that Youth Court would be a very good start. I acknowledge also the Attorney-General's willingness to consider improvements to the current structures and systems in

place along the lines that I have outlined. I note for the record that we have had preliminary discussions with the Attorney-General, and I am encouraged by his commitment to considering further expanding the scope of the Nunga Court in this space.

My experience in the jurisdiction has highlighted a number of issues in that jurisdiction that I am keen to see addressed. Some of those processes are ad hoc in nature, and I think streamlining and formalising them would not only benefit those children who are involved in those processes but also address some of the very serious systemic concerns that remain outstanding and continue to be raised with us. Having Aboriginal elders involved in these discussions and having changes as a result is absolutely critical. These concerns were raised with the previous government, and I genuinely hope that the Attorney is committed to addressing them appropriately.

I do have a number of issues that I would like to raise during the committee stage of the debate, issues that I have raised with the Attorney and would like placed on the record more formally, but once again I commend the government for taking this very important step, cementing, if you like, and legislating the Nunga Court in our statute books. With those words, I look forward to the committee stage debate of the bill.

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:54): I would like to thank those who have contributed in their second reading speeches to what I think is a very important bill. It is, in my view, a small but significant measure that we are taking to address the significant disadvantage so many Aboriginal people face. I thank the Liberal Party, the Greens and SA-Best for their support and contribution to this bill, but I want to spend a little bit of time particularly addressing the contribution of the Hon. Sarah Game in relation to this bill.

I appreciate the recognition the Hon. Sarah Game made about the dimension of the problem we are facing. The member is right when she said:

> It is unacceptable that Aboriginal communities across SA are not thriving and are over-represented in the judicial system.

But the honourable member went on to say that she would not be supporting this legislation, a legislation that is specifically targeted to help Aboriginal people overcome that exact disadvantage.

This goes to the very reason I am involved in politics: helping Aboriginal people overcome this disadvantage. In my view, the levels of disadvantage and discrimination that so many Aboriginal people face in this state and this country is the greatest stain on us as a society. Some in the community, including the contribution made by One Nation, see that specific measures for Aboriginal people are not warranted. I could not disagree more.

It is the laws of this parliament, and the parliaments of all states and territories—and the colonies that preceded them in decades and centuries gone by—that have directly led and contributed to these levels of disadvantage. It is the laws of this parliament, in particular, that must contribute to helping overcome this disadvantage.

I provide an example of why I think we have this moral obligation to implement laws in this state that create special measures to help overcome this level of disadvantage. Take for example the policies of forced removal of Aboriginal children in years gone by, the stolen generations. It is this and other parliaments that created the environment, the institution and the laws that allowed, endorsed and encouraged these barbaric practices to occur.

Yet, occasionally, people hurtfully deny the policies of the stolen generations and claim along the lines that it was all done for the benefit of Aboriginal people. Such lies are hurtful and are easily dismissed when you look at the comments of the time, comments made by people with titles such as so-called Protector of Aborigines. If you look at a quote from the then Protector of Aborigines, Dr Cecil Cook of the Northern Territory in 1927, he said about the policy of forced removal of Aboriginal children:

> Generally by the fifth and invariably by the sixth generation, all native characteristics of the Australian Aborigine are eradicated. The problem of our half-castes will quickly be eliminated by the complete disappearance of the black race, and the swift submergence of their progeny in the white.

These are people whose roles and actions were created, sanctioned and condoned by parliaments of this nation. The very deliberate policies enabled by parliaments in the past were in a desire to wipe out an entire race of people, to exterminate Aboriginal nations on this continent. These policies, as I said, were put in place, enabled and sanctioned by parliaments of the past.

So yes, I think this parliament should—I think it has a moral obligation to take special measures to help overcome the disadvantage that these parliaments across our nations have created in the past. To not do what we can to help overcome this disadvantage I think fails a moral test of what we are here to do.

I would welcome the Hon. Sarah Game, the representative of One Nation in this chamber, to reconsider her opposition to this bill. This bill is one measure, albeit a small measure but one measure that I think we can take to help overcome this disadvantage. The way the honourable member has spoken and defined some of the issues that she is interested in I think does her some great credit. She has spoken about the hardship and the discrimination that certain elements of our community have faced, and she has shown she is willing to take action in a practical legislative sense to help overcome that.

I would encourage the honourable member to reflect and to see this as another way that she can do that in terms of helping a specific part of our society overcome the disadvantage that in fact has, to a very large degree, been contributed by the very parliaments of the past that we are now members of.

I think it is important. It is a small but important contribution in what we do. As I have said, I think the honourable member has surprised many in terms of her thoughtful contribution and her desire to protect those who are disadvantaged in society. I will say that that stands in stark contrast to the federal One Nation party. The creator of One Nation federally, Pauline Hanson, is a hurtful racist.

Comments that have been made by Pauline Hanson have hurt Aboriginal people all over Australia—comments Pauline Hanson has made about Aboriginal people like, 'They've got to start doing something for themselves, first off, if they start cleaning up the environment they live in.' On school attendance, Senator Pauline Hanson said, 'Whose fault is that? Lazy parents. You can't blame the whites when it's your own negligence.' On Noel Pearson and Jason Yanner, Senator Pauline Hanson said, 'These people aren't helping close the gap; they're simply riding the gravy train.' They are extraordinarily ignorant, hurtful and racist comments by Senator Pauline Hanson.

On the Voice to Parliament being proposed, Senator Pauline Hanson has said, 'This can only be about taking power from whitefellas and giving it to blackfellas. This is Australia's version of apartheid.' These are outrageous, racist and hurtful comments. On Closing the Gap, Pauline Hanson said it is 'complete rubbish…as far as I am concerned, it's a joke.' Pauline Hanson went on to say, 'Closing the Gap is the marketing term used by politicians and bureaucrats so they can feel good about themselves and get in front of TV cameras.'

Only recently, Senator Pauline Hanson stormed out of the Senate chamber in Canberra when an Acknowledgement of Country was being recited. We saw recently, in regard to the wishes of traditional owners, the Pitjantjatjara people of the central western desert region, and stopping people climbing Uluru, Pauline Hanson literally trampled on the wishes and beliefs of traditional owners by trying to march up Uluru before the walk was closed, somewhat ironically getting stuck halfway up. As I said, Pauline Hanson is a racist and demeans not just Aboriginal people but all of us in the comments she makes.

As I said earlier, I think the Hon. Sarah Game, in the words that she has used, in the issues that she has fought for, in the committees that she has set up, in the legislation that she has proposed, has done herself great credit in terms of considering the needs, the feelings of disadvantaged and minority groups in South Australia, and I would encourage a rethink on the opposition to a bill that is aimed at righting in a small way some of the injustices of the past, some of the disadvantages that very parliaments like this one have created.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. C. BONAROS: As I have said, I acknowledge and support fully and wholeheartedly formalising the existing arrangements the Attorney has outlined, especially given his impassioned contribution just now. I would like to ask the Attorney, in terms of the comparison with other jurisdictions and for our benefit, was any consideration given to specific legislative exclusions? I note that we are just formalising what exists, but given those models that exist in other states, was consideration given to any legislative exclusions when it comes to sex offences in South Australia, bearing in mind that we are talking about a limited scope in terms of what sex offences could potentially be included within the scope of the bill?

The Hon. K.J. MAHER: I thank the honourable member for her question. She is right: this bill sought, if you like, to legislatively protect and regularise the operation of the Nunga Court in South Australia when it was established in Port Adelaide in 1998 and soon after in Murray Bridge. It was the first of its type anywhere in Australia, the sentencing court in South Australia.

On a number of occasions I have had the opportunity to sit at the back of the court and just watch how effective a Nunga Court is and the benefits it provides. In this particular bill we did not consider doing anything more or less than what the Nunga Court has done here for 25 years, but we will be happy to have a look at how other jurisdictions operate. I know we looked at Victoria after we established a Nunga Court, or legislated for a Nunga Court. I believe New South Wales—I am getting a nod—has a legislated regime for the Nunga Court.

In terms of sexual offences, overwhelmingly sexual offences are indictable offences that are not dealt with by the Magistrates Court. I have not been able to determine if sexual offences have ever actually been dealt with in the Nunga Court, which requires a guilty plea. In practice, and as is reflected in the bill, the court has the discretion not to deal with any matter that the court chooses not to deal with.

It would be unlikely that there would be serious sexual offences dealt with by way of a guilty plea in the Magistrates Court. I do not have information; I do not think it was on a list of the top 10 most common offences that are dealt with in the Nunga Court, but I am happy to have a look at that and see what other jurisdictions do. However, as I said, given that almost all sexual offences are not dealt with in the Magistrates Court because they are indictable offences, and the fact that there is discretion not to hear it, it is not something we considered would happen—if it happens at all. However, it is something we are happy to have a look at.

The Hon. C. BONAROS: Thank you. It is important to place on the record, and perhaps just ask the Attorney, when we are talking about those offences we are talking about indecent assaults that deal with people other than people aged under 14, providing a service to a person with cognitive impairment, filming and sexting offences which can be finalised in the Magistrates Court. I also understand that the Magistrates Court wishes to retain that discretion they have.

I do not expect this now, but if you could take on notice to get some figures on how many sex offences that I have just outlined have actually been finalised in the Nunga Court over the duration of its existence that would be useful.

The Hon. K.J. MAHER: I am happy to take it on notice. I am not certain I will be able to stretch back to records from 1998, but to the extent we are able to I am happy to provide the honourable member with that information.

The Hon. C. BONAROS: Thank you. If the Attorney could also place on the record any future expansions of the Nunga Court in other Magistrates Court locations.

The Hon. K.J. MAHER: As I said, the Nunga Court was initially established in 1998 in Port Adelaide. Not long after that a Nunga Court was established in Murray Bridge. In the last few years I think an operation of the Nunga Court has been established in Maitland. I know that in years gone by, a court—I think it was called an Anangu court—might have operated on the West Coast in Yalata.

The more recent Nunga Court on Narungga country in Maitland is certainly one that has been established in recent times. I would like to hope that we will see more established as time goes on.

One of the provisions in this bill—which may be thought of as a small thing, but it was quite important when I spent a couple of hours with Aboriginal justice officers and elders who sit on the Nunga Court out at the Port Adelaide Magistrates Court—was the actual naming of the court. There was a desire that we respect the historic nature of what was done and refer to the court as the Nunga Court but also an acknowledgement that, particularly in northern or western areas of South Australia—although most South Australian Aboriginal people refer to themselves and each other as nungas, hence the name Nunga Court—on the Far West Coast and in the Far North, Anangu is a term that is often used.

I think many people consider themselves nungas but do not use that language, so the legislation allows for a name other than the Nunga Court to be used if that is what the desire is. I can imagine on the Far West Coast or in northern South Australia you would see perhaps an Anangu court set up rather than a Nunga Court, if there was future expansion.

The Hon. C. BONAROS: Turning now to the specific issues that we have raised with the Attorney in relation to this bill, and not seeking to amend this bill in any way in relation to the Youth Court jurisdiction, currently there are about one in 11 Aboriginal children in state care in South Australia. We note that the national Closing the Gap aims to reduce that rate of Aboriginal and Torres Strait Islander children in out-of-home care by about 45 per cent by 2031, so are we committed to undertaking to consult and expand the principles of the Nunga Court into the Youth Court for child protection matters and formalising those arrangements, and also in relation to revisiting the criminal jurisdiction of the Youth Court?

The Hon. K.J. MAHER: I thank the honourable member for her question. I have had discussions with the honourable member and I know she has had discussions with my office about this particular issue. The short answer is yes. The rate at which Aboriginal children are removed from their parents is unacceptably high. The honourable member referred to it, I think, in her second reading speech as a new stolen generations.

