LEGISLATIVE COUNCIL

Thursday, 31 August 2023

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.

Ministerial Statement

FALSE REQUIREMENTS TO REPLACE GAS APPLIANCES

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:17): I table a ministerial statement made in the other place by the Hon. Tom Koutsantonis, the Minister for Energy and Mining, on the topic of false requirements to replace gas appliances.

Question Time

ADELAIDE BEACH MANAGEMENT REVIEW

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:18): My questions are to the Attorney-General on the topic of the Adelaide Beach Management Review. Will the Adelaide Beach Management Review be released publicly and in full and, if so, when? How much has been spent on the review to date? Will the Attorney-General participate in the public announcements going forward?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:19): I thank the honourable member for her question and her interest in this area. The Adelaide Beach Management Review continues. It is hoped that it will be finished towards the end of this year, or very early next year. It was an election commitment to do a proper and thorough review based on the science, and that was announced as an approximately 12-month review.

The government has established an Australian beach management review independent advisory panel to oversee the review and provide advice. The first stage of the community engagement during the review commenced on Friday 28 April, and concluded after six weeks on 9 June. Community engagements were promoted through direct mailouts to some 13,000 residents and businesses. That stage of the community engagement provided an opportunity for community members and stakeholders to provide feedback on the review and what is important to them in the management of Adelaide's beaches in that area.

Community members were invited to complete a survey or make submissions. I am informed that, at the conclusion of that engagement period, 602 people had completed the survey and 120 people had made written submissions. The survey outcomes and written submissions have been collated and reported through an independent advisory panel during the course of this month.

This information will assist the scientific analysis being undertaken on a range of potential sand management approaches, which will be shortlisted ahead of a second stage of community consultation scheduled to commence sometime next month. At the end of that process, there will be further decision points about which ones of the shortlisted options will be considered and taken forward and, at that time, more information will be provided.

ADELAIDE BEACH MANAGEMENT REVIEW

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:21): My questions are for the Attorney-General regarding the management of sand within the scope of the Adelaide Beach Management Review:

1. Does the government have a maximum budget for what it would invest in a solution to replenish the beaches of West Beach and Henley Beach South and, if so, what is it?

2. How much has been expended on the Adelaide Beach Management Review to date, and how much has been paid to the assessment panel conducting that review?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:22): I thank the honourable member for her questions. I don't have that information but I am happy to go away and see if I can find information at this stage, if there is up-to-date information about how much has been expended, but certainly, at the end of the process, I am more than happy to provide that information when it will be more accurately known.

There is ongoing replenishment of sand on Adelaide's beaches, particularly in that northern cell to which the honourable member refers. The autumn program in 2023 (the recent program) included the replenishment of the Semaphore Park dune, with 10,000 cubic metres of sand collected at the Semaphore breakwater, and 15,000 cubic metres of quarry sand delivered to Henley Beach and Henley Beach South.

During that program period I am informed that West Beach received 50,000 cubic metres of quarry sand in May and June this year, and a delivery of a further 50,000 cubic metres of sand will commence in September 2023. The annual sand pumping in the southern cell, involving sand moving from Glenelg Beach to southern beaches in the City of Holdfast Bay, commenced in June 2023.

ADELAIDE BEACH MANAGEMENT REVIEW

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:23): My questions are to the Attorney-General regarding the Adelaide Beach Management Review:

1. Has the government ruled out any suggestions based on the feasibility of delivering the proposals within the review?

2. Have or will the solutions identified in the review be assessed for cost or feasibility implications?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:23): I thank the honourable member for her questions. We committed to an independent study. We had no preconceived views about how that might look—which was the point of an independent study—so, no, we have not ruled anything in or out.

The team conducting the review certainly will be looking at cost feasibility potential, as to how it will work and the impact on the community. There is a whole range of factors to take into account with the various proposals put forward. As I said before, the next stage will be a shortlisting—not from government but from the review team—of the preferred options to go forward with the second round of consultation.

ADELAIDE BEACH MANAGEMENT REVIEW

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:24): Supplementary: will the government consider a sand recycling pipeline from Semaphore to West Beach as an option?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:24): As I have said, we haven't ruled anything in or out and we look forward to that next round of consultation occurring in the not too distant future.

PREMIER'S NAIDOC AWARD

The Hon. I. PNEVMATIKOS (14:24): My question is to the Minister for Aboriginal Affairs. Will the minister inform the council about the deserving female winner of the Premier's NAIDOC Award?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:25): I thank the honourable member for her question and her interest in this area. The NAIDOC lunch is certainly a highlight in the calendar for many during NAIDOC Week. It was, once again, a great pleasure to attend the event this year, alongside a majority of my cabinet colleagues, who attended the NAIDOC lunch on the Monday of NAIDOC Week, as they did last year.

The theme of this year's NAIDOC Week was 'For Our Elders', an acknowledgement of the role that elders have played and continue to play as holders of cultural knowledge, advocates, teachers, survivors, and so much more. NAIDOC Week was once again a very busy week for many involved, and from I think nearly everyone's perspective a very successful one. A number of events celebrated and recognised the history, culture and achievements of Aboriginal and Torres Strait Islander people, one being the NAIDOC lunch on the Monday.

The centrepiece of the annual lunch is the presentation of the Premier's NAIDOC Award, amongst a number of other important awards. As I shared with the council last year, the Premier's NAIDOC Award is now presented to two individuals each year—one Aboriginal male and one Aboriginal female. It is awarded to a person who is recognised as having performed outstanding achievements and services to Aboriginal people in this state.

Today, it is a great pleasure to inform the chamber of the female winner of this year's Premier's NAIDOC Award. This year, like every year, there were many exceptional, deserving finalists, but eventually the award was presented to Aunty Eunice Aston. Aunty Eunice is a Ngarrindjeri woman and has undertaken some excellent work over many years in the Aboriginal healthcare sector. Among a number of other roles, she has also served as chair of the health advisory committee and as a member of the Aboriginal Health Council and as a member of Country Health SA Aboriginal Health Forum.

Aunty Eunice is also a champion for Aboriginal women, having served on the Premier's Council for Women for a number of years and as a delegate for the Office for Women's South Australian Aboriginal Women's National Gathering. She was also awarded a 12-month Indigenous scholarship for the Behind Closed Doors program, an initiative supporting female entrepreneurs to fulfil their professional and leadership development aspirations.

Aunty Eunice also uses her knowledge to develop the skills of others by training and mentoring organisations like TAFE SA in areas such as Aboriginal health care and wellbeing. Her extensive knowledge and experience is invaluable when engaging Aboriginal people, particularly in country areas, including the necessary skills to maintain respect, honesty, integrity and confidentiality.

Aunty Eunice was also the first female to be chair of the Ngarrindjeri Regional Authority, demonstrating the significant leadership and respect she holds within her community. She is a NAIDOC SA ambassador and is active in working with the community to celebrate the Aboriginal culture and achievements. It is hard to imagine a more deserving winner of the award this year, yet alongside Aunty Eunice were two other female finalists who also contribute much to the lives of Aboriginal people in South Australia.

Danielle Smith was nominated as a finalist for her work at the community level, particularly in the South-East Nunga netball program, which she helped get up and running, and in her ongoing work as the chairperson in this area. Danielle is always willing to help others and does so by connecting those in her community with services in order to improve their lives.

Fellow finalist nominee was Professor Simone Tur, who has dedicated herself to the betterment of Aboriginal and Torres Strait Islander Australians in two powerful and connected ways—through arts and education. She was the inaugural Pro-Vice Chancellor of Indigenous Studies at Flinders University, and in this position nurtures the intellectual and cultural development of generations of Aboriginal students. She has many achievements, particularly academic achievements, to her name, which will take some time to go through, so I won't in this forum.

I congratulate all the finalists for the female Premier's NAIDOC Award, with special congratulations to Aunty Eunice Aston, who I have known over many years. I have long marvelled at the work she does and the esteem with which she is held in her Ngarrindjeri community and the Aboriginal community more broadly.

GOVERNMENT APPOINTMENTS

The Hon. F. PANGALLO (14:29): I seek leave to make a brief explanation before asking a question of the Attorney-General about government appointments.

Leave granted.

The Hon. F. PANGALLO: I was recently sent an email circulated within SAPOL, authored by Chief Superintendent Christine Baulderstone, announcing with heavy heart that she was leaving the organisation to take up the vacated position of Director Investigations at ICAC. That role had been filled by another former police detective, Andrew Baker, who oversaw and took part in the inept and incompetent investigation that resulted in the failed prosecution of former Renewal SA boss, John Hanlon. We are yet to find out if he was sacked or resigned.

While in charge at SAPOL's Anti-Corruption Branch, Chief Superintendent Baulderstone led Operation Bandicoot, the bungled joint ICAC-SAPOL investigation into several police officers charged with property theft and other offences at Sturt Mantle in 2014. All were found to be innocent. Chief Superintendent Baulderstone's investigation was deeply flawed and riddled with errors, some quite comical. There was also a failure to disclose exculpatory evidence to the defendants.

In scathing evidence to a parliamentary committee into reputational harm and damage from ICAC investigations, prominent criminal barrister Michael Abbott KC scored Chief Superintendent Baulderstone's investigation zero out of 10—I repeat, zero out of ten. She conceded that there were administrative errors, yet refused to accept these now psychologically damaged police officers were innocent. Ms Baulderstone was found to be an unimpressive witness during that inquiry and in the criminal trials of the accused.

In 2014, Chief Superintendent Baulderstone was also the subject of a police complaint by Ms Sharon Smith, a pedestrian Ms Baulderstone accidentally struck and injured in a police car she was driving. Predictably, the complaint went nowhere, much to Ms Smith's disgust. Ms Smith provided evidence to the committee about Ms Baulderstone's conduct. My questions to the Attorney-General are:

1. How could you be comfortable with that appointment?

2. Will you now investigate and seek answers from Commissioner Vanstone about the appointment, considering the poor assessment of Ms Baulderstone's standard of investigative work on a previous ICAC matter?

3. How many applicants were received for the position, who conducted the selection process and did they take into account Ms Baulderstone's chequered history?

4. Since the release of the damning Strickland report into the Hanlon prosecution, do you not see appointments to important positions, such as this one, should require applicants to be of faultless competence and character, taking in their previous record of service?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:32): I thank the honourable member for his questions. What I will undertake to do is forward the *Hansard* of today's proceedings, particularly the questions the honourable member has asked, to the office of the ICAC commissioner.

I want to say that neither I nor anyone from the government has any role in the appointment of people within ICAC. It is an independent agency and, as is proper, makes its own appointments and has its own processes. I think everyone here would be horrified if the government of the day purported to interfere with or involve themselves in the appointment process of an independent agency like ICAC, so it is not something I am going to comment on, because it is an independent agency. But I will make sure that I forward to that office the *Hansard* from the questions asked today so that they are aware of the questions.

GOVERNMENT APPOINTMENTS

The Hon. F. PANGALLO (14:33): Supplementary: nonetheless, wouldn't the Attorney be concerned at such an appointment, regardless of whether the government makes it or not?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:34): As I have just reiterated, it is not for me to comment on what an independent agency like that does. I think it would be a very fraught thing if

members of the government started passing commentary on appointments like that in an independent agency such as that.

FORENSIC SCIENCE SA

The Hon. J.S. LEE (Deputy Leader of the Opposition) (14:34): I seek leave to make a brief explanation before addressing a question to the Attorney-General regarding state government facilities.

Leave granted.

