LEGISLATIVE COUNCIL

Thursday, 22 February 2024

The PRESIDENT (Hon. T.J. Stephens) took the chair at 11:01 and read prayers.

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

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (11:02): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, the giving of notices of motion and questions without notice to be taken into consideration at 2.15pm.

Motion carried.

Bills

CRIMINAL LAW (HIGH RISK OFFENDERS) (ADDITIONAL HIGH RISK OFFENDERS) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (11:03): I move:

That this bill be now read a second time.

In so doing, I am pleased today to introduce the Criminal Law (High Risk Offenders) (Additional High Risk Offenders) Amendment Bill 2024. This bill was announced earlier this week by the Premier and myself, and I understand the opposition and crossbench members have been provided the opportunity for briefings throughout the week.

The bill amends the Criminal Law (High Risk Offenders) Act 2015 to extend the definition of 'high-risk offender' to include a person who has been convicted of assisting an offender or impeding an investigation contrary to section 241 of the Criminal Law Consolidation Act 1935, where the offence committed by the principal offender was a serious offence of violence or serious sexual offence within the meaning of the high-risk offenders act.

Pursuant to the high-risk offenders act, the Supreme Court is empowered to make certain orders to ensure that high-risk offenders remain subject to appropriate supervision following the expiration of their sentence, whether the offender is in prison or released on home detention or parole. High-risk offenders are offenders who have been imprisoned in respect of a serious sexual violence offence or a serious offence of violence, and terror suspects. The express object of the high-risk offenders act is to provide the means to protect the community from being exposed to an appreciable risk of harm posed by a serious sexual offender or a serious violent offender.

Under the high-risk offenders act the Attorney-General may make an application to the court for a high-risk offender to be subject to an extended supervision order. An extended supervision order can be made for up to five years and allows for the imposition of certain conditions; for example, a requirement for the offender to attend treatment and undertake drug screening.

The court can order that a person be subject to an extended supervision order if it is satisfied that the person is a high-risk offender and the person poses an appreciable risk to the safety of the community if not supervised under such an order. The paramount consideration of the court when determining whether to make an extended supervision order is the safety of the community.

If the conditions of an extended supervision order are breached, the offender may be summoned to appear before the Parole Board. Where the breach is found to be proven, the Parole Board may vary or revoke a condition imposed by the Parole Board or impose new conditions. Alternatively, the Parole Board may detain a person in custody and refer the matter to the court to determine whether a continuing detention order should be made. Where a continuing detention order is made, the offender may be detained in custody for the remainder of the duration of the extended supervision order.

There have been concerns expressed recently within the community about the potential application of the high-risk offenders act to offenders whose relevant offending involves assisting offenders in relation to the commission of a serious violent offence or a serious sexual offence. This public discussion has shone a light on the importance of putting beyond doubt that such offenders are within the scope of the scheme created by the high-risk offenders act.

Under the high-risk offenders act, a 'serious sexual offence' is defined to mean a person who has been convicted of a relevant sexual offence within the meaning of the definition where the maximum penalty prescribed for the relevant offence is, or includes, imprisonment for at least five years.

For the purposes of the high-risk offenders act, a 'serious offence of violence' has the same meaning as in section 83D of the Criminal Law Consolidation Act, which includes a serious offence where the conduct constituting the offence involves:

- the death of, or serious harm to, a person or a risk of the death of, or serious harm to, a person; or
- serious damage to property in circumstances involving a risk of the death of, or harm to, a person; or
- perverting the course of justice in relation to any conduct that, if proved, would constitute a serious offence of violence as referred to above.

On its face, it is uncertain whether a person who assists an offender or impedes an investigation in relation to a serious sexual offence or a serious offence of violence would be regarded as a high-risk offender within the meaning of the high-risk offenders act.

The government is of the view that such a person ought to be regarded as a high-risk offender. However, for the avoidance of doubt, the bill amends the definition of a 'high-risk offender' in the high-risk offenders act to expressly include a person who is serving a sentence of imprisonment in relation to an offence against section 241 of the Criminal Law Consolidation Act where the offence committed by the principal offender was a serious sexual offence or a serious offence of violence.

The effect of these amendments will ensure that, where the relevant criteria is met, these offenders will be taken to be high-risk offenders for the purposes of the high-risk offenders act. In the event that an application is made, it would then be a matter for the court to determine whether there are sufficient grounds for making an extended supervision order in relation to the offender. That is, the court would need to be satisfied that the offender poses an appreciable risk to the safety of the community if they are not supervised under such an order. This would require the court to undertake an assessment of the risk posed by the offender based on the individual circumstances of the case.

To that end, the bill amends subsections 7(3) and (6) and inserts new subsection 7(7) into the high-risk offenders act to allow for the court to direct a prescribed health professional to examine the offender and prepare a report assessing their likelihood of committing a prescribed offence. New subsection 7(7) of the high-risk offenders act defines a prescribed offence to include:

- an offence against section 241 of the Criminal Law Consolidation Act where the offence committed by the principal offender (within the meaning of that section) was a serious offence of violence or serious sexual offence;
- a serious offence of violence; or
- a serious sexual offence.

The court would be required to take this assessment into account when determining whether or not to make an extended supervision order in relation to that offender.

A consequential amendment has also been made to the objects clause of the high-risk offenders act to reflect that an application for a supervision order may be made in relation to various serious offenders, as opposed to serious sexual offenders and serious violent offenders only. The bill also includes a transitional provision which is intended to ensure that the amendments will apply to an offender regardless of when they committed, or when they were sentenced for, the offence against section 241 of the Criminal Law Consolidation Act.

I commend the bill to the chamber and seek leave to insert the explanation of clauses in *Hansard* without my reading it.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

Part 2—Amendment of *Criminal Law (High Risk Offenders) Act 2015*

2—Amendment of section 3—Object of Act

This clause broadens the objects of the Act to encompass additional categories of high risk offenders.

3—Amendment of section 5—Meaning of high risk offender

This clause includes in the definition of *high risk offender* persons serving a sentence of imprisonment in relation to an offence against section 241 of the *Criminal Law Consolidation Act 1935* where the offence committed by the principal offender was a serious offence of violence or serious sexual offence. Including them in this definition means that an extended supervision order could be sought under Part 2 in relation to such a person.