Knowing what we know now, to allow it to continue I do not think is a defendable position, so anything that we can do, we need to do. There are principles that are in place in the Children and Young People (Safety) Act 2017 that contain measures that seek to ensure the care and protection of children and Aboriginal children when there are child removal matters in the Youth Court, but I absolutely will see what further we can do so that the provisions that are there are being adhered to as they should be, and what further measures could take place.

In terms of the criminal jurisdiction for young people, I think it is a very good idea to review whether that may be appropriate in the Youth Court as well. As I said earlier, I have had the great privilege and benefit of sitting at the back of the court at Port Adelaide a couple of times. Particularly when you see younger blokes, younger male Aboriginal defendants, pleading guilty and having to sit there and interact with their elders, that is a lot harder I think than a lot of these young Aboriginal blokes having to just cop a fine or a prison sentence.

They have to culturally be in front of their elders and discuss what they have done and how they can turn their lives around. I think it would be exceptionally worthwhile to see how that could be expanded from the Magistrates Nunga Court perhaps to the Youth Court, which is a division of the Magistrates Court, although this is not what this bill is aimed at.

The Hon. C. BONAROS: I will come back to the point the Attorney has just made, but as part of that consultation process, is the Attorney committed to meeting with other stakeholder groups, including Nunga Babies Watch and the Grannies Group, to ensure that any consultation that does occur is appropriate in light of the representations that have been made?

The Hon. K.J. MAHER: I will absolutely make that commitment for the Grannies Group and the Nunga Babies Watch group, whom I have met, with the honourable member and on a number of occasions in years gone by. The dedication of many mainly senior elders, Aboriginal women, in this area is quite remarkable, and it would be dismissive not to include them heavily in any consultation.

The Hon. C. BONAROS: Given the comments the Attorney made earlier, it would be useful for the record to understand why it is that the equivalent sentencing court in the Youth Court, which operated between 2017 and 2020, was discontinued in South Australia—the reasons for that and whether that had anything to do with a lack of referrals or any other matter that the Attorney might be able to shed some light on.

The Hon. K.J. MAHER: I thank the honourable member. I am advised that it was not continued due to a lack of referrals. I suspect that goes not to a need for it but to a recognition or knowledge of its availability.

The Hon. C. BONAROS: One of the other questions we had specifically in relation to the criminal jurisdiction in that regard was whether there can be, as part of that process, a consideration of, obviously, a focus on rehabilitation services as opposed to criminal penalties.

The Hon. K.J. MAHER: I thank the honourable member for her question. I think it is a good idea to look at that, as I have spoken about in this place, in the investigations that not just South Australia but all jurisdictions are doing in relation to the minimum age of criminal responsibility. Looking at those therapeutic and family interventions is a focus rather than a criminal justice sanction.

The Hon. C. BONAROS: I note that the Human Rights Committee of the Law Society has indicated its support for this bill, with the express proviso that the provisions are subject to an independent review to assess effectiveness after a certain period of time. Are there plans for such a review to be conducted and, if so, what is the time frame?

The Hon. K.J. MAHER: I thank the honourable member for her question. There are no plans to conduct a review of how these provisions are working, on the basis that this regularised and protecting legislation has been operating now for 25 years. Magistrate Vass, the other magistrates who have been involved, the Aboriginal justice liaison officers, the elders who have been involved—Aunty Yvonne Agius is a prime example of who I think was involved from the very start and is still involved in the Port Adelaide Nunga Court—have worked very hard over time to develop change and adapt how the Nunga sentencing court has worked.

It is common for new practices and procedures to have a review clause to look at their efficacy, to look at what can be improved, but as this has been refined over 25 years that is the reason it is not included in this one.

The Hon. C. BONAROS: Perhaps I can clarify: it is not so much the operation but potentially enhancing the operation of that jurisdiction that we are specifically interested in, so if there are other ways of enhancing the jurisdiction, given that we are now dealing with legislation as opposed to a process that was formal but not prescribed previously, or other improvements that could be made via legislation to enhance the operation of that and, if that is appropriate, I suppose that is where a review would fit in.

The Hon. K.J. MAHER: Certainly, if changes can be made—we talked about the possible extension to other geographical locations in South Australia—I know that is something that many users of the system, particularly the ALRM, have talked to me about. I do not think this requires a formal review process. I am in absolutely no doubt that the ALRM will let me know if anything in particular needs changing. Quite a number of groups have a significant genuine interest in this reform. I mentioned Aunty Yvonne Agius.

We took this as an election commitment, but it was not one where we were sitting around a table thinking of policies and we came up with this. This came out of a visit, I think, the Deputy Premier and I made to a couple of groups and it was something that was requested. We were very pleased to be able to include that as part of our commitments, and I am very proud to be able to be making these changes. Policies are not always developed like that, but it was a community-driven initiative put to the then opposition that we are now enacting here.

The Hon. C. BONAROS: I am not going to go through all of the undertakings that we have discussed with the Attorney, but I would like him to place on the record some undertaking that he is committed to continuing those discussions and facilitating meetings, including meetings with Judge Eldridge, with a view to potentially implementing further changes and addressing the issues that have been raised with his office appropriately.

The Hon. K.J. MAHER: I am happy to give that commitment. There have been discussions, I think, most days of this week and last week with the Chief Judge of the Youth Court, both as it relates to those child protection matters but also the criminal matters that come before the Youth Court. I am happy to give that commitment and undertaking that we will continue to do that.

The Hon. T.A. FRANKS: I just wanted to raise one particular concern that I did touch on in my second reading speech, which is regarding the use of interpreters and feedback on point 10 of the Law Society's submission on this bill. Could the Attorney-General please respond to that concern raised by the Law Society with regard to the workings of the court, including interpreters from a procedural fairness point of view, and why that is not explicitly in this bill?

The Hon. K.J. MAHER: I thank the honourable member for her question; it is a good one. We know that where defendants do not understand the nature of proceedings, and in my experience where people often just answer yes to understanding, 'Yes, you have asked me the question,' rather than, 'Yes, I agree with the question,' it can lead to injustices occurring. There are provisions within the bill before us that seek to regularise what occurs at the moment. For example, clause 7(4)(c) requires that the proceedings are conducted:

> (c) in a way that is likely to be understood and followed by such of the following persons as may be present…
>
> (i) the defendant;
>
> (ii) family members of the defendant;
>
> (iii) any other members of Aboriginal and Torres Strait Islander communities.

Without being prescriptive about a must or requirement for interpreters, we see this as giving very strong reassurance and guidance that the proceedings must be understood, in this case, most importantly, by the defendant.

Clause passed.

Remaining clauses (2 to 7) and titled passed.

Bill reported without amendment.

Third Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (16:23): I move:

That this bill be now read a third time.

Bill read a third time and passed.

NATIONAL ELECTRICITY LAW (SOUTH AUSTRALIA) (CONSUMER DATA RIGHT) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 28 September 2022.)

The Hon. H.M. GIROLAMO (16:24): I indicate that I will be the lead speaker for the opposition in the upper house and that we will be supporting the bill. I also indicate that I will have some questions during the committee stage. We have seen with the use of open data for banking systems that it has created some competition, some ease of access to comparable quotes for services and a swathe of new entrants into the tired, stuffy legacy world of banking.

Neobanks, 'buy now pay later' and countless apps and companies that can aggregate your money accounts across different banks, lending institutions and credit reporting agencies now allow people to have a bird's eye view of their banking. It became simpler to change banks, porting all account details and debits to new banks, a task that many Australians used to put into the too-hard basket.

Now open data has come to utilities companies. This improvement was a long time coming. Energy companies were announced in 2018 as being the next iteration of open data regime. As South Australia is the lead legislator for the national energy laws, we now see these changes coming to parliament to improve consumer data rights. Whilst these amendments were made federally, changes are still required to the national energy law and also to the national energy rules to reflect these amendments as well.

Energy ministers have agreed on these amendments to the framework. As I said, South Australia is the lead legislator, and this is why we find ourselves here today. The intention of the consumer data rights is to empower customers to use their own data to make comparisons across different providers. They can port their usage over the last year and compare what they would have been charged at different providers, making it a very personal assessment. A consumer data right for energy includes data such as generic and tailored tariff data; Distributed Energy Resource Register data, including details of batteries and solar panel installations; billing data, customer-provided data and metering data.

Over time, the consumer data right will encourage greater competition between energy retailers and deliver innovative retail products, some of which probably have not even been contemplated yet. In 2021, a peer-to-peer model was developed, where a consumer can direct a data holder to provide their consumer data right to an accredited data recipient in a compliant format. When an accredited data recipient receives a consumer data right for energy data, they will use this for the purposes that the consumer has requested, including tariff compensation, energy efficiency audits and sizing of PV cells and battery storage requirements.

This legislation expands significantly on the Australian Energy Market Operator's (AEMO) role in data provision. The amendments add consumer data right functions into AEMO's statutory functions under the new National Electricity Laws. These changes will allow AEMO to recover costs of performing these functions through participant fees, as part of its normal cost-recovery functions.

The National Electricity Law (South Australia) (Consumer Data Right) Amendment Bill 2022 seeks to implement these amendments for making changes to the electricity laws to add consumer data rights to the Australian Energy Market Operator and to allow South Australian energy ministers, using their ministerial-initiated rule powers, to make the initial amendments to the National Electricity Rules, as is common practice, and this will also ensure consistency between Consumer Data Right Rules and National Electricity Rules, removing many barriers that are currently in place.

For any future rules, AEMO, as the rule maker under the national electricity energy laws, has the power to amend the National Electricity Rules for any future requirements. As I said from the outset, the opposition supports these changes as practical measures to increase competition in the energy market and lead to a reduction in household bills, at this current time something that is very much appreciated by South Australian residents during this cost-of-living crisis. I support this bill.

The Hon. R.A. SIMMS (16:29): I also rise in support of the bill on behalf of the Greens. Giving consumers better information regarding their electricity is a key element of the transition towards renewable energy in this state. This bill allows customers the right to transfer their data to compare and switch between products and services. Consumers will need to consent and provide authorisation before their data is shared. This measure is already available in the banking and finance sectors, and by allowing it in the energy sector we can create better options for electricity consumers.

The Productivity Commission, in its 2017 report into data availability and use, found that Australian consumers have little capacity to choose how digital data regarding them is used. The report recommended that consumers be given the right to use their digital data. According to the report, consumer data rights will result in increased market competition, wider service choices and innovation in services.

In 2019, a report by Deloitte investigated consumer data rights in the banking sector. In this survey, they found that trust is key to determining whether or not consumers are likely to share their data. In light of the recent Optus data breach, many consumers will be concerned about the security of their data when it comes to transferring this information. For this reason, the need for security is paramount, but we are satisfied that no data can be shared without the consent of the consumer with respect to this bill.

As we transition away from fossil fuels, giving consumers the right to their data will allow people to have greater choice about where their electricity comes from. The increase in innovation of services that has been forecast is welcome. If electricity providers are forced to transform services to suit customer need, we might see more green options in the energy market, and of course we in the Greens would welcome that.

Nearly 70 per cent of South Australians want full renewable energy by 2030, according to the Australia Institute. While we transition at a state level, we can also give consumers a greater right to their data to allow them to vote with their feet and choose providers that are offering services that are better for our planet. With that, I conclude my remarks.

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (16:31): I would like to thank the Hon. Heidi Girolamo and the Hon. Robert Simms for their contributions on this bill, and I also thank them for their indicated support on behalf of the relevant parties. I commend the bill. I look forward to the benefits to consumers coming from this coming to fruition.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. H.M. GIROLAMO: What is an example of an accredited data recipient by the ACCC?