The Hon. J.S. LEE: Alarming reports, including photographs, demonstrate the urgent need for upgrades and repairs for the Forensic Science SA facilities in Divett Place, Adelaide. The Forensic Science department is well renowned, yet their facilities are in disrepair. My understanding is the lease expires in 2027, yet the building is inadequate and over capacity right now in 2023. My questions to the Attorney-General are:

1. Can the minister please provide an update on what stage the plans are at? Has the relocation schedule been devised?

2. What can be shared about the current state of facilities or what advice has the Attorney-General received so far regarding the adequacy of the facilities currently?

3. Can the minister also update the chamber on the temporary and portable facilities being used by Forensic Science SA?

4. What stopgap measures have been taken to address the particular areas that are already breaking? For example, we have heard reports of blood dripping through the ceilings onto the workspaces below. Can the minister update the chamber?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:36): I thank the honourable member for her questions. I am very pleased to provide an update in relation to that. It's a question government members may have well asked me. We committed in the last budget just under $350 million—I think about $348.9 million—for the building of a brand-new, purpose-built facility for Forensic Science SA.

For four long years of the former government, not a thing was done, not a single thing was done. We come to government and we have announced in our second budget a whole new Forensic Science SA facility: nearly $350 million so that the exceptional team of scientists and workers at Forensic Science SA—who do a remarkable world-leading job in terms of forensics in South Australia that aids in a massive way keeping South Australians safe by the works that they do in investigations leading to prosecutions or with the Coroner—get a brand-new facility that is purpose-built and will suit their needs now and into the future.

I am very proud that this government has made this commitment and it stands in stark contrast to what the deputy leader's party did when they were in government.

FORENSIC SCIENCE SA

The Hon. J.S. LEE (Deputy Leader of the Opposition) (14:37): Supplementary: what is happening to the temporary and portable facilities right now? Has the minister seen the photograph showing rusty examination tables and even biological biohazards dripping through the ceiling onto the desk below? What is happening now?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:37): What is happening now is exactly what happened under the first year of the Liberal government, under the second year of the Liberal government, under the third year of the Liberal government and under the fourth year of the Liberal government. The difference is, we are doing something about it. We are doing something about it. We recognised that Forensic Science SA needed and deserved a new facility and that's exactly what we are doing.

FORENSIC SCIENCE SA

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:38): Supplementary: what planning or development on this facility has occurred to date?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:38): I thank the honourable member for her question. As I understand, there has been an initial business case that has been prepared that allowed us to make the investment—the very, very good, the very, very wise investment—of nearly $350 million for this facility and that's going to the next stage of development. I look forward to the good people of Forensic Science SA having a purpose-built facility so they can do their work, something that the former government never wanted and never acted on.

FORENSIC SCIENCE SA

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:39): Further supplementary: what is the government doing with the $1.6 million assigned for this financial year?

The Hon. K.J. Maher: To what?

The Hon. N.J. CENTOFANTI: You've got $1.6 million assigned for the forensics. What are you doing with it?

The Hon. K.J. Maher: To what?

The Hon. N.J. CENTOFANTI: That's my question.

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:39): I really don't know what the honourable member is talking about. I can assure the honourable member that Forensic Science SA operates on a budget of more than $1.6 million a year.

WANDJUK MARIKA MEMORIAL 3D AWARD

The Hon. R.P. WORTLEY (14:39): My question is to the Minister for Aboriginal Affairs. Will the minister inform the council about the winner of this year's Wandjuk Marika Memorial 3D Award at the Telstra National Aboriginal and Torres Strait Islander Art Awards, held in Darwin earlier this month?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:39): I thank the honourable member for his question and his ongoing interest in this area. The National Aboriginal and Torres Strait Islander Art Awards are the most prestigious awards in Australia for Aboriginal and Torres Strait Islander art and also the longest running. The awards were established in 1984 and celebrate all forms of arts media. Many are commemorated with their own categories, such as the bark painting and also the multimedia awards. These awards are celebrated as part of the Darwin Festival and see Indigenous artists from all over the country gather to commemorate these works.

As I said, the awards have been going for decades now, since 1984. They are colloquially known as the Telstra's and are regarded as the highest awards annually specifically for Indigenous art. I was delighted to hear this year that the Wandjuk Marika Memorial 3D Award was presented to Anne Thompson, an artist from Ernabella Arts in the Pukatja community on the APY lands, for her work, *Anangu History*. Anne's award-winning work, *Anangu History*, is made up from two separate three-dimensional structures, with one depicting how life was before and the other showing how it is now.

The works highlight the modernisation of what Anne describes as a beautiful landscape, and the at times negative impact on the modern life of Anne's community. I know Anne hopes her artwork shows that it is everyone's responsibility to care for and nurture the environment and that a peaceful life in the bush is a life that, in her view, the community is meant to live.

Anne first started working in the ceramic art medium during high school, and has continued her love of this practice throughout her life, describing it as a meditation on her love for nature and the environment. Also, to Anne's credit, outside of art she is a qualified interpreter and an advocate for young people in remote communities. She is based at Ernabella Arts, which, as I informed the chamber yesterday, is the oldest continuously running Indigenous arts centre in Australia. I was pleased to have visited only in recent weeks the art centre at Ernabella, although when I visited Anne had just left to go up to Darwin for the actual awards.

The studio is a hub for artists and should be commended for its status as a nationally recognised culturally significant studio. As I mentioned, earlier this week the government was very proud to be able to announce that more than $700,000 in funding would be used for extensions and refurbishment of the Ernabella Arts centre so we can see world-leading and national award-winning works like Anne Thompson's ceramics continue to flourish at Ernabella Arts in the Pukatja community.

Parliamentary Procedure

VISITORS

The PRESIDENT: I would like to acknowledge in the gallery a former long-serving—not long-suffering—member of the of the Legislative Council, the Hon. Ian Gilfillan.

Question Time

TRAM DRIVERS DISPUTE

The Hon. R.A. SIMMS (14:43): I seek leave to make a brief explanation before addressing a question without notice to the Minister for Public Sector on the topic of the tram strikes.

Leave granted.

The Hon. R.A. SIMMS: This morning, the Rail, Tram and Bus Union (RTBU) announced that tram services will be disrupted tomorrow as tram workers take industrial action against their employer, Torrens Connect. According to Hayden Boyle, the SA and NT branch organiser from the RTBU, workers are seeking a pay rise that keeps pace with the rising cost of living, but Torrens Connect management are digging in their heels.

In its pre-election policy platform, the then Malinauskas opposition made a commitment to, and I quote, 'reverse privatisation of our trains and trams, bringing them back into public hands as soon as possible'. The policy document from the then Labor opposition also goes on to state that a Malinauskas government would, and I quote:

> Ensure the return of a trained and competent workforce back into the public sector, including train and tram drivers and maintenance workers.

My question to the minister therefore is:

1. What action is the minister taking to return the trams and their workforce to the public sector?

2. Is the minister concerned that tram workers are getting a dud deal from Torrens Connect?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:44): I thank the honourable member for his question. Although the matter of returning the privatised rail network back into public hands is the responsibility of the Minister for Transport, the Hon. Tom Koutsantonis, member for West Torrens, I am aware that much work has gone into doing just that. There have been a lot of discussions with operators of the rail network about doing just that. There is a commitment, as the honourable member has outlined, that that will happen, and that is exactly what will occur. I know the work is very well developed.

I have to say that one of the consequences of the Liberals' ideological obsession—particularly under former Treasurer the Hon. Rob Lucas—with privatisation is that it has not done well for South Australians. There is nowhere in the world where the privatisation of public transport has led to better outcomes for citizens in that jurisdiction. Regularly, when public transport is privatised, you see fares increasing and you see services declining.

You pay for a private company—often a private company that is not based in Australia and that sends profits to shareholders who aren't here—having to take profit margins, and that comes at the expense of what happens in the system, the service to people and the cost of using the rail system. We have a commitment. We are acting on that commitment and we are deep into the process the transport minister is leading to return it to public hands.

If the rail system had not been privatised under the Hon. David Spiers and the Hon. Steven Marshall's previous government we would have had a role to play in negotiations. We don't always agree at first instance when we go into industrial negotiations with public sector unions, but we have had agreements between unions like the nurses, the firefighters and the ambulance officers, and we are currently, although there is some way to go, in negotiations with the teachers. We have negotiated in good faith and have bargained in a way that is respectful.

I look forward to the rail network being returned to where it should be: in public hands, and the government having a role to play in these negotiations in the future.

TRAM DRIVERS DISPUTE

The Hon. R.A. SIMMS (14:47): Supplementary: I just remind the minister that my question was about the trams. What action is the government taking in relation to tram workers?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:47): Unfortunately, and as I have outlined, in relation to tram workers the government doesn't have a role to play because of the privatisation by the former government. Since 2009, when the industrial system for private sector workers was handed over entirely to the commonwealth—except for some areas like health and safety—we don't have a role, as a state jurisdiction, to play in private negotiations between a company and its private sector employees. We will when it is returned to the public sector, which we are committed to.

TRAM DRIVERS DISPUTE

The Hon. R.A. SIMMS (14:48): Final supplementary: when will the parliament get an update on the work that has been undertaken in relation to returning the trams back to public hands?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:48): I thank the honourable member for his question. I know there have been a number of announcements that the transport minister has provided in the ongoing work to return the trams to the public sector. I am happy to go away and get an update for the honourable member as to where that stands and provide a response to his question.

OPERATION PARAGON

The Hon. J.M.A. LENSINK (14:48): I seek leave to make a brief explanation before directing questions to the Attorney-General about Operation Paragon.

Leave granted.

The Hon. J.M.A. LENSINK: In a radio interview of 27 July, the President of the Law Society outlined concerns that Operation Paragon may be unfairly imposed on certain groups of people. My questions for the Attorney are:

1. Does the government acknowledge concerns of potentially disproportionately criminalising or disadvantaging Aboriginal, young or homeless people, and what measures are in place to prevent this?

2. Is the Attorney aware of whether policing is consistent with the recommendations of the Royal Commission into Aboriginal Deaths in Custody?

3. The expanded designated public precinct is in operation until October. What are the plans to review its effectiveness, and what opportunities are there for input from the community?

4. How does the government intend addressing concerns raised by local communities about problems potentially being transferred from one part of Adelaide to another?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:49): I thank the honourable member for her question. Of course, police operations are a matter for the police, so I won't comment on an operation that the police have decided to undertake, but I do note the member had a number of other questions that referred to the declared public precinct in the CBD. My understanding is, since that declared public precinct was made and took effect from mid-July this year, there has been nothing that has resulted

in any imprisonment for anyone breaching any part of that declared public precinct, but I note the honourable member's questions and concerns.

There is an establishment of multi-agency response, that is not a criminal justice response, to complement any work that is being undertaken by the police. On 7 August this year, for example, a new Safer Place to Gather site was established at Edwards Park by the Department of Human Services. The police officers can refer people from anywhere, but also the declared public precincts, to this site where they can access health services, drug and alcohol support, housing and Centrelink and homeless assistance. Drug and Alcohol Services SA (DASSA) has begun providing outreach services at the Safer Place to Gather site earlier this month.

In addition, a short-term dedicated pod comprising 10 beds within the inpatient withdrawal service at Glenside has also been established by DASSA to offer culturally appropriate alcohol and other drug treatment options. I am informed that, from the statistics that have been provided to me, between 7 August and 16 August this year the Safer Place to Gather site was used by approximately 30 people.

As I said, I am informed that there has been no imprisonment as a result of any breach of the declared public precinct, and we are committed to making sure there is a multi-agency response to some of these issues.

OPERATION PARAGON

The Hon. T.A. FRANKS (14:52): Supplementary: while we have had assurances that there has been no imprisonment, has there been any detention or charges laid?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:52): I thank the honourable member for her question. I don't have that information with me, but I am more than happy to take that on notice and bring back a response for the honourable member.