4—Amendment of section 7—Proceedings

This clause amends section 7 consequentially to clause 3. In determining whether to make an extended supervision order for the new category of high risk offender the court will be required to consider (amongst other things) the likelihood of the respondent committing—

- an offence against section 241 of the *Criminal Law Consolidation Act 1935* where the offence committed by the principal offender (within the meaning of that section) was a serious offence of violence or serious sexual offence; or
- a serious offence of violence; or
- a serious sexual offence.

Schedule 1—Transitional provision

1—Application to offenders

The new provisions will apply to an offender regardless of when they committed, or were sentenced for, the offence against section 241 of the *Criminal Law Consolidation Act 1935*.

The Hon. J.M.A. LENSINK (11:09): I rise to place some remarks on the record in relation to this piece of legislation which is receiving rapid support to pass through the parliament. Indeed, in terms of the Liberal Party's knowledge of it, I understand from our shadow attorney-general that we did not know about it until 5.15pm on Monday when we had a meeting, so we were not even able to have a joint party paper produced for that meeting. But, nevertheless, it is clearly a very serious issue, a loophole that has been closed in relation to extended supervision orders. The shadow attorney-general was fully cooperative in the House of Assembly when the legislation went through and we will be likewise in this house as well.

I note that regarding the extended supervision orders under the current rules, which have clearly been continued, it will remain an assessment for the court to determine whether the application that is made for an extended supervision order or not is determined by that process. This legislation extends those who are captured under the Criminal Law (High Risk Offenders) Act to those who assisted in covering up a crime afterwards, or hindered a police investigation, given that there is some ambiguity as to whether those people are currently captured.

I do not propose to canvass the issues which are very much in the public domain because I am quite cognisant of the fact that the parliament ought not to interfere in legal processes, but suffice to say there has been a lot of activity in a related space relating to an historic set of murders which shocked South Australia when we all became aware of them. But, clearly in relation to those who are engaged in such a level of covering up of heinous crimes, they ought to be considered through this process, and the court is an appropriate place for those matters to be considered. With those comments, I support the passage of this legislation.

The Hon. R.A. SIMMS (11:12): I rise to speak on the Criminal Law (High Risk Offenders) (Additional High Risk Offenders) Amendment Bill 2024 on behalf of the Greens. In doing so, I recognise that the Greens believe that the rule of law, the protection of human rights and the timely access to justice for all people are fundamental values in our democracy. We also share the belief in the importance of the separation of powers between the judiciary and the parliament, and for the reasons that the Hon. Michelle Lensink has outlined, I do not intend to talk about particular cases when speaking about this bill.

Once again, we are seeing a bill being brought to this parliament in haste and the parliament is being asked to make a decision on this within a very short time frame. Usually in the Greens we are very reticent to do that, but I do accept the government's explanation that a recent matter and the heinous crimes to which the Hon. Michelle Lensink referred have focused the government's mind on this issue, exposed a potential loophole and given them a sense of urgency around this matter. So I accept that and on that basis the Greens are comfortable with supporting the passage of this bill through the parliament.

The bill before us extends the definition of a high-risk offender to include someone who has assisted an offender. In our briefing, we were advised that the intention is not necessarily to be punitive but rather this is to add an additional protective measure to enhance the protections that are available to the community.

As I mentioned in my opening remarks, the separation of powers between the executive, the parliament and the judiciary is crucial to the maintenance of justice in our state. It is important that any legislation that passes this parliament reflects that separation. Even though this bill has eventuated in response to a high-profile case, as appears to be the case, the bill retains the decision-making capacity of the courts. This is a sensible approach when dealing with this issue. However, I do want to put on the public record some of the concerns of the Law Society.

Firstly, the Law Society recognises the principle that a person who is sentenced to a crime should be confident that they have served their term at the end of that sentence. The Law Society states in their correspondence that:

> Members of the Criminal Law Committee also noted a general principle that a convicted person in most cases should be reasonably entitled to believe that their sentence and the deprivation of liberty that entails is to be fully completed at the expiration of their sentence.

That is a very important principle in our justice system, but, as the Law Society recognises, there is another important principle for us to consider of course and that is the question of the risk to the broader community. The Greens recognise that there is significant community concern around this matter and that there is a need to ensure the community is protected, but I also would argue that that is important for the maintenance of public confidence in our justice system as well. To quote from the Law Society's contribution:

> Members of the Criminal Law Committee queried how an examination of the likelihood of reoffending in this regard can be determined with accuracy, so as to serve the paramount consideration being the safety of the community under existing section 7(5). Making such a determination becomes particularly difficult in the case of a person who has been imprisoned for a considerable amount of time.

The important factor here is that this bill ensures that a decision remains with the courts, so the individual factors and circumstances of the offender are taken into account. The Law Society, I understand, is supportive of that approach and, indeed, again I quote from their correspondence that:

> …concerns with the practical implications of this proposal are largely mitigated by the fact that the Supreme Court of South Australia retains the authority to make decisions relating to whether or not an offender is to be subject to an extended supervision order, having regard to the factors set out in the act.

In considering this bill, whilst it was in a short time frame, the Greens considered carefully the views of the Law Society, but I also read with interest the views of other people within the legal profession, in particular within the civil liberties space, and I am persuaded that this bill is worthy of support. For the reasons outlined, the Greens will support its passage through this place.

The Hon. C. BONAROS (11:17): I rise very briefly to speak in support of the Criminal Law (High Risk Offenders) (Additional High Risk Offenders) Amendment Bill 2024. As a very wise person explained to me in recent days, the bill is a logical extension of where the law stands at the moment and it not only puts beyond doubt but also seeks to expand the class of high-risk offenders who may be subject to supervision orders to include offenders who assist other offenders in committing serious sexual offences.

I think this is one of those occasions where we are all unanimously in support of this and I acknowledge the comments that have been made by the Hon. Ms Lensink and the Hon. Mr Simms and endorse those comments entirely. Based on all the material before us, despite the fact that we are dealing with the swift passage of a bill through parliament and there has been commentary around that very high-profile case involving heinous crimes, I think it is also important to say that, whilst not directly related to that case, what that case has done has actually shone a spotlight on this area. It resulted in this swift action by the government, and I acknowledge the work of the Attorney in that respect, and the need for that.