The Hon. C.M. SCRIVEN: I am advised that an accredited data recipient is someone who has been assessed by the ACCC as a suitable person to be designated as such. It could be a third party who provides tariff comparisons, as one of the examples of what an accredited data recipient might be.

The Hon. H.M. GIROLAMO: What is the process to become accredited?

The Hon. C.M. SCRIVEN: I am advised that someone who wishes to be an accredited data recipient would apply to the ACCC, and to become accredited they would need to:

- demonstrate that they are a fit and proper person or organisation to manage consumer data or write data;
- have taken steps to adequately protect data from misuse, interference, loss, unauthorised access, modification or disclosure;
- have internal dispute resolution processes meeting the requirements of the CDR rules;
- belong to a relevant external dispute resolution scheme;
- have adequate insurance to compensate the CDR consumers for any loss that might occur from a breach of the accredited data recipient's obligations; and
- have an Australian address for service.

Clause passed.

Clauses 2 to 4 passed.

Clause 5.

The Hon. H.M. GIROLAMO: What is the process for someone to remove their data from the accredited data holder after the consumer feels that their data is no longer required by that particular company anymore?

The Hon. C.M. SCRIVEN: I am advised that the person would simply need to contact the accredited data holder, and that there is no specific required format for that request.

The Hon. H.M. GIROLAMO: What protection do consumers have that they will not be spammed with information once they have shared their contact details and data with the company, for the express purpose of comparing plans?

The Hon. C.M. SCRIVEN: I am advised that there is an obligation on the data holder to use it only for the purposes for which it was provided. In the event that they were to use it for other purposes that could result in the removal of their accreditation by the ACCC.

The Hon. H.M. GIROLAMO: Will access expire by the company or is there a set period of time in which that information or that access to that information will be removed, or will it be held indefinitely?

The Hon. C.M. SCRIVEN: I am advised that the information is not held in perpetuity; there is an expiry. We can take on notice and seek advice—it will be from the commonwealth colleagues—as to what that expiry period is.

Clause passed.

Remaining clauses (6 and 7) and title passed.

Bill reported without amendment.

Third Reading

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (16:39): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (NATIONAL ENERGY LAWS) (GAS PIPELINES) BILL

Second Reading

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (16:40): I move:

That this bill be now read a second time.

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

Leave granted.

Government is amending national energy legislation to provide for the implementation of a simpler regulatory framework that will continue to support the safe, reliable and efficient use of and investment in gas pipelines. This amended framework will promote more effective competition and facilitate better access to pipelines, greater price transparency, and improvements to the negotiation framework and dispute resolution mechanisms.

The gas pipeline regulatory framework has undergone a series of reviews and refinements since it was first implemented 25 years ago. Most recently, reviews by the Australian Competition and Consumer Commission (ACCC), the Australian Energy Market Commission (AEMC) and Dr Michael Vertigan from 2015 to 2018 focussed on whether the regulatory framework acts as an effective constraint on the market power of pipeline service providers.

On the basis of these reviews, Energy Ministers agreed to a new information disclosure and arbitration framework (referred to as 'Part 23') that was introduced in August 2017. Part 23 applies to previously unregulated or 'non-scheme' pipelines that are providing third party access. Energy Ministers also agreed to a package of reforms to strengthen regulation of 'scheme' pipelines.

Despite these improvements, other potential issues were identified by the AEMC which were beyond the scope of its review. To address these issues, Energy Ministers tasked officials to develop a Regulation Impact Statement (RIS) in 2018 to examine the tests used to apply pipeline regulation as well as the different forms of regulation and governance arrangements.

In May 2021, after an extensive consultation process that included the release of a consultation RIS in late 2019, Energy Ministers agreed a package of reforms to improve gas pipeline regulation. The reforms will deliver a simpler regulatory framework that will continue to support the safe, reliable and efficient use of and investment in gas pipelines, while also:

- posing a more effective constraint on exercises of market power by pipeline service providers;

- facilitating better access to pipelines that would not otherwise provide such access, while also minimising the cost and risks associated with regulation where there are no third party users;
- providing greater support for commercial negotiations between shippers and service providers through more transparency, including greater price transparency, and improvements to the negotiation framework and dispute resolution mechanisms; and
- streamlining the governance arrangements.

In March 2022, Energy Ministers agreed to the final package of gas pipeline regulatory amendments. The package of reforms is expected to deliver significant benefits to the Australian economy through reduced costs, improved pipeline access and more effective competition in gas transportation.

The Statutes Amendment (National Energy Laws) (Gas Pipelines) Bill 2022 includes changes to the National Gas Law (NGL), National Electricity Law (NEL), National Energy Retail Law (NERL) and National Gas (South Australia) Regulations. The reforms will apply in New South Wales, Victoria, Queensland, South Australia, Tasmania, the Australian Capital Territory, and the Northern Territory.

The Bill expands the scope of economic regulation by requiring all transmission and distribution pipeline service providers to provide third party access, if such access is sought. To allow third party access to all pipelines, the Bill removes the existing coverage framework. Pipelines will be classified as either a scheme pipeline, subject to the stronger form of regulation based on the existing full regulation category, or a non-scheme pipeline, subject to the lighter commercially oriented form of regulation based on a strengthened Part 23.

All pipelines will be subject to requirements to publish prescribed transparency information and to comply with a single negotiation framework, ring-fencing and associate contract arrangements, a prohibition on bundling services, and dynamic market power measures (applying to all pipelines except the Declared Transmission System). Exemptions from ring-fencing, associate contract arrangements and the requirement to publish prescribed transparency information will be available to pipelines that meet certain eligibility criteria in accordance with the NGR.

The existing form of regulation test (with some minor modifications) will be used to determine whether a pipeline is deemed a scheme pipeline or whether a scheme pipeline should instead become a non-scheme pipeline. To overcome the information asymmetries that the Australian Energy Regulator (AER) is likely to face when applying the form of regulation test, it will be able to draw an adverse inference that a pipeline should be subject to the stronger form of regulation. The AER's ability to exercise this power will be limited to where the service provider does not provide the information requested within the period specified by the AER. The AER will be required to report on when it has used this power.

The Bill will provide for a greenfields incentive determination, which will be available to service providers prior to the commissioning of a new pipeline. The incentive will replace the existing competitive tender process and 15 year no coverage determination. The incentive will be available where the AER is satisfied that the form of regulation factors or competition to develop the pipeline (whether formal or informal) will, or is likely to pose, an effective constraint on the exercise of market power over the incentive period. The incentive will provide the pipeline with an exemption from being subject to the stronger form of regulation, but not the lighter form of regulation. The default incentive period will be 15-years, with the AER having the discretion to grant a shorter period.

The Bill will also allow pipelines with a greenfields incentive determination to apply for a price protection determination, which an arbitrator would be required to give effect to if an access dispute arises during the operative period of the determination. The operative period cannot be longer than the greenfields incentive period (no more than 15 years). This determination will be available where the AER is satisfied that:

- the pipeline has been developed as a result of a competitive process (either formal or informal) and the prices and non-price terms and conditions will be made available to prospective users during the operative period of the price protection have been set as a result of that process; or
- one or more of the form of regulation factors effectively constrained the exercise of market power by the service provider when the price and non-price terms and conditions that will be made available to prospective users were determined and the making of the determination will, or is likely to, contribute to the achievement of the National Gas Objective.

The Bill provides for scheme pipelines to continue being subject to the regulatory-oriented dispute resolution mechanism but will be strengthened by stipulating the matters the dispute resolution body is to have regard to, fast tracking the process and specifying the material to be published following a decision. Non-scheme pipelines will be subject to the same commercially-oriented access dispute mechanism that currently applies under Part 23.

The credibility of the threat of small shippers triggering a dispute on scheme and non-scheme pipelines will be strengthened and a definition of a small shipper will be included.

The Bill will confer responsibility for form of regulation decisions, greenfields incentive determinations and greenfields price protection determinations, pipeline classification decisions, and exemption decisions from prescribed transparency information and the ring fencing and associate contract arrangements to the AER.

In addition to the new powers conferred to the AER, the Bill will require the AER to publish a regulatory determinations and elections guide. The AER will also be required to actively monitor the behaviour of service providers and compliance with their obligations under the NGL and NGR and will be able to initiate its own assessment of the form of regulation that should apply to a pipeline.

The Bill provides for the South Australian Minister responsible for Energy to make amendments to National Gas Rules (NGR) that will implement the gas pipeline reforms. Once the amendments have been made, the Minister will have no power to make any further amendments.

I commend this Bill to members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *National Electricity Law*

4—Amendment of section 2—Definitions

The deletion of 2 definitions is related to the amendments to the *National Gas Law*.

5—Amendment of section 16—Manner in which AER performs AER economic regulatory functions or powers

The 2 definitions deleted in section 2 are relocated to section 16.

Part 3—Amendment of *National Energy Retail Law*

6—Amendment of section 2—Interpretation

7—Amendment of section 88—Requirement for authorisation or exemption

8—Amendment of section 137—RoLR notice—direction for gas

These amendments are consequential.

Part 4—Amendment of *National Gas (South Australia) Act 2008*

9—Amendment of section 9—Interpretation of some expressions in *National Gas (South Australia) Law and National Gas (South Australia) Regulations*

10—Amendment of section 14—Conferral of powers on Commonwealth Minister and Commonwealth bodies to act in this State

These amendments are technical or consequential.

11—Repeal of section 18

Section 18 is repealed.

Part 5—Amendment of *National Gas Law*

12—Amendment of section 2—Definitions

Various amendments are made to the definitions section for the purposes of the measure.

13—Amendment of section 3—Meaning of civil penalty provision

Certain amendments are made to the section relating to the meaning of a civil penalty provision for the purposes of the measure.

14—Amendment of section 4—Meaning of conduct provision

Certain amendments are made to the section relating to the meaning of a conduct provision for the purposes of the measure.

15—Amendment of section 5—Meaning of prospective user

16—Amendment of section 8—Meaning of service provider

These amendments are consequential.

17—Insertion of section 8AAB

New section 8AAB is inserted:

8AAB—Meaning of small shipper

Provision is made in relation to the meaning of a small shipper.

18—Amendment of section 8A—Nominated distributors

19—Amendment of section 9—Passive owners of scheme pipelines deemed to provide or intend to provide pipeline services

20—Amendment of section 13—Pipeline classification criterion

21—Repeal of sections 14 and 15

22—Amendment of section 16—Form of regulation factors

23—Amendment of section 17—Effect of separate and consolidated access arrangements in certain cases

These amendments are consequential.

24—Substitution of sections 18 and 19

New sections 18 and 19 are inserted:

18—Certain extensions to, or expansion of the capacity of, pipelines to be taken to be part of a scheme pipeline

Provision is made for certain extensions or expansions of capacity of pipelines to be taken as being part of a scheme pipeline.

19—Expansions of the capacity of non-scheme pipelines to be taken to be part of non-scheme pipeline

Provision is made for expansions of capacity of non-scheme pipelines to be taken to be part of the non-scheme pipeline.

25—Amendment of section 22—Ministers of participating jurisdictions

This amendment is consequential.

26—Amendment of heading to Chapter 1, Part 3, Division 2—Revenue and pricing principles

An amendment is made to the Division heading for the purposes of the measure.

27—Amendment of section 24—Revenue and pricing principles

This amendment is consequential.

28—Amendment of section 27—Functions and powers of the AER

This amendment gives the AER various additional powers for the purposes of the measure, and makes a consequential amendment.

29—Amendment of section 28—Manner in which AER must perform or exercise AER economic regulatory functions or powers

This amendment adds new definitions for the purposes of the section, and makes a consequential amendment.