NGADJURI NATIVE TITLE CLAIM

The Hon. R.B. MARTIN (14:52): My question is to the Attorney-General. Will the minister please inform the council about the resolution of the Ngadjuri native title claim?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:52): I thank the honourable member for his question and his ongoing interest in this area. I am pleased to be able to inform you, sir, the honourable member and the council that the Ngadjuri No. 2 native title claim has been resolved by consent determination on 6 July this year.

Justice Stewart of the Federal Court presided over the consent determination hearing at the Burra Town Hall. The location is of significance to the Ngadjuri people, as it was the town hall where they decided as a group to bring this claim for native title. This recent consent determination recognises the Ngadjuri Nation as native title holders over a portion of the Flinders and North Mount Lofty Ranges, including areas within the Clare, Gilbert and Barossa valleys.

A Ngadjuri Nation No. 1 claim was previously resolved on 14 December 2018, when the Federal Court made a consent determination in favour of three Aboriginal groups: Adnyamathanha, Ngadjuri and Wilyakali. After lengthy negotiations with the state and the Ngadjuri Nation, a settlement resolution has now been reached, which allowed the No. 2 claim to proceed to a consent determination.

The total area of the determination covers approximately 15,000 square kilometres and also includes areas within the Pastoral Unincorporated Area. The northern boundary extends from near Orroroo, on the Barrier Highway, south to Lyndoch. The Mid North provided important grazing country during the early stages of the colony of South Australia, but before this time, and since then, it is first and foremost the country of the Ngadjuri people.

In the No. 1 Ngadjuri claim, it was accepted that the evidence from the native title claimants indicated that they maintained a society that had continued to observe traditional laws and customs. The claimants also provided evidence of their connection to country by way of anthropological

reports. The claim was first lodged in 2011. Many years have passed, and so too have a number of the claimants passed away. I have no doubt that 6 July 2023 was an enormous and emotional day for those members of the Ngadjuri Nation who gathered at the Burra Town Hall, where they had first gathered 12 years before to resolve to bring their native title claim.

South Australia was the first respondent in the Ngadjuri Nation claim, and I am pleased to see that settlement was able to be reached. Other respondents to the claim included the Clare and Gilbert Valleys Council, Mid Murray Council, Northern Areas Council, Port Pirie Regional Council, the Regional Council of Goyder, The Barossa Council, the District Council of Orroroo Carrieton, the District Council of Peterborough, the Wakefield Regional Council and various other corporate and individual respondents. All parties agreed to the consent determination.

The orders recognised non-exclusive native title rights over land and waters where it had been agreed that native title has not been extinguished. Some of these native title rights include the right to live on, use and enjoy native title land and waters in accordance with traditional Ngadjuri laws and customs, including the right to take, use, enjoy, share and exchange resources of the native title land and waters for traditional purposes; the right to teach traditional laws and customs on native title land and waters; and the right to maintain and protect places of importance.

As I said, the state of South Australia was the first to respond to the claim, and I am pleased, after so many years of waiting and hard work, the claim has been finalised. While I was unable to be there on the day at Burra, as I have been able to be at a number of other native title determinations around South Australia over the last couple of years, I understand it was a joyous occasion focused on a very bright future for the Ngadjuri Nation. I look forward to the state working together with the Ngadjuri people to help realise the future, and commend everyone involved for their efforts.

FEDERAL VOICE TO PARLIAMENT REFERENDUM

The Hon. S.L. GAME (14:56): I seek leave to make a brief explanation before directing a question to the Attorney-General on the First Nations Voice to Parliament.

Leave granted.

The Hon. S.L. GAME: Supporting a First Nations Voice to Parliament is an expensive exercise. Whenever the government spends money in one area, it is obvious it comes at an opportunity cost to another. In this instance, limited resources are taken from tangible solutions for those vulnerable in our society.

Yesterday, I asked the Attorney-General if he supported moving away from direct investment in tangible solutions for Indigenous Australians, which he responded to by saying:

> To characterise having a referendum where Aboriginal people will have more of a say in the decisions that affect their lives as not caring about education I think is quite despicable.

According to ABC analysis of all major national Voice polls, 54.7 per cent of Australians don't agree with the government and don't support what many see as becoming an unbalanced, coercive 'yes' campaign. Many South Australians have seen the Australian Electoral Commission indicate that a tick on a referendum ballot paper will likely be accepted as a 'yes', but a cross is likely to be deemed informal. My questions to the Attorney-General are:

1. Does the Attorney believe that it is balanced and fair that a tick will likely be accepted as a 'yes', but that a cross will likely be deemed informal?

2. Does the Attorney-General accept that the taxpayer investment in the federal and state Voice campaigns has come at an opportunity cost, as available funding for tangible Indigenous programs diminishes?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:58): I thank the honourable member for her question. In relation to the tick and the cross, of course that's a matter for the independent federal Australian Electoral Commission. I am sure the honourable member is not casting aspersions on the independence of the Australian Electoral Commission but, if she is, that would be a remarkable feat to undertake in the South Australian parliament.

In relation to a tick and a cross, I am not going into commentary over what I understand has been practised, that has been the same practice that has occurred for many decades, and in many referenda. I saw something recently, which was the federal Leader of the Opposition, the Hon. Peter Dutton's nomination form about citizenship where he indicated a 'yes' in a box by putting a cross there; Peter Dutton put a cross in a box to indicate 'yes'. Any suggestion is the absolute height of hypocrisy, the absolute height of hypocrisy that is being used.

In terms of an opportunity cost, I will tell you what the cost is. The cost is doing what we have done over a couple of centuries exactly the same way again and again. What the honourable member seems to be suggesting is that the status quo is fine and we should just keep doing exactly what we have been doing and doing it in exactly the same way.

Well, I don't, and many of my colleagues don't think that, and many people in the Liberal Party federally don't think that either. I had a great opportunity recently to spend time with people like Julian Leeser, like Andrew Gee, like Andrew Bragg—members of the Coalition who have either resigned from their party or resigned from front bench positions to support this referendum.

We know from evidence throughout the world that when people are involved in the decisions that affect their lives you end up with better decisions. The idea that we should just keep putting in the same amount of money for exactly the same programs I think is ridiculous. Any investment in the Voice I think will pay off in huge dividends. If you took a strictly rationalist economic view of it, you would do this every day of the week to make sure that taxpayer funds that are going to support Aboriginal people are as efficient and effective as possible.

FEDERAL VOICE TO PARLIAMENT REFERENDUM

The Hon. S.L. GAME (15:00): Supplementary question: my question to the Attorney-General is to be quite specific and clear about what part of my question indicated that I am happy with the status quo. That is a deeply offensive statement and it seems to apply to every South Australian who has concerns with the Voice referendum. Is that what you are suggesting, that anybody who has concerns—if it is just me then let's be clear about what exactly I have said to make it just me.

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 supplementary question.

The PRESIDENT: It is not a supplementary question.

The Hon. K.J. MAHER: What the honourable member suggested yesterday is that you should keep funding things exactly how they have been funded before; you should keep doing exactly what you have always done and not do anything different. I disagree. I don't think things are working as properly as they should, and listening to the people for whom government provides services, who come up with programs, about their views about how they should be done I think is a wholeheartedly good thing, and that is why every single member of the Labor Party nationally, every single member of the Labor Party in this state is in full support of the 'yes' campaign during this referendum.

DECLARED PUBLIC PRECINCTS

The Hon. H.M. GIROLAMO (15:01): My question is to the Attorney-General. Now that the Attorney-General has expanded the declared public precinct declaration within part of the CBD to seven days a week rather than two days a week, will other areas, such as Glenelg, be considered when expanding the declared public precinct declaration?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:02): I thank the honourable member. These precincts are made on request and provision of evidence by SA Police. I am not aware of any such requests.

DECLARED PUBLIC PRECINCTS

The Hon. H.M. GIROLAMO (15:02): Supplementary: has the Attorney received a briefing or any concerns raised by the Glenelg Mayor, Amanda Wilson, and local MP, Stephen Patterson, regarding antisocial behaviour within the Glenelg precinct?

The Hon. K.J. Maher: Nothing to do with the answer.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! I haven't ruled that that is not a supplementary question. You talked about discussions that you have had so it is a reasonable question, but you can answer it how you see fit.

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:03): I don't recall having received any such briefings but I am happy to check.

AGED RIGHTS ADVOCACY SERVICE

The Hon. T.T. NGO (15:03): My question is to the Attorney-General. Can the Attorney-General tell the council about the Aged Rights Advocacy Service round table which he attended recently.

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:03): I thank the honourable member for his question. It is fortunate that I attended recently so that I can remember to tell the chamber the details of having attended the Aged Rights Advocacy Service round table. I thank the honourable member—although he is a very young person—for his ongoing interest in aged rights.

I had the great pleasure of attending one of the recent round tables of the Aged Rights Advocacy Service to discuss complexities related to older South Australians accessing timely and affordable legal services. The Aged Rights Advocacy Service is a service that provides advocacy to older people living in South Australia who receive My Aged Care services, as well as conducting research and providing policy advice across the aged-care sector.

The Aged Rights Advocacy Service is also the South Australian member of the Older Persons Advocacy Network, a national network comprising nine state and territory organisations that, as members of the network, offer free, independent and confidential support and information to older people seeking or already using Australian government-funded aged-care services across the nation, along with their families and carers.

The Aged Rights Advocacy Service is funded by the Australian government's National Aged Care Advocacy Program and offers a free, confidential, statewide service to older people (or their representees) who are living in residential aged care, are recipients of the Commonwealth Home Support Program or home care package, or are at risk of experiencing abuse from family or friends, or are living in a retirement village. The round table coincided with World Elder Abuse Awareness Day and involved key stakeholders from universities, community legal centres, the Office of the Public Advocate, other advocacy groups and social support services, and the Legal Services Commission.

I thank the Chief Executive of the Aged Rights Advocacy Service, Ms Carolanne Barkla, for inviting me to attend this important roundtable discussion, where stakeholders spoke candidly and productively about the necessity for ongoing critical analysis of our laws concerning older South Australians, including areas such as powers of attorney, advance care directives and guardianship and administration orders.

I was pleased to update the group on the work the government has been doing in relation to older South Australians, including much work that is happening at a federal level for harmonisation across jurisdictions. I thank everyone who attended the round table who shared their expertise and contributed to this important discussion. I very much look forward to furthering that discussion as we

continue to work together to ensure that as a state we are constantly looking to improve the rights and protections for older South Australians.

DUST DISEASES

The Hon. C. BONAROS (15:06): I seek leave to make a brief explanation before asking a question of the Attorney-General on dust diseases.

Leave granted.

The Hon. C. BONAROS: During the previous return to work debate, the Attorney-General and Minister for Industrial Relations undertook to consider a number of very sensible reforms relating to dust diseases claims, aimed at ensuring a dust disease victim is not disadvantaged under our return to work laws. Those reforms have been well highlighted in correspondence that has been addressed to the Attorney-General, ongoing matters before the courts and, to some extent, in this chamber during the debates. My questions to the Attorney are:

1. Can the Attorney confirm if and when we can expect to see the outcomes of those considerations?

2. How are those considerations progressing?

3. Will they be incorporated into the next tranche of return to work laws, expected some time this year, I anticipate?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:07): I thank the honourable member for her question and her interest in this area. I am very well aware of both her interest and the Hon. Tammy Franks' interest from parliamentary debates we have had in this chamber on these matters. As the honourable member indicated at the end of her question, I am hopeful we will see if not legislation into the parliament at least draft legislation by the end of this year.

Work has continued at pace on important reforms. This is not just in relation to dust diseases, but we have done extensive consultations and are now at the policy development and legislative development phase of looking at section 18 of the Return to Work Act, the section that does what it says on the box: help people return to work.