Consistent with what other members have said, I am satisfied that the bill strikes the right balance between the rights of a person—namely, an offender—and keeping our communities safe. I am particularly pleased that the bill will extend to impeding investigations or assisting offending in cases involving serious sexual offending. Again, I acknowledge the government's and particularly the Attorney-General's important work in this space.

I will not repeat everything that the Hon. Rob Simms said as he has probably raised all the points that I would have been concerned about in terms of the swift passage of a bill through this place, but we have had commentary in the media by people who are in the civil liberties space as well and are very outspoken about this in terms of the appropriateness or otherwise of this piece of legislation. All in all, the consensus appears to be the same: it does strike that right balance between protecting somebody's rights in law and the appreciable risks to the broader community, and keeping our community safe.

I should also say that I endorse again the comments from the Hon. Robert Simms regarding the importance of those well-enshrined legal principles but also the separation of powers and what role we have to play in that. I note the court's ultimate decision-making in this piece of legislation, which is critical and no doubt the factor that sees us here supporting this as a parliament in whole.

With those words, I think it needs to be noted that we have all, in a very short space of time available to us, taken on board all of the advice that has been provided, not just from the government, because we always look beyond the government when we are considering these sorts of changes, but certainly looking beyond the government in terms of what we are doing here today. I am satisfied that what we are doing is the appropriate thing and that the government's actions are not only appropriate but necessary.

I should also say that, notwithstanding anything that we are doing today, I think there is a level of satisfaction, or I acknowledge at least the government's position that notwithstanding that high-profile case, it has shone a spotlight on this and we are dealing with it swiftly, but the law as it stands is indeed broad enough to capture that high-profile case which is well underway.

I suppose, if anything, we ensure that any ambiguities are dealt with going forward and, in addition to that, take the opportunity to extend these laws to serious sexual offending, which I am particularly pleased with and, above all, keep our communities safe from any further offending and those appreciable risks that do exist. With those words, and they are brief, I indicate my support for the bill.

The Hon. S.L. GAME (11:23): I rise briefly to support the Criminal Law (High Risk Offenders) (Additional High Risk Offenders) Amendment Bill 2024. This bill aims to expand the

definition of high-risk offender and subject them to potential extended supervision orders when appropriate.

One Nation supports the right to safety for all members of the community. People who engage in crimes that threaten the safety of others or willingly support criminals in their illegal endeavours need to be held responsible for their actions. I certainly agree that anyone convicted of assisting an offender or impeding an investigation relating to a serious sexual or violent offence is a high-risk offender and should be appropriately punished.

The safety of members of the community must be the priority, and those who commit atrocious acts of violence, those who aid and abet them, and those who assist in covering up these crimes have lost the right to walk freely amongst us. This bill targets individuals who actively help to commit serious crimes, and the goal is to manage the risk posed by these individuals after their release from prison. I support this legislation to extend the definition of a high-risk offender. We must protect public safety, and I believe that is the intention of the bill.

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (11:24): I thank all members for their indications of support and also thank them for dealing with the legislation in a very timely manner. We occasionally do this; we do not do it very often. There is almost always very good reason when we consider legislation within days. I thank members for their consideration of that in this manner with this bill, and I look forward to the committee stage.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. J.M.A. LENSINK: I think a number of members have referred to the haste with which we are being asked to deal with this legislation, which I certainly appreciate needs to be done, but my colleague in the other place the member for Heysen, the shadow attorney-general, did ask why the government only chose to bring this to his attention I think via an email at something like 5 o'clock on Monday night. My question for the Attorney is: can he elaborate on why other members of this parliament were not brought into appreciating that this urgent bill was going to be brought before us until that time?

The Hon. K.J. MAHER: I thank the honourable member for her question. It is a reasonable question, as I think other members have indicated. There were particular circumstances that shone a spotlight on what I think is a defect in the legislation, the fact that if you aid and abet, essentially assist, an offender before or during the commission of a serious violent offence, you are in effect automatically captured in the definition of a high-risk offender, but if you assist after the offence, by assisting after the offence or hindering an investigation it is entirely conceivable you could be doing things that mean that offenders go on to offend further when otherwise they may have been apprehended.

It was a significant omission, we think, and shortcoming in terms of this legislation that had a spotlight shone on it by events that have occurred this year. As you would expect, we have taken a lot of advice in terms of framing it. I know my learned friend the Hon. Robert Simms has talked about the issue of the separation of powers and the Kable principle that applies to state courts as well as chapter III courts, federal courts, so we took quite a deal of advice in terms of how we might deal with this matter, how we would frame it legislatively.

On Monday afternoon this week, it was discussed and cabinet agreed to this legislation. I am advised, but I am happy to go and check, that there was a phone call with the shadow attorney-general's office at 4.21 about this legislation. I am not sure if there was a follow-up email just after 5 o'clock. That may well have been the case; I am not disputing that at all. The reason it proceeded in the manner it did was we had to have the bill settled and drafted. We had what was significant advice on how we would go about doing that, and then it went through our cabinet processes.

The Hon. J.M.A. LENSINK: Further to that, regarding the elephant in the room, which is the case that we have referred to but we are not actually talking about, the Attorney might not wish to answer this, but is he satisfied that the government is taking all actions in relation to that particular case to keep the community safe?

The Hon. K.J. MAHER: I thank the honourable member for her question. Yes, I am satisfied that we have responded, based on the advice we have received, as fully as we can.

Clause passed.

Remaining clauses (2 to 4), schedule and title passed.

Bill reported without amendment.

Third Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (11:30): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CONTROLLED SUBSTANCES (DESTRUCTION OF SEIZED PROPERTY) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 20 February 2024.)

The Hon. C. BONAROS (11:31): I rise to speak in relation to the Controlled Substances (Destruction of Seized Property) Amendment Bill 2024. I think the way that this bill has been put to us is in terms of a cost saving and an administrative measure. Based on the briefings that I have had, I understand that there are upwards of some 800 pallets of seized prescribed hydroponic equipment, seized by SAPOL, sitting somewhere in a storage facility, making up about 90 per cent of undercover storage at that facility.