30—Amendment of section 30C—Rate of return instrument is binding on AER and covered pipeline service providers

31—Amendment of section 30E—Content of rate of return instrument

32—Amendment of section 30Q—Application of instrument

These amendments are consequential.

33—Amendment of section 43—Definitions

Various amendments are made to the definitions section for the purposes of the measure.

34—Amendment of section 44—Meaning of contributing service

35—Amendment of section 45—Meaning of general regulatory information order

36—Amendment of section 46—Meaning of regulatory information notice

37—Amendment of section 48—Service and making of regulatory information instruments

38—Amendment of section 49—Additional matters to be considered for related provider regulatory information instruments

39—Amendment of section 52—Opportunity to be heard before regulatory information notice is served

40—Amendment of section 53—Form and content of regulatory information instrument

41—Amendment of section 54—Further provision about the information that may be described in a regulatory information instrument

42—Amendment of section 59—Assumptions where there is non-compliance with regulatory information instrument

These amendments are consequential

43—Insertion of Chapter 2, Part 1, Division 4A

New Chapter 2, Part 1, Division 4A is inserted: , and details the AER's reporting requirements.

Division 4A—Monitoring service providers

63A—AER must monitor service providers' behaviour

Provision is made for the AER power to monitor various matters regarding service providers.

63B—AER must report to MCE

The AER is required to report to the MCE.

44—Amendment of heading to Chapter 2, Part 1, Division 5—Service provider performance reports

This clause amends the heading of Chapter 2, Part 1, Division 5 to specify it relates to scheme pipelines. In addition, the heading to section 64 is similarly amended.

45—Insertion of Chapter 2, Part 1, Division 5A

New Chapter 2, Part 1, Division 5A is inserted:

Division 5A—Compliance and performance

64A—References in this Division to service providers

Provision is made in relation to terms used in the division.

64B—Compliance audits by AER

Proposed section 64B gives the AER power to conduct compliance audits of service providers, or alternatively to arrange for them to be done on the AER's behalf.

64C—Compliance audits by service providers

Proposed section 64C requires service providers to conduct compliance audits.

64D—Carrying out of compliance audits

Proposed section 64D requires compliance audits to be carried out in such a way that follows the AER compliance procedures and guidelines.

64E—Cost of compliance audits

Proposed section 64E outlines where the cost of a compliance audit will lie.

64F—AER Compliance Procedures and Guidelines

Proposed section 64F requires the AER to make the AER compliance procedures and guidelines.

46—Substitution of section 83A

New section 83A is substituted:

83A—Information and transparency requirements relating to compression service facilities and storage facilities

Provision is made for Rules to be made in support of certain aspects of the measure.

83AA—Publication of information relating to compression service facilities and storage facilities

A person required by Rules made under the proposed section 83A to publish information must do so in accordance with the Rules.

47—Repeal of section 88

Section 88 is repealed.

48—Repeal of Chapter 2, Part 4

Chapter 2, Part 4 is repealed.

49—Amendment of section 91BH—General principles governing determinations

This amendment is consequential.

50—Amendment of section 91KA—Supply interruption or disconnection in compliance with AEMO's direction

This amendment deletes the definition of *distribution pipeline* specific to section 91KA.

51—Amendment of section 91LA—Retail market participation

This amendment removes non-scheme pipeline users from the list of person's who can be classified within the Rules as a participant in a regulated retail gas market.

52—Substitution of Chapter 3

New chapter 3 is substituted, which details the regulatory framework for pipelines.

Chapter 3—Regulatory framework for pipelines

Part 1—Scheme pipeline determinations and scheme pipeline elections

Division 1—Scheme pipeline determinations

92—AER may make scheme pipeline determination

Provision is made for the AER to determine that a non-scheme pipeline is a scheme pipeline.

93—Requirements for making, or not making, a scheme pipeline determination

A scheme pipeline determination, or a decision not to make a scheme pipeline determination must be made in accordance with these requirements.

94—Effect of scheme pipeline determination

Pipelines subject to scheme pipeline determinations become scheme pipelines when the determination takes effect, and continue to be scheme pipelines while the determination remains in effect.

Division 2—Scheme pipeline elections

95—Scheme pipeline elections

Provision is made for non-scheme pipelines to elect to be dealt with as scheme pipelines.

96—Effect of scheme pipeline elections

Provision is made for when scheme pipeline elections take effect, and their effect.

Part 2—Scheme pipeline revocation determinations

97—AER may make scheme pipeline revocation determination

Provision is made for the AER, on its own initiative, or on the application of any person, to make a scheme pipeline revocation determination in relation to scheme pipelines that are not designated pipelines.

98—Requirements for making, or not making, a scheme pipeline revocation determination

A scheme pipeline revocation determination must be made in accordance with these requirements.

99—Effect of scheme pipeline revocation determination

Pipelines that are subject to scheme pipeline revocation determinations cease to be scheme pipelines when the determination takes effect.

Part 3—Greenfields incentive determinations and greenfields price protection determinations

Division 1—Greenfields incentive determinations

100—AER may make greenfields incentive determination

Provision is made for the AER to, on the application of the service provider for a greenfields pipeline project, make a determination that the relevant pipeline cannot become a scheme pipeline for the operative period of the determination.

101—Requirements for making, or not making, a greenfields incentive determination

Provision is made for the requirements for the AER to make, or not make, a greenfields incentive determination under section 100.

102—Effect of greenfields incentive determination

Provision is made as to what the effect of a greenfields incentive determination is.

103—Requirement for conformity between pipeline description and pipeline as constructed

Greenfields incentive determinations may only apply to pipelines which do not materially differ from the pipeline as described in the relevant description.

104—Power of AER to amend pipeline description

Provision is made for the AER to amend a pipeline description, on application by the service provider for a pipeline to which a greenfields incentive determination applies.

Division 2—Early termination of greenfields incentive determination

105—Greenfields incentive determination may lapse

Greenfields incentive determinations in respect of a pipeline lapse if the relevant pipeline is not commissioned within a certain period after the determination takes effect.

106—Revocation by consent

Provision is made for the revocation by the AER of a greenfields incentive determination by consent of the service provider.

107—Revocation for misrepresentation

Provision is made for the revocation by the AER of a greenfields incentive determination due to the various faults on the part of the applicant.

108—Exhaustive provision for termination of greenfields incentive determination

Provision is made regarding how the termination or revocation of a greenfields incentive determination takes effect.

Division 3—Greenfields price protection determinations

109—AER may make greenfields price protection determination

Provision is made for the AER to make a greenfields price protection determination.

110—Requirements for making, or not making, a greenfields price protection determination

Provision is made regarding the requirements for making, or not making, a greenfields incentive determination.

111—Effect of greenfields price protection determination

Provision is made regarding the effect of a greenfields price protection determination.

Part 4—Principles governing the making of particular determinations

112—Principles governing the making of particular determinations

Provision is made regarding the principles for making scheme pipeline determinations, scheme pipeline revocation determinations and greenfields incentive determinations.

Part 5—Access arrangements for scheme pipelines

Division 1—Submissions generally

113—Submission of access arrangement or revisions to applicable access arrangement

Scheme pipeline service providers must submit access arrangements or variations to applicable access arrangements, to the AER for approval in accordance with the Rules.

Division 2—Provisions relating to applicable access arrangements

114—Protection of certain pre-existing contractual rights

Provision is made such that applicable access arrangements will not deprive certain protected contractual rights.

115—Service provider may enter into agreement for access different from applicable access arrangement

Provision is made such that service providers may enter into agreements with users for access to pipeline services that are different from an applicable access arrangement for the relevant pipeline service.

116—Applicable access arrangements continue to apply regardless of who provides pipeline service

Access arrangements apply to pipeline services provided by scheme pipelines regardless of who provides the pipeline service.

Part 6—Classification and reclassification of pipelines

Division 1—Classification of pipelines

117—Application for classification of pipeline

Provision is made for service providers to apply to the AER for the classification of a pipeline.

Division 2—Reclassification of pipelines

118—Reclassification of pipelines

Provision is made for the AER, on its own initiative or on the application of a service provider, to decide to reclassify a pipeline.

Division 3—Provisions relating to classification and reclassification decisions

119—Requirements for making classification or reclassification decisions

Provision is made for what the AER must have regard to when making a decision under section 117 or 118.

120—Effect of classification decision or reclassification decision

Provision is made for the effect of classification or reclassification decisions.

Part 7—AER reviews into designated pipelines

121—AER reviews

Provision is made for the MCE to request a review by the AER as to whether a given pipeline should continue to be a designated pipeline.

53—Amendment of heading to Chapter 4

The heading of Chapter 4 is amended to reflect that the chapter now applies to both scheme and non-scheme pipelines.

54—Insertion of Chapter 4 Part A1

New Chapter 4, Part A1 is inserted

Part A1—Preliminary

130—Application of this Chapter

This section provides information as to the application of the Chapter.

55—Amendment of heading to Chapter 4, Part 1

The heading of Chapter 4, Part 1 is amended to reflect that the part now applies to both scheme and non-scheme pipelines.

56—Amendment of section 131—Service provider must be legal entity of a specified kind to provide pipeline services by covered pipeline

This amendment is consequential

57—Repeal of section 132

Section 132 is repealed.

58—Amendment of section 133—Preventing or hindering access

This amendment is consequential.

59—Repeal of section 134

Section 134 is repealed.

60—Substitution of section 135

New section 135 is substituted:

135—Service provider must comply with queuing requirements

Provision is made requiring service providers to comply with queuing requirements imposed by an applicable access arrangement or the Rules.

61—Substitution of section 136

New section 136 is substituted:

136—Compliance with pipeline interconnection principles

Provision is made to require service providers comply with principles specified in the Rules.

136A—Prohibition against increasing charges to subsidise particular development

Provision is made to prohibit charging users to subsidise extension or expansion of capacity of the pipeline without a specific exemption.

136B—Prohibition on bundling of services

Provision is made to prohibit bundling services.

136C—Service providers must publish prescribed transparency information

Provision is made relating to the publishing of transparency information.

62—Amendment of section 137—Definitions

This amendment deletes the definition of compliance date, and makes a consequential amendment to the definition of related business.

63—Amendment of section 138—Meaning of marketing staff

This amendment makes a consequential change to multiple subsections, and additionally amends the text of an example within the provision.

64—Amendment of section 139—Carrying on of related businesses prohibited

65—Amendment of section 140—Marketing staff and the taking part in related businesses

66—Amendment of section 141—Accounts that must be prepared, maintained and kept

67—Amendment of section 143—AER ring fencing determinations

68—Amendment of section 144—AER to have regard to likely compliance costs of additional ring fencing requirements

These amendments are consequential.

69—Amendment of section 145—Types of ring fencing requirements that may be specified in an AER ring fencing determination

This amendment makes a consequential change to the text of section 145, and additionally makes consequential amendments to the text of the Examples within in the provision.

70—Repeal of Chapter 4, Part 2, Division 4

Chapter 4, Part 2 Division 4 is repealed

71—Redesignation of Chapter 4, Part 2, Division 5

This amendment redesignates Division 5 to Division 4, consequential to the repeal of the current Division 4.

72—Amendment of section 147—Service provider must not enter into or give effect to associate contracts that have anti-competitive effect

73—Amendment of section 148—Service provider must not enter into or give effect to associate contracts inconsistent with competitive parity rule

These amendments are consequential.

74—Insertion of Chapter 4, Part 2, Division 5 and Chapter 4, Parts 3 and 4

New Chapter 4, Part 2, Division 5 and Chapter 4, Parts 3 and 4 are inserted.

Division 5—Exemptions from particular requirements

148A—Exemptions from particular requirements

Provision is made for the Rules to make provisions regarding exemptions from the requirements made by some sections of the measure.