Part of that section 18 consultation review has involved issues to do with dust diseases. Certainly one we think there is a good case for and are looking at as part of those reforms is the stage at which someone's income should be measured if they contract a dust disease. At the moment, it is when the dust disease may have been first contracted, which in cases of dust diseases like asbestosis can be, in some cases, decades before it presents itself in a way that a worker is not able to work anymore, and with the progression of that individual through the workforce, through their career, their income will almost certainly be more than when they first were put in harm's way and contracted the disease.

That is an area I certainly have a lot of sympathy for, as does the government. That is one area that we would expect—once we have those reforms that deal with section 18—we are going to include reforms in relation to dust diseases as part of it. We will see that in the parliament, certainly if not by the end of this year, I would anticipate by very early next year.

DUST DISEASES

The Hon. C. BONAROS (15:09): Supplementary: can the minister confirm for the record that he is continuing to consult with those legal experts regarding the issues that have been raised in relation to both section 18 and other sections regarding dust diseases, and is the Attorney-General committed to further reforms outside of section 18 to deal with those other issues that have been raised by the legal fraternity?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:10): I thank the honourable member for her question. Yes, we certainly are continuing consultation. There are a number of consultees we have consulted who the honourable member has put us in contact with directly, to better inform us in relation to these issues. We are open to—we don't close ourselves off to any sensible reform.

We are continuing to consult on the work that is ongoing in relation to section 18 and dust diseases within the Return to Work scheme. As I said, hopefully by the end of this year, if not early next year, we will have work on section 18 including work on dust diseases. If there are other matters, and certainly there have been other matters raised, we are happy to look at them also.

DUST DISEASES

The Hon. C. BONAROS (15:11): Supplementary: off the back of that response, does the minister acknowledge that, without those additional reforms, people suffering from dust diseases will continue to be disadvantaged compared with those who fall within the scope of the Dust Diseases Act?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:11): I thank the honourable member for her question. As I have said, I personally—as does the government—have a great deal of sympathy for some of the submissions that have been made, particularly in relation to that time of your career in which your income is the one that is assessed in terms of not being able to work again because of the dust disease.

WICHEN, MR J.

The Hon. B.R. HOOD (15:11): I seek leave to make a brief explanation before addressing a question to the Attorney-General regarding dangerous criminals being released from jail.

Leave granted.

The Hon. B.R. HOOD: As reported in *The Advertiser*, notorious sex fiend Jacob Arthur Wichen:

> …who has a shocking history of targeting older women, was on Friday arrested by police on a Parole Board warrant for breaching two of his licence conditions…
>
> His arrest comes just four months after he was freed on licence by the Supreme Court—despite warnings by Parole Board chief Frances Nelson KC and a psychiatrist that he was 'a significant risk' of reoffending if released into the community…
>
> In February Ms Nelson said the Parole Board had presented three reports to the Supreme Court and 'was of the view that he still represented a significant risk to the community'.

My question to the minister is: given Mr Wichen's previous predatory behaviour, and the Parole Board considering him a significant risk to the community, does the minister believe the Supreme Court has made the wrong decision in releasing Mr Wichen? If so, what is the minister doing to ensure dangerous criminals will not be released in the future?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:13): I thank the honourable member for his question. Certainly, in relation to the release of people who are on indefinite detention under section 57 of the Sentencing Act, we have made significant changes in this area. You find yourself under indefinite detention if a court is satisfied that you are unwilling or unable to control your sexual instincts, but the same test didn't apply to when you can apply for licence and be released from indefinite detention.

In fact, it was in the last session of parliament—despite protests from the government of the day, the Hon. Steven Marshall and Attorney-General the Hon. Vickie Chapman—when the opposition put in legislation that would mean that a court would have to be satisfied that, to be released, an individual was now willing and able to control their sexual instincts. The former Liberal government didn't support the bill. Fortunately, there was enough public pressure that those changes were made, so that the test to get out of indefinite detention for being unwilling or unable to control your sexual instincts includes that you are now willing to do that.

In relation to the particular case that the honourable member mentioned, I think, if I am remembering correctly, that was one of two cases that was appealed all the way up to the High Court some months ago and remitted back to the Supreme Court for consideration. I don't have all the details of every submission that was made in relation to that matter, but I have to say that people who prey on children are dangerous monsters who should feel the full force of the law. If any individual has committed these sorts of acts against children they should spend as long behind bars

as possible and that's where I hope anyone who has been proven to commit these acts finds themselves.

WICHEN, MR J.

The Hon. C. BONAROS (15:15): Supplementary: notwithstanding that we might all agree with that assessment, is it actually appropriate for the Attorney-General to make an assessment of the ruling of the Supreme Court in terms of its findings against a perpetrator of any sort of offending?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:15): I thank the honourable member for her question and in short, no, it's not the role of the Attorney-General to do that and probably—unless any of us have actually heard all of the evidence and understand all the submissions that were made—we are not in a position to pass comment on why a court does or doesn't do something.

After all, it's all of us collectively as the Parliament of South Australia that set the guidelines for what judges interpret. I know the Hon. Dennis Hood is a very keen watcher of sentencing processes, but we set the guidelines and the independent judiciary use that framework in setting sentences or, in this case, releasing people. Certainly, it's not something that an Attorney-General would provide a running commentary on and not something that I would seek to supplement the opinion of a member of the judiciary on.

WICHEN, MR J.

The Hon. C. BONAROS (15:16): Further supplementary: in the event that we are not satisfied with the judgement of the Supreme Court, is it open and indeed incumbent upon all of us to raise bills in parliament that would address those sorts of decisions?

The PRESIDENT: I'm not sure it's a supplementary question arising from the original answer, but you can answer if you want.

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:16): I am happy to answer it. There are a number of mechanisms if there is a dissatisfaction with what a court decides to do. As I have mentioned a number of times in this place, either the police who conduct prosecutions or the DPP who conduct more serious prosecutions, at the sentencing stage it is open to them to lodge appeals.

Appeals can be lodged for a whole range of reasons, both on the non-finding of guilt generally, if it's the DPP lodging an appeal, or the nature of the sentence. If it's based on precedent in terms of the range of sentences that are possible, if it is manifestly inadequate—that is, it falls so far below what that sort of sentence would usually attract—SAPOL or the DPP can lodge an appeal against that sentence. And they do so often; they do so very often.

There was a recent case where a particularly disturbing murder attracted a life sentence for murder, which is required, but with a non-parole period of either 22 or 23 years, for someone who was a murderer and disposed of the body up in the Flinders Ranges, I think. Although, it doesn't mean that the person convicted of that crime gets out after 22 years, it means that's the first time they could possibly apply for bail. Notwithstanding that, the DPP has lodged an appeal against that sentence and that's what happens exceptionally regularly in relation to sentencing.

It is open for appeals to be lodged in relation to the decisions of courts depending on the nature of the facts and what the decision relates to all the way up to, as we sometimes see—and this is in the case the Hon. Ben Hood mentioned—the High Court if people are dissatisfied with decisions that have been made. But, as the honourable member suggests, it is always open to us as legislators to look to pass laws in this place to reflect community standards. It is always important to balance, when we do these things, relative sentences that are handed down for other offences.

It is a danger sometimes that you increase a sentence in one particular area and that brings it completely out of proportion with what in some cases might be what the community expects for more heinous crimes. So it is a difficult balancing act, but it is open for appeals to higher courts, and it is always open for us as legislators to make that decision to reflect community expectations.

Bills

CRIMINAL LAW CONSOLIDATION (CRIMINAL ORGANISATIONS - PRESCRIBED PLACES) AMENDMENT 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 amend the Criminal Law Consolidation Act 1935 and to make related amendments to the Criminal Law Consolidation (Criminal Organisations) Regulations 2015. 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.

Today, I introduce the Criminal Law Consolidation (Criminal Organisations—Prescribed Places) Amendment Bill 2023. Under the Criminal Law Consolidation Act 1935 there are restrictions on participants in criminal organisations entering or attempting to enter a prescribed place. Any person who is a participant in a criminal organisation who enters or attempts to enter a prescribed place commits an offence. A maximum penalty for this offence of three years' imprisonment applies.

These, and a range of other measures in the act, form an important part of a range of strategies to tackle serious and organised crime and improve community safety. As a result of a recently delivered judgement of the High Court of Australia in Disorganized Developments Pty Ltd & Ors v State of South Australia [2023] HCA 22, regulations made by the previous Liberal government in 2020 to declare properties at Cowirra as prescribed places were found to be invalid.

This government intends to do everything within its power to limit any risk of outlaw motorcycle gang participants returning to properties associated with criminal organisations. Therefore, this bill will declare certain properties that have continued association with criminal organisations to be prescribed places for the purposes of the definition of the Criminal Law Consolidation Act by making new regulations. The amendments are set out in a schedule to the bill which will, upon commencement, amend the Criminal Law Consolidation (Criminal Organisations) Regulations 2015.

The properties to be declared as prescribed places have all previously been prescribed places for the purposes of the act. These properties are places that, on the advice of SAPOL, continue to be connected with, and are at risk of being used as meeting places for, criminal organisations. It is in the interests of community safety and the disruption of criminal activity that these properties remain as prescribed places.

The bill will also delete, and thereby repeal, the existing regulations that declare prescribed places so that a number of properties no longer associated with criminal organisations, on the advice of SAPOL, will be removed as prescribed places.

In addition, the bill will amend the act to provide that there is no obligation to provide procedural fairness in relation to the making of a declaration by regulation that an entity is a criminal organisation, an event is a prescribed event or a place is a prescribed place for the purposes of definitions in the act.

This government and previous Labor governments have a proud history of legislating to disrupt, destabilise and dismantle criminal organisations in South Australia, making our community a safer place for its law-abiding citizens. This Labor government has absolutely zero tolerance for the misery that outlaw motorcycle gangs bring on the community. We agree with the observations of Justice Steward who said, in the Disorganized Developments case, that:

It is, with great respect, a remarkable proposition to require the South Australian government to consult with a criminal organisation before declaring one of that organisation's properties to be a prescribed place.

We doubt it was ever parliament's intention for it to be so, but we are pleased to be acting quickly to rectify this situation with the bill we are introducing today. I commend the bill to the chamber, and seek leave to insert the explanation of clauses in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

2—Amendment of section 83GA—Preliminary

This clause amends section 83GA of the *Criminal Law Consolidation Act 1935* to provide that no obligation to provide procedural fairness exists in relation to the making of a declaration by regulation that—

(a) an entity is a criminal organisation for the purposes of paragraph (c) of the definition of *criminal organisation* in section 83GA(1); or

(b) an event is a prescribed event for the purposes of the definition of *prescribed event* in section 83GA(1); or

(c) a place is a prescribed place for the purposes of the definition of *prescribed place* in section 83GA(1).

This clause also amends section 83GA of the *Criminal Law Consolidation Act 1935* to update references to the *Subordinate Legislation Act 1978* to now refer to the *Legislative Instruments Act 1978*.

Schedule 1—Related amendments to *Criminal Law Consolidation (Criminal Organisations) Regulations 2015*

Part 1—Preliminary

1—Effect of Part 2

This clause provides that Part 2 of Schedule 1 has effect to amend the *Criminal Law Consolidation (Criminal Organisations) Regulations 2015* and that those amendments have effect to—

(a) repeal the declaration of certain places as prescribed places for the purposes of the definition of *prescribed place* in section 83GA(1) of the *Criminal Law Consolidation Act 1935* by deleting regulations 3 and 4; and

(b) declare certain places to be prescribed places for the purposes of the definition of *prescribed place* in section 83GA(1) of the *Criminal Law Consolidation Act 1935* by making new regulations 3 to 9 (inclusive).