As I understand it, the lease on the facility is also due to expire, making this an opportune time to destroy the masses of confiscated equipment. I note that the legislation itself provides for the ability of the Commissioner of Police to actually sell equipment, but I hasten to say that this is probably one of those areas where the commissioner might think that it would be better to destroy rather than offer this equipment for sale.

An honourable member interjecting:

The Hon. C. BONAROS: It could be used for growing tomatoes, yes, it could be used for all manner of things, but I think we all understand the reluctance of the police in this instance to consider selling this, unlike other seized equipment. Apparently, based on the briefings I have had, nobody has ever asked for their equipment back, which is probably not surprising in the circumstances. There is a very serious side to every piece of legislation, indeed to all legislation, we pass through this place.

The bill does seek to allow the removal of that equipment and immediate transportation to a destruction site, placing it in a similar category to flammable, dangerous meth labs, which may already be destroyed on site. We all appreciate that a meth lab that is discovered by police does pose an immediate and real safety risk. That is certainly captured now—and I have just been going through the legislation while we have been sitting here—within the Controlled Substances Act when it comes to the destruction of evidence.

I have to say, based on discussions I have had, I do have concerns around the destruction of evidence, generally, before a person charged with an offence has the opportunity to test the case that is being mounted against them. I note that in this instance what we are actually suggesting, in terms of the destruction of this before—the reality is that, in practice, it is likely to be months before the defendant even got anywhere close to testing the veracity or otherwise of any evidence, particularly as it relates to DNA, before the courts.

I suppose the immediate concern, taking away from the storage issue that is obviously frustrating the police and costing a lot of money, is that we are trying to weigh that against the defendant's right to a fair trial—a fundamental principle that can sometimes be lost in the sea of dollar signs—the provision that allows the destruction of evidence before a person's guilt has been determined rather than at the conclusion of the trial, or even post discovery and the expiration date of appeal, as one would generally expect.

I acknowledge there are other provisions in this bill to allow for that, but there are also appreciable risks to those provisions that apply, so I indicate that I will be moving some amendments which I have had the benefit of discussing with members of the legal fraternity—who are way more experienced in this area than I am or, I have to say, anyone else is in this place.

However, I do note there are provisions in here; in fact, I understand that certain changes that were made some years ago to this part of the legislation that deals with seized property and forfeiture actually came from a leading authority, which raised the question of defendants actually getting off on charges as a result of the early destruction of evidence. That is not something any of us wants to see.

We do not want to go down the path of convenience and destroying evidence on site if that in any way, shape or form is likely to jeopardise what could otherwise potentially be a successful prosecution because we have raised questions about the destruction of that evidence. I am not so concerned about the costs, I am not so concerned about those other factors, but I am concerned that in addition to those fundamental principles that apply to a fair trial, the other risk is that someone gets off because that evidence has been destroyed.

That is not a good outcome at all. I have said before that I am not a betting person, but I would bet that if this legislation comes in unamended we will have challenges in our courts based on this very question and will probably be back here again reconsidering some of those.

When it comes to plants themselves, this issue was dealt with as a result of those earlier cases and leading authorities, by way of ensuring there are samples kept in evidence for an appropriate time to ensure that the veracity of the allegations made against a person can be appropriately tested by both sides. I am just not convinced that in this instance convenience should be put above those principles we have spoken to in relation to this bill and the previous bill. I am certainly not convinced that convenience should be put above those.

I will say that I have had some conversations with the shadow attorney-general in this space, and I also appreciate that there are other provisions well before we get to the destruction of seized property legislation that come into play here. I also acknowledge any concerns that have been raised about this becoming the norm once this law passes, if it were to be amended, such that every lawyer in town would automatically be making this application to the courts for that order. But, again, it is supposed to be a balancing act, so on one hand we are asking for the complete destruction of this property, if the police find it appropriate, and balancing that against a person's right to a fair trial and also not compromising any case against that person.

I, personally, am not satisfied that we have reached that balance appropriately. I will ask the Attorney some questions during the committee stage debate, but I would have thought that those fundamental legal principles, including the presumption of innocence, the right to a fair trial, the right to test evidence presented by the Crown and the important element of not jeopardising any case, warranted further consideration in this piece of legislation. So, regardless of where the government and opposition sit, I indicate, based on the discussions I have had with the legal fraternity, that I will still be moving those amendments.

I note also that the Hon. Rob Simms has filed amendments that relate to the proposed cost-recovery provisions. What are coming back to me, the Hon. Robert Simms, are similar provisions that we saw creep into our protest laws last year, so here we are again. I will support those amendments. I think the other consideration in all of this is certainly in relation to the destruction—and it applies equally on this—that the onus always falls on the defendant.

In terms of this bill, I think we will see that there are other ways and means of destroying this property, if that is the appropriate thing to do, but certainly questions would be raised about how

appropriate or not the cost-recovery provisions proposed are, both in this piece of legislation and others that we have seen brought before this parliament. I do note that the Law Society reflects and shares the same concerns. They say in their correspondence that:

> It appears likely that an offender will be facing considerable difficulty in meeting an application of payment for costs, including obtaining the relevant information. It is likely to be difficult for an offender to test the amount sought, let alone put an alternate compelling view to the Court as to the reasonableness of the costs alleged to have been incurred. Accordingly, Members of the Society's Criminal Law Committee queried whether the legislation should make further provision for transparency, such as a requirement that the Commissioner on request will provide the basis of the calculation of the alleged reasonable costs.

None of these considerations should be deemed or even contemplated as sympathy for offenders and soft on crime—they are not—but they are very much in line with well understood legal principles. I suppose overwhelmingly one of the things we also have to ensure in our legislation is the right to a fair trial. I think everything I have said speaks to that but also speaks to the issue of potentially compromising prosecutions that could otherwise be successful but have questions cast over them as a result of something that comes down to a cost-saving measure by way of destroying evidence.

I do note on that front—and I will speak to this further on the amendment—that there are lots of ways of dealing with this to ensure that that property can be destroyed at a point in time once an alleged offender has had the opportunity to test the veracity of any DNA or fingerprint evidence, or whatever the case may be. With those words, I look forward to the committee stage of the debate and indicate that I will be asking the Attorney a series of questions in relation to those matters I have raised.