Part 3—Negotiation of access

148B—Definition

Provision is made for definitions for the purposes of the part.

148C—Access proposals

Provision is made for there to be Rules governing access to relevant pipeline services.

148D—Duty to negotiate in good faith

Proposed section 148D requires good faith negotiations by users or prospective users and service providers when access is sought.

Part 4—AER reviews about application of this Chapter

148E—AER reviews about application of this Chapter

Proposed section 148E gives the MCE the power to request the AER conduct a review into the application of the Chapter, and outlines the requirements and details of what such a review must be.

75—Substitution of Chapters 5 to 6A

New Chapter 5 is inserted, and Chapter 6A is repealed.

Chapter 5—Access disputes

Part 1—Interpretation and application

149—Definitions

This section provides various definitions for the purposes of the Chapter.

150—Application of this Chapter to disputes arising under the Rules

This section outlines that the provisions in the Chapter applicable to determining an access dispute apply to any dispute arising from the provision of the Rules specified in the Rules for the purposes of this section, subject to any modification of the provisions in the Chapter specified by the Rules.

151—Chapter does not limit how disputes about access may be raised or dealt with

This section makes it clear that the Chapter does not limit how disputes about access to pipeline services can be raised or otherwise dealt with.

Part 2—Notice of access dispute and other provisions

Division 1—Notice of access dispute

152—Notice of access dispute

Provision is made as to how notice of an access dispute may be given in relation to either a scheme or a non-scheme pipeline.

153—Withdrawal of notice

Provision is made as to how a notice given under section 152 may be withdrawn.

Division 2—Parties to an access dispute

154—Parties to an access dispute

Provision is made as to who constitutes a party to an access dispute in various circumstances.

Part 3—Alternative dispute resolution for access disputes

Division 1—Alternative dispute resolution for scheme pipeline access disputes

155—Dispute resolution body may require parties to engage in alternative dispute resolution

This section allows the dispute resolution body to require the parties engaged in an access dispute relating to a scheme pipeline to attempt some form of alternate dispute resolution.

Division 2—Mediation of access disputes involving small shippers

156—Small shipper may elect to have access dispute mediated

This section allows a small shipper party to an access dispute to elect for the dispute to be resolved through mediation.

157—Appointment of mediator

Provision is made for the appointment of a mediator for the purposes of section 156.

158—Party's lawyer may be present at mediation

This section allows for the lawyer for a party to mediation to be present at the mediation.

Part 4—Arbitration of non-scheme pipeline access disputes

159—Reference of non-scheme pipeline access dispute to arbitration

This section requires the AER to refer access disputes relating to non-scheme pipelines to arbitration.

160—Appointment of arbitrator

Provision is made for the appointment of an arbitrator for the purposes of section 159.

Part 5—Access determination

Division 1—Determination of access disputes generally

161—Determination of access dispute

Provision is made for the determination of access disputes.

162—Matters to be taken into account for access disputes

This section requires that the relevant adjudicator, when making an access determination, must take into account any matters specified by the Rules for the purposes of this section.

163—Restrictions on access determinations

This section outlines restricts access determinations from having various effects.

164—Access determinations and part contributions of capital to fund installations or the construction of new facilities

This section allows adjudicators in access disputes to take into account capital contributions or construction of facilities for the pipeline the subject of the dispute, as well as making provision for the Rules to specify the matters to be addressed by the adjudicator, and the content of the determination.

Division 2—Particular provisions relating to scheme pipeline access disputes

165—Access determination must give effect to applicable access arrangement

This section requires that in making access determinations, a dispute resolution body must give effect to applicable access arrangements.

166—Rules may allow determination that varies applicable access arrangement for installation of a new facility

Provision is made for the Rules to do various things in relation to access determinations and applicable access arrangements.

Part 6—Variation of access determinations

167—Variation of access determination—scheme pipeline disputes

This section allows the relevant dispute resolution body to vary an access determination made in relation to a scheme pipeline access dispute on the application of any party to the determination, subject to not being able to vary a final determination if any party objects.

168—Variation of access determination—non-scheme pipeline disputes

This section allows for an access determination in an access dispute regarding non-scheme pipelines to be varied where all parties agree to the variation.

Part 7—Termination of access dispute

169—Relevant adjudicator may terminate access dispute in particular circumstances

Provision is made for the relevant adjudicator to terminate an access dispute.

Part 8—Compliance with access determinations

170—Compliance with access determination

Provision is made for the application of access determinations in respect of scheme and non-scheme pipelines.

171—Subsequent service providers bound by access determinations

This section establishes that an access determination is binding on any subsequent service provider as though they were a party to the access dispute at the time the determination was made.

Part 9—Access dispute hearing procedure

172—Part applies subject to any modifications prescribed by the Regulations

This section establishes that the part applies subject to modification by the Regulations.

173—Fast track resolution process—scheme pipeline access disputes

Provision is made for scheme pipeline access disputes to be dealt with by a fast track resolution process established by the Rules.

174—Hearing to be in private

This section establishes that, subject to the agreement of the parties, dispute hearings are to be in private.

175—Right to representation

This section establishes that parties to a dispute hearing may appear in person, or be represented by another person.

176—Procedure of relevant adjudicator

Provision is made for the procedure to be followed by the relevant adjudicator in conducting the access dispute.

177—Particular powers of relevant adjudicator in a hearing

This section gives the relevant adjudicator in an access dispute various powers.

178—Role of a dispute resolution expert

Provision is made for the role of a dispute resolution expert in an access dispute.

179—Disclosure of information

This section gives the relevant adjudicator for an access dispute the power to give orders to a person to not divulge or communicate information given to the person in the course of the access dispute without the permission of the adjudicator.

180—Power to take evidence on oath or affirmation

This section gives the relevant adjudicator power to take evidence on oath or affirmation.

181—Failing to attend as a witness

This section requires a person, who is served as per the Regulations, a summons to appear as a witness at a dispute hearing for an access dispute to attend the dispute hearing, unless they have a reasonable excuse for failing to do so.

182—Failing to answer questions etc

This section requires a witness at a dispute hearing for an access dispute for an access dispute to be sworn or make an affirmation, and to answer questions or produce documents as required, without reasonable excuse.

183—Intimidation etc

This section prohibits the intimidation of people who intend to produce, or have produced documents, or who are intending to appear or have appeared as a witness, in a dispute hearing.

184—Particular powers of a relevant adjudicator in a hearing

This section gives the relevant adjudicator in a dispute hearing the power to not share with the another party parts of documents which one party has informed the adjudicator contain confidential information.

Part 10—Costs

Division 1—Scheme pipeline access disputes

185—Costs—scheme pipeline access disputes

Provision is made in relation to the determination and apportionment of costs incurred in a dispute hearing.

186—Outstanding costs are a debt due to party awarded the costs—scheme pipelines

Provision is made in relation to the nature and recovery of costs that are payable under section 185(4) or (5).

187—Regulations about the costs to be paid by parties to access dispute—scheme pipelines

Provision is made for the regulations to provide for the dispute resolution body to charge parties its costs in an access dispute, and to apportion those costs between parties.

Division 2—Non-scheme pipeline disputes

188—Costs of arbitration of non-scheme pipeline disputes

Provision is made for how costs are to be determined in relation to the arbitration of a non-scheme pipeline dispute.

Division 3—Mediation of access disputes involving small shippers

189—Costs of mediation of access disputes involving small shippers

Provision is made regarding how costs are determined in an access dispute involving small shippers which is referred to mediation.

Part 11—Joint access dispute hearings—scheme pipeline disputes

190—Definition

Provision is made for the definition of a term for the purposes of the Part.

191—Joint dispute hearing

Provision is made for the application of the section.

192—Consulting the parties

Provision is made for the dispute resolution body to consult the parties prior to making a decision, and to be required to invite and consider any submissions made by the parties in regards to what the dispute resolution body proposes to do.

193—Constitution and procedure of dispute resolution body for joint dispute hearings

Part 9 applies to the joint dispute hearing in a corresponding way to the way in which it applies to a particular dispute hearing.

194—Record of proceedings etc

Provision is made for the dispute resolution body to have regard to various materials for the purpose of the dispute hearing.

Part 12—Miscellaneous matters

195—Correction of access determinations for clerical mistakes etc

Provision is made for the relevant adjudicator for an access determination to, subject to the Rules, correct certain types of errors in the access determination.

196—User's existing capacity rights during an access dispute

Provision is made such that existing rights of a user to use the capacity a pipeline must not be altered during an access dispute by the service provider, except with the user's consent.

76—Amendment of section 231—AER proceedings for breaches of this Law, Regulations or the Rules that are not offences

This amendment corrects a minor grammatical error, and additionally makes an amendment to the note found in section 242 of the National Law.

77—Amendment of section 271—Enforcement of access determinations

78—Amendment of section 292—AEMC must take into account form of regulation factors in certain cases

79—Amendment of section 293—AEMC must take into account revenue and pricing principles in certain cases

These amendments are consequential.

80—Insertion of section 294FB

New section 294FB is inserted:

294FB—South Australian Minister to make initial Rules relating to pipeline regulation

This section gives the South Australian Minister the power to make Rules for certain things for the purposes of the measure.

81—Amendment of section 294G—South Australian Minister may make Rules on recommendation of MCE and Energy Security Board

82—Amendment of section 324—Authorised disclosure of information given to the AER in confidence

These amendments are consequential.

83—Repeal of Chapter 10, Part 1

Chapter 10, Part 1 is repealed.

84—Substitution of Chapter 10, Part 2, Division 2

New Chapter 10, Part 2, Division 2 is inserted:

Division 2—Disclosure of confidential information held by AEMC

330—Confidentiality of information

Provision is made for the confidentiality of information held by AEMC.

85—Amendment of section 332—Failure to make a decision under this Law or the Rules within time does not invalidate the decision

This amendment removes the NCC as a defined regulator scheme decision maker for the purposes of the section.

86—Substitution of section 333

New Section 333 is substituted:

333—Withdrawal of applications relating to particular determinations or classification

Provision is made for the withdrawal of applications for a relevant decision.

87—Repeal of sections 334 and 335

Sections 334 and 335 are repealed.

88—Substitution of Schedule 1

New Schedule 1 is substituted:

Schedule 1—Subject matter for the National Gas Rules

Provision is made for the subject matter the National Gas Rules may cover.

89—Amendment of Schedule 2—Miscellaneous provisions relating to interpretation

Various consequential amendments are made to Schedule 2 for the purpose of the measure.

90—Amendment of Schedule 3—Savings and transitionals

Transitional provisions are inserted into Schedule 3 for the purposes of the measure.

Debate adjourned on motion of Hon. L.A. Curran.

STATUTES AMENDMENT (NATIONAL ENERGY LAWS)(REGULATORY SANDBOXING) BILL

Second Reading

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (16:42): I move:

That this bill be now read a second time.

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

Leave granted.

The Government is amending the national energy legislation to introduce a regulatory sandbox toolkit.

The energy sector has experienced many changes in recent years, as it transitions to a low carbon future. This evolution includes the emergence of innovative technologies and business models in the national energy markets. These new initiatives can bring significant benefits to consumers.

It is therefore essential that the regulatory framework that supports Australia's energy market can adapt and respond to technological advancements to operate in the long-term interests of consumers.

The introduction of a regulatory sandbox toolkit aims to make it easier for businesses to develop and test these innovative energy technologies and business models. This type of innovation in the energy sector can lead to better services and lower costs for consumers.

A regulatory sandbox is a framework within which participants can trial innovative concepts in the market under relaxed regulatory requirements, on a time-limited basis and with appropriate safeguards in place.