This clause further provides that—

(a) section 83GA(2) of the *Criminal Law Consolidation Act 1935* does not apply to a regulation made under Part 2 of Schedule 1; and

(b) the *Legislative Instruments Act 1978* does not apply in relation to a regulation made under Part 2 of Schedule 1.

Part 2—Amendment of *Criminal Law Consolidation (Criminal Organisations) Regulations 2015*

2—Substitution of regulations 3 and 4

This clause provides that regulations 3 and 4 of the *Criminal Law Consolidation (Criminal Organisations) Regulations 2015* are deleted (and thereby repealed) and that new regulations are made in substitution declaring various places to be prescribed places for the purposes of the definition of *prescribed place* in section 83GA(1) of the *Criminal Law Consolidation Act 1935*. The places that are to be declared as prescribed places are as follows:

(a) under proposed new regulation 3—the whole of the land contained in Certificate of title 5995/665 (which relates to property at the address 591 Kenny Road, Cowirra);

(b) under proposed new regulation 4—the whole of the land contained in Certificate of title 5880/413 (which relates to property at the address Lot 555 Kenny Road, Cowirra);

(c) under proposed new regulation 5—the whole of the land contained in Certificate of title 6142/108 (which relates to property at the address 305 Commercial Street West, Mount Gambier);

(d) under proposed new regulation 6—the whole of the land contained in Certificate of title 5696/244 (which relates to property at the address 108-118 Francis Road, Wingfield);

(e) under proposed new regulation 7—the whole of the land contained in Certificate of title 5249/413 (which relates to property at the address 108-118 Francis Road, Wingfield);

(f) under proposed new regulation 8—the whole of the land contained in Certificate of title 5249/414 (which relates to property at the address 108-118 Francis Road, Wingfield);

(g) under proposed new regulation 9—the whole of the land contained in Certificate of title 5249/415 (which relates to property at the address 108-118 Francis Road, Wingfield).

Debate adjourned on motion of Hon. N.J. Centofanti.

BAIL (CONDITIONS) AMENDMENT BILL

Introduction and First Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:25): Obtained leave and introduced a bill for an act to amend the Bail Act 1985. Read a first time.

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:26): I move:

That this bill be now read a second time.

Today, I introduce the Bail (Conditions) Amendment Bill 2023. This bill will require high-risk domestic violence defendants who are not on remand to be electronically monitored on home detention bail. The bill progresses a key election commitment made by the government as part of our women's safety, equality and wellbeing policy. I have worked closely with the Minister for Women and the Prevention of Domestic and Family Violence, the Hon. Katrine Hildyard, in developing this bill, and I am pleased to present it to the council today.

The bill amends the Bail Act 1985 to introduce mandatory bail conditions for a person charged with an offence against section 31(2aa)(b) of the Intervention Orders (Prevention of Abuse) Act 2009, which is an offence of contravening an intervention order where the breach involved violence or a threat of violence. The mandatory bail conditions will apply if the alleged breach was of a domestic abuse related intervention order.

Persons charged with this offence in the domestic violence context pose a significant risk to their victims. Because the charged person is under an intervention order related to domestic abuse, they have already been shown to potentially be at risk of subjecting the victim to abuse. A charge of a violent breach means there is reasonable cause to suspect that unmonitored restrictions alone are not a sufficient deterrent and that the victim is at a continued high level of risk.

Stringent protections are required to ensure the safety of these victims. Therefore, the government considers that persons charged with violently breaching a domestic abuse related intervention order should face very stringent bail conditions, if they are released on bail at all. Notably, defendants charged with violent intervention order breaches are already prescribed applicants under the Bail Act, meaning they face a presumption against bail and can only be released on bail if they demonstrate special circumstances.

This bill will provide an extra layer of protection by providing that, if special circumstances are established and bail is granted, the relevant bail agreement must include home detention and electronic monitoring conditions. This is a further level of protection for victim survivors of domestic abuse against their abusers.

Under home detention conditions, the defendant will be forbidden from leaving their home other than for specific purposes such as work or medical care. They will be fitted with an electronic monitoring device to track their compliance with home detention in real time, and to alert authorities if they are not at home when they are supposed to be.

Importantly, conditions in their bail agreement or intervention order for the protection of the victim, such as conditions that they not approach the victim's residence or place of work, can also be

programmed into the device and compliance monitored in real time. This will act as a strong deterrent against breaches, as the defendant knows their whereabouts are visible to authorities at all times. When breaches do occur, the monitoring enables swifter action as the authorities are alerted in real time. If the defendant is charged with a breach, the monitoring data may also be used as evidence assisting prosecutions to prove the breach.

Mandatory home detention bail is not novel under the Bail Act. Serious and organised crime suspects on bail are subject to such mandatory home detention conditions in order to protect witnesses who have reasonable fears for their safety. It is the view of the government that protected persons alleging violent breaches of domestic abuse-related intervention orders have just as reasonable a basis to fear for their safety, and they should have the benefit of the same protections.

I am proud to introduce this bill today as one further initiative of the many things the government has done and continues to do in the space of domestic violence prevention. It is the intention that this change will provide greater physical protection and peace of mind to victim survivors as they navigate some of the most difficult and dangerous times of their lives. I commend the bill to the chamber and seek leave 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.

Part 2—Amendment of *Bail Act 1985*

3—Amendment of section 11—Conditions of bail

A grant of bail to an applicant who has been charged with an offence against section 31(2aa)(b) of the *Intervention Orders (Prevention of Abuse) Act 2009* in respect of an order that is a recognised DVO within the meaning of section 29D of that Act must be subject to electronic monitoring conditions (unless the applicant is a child).

Schedule 1—Transitional provision

1—Transitional provision

This clarifies that the amendment will only apply to offences that are allegedly committed after commencement of the measure.

Debate adjourned on motion of Hon. B.R. Hood.

VETERINARY SERVICES BILL

Second Reading

Adjourned debate on second reading.

(Continued from 6 July 2023.)

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (15:31): I am extremely pleased to see this bill enter the chamber. Under the former Liberal government, targeted stakeholder engagement and the public consultation process was held between 2020 and 2021 as part of a review of the Veterinary Practice Act 2003 and the Veterinary Practice Regulations 2017.

The review of the legislation was designed to examine the relevance of the existing legislation and identify opportunities for modernisation, simplification or, when necessary, expansion. The December 2022 draft bill was prepared following stakeholder feedback and, again, feedback of the review informed the resulting 2023 advanced bill we see before us today. This review was initiated because a substantial group of private veterinarians from across the state came to us when we were in government, vocalising their frustration at the composition and format of various aspects of the Veterinary Practice Act, and we listened.

It is well known in this chamber that I practised as a country veterinarian for 15 years prior to entering politics. I loved my career. It was rewarding professionally and personally, working with some of the most dedicated, passionate and hands-on practitioners imaginable. As a newly sworn in member of the parliament in this place, it was an absolute privilege to be involved in those initial important discussions around the review process, and it was a very proud moment for me as the shadow minister responsible for the veterinary industry to be seeing this piece of legislation enter the chamber.

Mr President, you can imagine that when it comes to reviewing, renewing and futureproofing related legislation and regulation, it is a hefty task. I extend my gratitude to parliamentary counsel and PIRSA staff who drafted this bill before us. It is pleasing to see several changes that the industry was championing for included in the tabled bill, in particular having a veterinarian as the presiding member of the board and ensuring greater transparency and accountability within the board structure for both veterinarians as well as the general public utilising veterinary services.

Although we will have some clarifications and questions as well as several amendments at the committee stage, I would like to place on the record that we the opposition are extremely supportive of this bill and its direction. Our amendments have been sourced directly from industry and stakeholders, in particular the South Australian division of the Australian Veterinary Association. I must report that every individual and group I have spoken with has been honest, open and forthright in their want to protect hardworking vets, their clients and patients, and to safeguard the industry.

I am humbled to have received a letter of support from the South Australian division of the Australian Veterinary Association regarding our amendments that have been developed, and I hope to receive support for them from across the chamber. These amendments are tabled to improve the good work already done.

Of particular importance is an amendment regarding the constitution of the tribunal to ensure it is in line with other professions that are subject to review by the tribunal. We acknowledge that the South Australian Civil and Administrative Tribunal Act 2013 stipulates that the tribunal should be constituted by no more than three assessors and agree that, for consistency, this should remain the case for veterinarians. However, the current bill also stipulates that the tribunal in proceedings under this act is to be constituted by three members, of which only one is to be a registered veterinarian.

Under the new proposed changes, this puts the percentage of practical veterinary experience on the panel to just one-third. This is inconsistent with the make-up of other SACAT panels of assessors for other professions. For example, in the Architectural Practice Act 2009 it stipulates:

> For the purposes of section 22 of the South Australian Civil and Administrative Tribunal Act 2013, there will be a panel of assessors consisting of persons who are registered architects.

The argument should be made that to assess whether a vet has displayed behaviours such that it constitutes grounds for disciplinary action there should be significant professional knowledge on that panel that understands the standards expected of the profession. One in three members of the panel being a veterinarian does not provide significant professional knowledge, therefore an amendment has been suggested to increase this to two members of the panel of assessors being veterinarians.

We also must ensure we futureproof this bill. Currently, this bill does little in the way of mobile veterinarian hospitals. Animal health, like many other sectors, has had its own industry disruption. Vans and trucks offering veterinary services remotely are on the rise across the globe, and have been introduced in other states around the nation. They can respond swiftly and take an entire mobile hospital to the site of an emergency such as bushfires or a flood, and treat injured animals close to their homes and habitats.

These mobile veterinary hospitals are also on the rise in other countries for general treatment and for surgery. There are 26-foot mobile vet clinics, which include a separate surgery suite, that are available for purchase, and are advertised as, and I quote:

> State-of-the-art mobile vet clinics for all the comforts and technology of a brick-and-mortar veterinary clinic with the advantage and convenience that we come to you!

The current bill does not contain stipulations for these types of functional mobile veterinary hospitals, only bricks-and-mortar venues. We must ensure that veterinarians who practice from mobile

veterinary hospitals in the future are held to the same standards as those operating from a traditional bricks-and-mortar clinic. Also, we must ensure those vets operating in these environments are offered the same professional protections as their peers.

Whilst I appreciate these types of clinics are currently few and far between in our state, they will inevitably become more popular into the future. Therefore, it is necessary to safeguard the profession with appropriate legislation for this likely reality.

Veterinarians, and the veterinary profession, play a large and important role in our society. Veterinarians are the only doctors trained to protect the health of both animals and people. They are leaders in food safety, epidemiology and public health. Both large and small animal vets become skilled at diagnosing and treating acute and chronic diseases of animals that may affect the owners, their families and the surrounding communities.

Specific examples of these public health activities include performing routine health examinations, maintaining vaccination regimens, implementing parasitic control programs, advising on the risk of animal contact for immunocompromised individuals, facilitating the use of guide and service dogs for people with disabilities, and promoting the benefits of the human-animal bond.

Veterinarians also play a critical, frontline role in preventing, responding to, and reporting animal diseases and pests, protecting our state and our nation's biosecurity status. They are key in emergency animal disease preparedness and also in any related response.

Veterinarians also have a leading role in animal welfare. Veterinarians are ideally situated to act as animal welfare experts by virtue of their core work with animals and potential influence over owners, their roles in policy development, compliance and monitoring, and as educators of future veterinarians.

I am not exaggerating when I say some vets do it all. The simple explanation is they are professionals who provide medical care and treatment to animals and, whilst that is true, it only scratches the surface of a veterinarian's role. A veterinarian's responsibilities can vary depending on their area of specialisation, the type of animals they work with and whether they are in private practice, research, government agencies or other sectors.