The Hon. R.A. SIMMS (11:44): I rise to speak on behalf of the Greens on the Controlled Substances (Destruction of Seized Property) Amendment Bill 2024. In doing so, I indicate from the outset that the Greens are not supportive of this bill. It appears to be driven by a desire to minimise inconvenience for the government and, indeed, the courts, and that is not a good reason to infringe the rights of defendants.

It is a very important principle, actually, in our justice system, that we do not junk the rights of individual defendants simply because it is inconvenient or because there is a significant administrative burden that is associated with the maintenance of justice in our system. I think the Hon. Connie Bonaros has detailed those concerns. I do not intend to reventilate those arguments, but I think the points she has made are very sound, and, indeed, the Greens would associate ourselves with those remarks.

The bill allows the police to destroy hydroponic equipment that has been used for illegal purposes at the time when they would typically seize it. It provides for cost recovery of collection, transportation and dismantling of equipment without exceeding a maximum set by regulations. I understand it contains transitional provisions that cost recovery is only for cases after the bill commences. However, it does allow the police to destroy equipment that they already have in storage. I think this is one of the key issues that the Hon. Connie Bonaros has touched upon and which does concern us in the Greens as well: the impact on potential evidence.

We are concerned, also, about the cost-recovery provisions. Indeed, I refer to correspondence from the Law Society addressed to the Attorney-General where they note that:

> The Society notes some concern as to a convicted person being required to meet these costs given the difficulty in ascertaining whether the costs incurred are indeed reasonable. As you may be aware, the Society raised similar concerns at the costs recovery aspects in amendments to section 58 of the Summary Offences Act…effected by the Summary Offences (Obstruction of Public Places) Amendment Act 2023 (SA).

I will not reopen that festering sore on our democracy, Mr President. You know my views on that draconian piece of legislation. Suffice to say the Greens are persuaded by the concerns of the Law Society, and that is why we are putting forward an amendment that would remove those particular provisions. I look forward to the discussion in the committee stage, but, as I say, we are not supportive of the bill for the reasons I have outlined.

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (11:47): I thank members for their contributions on this bill. I think all speakers have raised feedback that has been provided by the Law Society, so I will

address that in a moment. I will say, though, that we did receive feedback on the bill from organisations that regularly provide feedback on legislation before this place. I know that sort of feedback is particularly useful—I remember particularly from my time in opposition and I am sure it is for the crossbenches as well—in getting an understanding of some of the views those stakeholders have.

The Law Society posed—and I will get onto that in a minute—some questions about the element of charging that the Hon. Ms Lensink referred to, that the Hon. Mr Simms has amendments about and that the Hon. Connie Bonaros referred to. I note that the Law Society in their submission had questions about that. They did not have any questions about or raise any concerns about the rest of the bill and how it operates, and the Bar Association did provide a submission, but the submission was that they were not going to pass any commentary on this bill.

I appreciate that there were questions raised by the Law Society submission in relation to the cost issues, but neither the Bar Association nor the Law Society raised concerns about the destruction per se, which probably stands in stark contrast to some of the ways the Hon. Rob Simms was trying to draw analogies with this bill.

The Law Society did express concerns about the ability of a convicted person to test the reasonableness of the costs alleged to have been incurred by the police. The Law Society suggested including a legislative requirement for the Commissioner of Police to provide on request the basis for the calculation of the costs being sought. SAPOL has indicated they intend to provide the defendant with a breakdown of the costs that are being sought at an appropriate time in the prosecution process. The categories of cost might include, for example, a call-out fee, transportation and other costs.

It will be for the court to determine whether the costs being sought are reasonable, and in order to do so, in the usual course of things, it is expected that the court will also require transparency in order to be satisfied that the costs incurred are reasonable in the circumstances. The court is adept at using its judgement to assess such matters without further prescription. I trust that answers the honourable member's queries in relation to the cost issue and I look forward to debating other issues honourable members have in relation to this bill at the committee stage.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. C. BONAROS: I was going to ask the Attorney if he could confirm that this bill was put to the government in terms of one of those cost-saving measures insofar as we know that we have this situation now where all this hydroponics equipment is collected and has to be stored. I think, based on the advice that I have had, there are hundreds of pallets of this stuff sitting somewhere, which is onerous for the police because they do not have anything to do with it and they cannot seem to find a way to deal with it after these matters are well and truly over. Is that the government's basis from the Attorney in relation to this piece of legislation?

The Hon. K.J. MAHER: I am advised that it is believed that it was initially raised by the police but, of course, when any part of government raises suggestions that form part of these bills, advice is taken on how it would work, and how it would operate. I can confirm to the member that, yes, there are very significant amounts of prescribed hydroponic equipment that are stored.

I availed myself of an opportunity to go out to the police store facility at Ottoway a few weeks ago. I think at the point in time when they provided statistics there were something like 490 pallets of prescribed hydroponic equipment making up somewhere in the order of 56,000 individual items, so it is a very significant impost on police to be storing this equipment for sometimes years at a time until the very final conclusion of appeal rights have run out in many of these areas.

I think the suggestion was that police resources would be better spent doing what police do best: enforcing laws and catching criminals rather than spending resources storing tens of thousands of pieces of equipment.

The Hon. C. BONAROS: I stand corrected. I think I said 800; it is 490. Just on from that, there is nothing in the provisions now that prevent the police at a time that they deem appropriate from destroying that equipment and thereby eliminating the need to keep it in storage indefinitely. Can the Attorney confirm that and then I will have a follow-on question.

The Hon. K.J. MAHER: I am advised that there are provisions in the legislation that require such equipment to be kept pending finalisation of proceedings, but that there is an ability for forfeiture orders to be made which could result in the destruction. But even with those provisions as they currently stand and their application, as I have said, there are still some 56,000 individual items that under our current legislative regime are required to be stored.

I might indicate it is the government's view that, if the requirement to make individual applications to the courts on every single piece of equipment was put into this bill as proposed by the honourable member, it would probably render the whole purpose of this bill null and void and there may be no point proceeding with it.