The objective of a regulatory sandbox toolkit is to encourage innovation, which has the potential to contribute to the long-term interests of consumers, rather than simply to facilitate an increased number of trials.

The National Energy Laws (Regulatory Sandboxing) Bill 2022 presented to you today, seeks to implement changes to the National Electricity Law, National Gas Law and National Energy Retail Law to introduce a regulatory sandbox toolkit.

In the development of this package it was considered that various regulatory tools, both existing and new, could be used to facilitate proof-of-concept trials. These tools could be applied according to their suitability to a proposed trial.

It was considered that the existing regulatory framework may limit opportunities for trials of innovative products and business models which may provide significant benefits to consumers. As such two tools have been developed to provide greater flexibility in the regulatory framework.

The first introduces a new Australian Energy Regulator (AER) regulatory waiver power that can provide time-limited regulatory relief to eligible trials.

The second introduces a new power for the Australian Energy Market Commission (AEMC) to make a trial rule. This includes an amended rule change process for proof-of-concept trials that could be used if an eligible trial required new rules or the alteration of existing rules for a limited time to be conducted.

With regard to a trial waiver, a one-stop shop is considered necessary to undertake a trial project under this process. The AER is considered the appropriate body for considering and providing such exemptions given their role as the Regulator of the national frameworks.

The Bill includes a broad power for the AER to grant specific exemptions and waivers to facilitate the conduct of proof-of-concept trials, subject to the 'trial projects guidelines' the AER develops in consultation with the market bodies and relevant stakeholders.

This tool could be used if an eligible trial required an exemption from a specific rule (or rules) in the National Electricity Rules, National Energy Retail Rules or the National Gas Rules.

Registration requirements have been identified as a potential barrier to trial projects proceeding. The requirement to be registered is set out in the Laws.

Whilst the Laws provide for an exemption to these requirements, the responsible body is the Australian Energy Market Operator (AEMO) for certain registration categories and the AER for other registration categories. The Bill therefore provides for the AER to be the body that provides any necessary exemption from registration requirements for trial projects.

The Bill also ensures that the AER may only grant a trial waiver if it has taken into account the innovative trial principles introduced in the Bill and any matter required by the rules.

With regard to a trial rule, this new tool could be used if an eligible trial required new rules or the alteration of existing rules for a limited time to be conducted. The development of a separate rule-making power overcomes issues with the current rule making process which is considered too lengthy and represents too high a barrier for the purposes of a limited trial rule. The proposed trial rule change process will be conducted by the AEMC in under 10 weeks and encompass the National Electricity Rules, National Energy Retail Rules and the National Gas Rules.

It is possible that some proof-of-concept trials may require more than one of the regulatory sandbox tools to proceed. For other proof-of-concept trials, existing arrangements may be sufficient, and they may not need any of the sandbox tools to proceed.

Overall, the Bill seeks to achieve the following outcomes:

- The Bill introduces a set of innovative trial principles in the national energy laws. These principles must be taken into account by the market bodies when determining whether a trial project is genuinely innovative in connection with granting a trial waiver or making a trial Rule.
- Amending the functions and powers of the AER to make trial waivers for trial projects.
- Provision for the AEMC to make trial Rules for trial projects.
- Introduction of a more streamlined process for the assessment and making of trial Rules.
- Provision for the AER to monitor and enforce trial waivers, and associated conditions, and trial Rules and any requirements as set by the AEMC.

- Provision for the AER and AEMC to revoke a trial waiver or trial rule respectively should the need arise. For example, if conditions or requirements placed on a trial waiver or rule are breached.

The Bill also makes provision for the South Australian Minister responsible for administering the relevant laws to make an initial set of National Electricity Rules, National Energy Retail Rules and National Gas Rules associated with the amendments on regulatory sandboxing. Significant public consultation on the sets of initial rules has already been undertaken.

Finally, an innovation enquiry service will form part of the toolkit, however this can be operated within the existing regulatory framework. It was considered innovations that are in consumers' interests could be encouraged by establishing a clearer process for proponents of proof-of-concept trials to approach energy market regulatory bodies for feedback and guidance on regulatory issues and regulatory options to avoid unnecessary delays and costs for eligible trials. The AER will be responsible for its implementation including determining when the service will be launched and resourcing requirements.

By introducing a regulatory sandbox we are providing for a regulatory framework that is better equipped to respond to the rapid change in the energy sector and deliver benefits for customers through innovation.

I commend the bill to the Chamber.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *National Electricity (South Australia) Act 1996*

4—Amendment of section 2—Definitions

Certain definitions are inserted for the purposes of the measure, including *trial project*, *trial Rule* and *trial waiver*.

5—Insertion of section 7B

The innovative trial principles are inserted as section 7B:

7B—Innovative trial principles

The innovative trial principles are set out.

6—Amendment of section 15—Functions and powers of AER

An additional function is conferred on the AER relating to monitoring and investigating the conduct and outcomes of a trial project undertaken under a trial Rule or trial waiver.

7—Insertion of Part 3 Division 1D

New Division 1D is inserted into Part 3:

Division 1D—AER trial waiver functions

18ZJ—Definitions

A definition of *proponent* is inserted.

18ZK—Interpretative matters

Certain interpretative matters are provided for.

18ZL—Trial waiver

The AER may grant a trial waiver, being an exemption from section 12 of the Law or the Rules, or a provision of the Rules.

18ZM—Conditions of trial waiver

A trial waiver must be subject to any conditions required by the Rules and may be subject to any conditions the AER considers appropriate.

18ZN—Consultation on trial waiver

Consultation requirement that the AER must comply with before granting a trial waiver are provided for.

18ZO—Publication etc of trial waiver

A copy of a trial waiver must be published on the AER's website.

18ZP—Duration of trial waiver

A trial waiver has effect from the day specified in the trial waiver and for the period (not exceeding 5 years) specified in the trial waiver.

18ZQ—Extension of trial waiver

Provision is made for the AER to extend a trial waiver by a specified period.

18ZR—Compliance with trial waiver

A proponent is required to comply with the conditions of a trial waiver.

18ZS—Revocation of trial waiver

The AER is authorised to revoke a trial waiver.

18ZT—Other matters

Certain other matters relating to the granting of a trial waiver are set out.

8—Amendment of section 34—Rule making powers

The powers to make Rules in the Law are expanded to include any matter or thing related to, or necessary or expedient for, the purposes of a trial Rule, trial project or a trial waiver.

9—Amendment of section 87—Definitions

A definition of *trial Rule* is inserted. A trial Rule is included in the definition of market initiated proposed Rule. Other amendments are consequential.

10—Insertion of section 88C

New section 88C is inserted:

88C—AEMC must take into account innovative trial principles in certain cases

A requirement to take into account the innovative trial principles in making a trial Rule is provided for.

11—Insertion of section 90DA

New section 90DA is inserted:

90DA—South Australian Minister to make initial Rules relating to regulatory sandboxing

The South Australian Minister is empowered to make initial Rules relating to regulatory sandboxing. Certain requirements relating to the making of such Rules are imposed, including publication requirements.

12—Amendment of section 92—Contents of requests for Rules

In addition to the Regulations, provision is made for the Rules to prescribe requirements relating to requests for Rules.

13—Amendment of section 94—Initial consideration of request for Rule

In addition to the Regulations, provision is made for the Rules to prescribe requirements relating to requests for Rules.

The other amendments are consequential.

14—Insertion of section 96AA

New section 96AA is inserted:

96AA—Publication of final Rule determination for trial Rule

Provision is made in relation to the time within which a final Rule determination for request for a Rule that is a trial Rule must be made. Sections 96 and 96A are disapplied in relation to a request for a trial Rule.

15—Amendment of section 102—Final Rule determination

A requirement for the AEMC to give its reasons relating to a final Rule determination taking into account the innovative trial principles is inserted.

16—Amendment of section 103—Making of Rule

The AEMC is required to specify an expiry date for a trial Rule (which must be no more than 5 years after the date on which the trial Rule commences operation).

17—Insertion of sections 104A to 104D

New sections 104A to 104D are inserted:

104A—Extension of trial Rule

Provision is made for the AEMC to extend a trial Rule by a specified period.

104B—AEMC may impose requirements on proponent of trial project on making trial Rule

The AEMC must give consideration to revoking the trial Rule on the recommendation of the AER.

104C—AEMC may revoke trial Rule on recommendation of AER

Provision is made for the AEMC to impose requirements on proponent of trial project on making trial Rule.

104D—Special provision for revocation of trial Rule

Certain Divisions of the Part are disapplied in relation to the making of a Rule that revokes a trial Rule and certain requirements are imposed on such a revocation.

Part 3—Amendment of *National Energy Retail Law (South Australia) Act 2011*

18—Amendment of section 2—Definitions

Amendments that are substantially similar to the amendments to the *National Electricity Law* are made to the *National Energy Retail Law*.

19—Insertion of section 13A

13A—Innovative trial principles

20—Insertion of Part 5A

Part 5A—AER trial waiver functions

121A—Definitions

121B—Interpretative matters

121C—Trial waiver

121D—Conditions of trial waiver

121E—Consultation on trial waiver

121F—Publication etc of trial waiver

121G—Duration of trial waiver

121H—Extension of trial waiver

121I—Compliance with trial waiver

121J—Revocation of trial waiver

121K—Other matters

21—Amendment of section 204—Functions and powers of AER (including delegations)

22—Amendment of section 235—Definitions

23—Insertion of section 236A

236A—AEMC must take into account innovative trial principles in certain cases

24—Amendment of section 237—Subject matters of Rules

25—Insertion of section 238AA

238AA—South Australian Minister to make initial Rules relating to regulatory sandboxing

26—Amendment of section 246—Contents of requests for Rules

27—Amendment of section 249—Initial consideration of request for Rule

28—Insertion of section 252A

314A—Extension of trial Rule

314B—AEMC may impose requirements on proponent of trial project on making trial Rule

314C—AEMC may revoke trial Rule on recommendation of AER

314D—Special provision for revocation of trial Rule

Debate adjourned on motion of Hon. L.A. Curran.

HERITAGE PLACES (ADELAIDE PARK LANDS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 May 2022.)

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (16:42): I rise to make some brief remarks on behalf of the government on the Heritage Places (Adelaide Park Lands) Amendment Bill, introduced by the Hon. Robert Simms.

The Adelaide Parklands are a treasured and hallmark part of our city, encompassing community and culturally significant places including Elder Park, Pinky Flat and the River Torrens. Colonel Light's unique design created the world's first and only planned city in a park. His vision was to provide a space where the unique natural surrounds could be enjoyed by all, and to this day the Adelaide Parklands provide a place for all South Australians to attend public events, get outdoors to exercise, to simply enjoy nature, to gather with others for a barbecue or picnic, and so much more.

In 2008, the Adelaide Parklands and city layout were included on the National Heritage List, the nation's highest heritage honour, because they are considered to be a masterwork of urban design and one of the most complete examples of 19th century planning.

While we do agree with the sentiment of this bill, we will be opposing it, as this is not the preferred approach for creating state heritage areas and, in the government's view, it fails to recognise the roles of the South Australian Heritage Council and the planning minister. The bill seeks to simplify the process for creating a state heritage areas but does not include:

- the assessment and approval of the heritage council and the planning minister;
- any public consultation;
- the preparation of a statement of significance, outlining the area's heritage value;
- the city layout as part of the state heritage area (and does not replicate the national heritage listing).

While we appreciate the intent of the honourable member's bill, we will not be supporting it for those reasons.

The Hon. J.M.A. LENSINK (16:44): The Liberal Party will be supporting this piece of legislation consistent with our position when this bill was presented to the parliament previously. This amendment bill is substantially the same as the Heritage Places (Adelaide Park Lands) Amendment Bill 2021, which the Hon. Mr Simms introduced into the Legislative Council in December last year and which passed in February 2022.