Common tasks for veterinarians include, but are not limited to, medical examinations and diagnoses, surgery, vaccinations and preventative care, dental care, prescribing medications and treatments, emergency care, laboratory and diagnostic testing, radiology and imaging, anaesthesia and pain management, nutritional counselling, behavioural consultations, farm animal care and emergency animal disease monitoring, zoo and wildlife medicine, research and public health, teaching and education, administration and management, and legal and forensic work. These tasks represent a broad overview of the responsibilities of veterinarians, and it does not stop there.

Vets and veterinary staff are critically important in our day-to-day lives and we need to support them. We know of and indeed I have spoken in this place about the high rate of suicide in the veterinary industry. I would like to take this opportunity to acknowledge the late Dr Sophie Putland, a fellow South Australian vet who tragically took her own life after being subjected to ongoing abuse from clients. Her parents, Garry and Kate Putland, have been working hard every single day to raise awareness of the mental health challenges facing the veterinary industry, and are encouraging pet owners to be kind to their veterinary professionals.

They and I would like to see quantitative reporting on the number of veterinary deaths by suicide to ensure that we can measure the success or otherwise of any future programs to improve mental health and wellbeing in the veterinary industry. Whilst I acknowledge that this request falls outside the scope of this bill, I would like to place on the record that I will be working in future to bring about an amendment bill to the Suicide Prevention Act to allow these figures to be reported on in parliament, because it is important that we address the crisis that the veterinary industry is facing—fatigue, burnout and isolation also play a part.

I think that as a society we need to be open to having a conversation around whether it is a privilege or whether it is a right to own an animal. Certainly in the past it has been a privilege. However, if sentiment in society is shifting, then a discussion around how that affects veterinary care and the veterinary industry more broadly needs to be had. For today, though, I am grateful to be

standing here as someone who has been through the journey with the profession that has led to the tabling of this bill.

I would like to acknowledge the group of veterinarians with whom I and my colleagues met with who had the courage to stand up and seek change. Thank you to the industry, to my industry, for your collaboration and for envisaging a strong future for the veterinary profession. I look forward to the committee stage and to working with the chamber and the government to ensure the best piece of legislation possible passes this house.

The Hon. T.A. FRANKS (15:42): I rise on behalf of the Greens today to speak briefly in support of the Veterinary Services Bill. Veterinarians are an integral part of our community. Indeed, they are an integral part of this council at the moment. Not only do they care for our companion animals but they also do crucial work in managing public health and quarantine systems.

As the minister has explained, the bill before us seeks to address needed changes in our veterinary practice legislation, addressing significant changes to the industry, including practice models, employment and specialties offered. It is therefore necessary that we update this legislation to better support the health, safety and welfare of our animals, along with helping address the shortage of veterinarians currently faced by our state of South Australia.

One of the major benefits of this bill is the inclusion of a transition program for returning veterinarians. Getting back to work after a break or keeping up to date with modern practices is important for building self-confidence, increasing social connections and recovering from an illness or injury. Providing a clear and transparent pathway for returning veterinarians is an example of good employment practices and will accommodate those who have had a career break, no matter what the reason.

The bill also enables the entry of graduates to the profession upon completion of their degrees to be fast-tracked. The Greens look forward to seeing the transition from study to practice improve. It is in the interests of all veterinarians that the profession be regulated. It ensures that the public can have confidence when they receive services from registered veterinary professionals. Additionally, this bill introduces requirements for skills-based appointments on the veterinary services regulatory board without compromising on the composition of the board having a focus on professional veterinarians.

Additionally, introducing the publication of appointments will also contribute to improved transparency and credibility of the complaints process in preventing conflicts of interest. The Greens welcome in particular the modification of the complaints process, removing SACAT as a possible avenue through which the public might directly seek recourse. It is important that the lower tier of unsatisfactory professional conduct should focus on correcting the conduct. This is better done through the board rather than taking up the resources of the tribunal.

This bill is strongly supported by the Australian Veterinary Association, and we acknowledge the commitment of the government and the opposition to both stakeholder and public consultation through this long legislative process. I note that there will be amendments that have already been foreshadowed by the Liberal opposition. Certainly, the Greens will take them under due consideration and are favourable towards them on first blush and look forward to the opinion of stakeholders such as the AVA on those matters as we progress this bill.

The Hon. S.L. GAME (15:45): I rise briefly to support the Veterinary Services Bill 2023 and also the opposition amendments on this bill. The bill was introduced to update/modernise veterinary practice regulations in South Australia, recognising veterinarians' pivotal role in animal health, safety and economic contribution. The bill aims to align with the evolving nature of the profession and heightened standards.

Feedback from a 2020 review highlighted support for legislative reform. Notable changes include redefining veterinary treatment, transforming the Veterinary Surgeons Board to become the Veterinary Services Regulatory Board of South Australia and adjusting board composition, where the number of members will increase from eight to nine, with the addition of one veterinarian member.

I understand that, unless another member is considered more appropriate, the chair will be a veterinarian with management or governance skills, knowledge and experience. The shift in

emphasis is on clearer communication and expanded regulatory responsibilities, including additional responsibility relating to communication, information and advice. The minister will have the jurisdiction to provide directions to the board to ensure that public interest matters are dealt with appropriately, and there will be transparency with details of the direction given and action taken by the board in response, to be included in the board's annual report and laid before parliament.

The bill also introduces new provisions for vet premises and offers enhanced transparency in handling veterinarian complaints, emphasising education and conciliation over punitive measures. I add briefly that the bill will do little to address the main issues facing the veterinary industry at the moment, which are overwork, high stress and poor pay.

Debate adjourned on motion of Hon. R.B. Martin.

WORK HEALTH AND SAFETY (INDUSTRIAL MANSLAUGHTER) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 6 July 2023.)

The Hon. H.M. GIROLAMO (15:48): I rise to speak on the Work Health and Safety (Industrial Manslaughter) Amendment Bill 2023. I also advise that I am the lead speaker for the opposition and our only speaker for this bill. From the outset—and it should not come as a surprise to those in the chamber, as this issue has been aired before—the opposition will not be supporting this bill in its current form. Having said that, the opposition shares the intent that we should all take reasonable and appropriate steps to reduce instances of workplace injury and death.

However, we on this side believe this bill is clumsy and will not achieve this intent to an appropriate standard that the industry deserves. We note and appreciate that the drafting of this legislation has gone through a few iterations and has been consulted on by the government, but serious concerns have been raised by businesses and industry bodies about the impact of this legislation as drafted in the third version.

I give notice that I intend to propose amendments during the committee phase, which are still being consulted on and therefore have not been filed as yet. I am more than happy to discuss these with both the crossbench and government in due course. The opposition will also have a number of questions at the committee stage.

We have grave concerns about the overreach of this bill and its effects on the industrial landscape in South Australia. SafeWork SA is the state's workplace and safety regulator and works with the business community to offer advice and education on work health and safety issues, provide licensing and registration for workers, investigate workplace incidents, and enforce work health and safety laws in South Australia. Under the proposed bill, SafeWork SA will continue to be the responsible agency for this legislation. Resourcing of prosecutions is of great importance to ensure workers and workplaces are assured of a consistent and stable application of these laws, and we will pursue this during the committee stage.

We on this side strongly believe that within any organisation there should, rightfully, be a collective responsibility for employers and employees to ensure that everyone works in a safe environment, living the tenet of 'safety is everyone's responsibility'. This is not an outrageous concept. Indeed, some union websites—whose members' work is sometimes quite dangerous in particular industries—also use this same language. The Australian Unions website, under the heading 'Safe Workplaces', states:

> Workers have an important role to play in ensuring their own safety as well. You are responsible for taking reasonable care of your own health and safety and that of your co-workers.

The Australian Workers Union website has the heading 'Health and safety is everyone's concern' and goes on to state:

> Safety is your job too!
>
> You have obligations to yourself and others at work. It's up to you to:
>
> - Take care of your own health and safety.

- Take care not to do anything that can hurt others.
- Follow WHS instructions, policies and procedures.

Calls for accountability in the workplace are not unusual. In fact, it is a concept familiar to workplaces around the world, and has been so for decades since work health and safety laws came into place. That is the crux of the first block of amendments: safety is everyone's responsibility, employers and employees alike. If an employee is deliberately reckless with their own safety or that of fellow employees, why are they not held to the same standard and made liable? While an employer can take all reasonable steps to ensure the safety of workers, the actions of a reckless employee causing the death of another should equally be captured under the legislation of industrial manslaughter.

The second part of our amendment goes to the category of offences in clause 4. The opposition has taken submissions from industry and employer groups and will put forth amendments to this clause, as we are equally concerned that an individual or body corporate will suffer significant and detrimental reputational damage as a result of being charged with industrial manslaughter category 1, despite eventually being found not guilty of this offence. A category 1 charge should rightly be reserved for the most horrific offence that causes death and not result in the unintended consequence of destroying a business that would be found guilty of a much lesser charge of a category 2 or 3 offence.

Our view is that, when an industrial manslaughter charge is brought, the prospect of successful prosecution should be near certainty. We strongly urge members to support these changes to ensure the principle of 'innocent until proven guilty' is maintained and everlasting reputational damage is not caused by bureaucratic overreach. This would ensure that when charges are brought, they are done so with certainty, and potential reputational damage to South Australians and their businesses is limited. This amendment is in line with Business SA's submission, which was sent to the Attorney and, I presume, circulated to other members.

Those are the themes of our amendments and they will be fielded well before the committee stage of this bill. I will leave my remarks there. There will be amendments brought to the chamber during the committee stage and I will talk further to them in due course.

The Hon. E.S. BOURKE (15:54): Every parent of a young person going out to work for the first time hopes that their child will be safe at work. We must put our trust and faith in employers to do the right thing—that our children will not be treated as expendable commodities, but as humans with intrinsic value.

Sadly, too many parents know the pain of losing a child to a preventable workplace tragedy. Andrea Madeley has used her personal tragedy to advocate for workers' safety since the death of her son, Daniel, when he was just 18 years old and working as an apprentice toolmaker. The dustcoat Daniel was wearing got caught in the machinery, pulling Daniel in. I cannot imagine how a mother recovers from that loss and what Andrea has done since that time is nothing less than extraordinary.

It is through the advocacy of Ms Madeley and Pam Gurner-Hall, who lost her partner, Jorge, on the Royal Adelaide Hospital construction site in 2014, that legislation such as this has come about. At the last election, the Malinauskas Labor government committed to making industrial manslaughter a criminal offence. This brings South Australia into line with other states and territories including Victoria, Queensland, Western Australia, the Northern Territory and the ACT.

At a meeting of work health and safety ministers from across the country earlier this year, it was agreed that industrial manslaughter would form part of the model national laws on work health and safety. This bill follows through on that commitment and is drafted to be consistent with other state and territory legislation. A conviction will occur where there is a breach of an employer's health and safety duty through recklessness and which results in the death of a person.

The penalty for an individual is up to 20 years' imprisonment and up to $18 million in fines for body corporates. Each year, around 12 people in South Australia die as a result of workplace injury, with most of these deaths occurring in just three industries: construction, transport and primary industries. Most employers do the right thing and have nothing to fear with this legislation. It imposes no new duties on employers, but simply ensures that there are appropriate penalties when there are preventable workplace deaths through a breach of duty.

Without this law, grieving families must navigate the work health and safety framework and hope for a successful prosecution for the existing offence of manslaughter—something which is difficult when the death is not the result of one particular person's actions but rather a chain of events in a workplace. Changing the law is an acknowledgement of the trauma and loss that families have been through when this kind of tragedy occurs.

It will also have a deterrence effect, emphasising to rogue employers that they will be punished for breaching their work health and safety obligations. This legislation will ensure that businesses at fault receive an appropriate penalty. Extensive consultation has been undertaken in drafting this bill, with two exposure draft bills being released over the last year. Unions, businesses and work health and safety experts have all had input into the drafting of this bill.