The Hon. C. BONAROS: I appreciate that and I suppose in terms of that balance that we are talking about, the right to a fair trial and those well entrenched legal rights that exist are what we are weighing against rendering this bill null and void.

From what the Attorney has just said, is he aware of any case law in this area where there have been acquittals based on the destruction of evidence, particularly in relation to previous changes to these relevant sections where there were acquittals as a result of evidence being destroyed before the veracity of that evidence could be tested by the defendant?

The Hon. K.J. MAHER: My advice is that, having requested information from SAPOL and the DPP, they could not identify any cases where the defence had requested equipment to be tested.

The Hon. T.A. FRANKS: Supplementary: does that include a recent Victor Harbor case?

The Hon. K.J. MAHER: I am advised that advice was provided at the start of when this bill was drafted.

The Hon. C. BONAROS: Is the Attorney aware of any case law preceding those relevant sections that actually gave rise to the need for those relevant changes to provisions around cannabis plants themselves and the need to require clippings from those plants for a period for the same reasons that I have outlined today? In other words, are there pre-existing case law outcomes that resulted in an acquittal that saw the changes that we are now amending again to expand the breadth of because of an acquittal over DNA evidence and so forth?

The Hon. K.J. MAHER: I thank the honourable member for her question. I am not aware of any case law, but we have not specifically looked for case law in relation to the illegal drugs themselves rather than the equipment, which is what we are talking about in the case of this bill.

The Hon. C. BONAROS: One of the issues that has been raised in relation to this bill is the further clogging up of the courts in terms of orders being made and normalised as part of this process. Can we rule that out in terms of the destruction of this sort of equipment and any subsequent issues coming to light in terms of the veracity of the evidence that would have been provided from that equipment and it not being made available for testing by defendant's legal counsel?

The Hon. K.J. MAHER: I thank the member for her question. In the development of this legislation, as I outlined before, views were sought from the Bar Association and the Law Society, amongst a range of others. As I said, the Law Society raised concerns that go to the Hon. Robert Simms's amendments, but on any of the issues that the member is currently raising, neither of those groups provided any commentary or concerns. The police and the DPP have been involved in the development of this bill and they have not raised any concerns. I think the honourable member talked about an inadvertent consequence in her view that it could impede a prosecution. That is certainly not something that those who conduct these prosecutions very frequently have raised with us.

I think the honourable member's first question was in terms of making an application to the court for every piece of equipment. Yes, it is entirely conceivable that, with 56,000 pieces already in storage and pallets' worth being seized regularly, if there was a requirement for a court order for

every one of those tens of thousands of pieces of equipment, it may be a very significant drain on the court system.

Clause passed.

Clause 2.

The Hon. C. BONAROS: I move:

Amendment No 1 [Bonaros–1]—

Page 2, after line 14—Insert:

(2a) Section 52E—after subsection (6) insert:

(6aa) If a charge is laid, or is to be laid, for an offence in relation to property referred to in subsection (2)(c), the property must not be destroyed under subsection (2) unless—

(a) the defendant has, by written notice, consented to the destruction of the property; or

(b) the Magistrates Court has made an order allowing the destruction of the property.

(6ab) The Magistrates Court may make an order under subsection (6aa)(b) if the Court is satisfied that the destruction of the property is justified in the circumstances and will not affect the defendant's right to a fair trial.

The amendment itself is very straightforward. It provides that if a charge is laid or is to be laid for an offence in relation to property—namely, the equipment that we have been talking about—the property must not be destroyed unless the defendant has, by written notice, consented to the destruction of the property, or the Magistrates Court has made an order allowing the destruction of the property. The Magistrates Court may then make an order, if the court is satisfied that the destruction of the property is justified in the circumstances and will not affect the defendant's right to a fair trial.

There are two points that I have been banging on about today: one is the right to a fair trial, and the other is compromising what could otherwise be a successful prosecution on the basis that evidence has been destroyed. I do not make either of those points lightly. I do note the Attorney's comments in relation to the Bar Association's position and the Law Society's position. I note also that I have had a number of discussions with members of those bodies, including the President of the Bar Association, in relation to this.

When I move this, I say that just in the last 24 hours the number of examples and scenarios that we have come up with are endless. You could have a situation where you have a share house and there are questions over whose fingerprints were found on equipment. You could have a question over something that is deemed to be hydroponic equipment but is actually plants growing in grandma's backyard, and the police ripping out an irrigation system.

I am sure someone in here will say, 'That's all well and good, if grandma's irrigation system is ripped out, or whatever the case may be, her hydroponics for growing tomatoes, then she could be compensated for that.' The underlying premise in relation to any number of scenarios that could validly exist is that the defence will never have the opportunity to test the veracity of the prosecution's case if the evidence is destroyed.

I am not suggesting by this amendment, by any stretch of the imagination, that we keep it indefinitely. I think the first part of the amendment—which actually says the defendant could, by written notice, consent to the destruction—could deal with some of that aptly. We are leaving it to the courts, and we have just talked about the importance of the court's discretion in this area to make those determinations, but if a court genuinely thinks that something could compromise a defendant's right to a fair trial, then that is the only basis where you could see such an application being made.

Again, we are not talking about indefinite keeping of this stuff. There are points along the line of one of these cases where the police could then reasonably step in and seek to destroy the evidence after the committal process. The reality also is that it will be months, probably two or three or four months, before a defendant has managed to get legal advice around their issue, let alone test

the veracity of the evidence against them. In this case we are talking about evidence that would have been destroyed.

I note what the Attorney said in relation to the potential for acquittals, but it is a very real risk that we run when we start destroying evidence. I note also the difference between having to keep this evidence versus meth lab equipment, because that is an appreciable risk of exploding and so we deal with that accordingly. I do note also previous changes to this legislation that arose out of previous acquittals in relation to plants themselves and the forensic evidence around those plants. That is actually why we have those provisions in the first place.

If you have a case that raises doubt over the prosecution's case and ends in an acquittal, that is not a good outcome, and we are giving rise to the potential, at least. I do not need to tell anyone in this place that, if there is that sort of potential, lawyers are going to challenge it to the nth degree. The notion that somehow we are going to clog up the courts with applications to the Magistrates Court and the court is not in a position to make its own determination as to whether something is reasonable in the circumstances based on that fundamental principle of a defendant's right to a fair trial is one consideration.