Although the intention of this bill is to circumvent the formal process required for an area to be afforded recognition as a state heritage area, the South Australian State Heritage Council has previously given consideration to the listing of the Adelaide Parklands and CBD layout as a state heritage area. The council made the following observations:

> [It is] an outstanding representation of a nineteenth-century planned colonial settlement. The principal components of Light's 1837 plan are the original layout, width and grid pattern of the city streets; surrounding outer ring of parklands; six internal squares; and the topographical response to the terrain. These components remain clearly legible today and served both the economic and well-being needs of early settlements.

The bill also makes related amendment to the Planning, Development and Infrastructure Act 2016 to apply the necessary heritage overlay as prescribed by the Planning and Design Code to the heritage area that will be created over the Adelaide Parklands once this bill is passed.

As I said, when this bill was presented in February this year the then Marshall Liberal government supported the bill with several amendments that were intended to achieve consistency, and these were supported by the Hon. Mr Simms. They included creating a state heritage area over the Adelaide Parklands and the CBD layout, which would ensure consistency between the new state heritage area and the area that is afforded national heritage status under the Environment Protection and Biodiversity Conservation Act. It would also ensure that the area which is afforded the status of being a state heritage area is consistent with that recognised by the South Australian Heritage Council as being meritorious.

Secondly, applying only the state heritage area overlay under the Planning and Design Code, not 'any overlay relating to state heritage' ensures that the state heritage area is not also overlaid with the 'state heritage place' overlay to avoid errors and confusion. The bill the Hon. Mr Simms has introduced this time does not have those amendments, but I understand he has filed amendments that will mirror the amendments that were moved by the government at that time.

The implications for the Adelaide Parklands and CBD layout being afforded protection as a state heritage area are the same as when we considered these last year. We are disappointed that the Labor Party in government has chosen to renege on their support for the bill, which just goes to show you cannot trust Labor, particularly when it comes to heritage. We support the bill.

The Hon. C. Bonaros: Unless it is for a basketball stadium.

Members interjecting:

The Hon. C. BONAROS (16:47): I might actually say that on the record now: the opposition supports the bill—unless, of course, it is for a basketball stadium. There we go—I have said it.

An honourable member interjecting:

The Hon. C. BONAROS: Yes. With those opening remarks, I rise to speak on the bill and indicate that on the previous occasion when this bill was passed we too supported this bill. I think the record reflects that my colleague the Hon. Frank Pangallo spoke very strongly in support of this piece of legislation.

Of course, a lot of things have happened since then, but we continue to stand in support of protective measures to ensure our Parklands and the heritage buildings within them are reflective of the benefits our Parklands provide to our community. I think Frank said at the time—and I am sure the Hon. Roberts Simms will remind me—that heritage is not just about buildings, it is also about the environment we have, and have had for more than a century.

He acknowledged the importance of protecting it. He spoke about the importance of not having a free-for-all in our Parklands where commercial developments begin taking chunks of green spaces and infiltrating the skyline. That was the gist of what my colleague said then and it continues to be our position now.

While we are supportive of protecting our Parklands—I am not going to sugar-coat it—there is of course a huge elephant in the room. That elephant is the government's proposal for a new Women's and Children's Hospital on the site of the Thebarton Police Barracks. It does not take much to see the competing interests here from where I sit. Ideally, if we are serious about dealing with these issues then it is important that we consider, side by side, this bill and the government's bill that they have just introduced today.

Of course, when I was having discussions with the Hon. Robert Simms earlier this week, I had no idea about the time frame of that legislation, but what we did not want to be doing is considering one piece of legislation in isolation from another piece of legislation when we knew that there would be some interaction between the two. That is the point I made to my colleague, because we know that at first glance—and I have had a quick glance at the bill that was introduced by the Attorney earlier today—there are absolutely provisions in here that deal with state heritage places and propose changes necessary to give effect to the act, where those heritage places exist.

I accept the position that was put to me yesterday, that every bill should be considered on its merits, but I am also very much a realist, so I have lots of questions about what the impact will be and what the interaction will be between these two pieces of legislation. I think the benefit we now have today is that we actually have both pieces of legislation before us, so we can consider them in the weeks ahead, knowing that we have both, in terms of what the impact would be of the government's bill on this bill and what the impact of this bill would be on the government's bill.

As we know, the devil is always in the detail, and prior to today we simply did not have all that detail before us. We do now, so it is our job to go away and look at that. As I said earlier, I am acutely aware of what our position and the position of everyone in this place was when this bill was last debated and, as I said, my colleague spoke at some length about the importance of this bill against the backdrop of pushing the envelope when it comes to developments on our Parklands, incursions of some subdivisions on open space and the need to protect the environment more broadly.

We now, as I said, have both bills before us so we can consider those side by side, if you like, but for the purposes of today—and this bill is going to a vote today—it is our intention to vote in favour of this bill today and consider it between houses, of course having had the opportunity to consider what is being proposed by the New Women's and Children's Hospital Bill. With those words, I commend the member.

The Hon. R.A. SIMMS (16:53): Given some time has passed since we dealt with this bill, I will just briefly summarise the history behind this. The Adelaide Parklands were established in 1837, the world's first public park, and Adelaide remains the only city in the world that is fully garlanded by parks. It is often said that Adelaide is a city in a park, not a city in a car park as many seem to envisage for the CBD.

In 2008, the Parklands received national heritage listing by the then federal Minister for the Environment, the Hon. Peter Garrett. It was in 2009 that the process formally began to ask the State Heritage Council to consider whether SA should follow the federal government's lead and actually provide that state heritage protection.

Well, 12 years later and still the clock is ticking. There was a process of public consultation back in 2017, and I understand there were a record number of submissions and I observed this when I first introduced the bill in the previous parliament. There was also a recommendation of the State Heritage Council to include the Parklands on the state heritage list, so it is disingenuous for the government to claim that the process has not been followed or that there has been insufficient consultation.

I want to thank the opposition and SA-Best for their support of this bill. The position of SA-Best is consistent with the view that they expressed to the Parklands Association in a survey that was published on their website in the lead-up to the last election. In that survey the SA-Best party stated, and I quote from that submission:

> We would like to see legislation to declare the Adelaide Parklands heritage listed to provide them with this high level of protection into the future, and a bill reintroduced and passed in the new parliament. We will strongly support that and pressure for it to be a priority in the House of Assembly.

It goes on to further say:

> SA-Best has strongly supported national and state heritage listing, and we will do whatever is necessary to support this land being rezoned back into its original process.

I appreciate the support of the Hon. Connie Bonaros for this bill, and it is my expectation that will continue going forward, consistent with the position they took to the last election.

It is disappointing, however, to note the position of the Labor Party. They say that a week is a long time in politics. Well, seven months must be a whole age, because when they were in opposition they were very happy to pour scorn on the Liberal Party, and rightly so because their record on the Parklands is abysmal, but they were very happy to pour scorn on the Liberals, but then when they are in government, when they have their bums on the treasury benches, what are they doing in terms of actually delivering on a different outcome?

Back in February every political party in this place supported state heritage listing for the Adelaide Parklands. What has changed? They won the seat of Adelaide and now they are taking it for granted. I can tell you that there were lots of people who supported the Labor Party in the seat of Adelaide because they were aghast at the Liberal's management of the Parklands and contempt for our public green space, yet what have they got from the new Labor government? They have got more of the same.

Might I say, at least the Liberals supported this bill in the last parliament. They said they would make it a priority and they have stood firm in supporting it in this place. The same cannot be said for Labor. With friends like the Labor Party, the Parklands hardly need enemies. I had an opportunity to look back at the second reading speeches given on this bill, and I want to quote from a statement made by the Hon. Emily Bourke on 8 February in this place. I make no criticism of the Hon. Emily Bourke, she was simply stating the position of the Labor Party at that time. She said in her speech:

> A state heritage area may include areas notable for their distinct heritage characters or a sense of place formed by building and structures, spaces and allotments, patterns of streets and natural features or the development of the landscape.
>
> The Adelaide Parklands fits well within all of the above qualities of what makes it an important and valued sense of space.

She goes on to talk about how this bill was an important way of recognising those characteristics. Why has the Labor Party changed its position? It is very easy to talk about loving the Parklands, but do not pay attention to what comes out of their mouths—look at what they do with their feet. Look at how they vote on the Parklands. That is the test and that is the test of leadership that the Labor Party has failed time and time again when it comes to our public green space.

If they love the Parklands, they should list the Parklands, bring South Australia into line with the national heritage listing and show some leadership on this issue—stop the flip-flopping, stop the backflipping. This is the party that gave away our Parklands, our public green space behind this very building, to the Walker Corporation many years ago. South Australians are aghast at seeing this monument to the development sector that is being erected behind our state parliament and they will be urging Labor to show some leadership on this issue and to support the position that they took in the lead-up to the last election; that is, to support this bill.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. I.K. HUNTER: Can the mover of the bill please explain to the council what green space was removed by the Walker tower development?

The Hon. R.A. SIMMS: I thank the honourable member for picking up on that. The point I was trying to make is that that is open space, public space, and it could have, indeed, been returned to Parklands at a fraction of the cost. Indeed—

The Hon. I.K. Hunter interjecting:

The CHAIR: Order, the Hon. Mr Hunter!

The Hon. R.A. SIMMS: —my predecessor, the Hon. Mark Parnell, ran a competition to identify alternative uses for that site. But I take his point: it was not actually Parklands; it should have been returned to it though.

The Hon. C. BONAROS: Can I just have a question about the Botanic High School and the expansion of that school and the impacts on our Parklands?

The Hon. R.A. SIMMS: I am not sure what the question is that the honourable member is asking.

The CHAIR: The Hon. Ms Bonaros, would you like to rephrase that?

The Hon. C. BONAROS: I am just asking, in a similar way, whether there are any impacts of the expansion of the high school in terms of our Parklands at the Botanic—

The Hon. R.A. SIMMS: On this bill?

The Hon. C. BONAROS: Yes.

The Hon. R.A. SIMMS: There may well be some implications for listing. However, it is my understanding that legislation like this would not prevent this project or the hospital or any other project from proceeding because this area has already been rezoned by the previous government to allow such projects to proceed. Obviously, one of the benefits of an inclusion of the Parklands and the city plan on the list is that it provides an important consideration as part of those discussions. That is the whole purpose of the bill.

Clause passed.

Clause 2.

The Hon. R.A. SIMMS: I move:

Amendment No 1 [Simms–1]—

Page 2, lines 9 and 10 [clause 2(1), definition of *Adelaide Park Lands*]—Delete 'has the same meaning as in the *Adelaide Park Lands Act 2005*' and substitute:

> means the Adelaide Park Lands and City Layout described in the Schedule to the notice published in the Commonwealth of Australia Gazette under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth for the purposes of including the Adelaide Park Lands and City Layout in the National Heritage List (see Commonwealth of Australia Gazette No. S238, Friday 7 November 2008)

Very briefly, this amendment was actually suggested by the previous Liberal government on the basis, I think, of advice provided by the department at that time, and that was to ensure the city plan was also included in the listing. I gave an indication at that time that the Greens were supportive of that and that I had intended to include that in the reintroduced bill, so I have moved it as a separate amendment. I do not need to speak on the second amendment, but the same arguments apply.

The Hon. J.M.A. LENSINK: As I indicated in my second reading contribution on this, these amendments were amendments which were moved by the government when this bill was first brought to this parliament earlier this year, prior to the election, so we will be supporting the amendments.

Amendment carried; clause as amended passed.