I would also like to acknowledge the work of SafeWork SA, which is charged with investigating workplace incidents and its commitment to ensuring South Australian legislation is fit for purpose and meets national standards. Most of all, I commend Andrea and Pam, who have given back so much to their community out of unspeakable loss.

As the Attorney-General has said, every worker deserves to come home safely. No family should have to go through the trauma of losing a loved one to a preventable workplace death. Twelve workplace deaths a year is 12 too many and it is hoped that this legislation will help reduce that number. I commend the bill to the chamber.

The Hon. T.A. FRANKS (15:58): It is with great pleasure that I rise today to speak on behalf of the Greens in support of this bill. In fact, the Greens have introduced this legislation at least four times before in this parliament, and I also recall attempting amendments to the harmonised work health and safety laws in government bills previously.

This bill seeks to capture that very small minority of employers who cruelly and unnecessarily risk the safety of their employees. Putting workers' lives at risk for the sake of cost cutting is unacceptable and the statistics speak for themselves. We need to have higher penalties in our workplace laws to deter negligent employers.

Let's remember, industrial manslaughter means that there has been a death. While we have heard some moralising about how everyone is innocent until proven guilty, I would like to moralise a little about how a workplace death should be treated as a death and given the seriousness that any other death would be given under our laws if it did not take place in a workplace.

South Australia needs industrial relations laws to protect workers and their rights so that they can feel save in dangerous workplaces and be kept safe in their workplaces. Australian workers provide an invaluable service. They deserve to have legislative safeguards. This bill introduces important reforms to improve the safety of our state's workplaces through the principle of corporate criminal responsibility. The primary objective of this bill is to ensure that culpable employers are held responsible for their actions.

The offence of industrial manslaughter covers the situation where an individual's or corporation's conduct causes the death of a worker, where that individual's or corporation's recklessness or negligence caused serious harm and death to that worker. Companies and employers must do everything they can reasonably do to prevent workplace injuries and deaths. Through this legislation we will seek to ensure that culpable employees are held responsible for deaths they cause if they act in a reckless or negligent manner. If they do not take responsibility for the safety of their workers, penalties will apply.

The Greens believe that employers need to take their duty of care to their employees seriously. Every single workplace death is significant. Each one is a tragedy that affects the lives of many forever. If an employer is negligent or recklessly indifferent to exposing workers to serious risk to their safety and someone dies as a consequence, this should be recognised by our laws as a criminal offence. Such an offence is not unprecedented. It exists in other legislation such as that of Queensland, the ACT and the United Kingdom. As legislators, it is our responsibility to ensure that employers have a genuine incentive to provide a safe workplace. We have many, many carrots in our system, but we do need a few sticks.

Everyone should be safe at work. Everyone deserves to come home safe. Everyone deserves to come home from work and be protected from industrial disease or harms, but far too many have not come home and far too many have come to harm. In 2022, 169 people lost their lives at work. In 2021, that number was 194. That is 194 families, loved ones, with loss and grief. That is 194 lives ended.

In February 2019, Safe Work Australia made public its review of Australia's occupational health and safety laws. This review, conducted by Marie Boland, made 34 recommendations, one of which was to introduce industrial manslaughter laws right across Australia. Our own parliament in South Australia has made these same recommendations. The occupational safety, rehabilitation and compensation committee undertook an inquiry into the law and processes relating to workplace injuries and death in South Australia. In this inquiry, the committee 'gave close attention to the offence of industrial manslaughter' and found:

> Based on the evidence presented the Committee concluded that an offence of industrial manslaughter should be introduced in this State.

Recommendation 20, as part of this report, was that South Australia introduce an offence of industrial manslaughter. That report was in 2007, and yet here we are in 2023 still without an offence of industrial manslaughter. South Australian workers deserve better. The South Australian parliament will now do better. It is time we treat industrial manslaughter as the abhorrent offence it is.

With that, I want to reflect, as the Hon. Emily Bourke has done, on the impact and the work of Andrea Madeley and Voice of Industrial Death and the particular connection that I have had over the years with Pam Gurner-Hall, who I have come to know because she lost Jorge Castillo-Riffo on the site of the new RAH. I am sorry that this does not bring him back, Pam, but I know that it goes a long way to knowing that the legacy going forward means that we have better laws and hopefully fewer workplace deaths.

The Hon. R.B. MARTIN (16:04): Every South Australian worker, and every worker across the nation, should be able to feel confident, when they leave for work each day, that they will return home safely. But in the cases of more than 100 workers over the last 10 years in South Australia alone, they left for work and did not return home at all.

Tragic accidents happen, but far too many workplace deaths are the result of negligence or recklessness that could have been prevented. This bill delivers on our government's election commitment to create an offence where a person can be convicted of industrial manslaughter if they breach a health and safety duty recklessly or with gross negligence, and this causes the death of another person in the workplace. The maximum penalties this bill introduces are a fine of up to $18 million for companies and imprisonment for up to 20 years for individuals. Our intention is that these meaningful, high-stakes penalties will help to deter and stamp out unacceptable workplace health and safety practices.

It is very reasonable to expect businesses and individuals whose dangerous actions, or indeed lack of positive actions, are found to have caused a workplace death, to be subject to penalties which come close to befitting the gravity of the wrongdoing. These penalties will also go much further towards recognising the trauma and loss suffered by the families of people who have died due to recklessness or negligence in their workplace health and safety. It is a recognition that those families greatly deserve.

This bill is a product of extensive stakeholder consultation, and brings South Australia into line with the other jurisdictions that have introduced industrial manslaughter laws. The substance of the bill is consistent with what has been implemented in other states and territories. It is important to be clear that this bill does not introduce any new legal obligations on employers. Workplaces that are appropriately conscientious about health and safety have no cause for concern. The overwhelming majority of businesses in South Australia are doing the right thing, but those who are not deserve to be held to account.

In my time as a union organiser I was regularly involved with health and safety training, and it is an issue close to my heart. I believe that safety is a fundamental right for workers, and I am proud that the Malinauskas Labor government is taking steps to make sure that South Australia's laws

recognise the crucial importance of health and safety in the workplace and the grave error of reckless and negligent practices that put workers' safety at risk.

I applaud the advocacy of members of our community who suffered the tragic and preventable loss of their loved ones, and I recognise the many hundreds of other South Australian families who have suffered such losses over our state's history. May the day soon come when no more families have to know that particular agony. I commend the bill.

The Hon. S.L. GAME (16:07): This bill seeks to introduce legislation to make industrial manslaughter a criminal offence, with a maximum penalty of up to 20 years in prison and significant financial penalties for companies. Section 30A introduces an offence of industrial manslaughter, which does not currently exist as an offence, where reckless or grossly negligent conduct results in a workplace death.

There is an amendment to the threshold for a category 1 criminal offence under section 31 of the bill. This is an existing offence that applies where a person recklessly exposes a person to risk of death or serious injury or illness. The amendment introduces a threshold of 'gross negligence' in addition to recklessness.

I have met with industry groups who have expressed concern that a threshold for industrial manslaughter should be solely classified as 'reckless', as it is the highest legal threshold to cross and consistent with the highest offence under our current work health and safety framework for a category 1 offence. Category 1 would then become the next step down using the wording proposed in the draft bill:

(i) engages in the conduct with gross negligence; or

(ii) is reckless as to the risk of an individual of death or serious injury or illness.

There is industry concern that these legislative changes could inadvertently and quite unfairly damage the reputation of a business should a SafeWork officer mistakenly charge for industrial manslaughter in the knowledge the business could still receive a downgrade to a category 1, 2 or 3 offence under section 31 of the act. In this scenario, a business is likely to suffer significant damage to its reputation in the eyes of the public, regardless of the still to be proven facts, any appropriate measures they had in place, or mitigating circumstances.

The Hon. I. PNEVMATIKOS (16:09): I rise today to speak in support of the Work Health and Safety (Industrial Manslaughter) Amendment Bill. It delivers on the government's election commitment to introduce an offence of industrial manslaughter in South Australia. This bill has been a long time coming. The issue of industrial manslaughter has been brought before this parliament a multitude of times, and after hearing the opposition's contribution, I understand why.

On average, at least 12 South Australians die every year at work. Roughly three-quarters of these deaths occur in just three areas: primary industries, transport and construction. Everyone who goes to work wants to be able to return home alive, and every worker deserves the right to come home safely.

With this bill, companies and employers will no longer be able to put profit and cost cutting above workers' lives without penalty. A person can be convicted of industrial manslaughter if they breach a health and safety duty, either recklessly or with gross negligence, and this causes the death of another person. This includes the primary duty of ensuring, as far as reasonably practicable, the health and safety of workers they engage.

The maximum penalties are a fine of up to $18 million for companies and corporations, and imprisonment for up to 20 years for individuals. If an employee knew, ought reasonably to have known or was recklessly indifferent to a work safety risk leading to the death of a worker, they should face the full extent of the law.

Commonwealth, state and territory work health and safety ministers agreed earlier this year that industrial manslaughter will form part of the model national laws. This bill brings South Australia in line with other jurisdictions, including Western Australia, the Northern Territory, Queensland, Victoria and the ACT, which have introduced industrial manslaughter laws.

All aspects of our criminal law are built on an approach of deterrence. As such, the objective of this bill is preventative rather than punitive: to prevent accidents from occurring by deterring unsafe work practices. This can only be done when someone is held responsible and accountable for a workplace death. The bill's purpose is to recognise the significant and traumatic loss suffered by families of victims. Having represented a number of families of victims, I appreciate the distress, trauma and ongoing problems this causes.

The Attorney-General, in his second reading explanation, specifically recognised the advocacy of both Andrea Madeley and Pam Gurner-Hall in this area. Both have experienced unspeakable loss as a result of workplace deaths and have used these experiences to passionately and tirelessly advocate for workplace safety.

This bill does not introduce any new legal obligations on employers. Instead, it ensures there is an appropriate penalty when those obligations are breached. We are not talking about serious injuries that workers may suffer: maiming and disability. We are talking about those who are dying. We are not talking about those who have a life sentence.

While accidents do happen, the first responsibility of every employer is to ensure that they provide a safe workplace. The overwhelming majority of businesses in South Australia do the right thing by taking the health and safety of their workers into consideration. This bill sends a clear message to any employers who are reckless or grossly negligent with their workers' health and safety: they will be held to account.

Debate adjourned on motion of Hon. N.J. Centofanti.

STATUTES AMENDMENT (NATIONAL ENERGY LAWS) (EMISSIONS REDUCTION OBJECTIVES) BILL

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (16:14): 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 delivering an important national reform to incorporate an emissions reduction component into the national energy objectives.

The Statutes Amendment (National Energy Laws) (Emissions Reduction Objectives) Bill 2023 reflects the commitment by all Australian governments to net zero greenhouse gas emissions by 2050 or earlier.

Introducing an emissions reduction component into the national energy objectives was one of the first actions agreed by governments under the new National Energy Transformation Partnership on 12 August 2022, a partnership which is a framework for national alignment and cooperative action by governments to support the smooth transformation of Australia's energy sector.

The three energy objectives are the National Electricity Objective, the National Gas Objective and the National Energy Retail Objective. These objectives are set out in the national energy laws made up of the National Electricity Law, the National Gas Law and the National Energy Retail Law.

Each of the three energy objectives seek to promote efficient investment in, and efficient operation and use of, electricity, gas and energy services for the long-term interests of consumers with respect to components including energy price, quality, reliability, security and safety.

As currently framed, the energy objectives do not refer to emissions reduction either directly or indirectly. Changing this will send a clear signal to wider industry, market participants, investors and the public, of governments' commitments to achieve a decarbonised, modern and reliable energy system that contributes to the achievement of Australia's emissions targets.