But at the other end of that is the very real risk that destroying this at the initial point of it being discovered could compromise prosecution cases, and that is not a good outcome. It is not a good outcome for the Crown, and it is not a good outcome for the community. There is nothing in here that is unreasonable. I cannot see how we could possibly be saying that the convenience to SAPOL of having to store this stuff indefinitely, which would not have to be done under this because we can pick a point in time at which it is now okay to destroy this, outweighs the defendant's right to a fair trial and the risk that exists in terms of acquittals and challenges as a result of the destruction of evidence.

The Hon. K.J. MAHER: I thank the honourable member for her contribution. I note her genuine concerns that she has raised in relation to this. The government does not share those, though. As I have said, neither SAPOL nor the DPP can remember a single occasion when the issue of the equipment has been tested by the defence in relation to one of these charges, and I would think there have been many thousands of these charges go through our courts given there are 56,000 separate items still stored at the Ottoway facility.

In relation to the honourable member's hypothetical situation of grandma's hydroponic tomatoes, there would be all sorts of different ways that the defence could raise and test that as a theory, including having grandma on the stand to talk about her hydroponic tomatoes. The idea that because the equipment is destroyed there is not that possibility of a defence being raised, in that hypothetical example if it were to happen, I am not sure is necessarily the case.

The other thing I am advised is that one of the reasons that contributes to there being the need for so much storage of equipment is that it is not uncommon that when hydroponic equipment is seized the police cannot locate a particular defendant, that is, you have to prove that nexus between the person and the equipment. There is equipment for which a case has not been finalised because no defendant can be ascertained that is sitting there contributing to these 56,000 separate items.

So whilst I acknowledge the honourable member's concerns, the fact is that in the consultation the legal stakeholders—the Law Society, the Bar Association, the ALRM, the Legal Services Commission—did not raise concerns with prejudice to defendants, and in the consultation with the police and the DPP there were no concerns raised with prejudicing a prosecution, and we are comfortable that this strikes the right balance.

The Hon. J.M.A. LENSINK: I know the mover of this particular amendment has had discussions with the shadow attorney-general, the member for Heysen, on this particular topic. I think she has canvassed well in her contributions that it is potentially not ideal. I think we all appreciate that and that the volume of equipment has practical outcomes. I think she has put it well that we are seeking a balance. Our shadow attorney-general is particularly concerned that these amendments moved by the mover may have implications for a number of court applications that may well be vexatious or may well become a default position for defendants, so on balance we are not able to support them, but we do appreciate her bringing them to the Legislative Council for debate.

Amendment negatived.

The Hon. R.A. SIMMS: I move:

Amendment No 1 [Simms–1]—

Page 2, lines 15 to 20 [clause 2(3)]—Delete subclause (3)

This amendment deals with the issue I spoke about recently; that is, it removes the provision that allows for the cost recovery, and that responds to the concerns that have been expressed by the Law Society.

The Hon. K.J. MAHER: I thank the honourable member for moving this amendment. I have acknowledged that, of the legal organisations that we wrote to, the one comment that came back was from the Law Society about the cost issue. In the summing-up of my second reading, I summarised that it would be up to a court to determine whether the costs being sought are reasonable and in order. It would be expected that the court will also require transparency and be satisfied that the costs actually incurred were reasonable in the circumstances. So we are comfortable with what is in the bill and will not be supporting the honourable member's amendment.

The Hon. C. BONAROS: I indicate that I will be supporting the amendment. I just reflect on the Attorney's words in terms of whether the court thinks it is reasonable and how that stands in contrast to the last amendment that was just moved. In this instance, I think the Hon. Robert Simms has made a very valid point, which is backed by the position of the Law Society and others. I indicate that I will be supporting it.

The Hon. J.M.A. LENSINK: The Liberal Party will not be supporting this set of amendments. We think it is appropriate that the court makes decisions on these matters, and we appreciate that there may be opportunities for cost recovery, limited as they are likely to be.

Amendment negatived; clause passed.

Schedule and title passed.

Bill reported without amendment.

Third Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (12:13): I move:

That this bill be now read a third time.

Bill read a third time and passed.

BOTANIC GARDENS AND STATE HERBARIUM (MISCELLANEOUS) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 8 February 2024.)

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (12:14): I rise on behalf of the opposition in support of this amended amendment bill. It is wonderful to receive the amended version of this bill in this chamber, as it futureproofs the legislation against those who may try to change access conditions to our beloved Botanic Gardens. It amends the language and ensures that the public can enjoy the Adelaide Botanic Garden, the Mount Lofty Botanic Garden and the Wittunga Botanic Garden for free, along with free parking now and into the future.

The Adelaide Botanic Garden opened in 1857, and covers 50 hectares of stunning garden and heritage architecture. It is an apex of curated environmental significance and protected heritage. The Palm House is a personal favourite of mine; imported from Bremen, Germany, in 1875, and housing a collection of rare and endangered plants from the island of Madagascar.

The Wittunga Botanic Garden opened in 1975 and is loved by its community. The focus on native plants is wonderful, and it feels like you can see the entire state in only 13 hectares of compact and considered plantings.

Finally, the Mount Lofty Botanic Garden opened in 1977, our state's largest botanic garden, encompassing 97 hectares. This is a stunning garden. Established as a cool climate arboretum, it holds incredible views across the Mount Lofty Ranges and to metropolitan Adelaide, with a collection of plants to make interstate rivals green with envy.

We know in this place, as members of the Legislative Council, that words matter—in fact, we spoke about this the other day—and words in legislation matter. In this case, the protection of access to our favourite places such as the Botanic Gardens matters. I note a line in *Hansard* from the member for Waite regarding this bill, stating, 'The amendment bill before us was never intended to cause the issue it has.' Well, perhaps if the words of that legislation had been considered in full before being tabled it would not have caused such a debacle.

I refer to the second reading explanation of the responsible minister in the other place regarding the original wording of this bill. In that very short speech the minister herself pointed out the ability of this original legislation to introduce new paid parking on Sundays and public holidays. I quote: 'the option to introduce paid parking on Sundays and public holidays'. That is on the *Hansard* and is available online for all to read.