Remaining clauses (3 to 5) passed.

Schedule.

The Hon. R.A. SIMMS: I move:

Schedule 1, page 3, lines 22 and 23 [Schedule 1, clause 1, inserted paragraph (ca)]—

Delete 'any overlay relating to State heritage' and substitute:

the State Heritage Area Overlay

As I indicated before, I do not need to speak to this amendment.

Amendment carried; schedule as amended passed.

Title passed.

Bill reported with amendment.

Third Reading

The Hon. R.A. SIMMS (17:06): I move:

That this bill be now read a third time.

Bill read a third time and passed.

Motions

INTERNATIONAL DAY OF RURAL WOMEN

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (17:08): I move:

That this council—

1. Notes that 15 October marks the International Day of Rural Women;

2. Recognises the crucial role that women play in ensuring the sustainability of rural workplaces, households and communities, improving rural livelihoods and overall wellbeing;

3. Recognises that women account for a substantial proportion of the agricultural labour force, including informal work, and perform the bulk of unpaid care and domestic work within families and households in rural areas;

4. Notes that emerging female leaders in the agriculture sector are recognised each year nationally in the AgriFuture's Rural Women's Awards, which acknowledge and support the essential role women play in rural industries, businesses and communities;

5. Notes the achievements of 2022 South Australian AgriFuture's Rural Women's Award winner, Robyn Verrall of McCallum. Robyn is a director, founder and mentor of Kere to Country, an Aboriginal owned and operated food supply company, that works to ensure high-quality and affordable meat is available to First Nations communities in South Australia and the Northern Territory; and

6. Also notes the achievements of 2022 finalists Lukina Lukin from Port Lincoln and Stephanie Lunn from Jamestown.

Last Saturday, 15 October, marked the International Day of Rural Women. This important day was celebrated across the world, highlighting the theme of 'Rural women cultivating good food for all'. The International Day of Rural Women is an opportunity to recognise the crucial role that women play in ensuring the sustainability of rural workplaces, households and communities, improving rural livelihoods and overall wellbeing.

It is also a day to recognise that women account for a substantial proportion of the agriculture labour force, including informal work, and perform the bulk of unpaid care and domestic work within families and households in rural areas. International Day of Rural Women is an opportunity to reflect on the contribution rural women make to our communities, often without acknowledgement or financial recognition.

Each year, our government is proud to support initiatives that recognise and celebrate the efforts, influence and diversity of women in regional areas. This includes the Women Together Learning (WoTL) Stepping into Leadership program, which is specifically aimed at women in agriculture and agribusiness, and also the AgriFutures South Australian Rural Women's Award, giving women a platform to bring to life a project or initiative that benefits regional and rural industries and communities.

The Stepping into Leadership program has provided valuable skills and training to 130 women since its inception in 2012. The Department of Primary Industries and Regions has been extremely proud to support this program over the past 10 years as it contributes to the growth of South Australia's primary industries, facilitating connections, sharing information and developing the skill set of women in business.

Past participants in the Stepping into Leadership program have gone on to perform many amazing roles, including being the recipients of awards such as the Spirit of Excellence in Agriculture Awards with the Ag Bureau of South Australia, gaining the confidence to take on more responsibility in their employment or family business, taking on key roles in their communities to lead recovery from bushfires and drought, and stepping up to join industry boards, such as with WoTL, landscape boards, Australian Women in Agriculture and the SA Ag Ex Alliance.

We want more women in these roles—leadership, boards, ambassadors—as diversity results in better decision-making, innovative approaches and thinking outside the box. The positive outcomes that the Stepping into Leadership alumni have achieved are instrumental in the growth of our agriculture industry now and well into the future.

The Rural Women's Award is Australia's leading award empowering and celebrating the inclusive and courageous leadership of women involved in Australia's rural and emerging industries, businesses and communities. It has been in operation for the last 21 years. Each state and territory winner receives a $15,000 Westpac grant for their project and access to professional development opportunities and the alumni network. The winner then goes on to represent South Australia in the national awards in Canberra, with the winner receiving a further $20,000 grant and the runner-up $15,000.

I am pleased in this motion to highlight the contribution of several outstanding women. The 2022 South Australian winner of the AgriFutures Rural Women's Award was Robyn Verrall from Keith in South Australia's South-East. She was recognised for her work to reduce food insecurity and increase food affordability in rural, regional and First Nations communities in South Australia and the Northern Territory. Robyn is director, founder and mentor of Kere to Country, an Aboriginal owned and operated food supply company that works to ensure high-quality and affordable meat is available to First Nations communities in South Australia and the Northern Territory.

She describes herself as 'fearless and passionate about the meat industry, agriculture, farming, First Nations people and culture'. Robyn's story is truly amazing. The work she does with Kere to Country is helping some of the most vulnerable people in our state overcome food insecurity, and it is certainly to be commended. Her passion for her project is truly admirable, and I cannot wait to see the progress she continues to make in reducing food insecurity.

I would also like to acknowledge the achievements of the other 2022 finalists, Lukina Lukin from Port Lincoln and Stephanie Lunn from Jamestown. Both of them are inspiring in different sectors for women across rural and regional South Australia.

Lukina Lukin is the Managing Director of Lukina Group of Companies and is currently working towards opening a pathway for her business Dinko Tuna and the Australian southern bluefin tuna industry to grow globally and move further into emerging export markets across Asia, the Middle East and the United States. Stephanie Lunn is an expert in agricultural research and development as well as director for not-for-profit venture TrialSafe. The South Australian finalists for 2022 span diverse industries, as I said, from food security to opening up global seafood markets to work safety.

Complementing the Rural Women's Award is the Rural Women's Acceleration Grant. This provides a learning and development bursary of up to $7,000 to enable rural women to bring their idea, cause or vision to life. It needs to be a project that benefits rural and regional communities or businesses. Applications for the 2023 AgriFutures South Australian Rural Women's Award and Acceleration Grant have been extended and will now close on Wednesday 16 November 2022, and I will be very excited to see at that time which amazing women have applied.

South Australia has a proud history of celebrating and recognising trailblazing women, and of advancing gender equality. The Malinauskas government is committed to continuing to do this into the future. Overall, the award programs I have mentioned demonstrate that there really is enormous potential for us to benefit even more from female industry participation and leadership across the agribusiness sectors. I am keen to see this great momentum build and carry on long into the future, and I look forward to announcing the 2023 finalists.

These are just some of the ways that rural women can be acknowledged. I know a number of organisations held events to mark International Day of Rural Women, including in my own area. Women in Business and Regional Development, also known as WiBRD for short, held their annual lunch—the third time they have held such an event—on International Day of Rural Women. In fact, I think it was the day before; I think it was Friday.

Guest speakers were the amazing Robyn Verrall, whom I have mentioned, and also Sarah Hope, a journalist, creator, artist and inspiring person to listen to. Unfortunately, I was unable to get home last Friday to attend the event, but I do look forward to seeing how it went. I am advised that Sarah, as well as being a former journalist and the other items I mentioned, is also an interior decorator and educator.

WiBRD is an important part of our community in the Limestone Coast with many of their events selling out, so I am sure this one was also very well patronised. I also congratulate them on

the excellent work they do with and for our rural women. I commend the motion to you. Celebrating the amazing rural women that we have in South Australia in so many different sectors is certainly something that is worthy of respect and recognition. I say to everybody, happy International Day of Rural Women.

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (17:17): I rise to support this motion moved by the honourable member today. In 2007, it was declared in the UN General Assembly that 15 October will be observed as International Day of Rural Women. This day is dedicated to the millions of women living in remote rural places and celebrates the achievements and contributions of these women towards rural development and agriculture, food production and food safety.

The theme for the International Day of Rural Women is 'Rural women cultivating good food for all', which highlights the essential role that rural women and girls play in the food systems of the world. International Day of Rural Women is an important occasion to educate the general public on the importance of women, to celebrate the achievements of women, as well as reminding us to reach out a helping hand and to fight the stereotypes.

Women in regional and rural South Australia face distinct economic opportunities and challenges. Small populations and long distances can limit access to employment, training and services such as health care, child care and education. Rural women also play a crucial role in ensuring the sustainability of rural households and communities, accounting for a substantial proportion of the agriculture labour force, including informal work, and performing the bulk of unpaid care and domestic work within families and households in rural areas.

It is important that we work actively with stakeholders from different parts of South Australia to ensure that actions are generated to support women across all areas of the state, and in particular it is important to appreciate the hard work and contributions of rural women to agriculture production, food security and nutrition, land and natural resource management, and the development of our rural communities.

The former Liberal government was committed to an environment where all South Australian women can make the most of our existing and emerging economic opportunities. We released a state-first South Australian Women's Leadership and Economic Security Strategy, which sets future directions for creating increased opportunity for women to participate in and benefit from a range of economic initiatives in South Australia.

Despite the challenges of the COVID-19 pandemic, the former Liberal government led the way in reducing the pay gap, with a decrease from 9.8 per cent in 2018 to 7.2 per cent in May 2022. South Australia's pay gap currently far exceeds the national average of 14.1 per cent.

Each year, emerging female leaders in the agricultural sector are recognised nationally in the AgriFutures Rural Women's Award. It is Australia's leading award, acknowledging the essential role women play in rural industries, businesses and communities. The finalists for the 2022 South Australian AgriFutures Rural Women's Award represented a broad range of industries, from food security to expanding into global seafood markets to work safety.

The first finalist, Stephanie Lunn, is an expert in agricultural research and development, as well as director for the not-for-profit venture Trial Safe. Trial Safe is an established safety initiative delivering safety seminars across Australia and a safety podcast targeted at agricultural research professionals and the broader agricultural community. It helps to achieve safer workplaces and practices, which are critical for the long-term sustainability of the agricultural industry.

The second finalist, Lukina Lukin, calls Port Lincoln home and is the managing director of the Lukin group of companies. She is committed to diversifying and growing the Australian southern bluefin tuna industry's footprint to compete globally. This has included a move into emerging export markets across Asia, the Middle East and the United States. I was fortunate to be able to visit Lukina at her facility in Port Lincoln and was incredibly impressed by her vision and dedication to the southern bluefin tuna industry and the fishing industry more broadly.

The third finalist, Robyn Verrall, works as director and founder of Kere to Country—'kere' meaning 'food from animals' in Arrernte. Kere to Country is an Aboriginal owned and operated food

supply company bringing high-quality and affordable meat into First Nations communities in South Australia and Northern Territory. Reducing food insecurity and increasing food affordability in rural and regional and First Nations communities is Robyn's primary goal, and she is committed to supporting food and family businesses, as they play a vital role in helping women thrive in communities.

All the finalists are to be congratulated for their outstanding achievements in their fields, with special congratulations to the winner of the South Australian AgriFutures Rural Woman of the Year Award, Robyn Verrall. As the state winner, Robyn joined the other state and territory finalists in Canberra at Parliament House for the announcement of the national winner. The annual gala award is a celebration of the finalists' hard work and commitment and an opportunity to shine a spotlight on role models for the next generation of rural leaders. Unfortunately, Robyn was not successful, but she is an outstanding ambassador for our state.

Congratulations to the finalists across the country for this significant award. It is a testament to your hard work and excellence, and I extend my gratitude for the important role you are playing in our rural industries, businesses and communities, as well as inspiring the next generation of rural women.

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

Bills

SHOP TRADING HOURS (EXTENSION OF HOURS) AMENDMENT BILL

Final Stages

The House of Assembly agreed to the bill without any amendment.

STATUTES AMENDMENT (USE OF DEVICES IN VEHICLES) BILL

Introduction and First Reading

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

At 17:25 the council adjourned until Tuesday 1 November 2022 at 14:15.