This Bill will integrate greenhouse gas emissions reduction and energy policy in the national energy laws.

The Bill's amendments will clarify that the Australian Energy Market Commission, the Australian Energy Market Operator, the Australian Energy Regulator, and other decision makers under the laws should explicitly consider

the achievement of emissions reduction targets alongside the existing components, when they use their respective powers and functions.

For the year ending September 2022, electricity generation accounted for 32 per cent of national emissions, due to the significant share of coal and gas in electricity generation. Other stationary energy, from the direct combustion of fuels, accounted for around another 21 per cent of total emissions and fugitive emissions contributed another 10 per cent.

In the 2021 financial year, South Australia emitted 21.5 million tonnes of carbon dioxide equivalent representing a 42 per cent reduction in greenhouse gas emissions from the 2005 financial year. South Australia also met 100 per cent of its operational demand from renewable resources on 180 days in 2021.

Further reducing the emissions footprint of Australia's electricity and gas networks can play a substantial role in achieving net zero and interim emissions reduction targets by promoting a higher share of low or no emissions renewables and storage. This will also help achieve South Australia's emissions targets, its state emissions reduction plan under development, and its aspiration to achieve 100 per cent net renewables by 2030.

Reducing emissions from the energy sector also supports the decarbonisation of other high-emitting sectors, including transportation and energy-intensive industry.

As we transition towards a low emissions energy system, these changes are intended to ensure the transition is managed in the long-term interests of consumers – not just in respect of emissions reduction, but also price, quality, safety, reliability and security.

This Bill seeks to incorporate an emissions reduction component into the national energy objectives through amendments to the National Electricity Law, set out in the schedule to the *National Electricity (South Australia) Act 1996*, the National Gas Law, set out in the schedule to the *National Gas (South Australia) Act 2008* and the National Energy Retail Law, set out in the schedule to the *National Energy Retail Law (South Australia) Act 2011*.

The Bill frames the emissions reduction objective by reference to the achievement of targets set by a participating jurisdiction, be it the Commonwealth, a state or a territory, for reducing or that are likely to reduce Australia's greenhouse gas emissions. These targets could include those with an explicit objective of emissions reductions or those that are likely to contribute to emissions reductions, such as a renewable energy target or an electric vehicles target. The intent of this wording is to allow energy market bodies the discretion to consider appropriate targets relevant to a matter under consideration.

The Bill requires the Australian Energy Market Commission to prepare, maintain and publish a 'targets statement' that lists the targets that must, at a minimum, be considered by decision-makers, comprising government or regulatory entities such as market bodies, in applying the emissions component of the national energy objectives.

If either the Ministerial Council on Energy or the Minister of a participating jurisdiction gives a written direction to the Australian Energy Market Commission to add or a remove a target from this statement, it must comply with this direction.

The intent of this 'target statement' is transparency for market participants and other stakeholders. It provides a publicly available and up-to-date list of government targets that, at a minimum, decision-makers must take into account when assessing which targets are relevant to each matter under consideration.

As with the existing components of the national energy objectives that include price, quality, safety, reliability and security of supply, the emission reduction component will sit within the existing 'economic efficiency' framework that underpins the current national energy objectives.

Under this framework, decision makers under the national energy laws, will be obliged to consider the emissions reduction component alongside the other components in making their decisions. In this way, the emissions reduction component is not intended to sit above, or be prioritised over, any other component within the objectives. This will ensure that the national energy objectives continue to promote the long-term interest of consumers through efficient investment, operation, and use of energy services.

The legislative premise of 'efficient' assumes that the long-term interest of energy consumers in the national energy laws will be maximised through efficient investment and efficient use and delivery of relevant energy services. This was formally expressed in the original second reading speech associated with the introduction of the National Electricity Law. This premise was reiterated later in the National Gas Law and the National Energy Retail Law and the amendments in this Bill are not intended to change this intent.

Processes affected by the Bill include the range of functions, powers and obligations assigned to the market bodies, all of which are already required to be undertaken regarding or with consideration of contributions to the achievement of the relevant energy objective. Examples of relevant functions include system planning and economic regulatory functions, rule change determinations, and self-initiated and statutory reviews and reports. The new emissions component is not intended to affect the Australian Energy Market Operator's operation of wholesale markets including its role in managing real time activities that includes dispatch and scheduling.

The Bill commences from assent, but the application of the amendments is delayed for two months, except in relation to the Australian Energy Market Commission so that it can undertake reviews and law changes that are

considered critical to progress priority rule changes, and the Australian Energy Regulator and the Economic Regulation Authority in relation to revenue determinations and access arrangements listed in the Bill.

For all other processes the application of the amendments is delayed for two months to ensure market participants have sufficient lead time to prepare for the law changes. For the avoidance of doubt, processes which have progressed to a final decision before two months from assent will not be subject to the amended objectives. This includes decisions on Rate of Return Instruments.

To ensure the emissions component effectively operationalises the functions, powers and obligations assigned to the market bodies, a number of priority rule changes have been identified. To facilitate this, the Bill contains provisions for the Australian Energy Market Commission to take early actions on relevant rule change requests by Energy Ministers ahead of commencement of the Act.

The Bill also provides for the South Australian Minister to make the initial set of Rules relating to the national energy objectives. Noting the intent for Ministers to submit rule change requests to the AEMC, it is expected this power would be used for changes required for initial operationalisation of the amended objectives. Once the initial set of Rules has been made, or nine months from commencement of the Bill, the Minister will have no power to make any further Rules.

The transitional provisions in the Bill are set to maximise opportunities to capture the emissions reduction benefits of the reform to the objectives.

The default position for market body processes that have commenced but not been completed as of two months from assent is that the amended objectives will not apply. However, the Bill provides discretion to decision makers to apply the amended objectives to processes that have commenced, recognising that market bodies are in the best position to assess whether the amended objectives could be applied in a way that satisfies process and consultation requirements.

For multi-year processes such as Regulatory Investment Tests, gas access arrangements and electricity revenue determinations, the Bill specifies when each process is considered to have 'commenced' for the purposes of determining whether the amended objectives would apply.

However, for some revenue determinations and gas access arrangements identified by participating jurisdictions, the Bill contains a provision to direct the amended objectives to commence from assent. This is despite them having 'commenced' as defined in the Bill and gives no discretion to market bodies on this matter. This has been done to ensure emissions are considered immediately on commencement to reduce uncertainty and delays to critical investments that could support emission reductions.

The Bill requires that where a decision-maker proposes to exercise the discretion on whether to apply the amended objectives to processes that have 'commenced' before two months from assent, best endeavours must be made to ensure that administrative guidance be issued by the entity within 45 days from commencement of the Bill. For the case of the regulatory entity being the Australian Energy Regulator, the Bill requires guidance to be issued 45 days from commencement, but as for other decision makers, whether or not it proposes to exercise this discretion.

This guidance must explain how the amended objectives are likely be considered in making decisions related to these processes, to provide clarity and transparency for market participants. However, if the entity does not issue the guidance within 45 days, it does not limit their power to exercise discretion.

Introducing an emissions reduction component implies that the reduction of greenhouse gas emissions is a new category of market benefit to be assessed in market body decisions and processes where appropriate. To operationalise the emissions reduction component under an economic efficiency framework, a methodology for valuing emissions reduction for the purposes of regulatory decision-making is required.

Consequently, the Bill contains power to make regulations on matters relating to the achievement of emissions reductions targets in the amended objectives. Alongside the priority rule changes, governments are considering the appropriate approach to valuing emissions reduction to support implementation. The regulation making power could be used by Energy Ministers to provide direction on valuing emissions reduction.

Before a regulation or rule is made, the Bill also requires that where a decision maker issues guidance on valuing emissions, the guidance must be consistent with any direction from the Ministerial Council on Energy. There is also a provision requiring that proponents for potential new electricity network investment undertaking a Regulatory Investment Test follow the Australian Energy Regulator's guidance on valuing emissions reduction. This provision is to prevent inconsistent planning outcomes from proponents applying different approaches for valuing emissions reduction before more formal arrangements are in place.

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 7—National electricity objective

The national electricity objective is amended to include the achievement of targets set by a participating jurisdiction for reducing Australia's greenhouse gas emissions or that are likely to contribute to reducing Australia's greenhouse gas emissions.

5—Insertion of section 7AA

New section 7AA is proposed to be inserted:

7AA—Regulations may prescribe matters for national electricity objective

The section provides that the Regulations may prescribe a matter relating to the achievement of targets referred to in proposed section 7(c) of the Law.

6—Insertion of section 32A

New section 32A is proposed to be inserted:

32A—Targets statement for greenhouse gas emissions targets

The AEMC is required to prepare and maintain a *targets statement* setting out the targets set by participating jurisdictions referred to in section 7(c). Other provisions relate to the targets statement.

7—Insertion of section 90ED

New section 90ED is proposed to be inserted:

90ED—South Australian Minister may make initial Rules relating to national electricity objective

The South Australian Minister is authorised to make initial Rules relating to implementing the change to the national electricity objective. Other provisions relate to such Rules.

8—Amendment of Schedule 3—Savings and transitionals

Savings and transitional provisions are inserted into Schedule 3 for the purposes of the measure.

Part 3—Amendment of *National Energy Retail Law*

9—Amendment of section 13—National energy retail objective

The national energy retail objective is amended to include the achievement of targets set by a participating jurisdiction for reducing Australia's greenhouse gas emissions or that are likely to contribute to reducing Australia's greenhouse gas emissions.

10—Insertion of section 13AA

New section 13AA is proposed to be inserted:

13AA—National Regulations may prescribe matters for national energy retail objective

The section provides that the National Regulations may prescribe a matter relating to the achievement of targets referred to in proposed section 13(b) of the Law.

11—Insertion of section 224A

New section 224A is proposed to be inserted:

224A—Targets statement for greenhouse gas emissions targets

The AEMC is required to prepare and maintain a *targets statement* setting out the targets set by participating jurisdictions referred to in section 13(b). Other provisions relate to the targets statement.

12—Insertion of section 238AC

New section 238AC is proposed to be inserted:

238AC—South Australian Minister may make initial Rules relating to national energy retail objective

The South Australian Minister is authorised to make initial Rules relating to implementing the change to the national energy retail objective. Other provisions relate to such Rules.

13—Amendment of Schedule 1—Savings and transitionals

Savings and transitional provisions are inserted into Schedule 1 for the purposes of the measure.

Part 4—Amendment of *National Gas Law*

14—Amendment of section 23—National gas objective

The national gas objective is amended to include the achievement of targets set by a participating jurisdiction for reducing Australia's greenhouse gas emissions or that are likely to contribute to reducing Australia's greenhouse gas emissions.

15—Insertion of section 23A

New section 23A is proposed to be inserted:

23A—Regulations may prescribe matters for national gas objective

The section provides that the Regulations may prescribe a matter relating to the achievement of targets referred to in proposed section 23(b) of the Law

16—Insertion of section 72A

New section 72A is proposed to be inserted:

72A—Targets statement for greenhouse gas emissions targets

The AEMC is required to prepare and maintain a *targets statement* setting out the targets set by participating jurisdictions referred to in section 23(b). Other provisions relate to the targets statement

17—Insertion of section 294FC

New section 294FC is proposed to be inserted:

294FC—South Australian Minister to make initial Rules relating to national gas objective

The South Australian Minister is authorised to make initial Rules relating to implementing the change to the national gas objective. Other provisions relate to such Rules.

18—Amendment of Schedule 3—Savings and transitionals

Savings and transitional provisions are inserted into Schedule 3 for the purposes of the measure.

Debate adjourned on motion of Hon. N.J. Centofanti.

At 16:15 the council adjourned until Tuesday 12 September 2023 at 14:15.