In that same speech, the minister also said that these changes were made in line with 'community expectations'. That was not the sentiment my team and I received when we sought feedback on this legislation in the community.

We are very pleased with the amendment. It is the right thing to do, and it is the right outcome. I am not sorry, though, that the government, particularly the minister in the other place, has felt uncomfortable at being called out for getting it wrong—indeed, that is why the opposition exists—and it is no surprise that the public was outraged by the implementation of this piece of legislation, which would allow for a picnic tax, a charge to visit the general gardens and permanent exhibits, especially when this government promised no new taxes.

To scream and shout in the other place that we are a party of liars is, in fact, the only lie in this entire debate. We pointed out the flaws in the government's legislation and they refused to amend it, so we simply shared the truth with the community. We simply shared that their legislation allowed for the ability to charge for entry, that their legislation allowed the ability to charge for car parking. That is true, is on the record from the minister herself. It was never a lie and it was never misinformation.

I would especially like to point out that it is undignified of a member of parliament, with their power and position, to accuse other people's staffers of being liars and scammers when they are, in fact, doing their job effectively. If you find it personally vexing that they are doing it so well then that is on you, not them. I would ask the government to leave staff out of political shouting matches.

The accusations that our party was attempting to 'tarnish the reputation of the beloved Adelaide Botanic Garden' could not be further from the truth. Any connection between the current board and the gardens is just that, a connection; they are not the gardens, and it is not necessarily this board that made us wary of the loophole in the previous iteration of this legislation.

As much as possible a bill should be written to exist in perpetuity. Make no mistake: if this bill had not been amended the original wording of this act would have allowed for the introduction of paid parking on Sundays and public holidays, and would have allowed the Botanic Gardens to charge entry fees at our gardens.

We believe, as does the current board of the Botanic Gardens, that this is not in the spirit and the intention of these public and much-beloved spaces. The simple truth is the decision and agreement of one board in the present does not stipulate the actions and decision-making of future boards. The only thing we were attempting to tarnish, to coin a phrase from the government, was the government's own reputation, which could have been avoided if the minister had paid attention to her own bill.

This was not about political pointscoring, but they are the ones who have dragged the Botanic Gardens board into this fray. It is not the board's responsibility to ensure the perpetuity of legislation, and it is not the board's responsibility to think of all the unintended consequences of poorly worded legislation. That is what they rely on their minister for.

Our job as an opposition is to hold that minister and her colleagues to account, to ensure there is no opportunity for a picnic tax, to share the truth with the community and to ensure that this error is and was corrected. The fact that the government amended their own bill to correct this error is an admittance of that sloppiness and a testament to the truth in the opposition's claims.

The gardens are for all. The Rhododendron Gully in the Mount Lofty Botanic Garden is in full bloom and is a sight to behold. The Magnolia Gully trail, I believe, outshines that of the national plantings in Canberra. We are pleased to support this version of the bill, ensuring that general admission to the Botanic Gardens will continue to be permanently free of charge, as has always been the case and should always be the case, for the people of South Australia and those who visit our beautiful gardens.

The Hon. T.A. FRANKS (12:21): I rise to speak on behalf of the Greens in support of the Botanic Gardens and State Herbarium (Miscellaneous) Amendment Bill 2023. A summary of this bill is that it enables the board to address the issues of entering into a broader range of commercial arrangements, including commercial partnerships and joint ventures, as requested by the relevant board. It also has an option to introduce paid parking on Sundays and public holidays as a future possibility, in line with similar changes occurring across the City of Adelaide.

I note that, yet again, here we are in post-truth politics in this place, unfortunately. Again, I say to the Liberals: I know what you did last summer, which is that you lied about a picnic tax. Here we are yet again this week in parliament, debating what should be straightforward but which has caused undue consternation in the community.

The Greens do understand that our green space needs to be a priority, with services to our community. This bill is straightforward. There is no mention of a new so-called picnic tax, as the Liberals campaigned upon, for South Australians. It instead has done what the Botanic Gardens and State Herbarium board has asked it to do: broadening their powers to engage in commercial activities that are in line with its broader purpose, simply bringing it into the 21st century.

There is a balancing act between commercial engagement and sponsoring community events, and this will allow them to attract more visitors to our much-loved gardens and allow us all to enjoy them in different ways. We have been so lucky to have a city located adjacent to stunning green spaces, where many of us do enjoy a picnic, a wedding or an event, such as the Fringe, Illuminate, Moonlight Cinema or WOMAD, where some of our most fascinating and stunning wildlife call home.

In November 2023, the Adelaide Botanic Gardens won a world accolade at the International Garden Tourism Awards as a garden of the world worth travelling for. Fortunately, for those of us in Adelaide we do not have to travel that far. We cannot also forget our other botanic gardens: Mount Lofty, dedicated to the cultivation of the world's cool climate plants; and Wittunga, a hidden oasis with an extensive collection of waterwise plants.

To ensure the board can continue to maintain these beautiful gardens and deliver these dynamic events that we all enjoy so much, their powers need to be updated and extended from what is currently in the act. This is a change that mirrors the powers of museums and art galleries, for example. It is not controversial, it should never have been controversial. The Liberal opposition made it controversial by engaging in a little more of what I am calling post-truth politics.

Bringing more people to experience our gardens and all they have to offer from all over the world is a change the Greens welcome and are very happy to support. We do bemoan that the debate has come to this. I draw the attention of members of the council and the community to two pieces of correspondence. One is dated 13 November 2023, and is addressed to the Hon. David Speirs MP, Leader of the Opposition. It comes from the Board of the Botanic Gardens and State Herbarium and is signed off by Judy Potter, the Presiding Member of the Board of the Botanic Gardens, and cc'd to the relevant minister. The letter reads:

Dear Mr Speirs

On behalf of the Board of the Botanic Gardens and State Herbarium, I am writing to you to express our disappointment at the 'No Picnic Tax' campaign you are prosecuting in South Australia in response to the proposed changes to the Botanic Gardens and State Herbarium (BGSH) Act 1978.

A central tenet of this campaign is the incorrect claim that these changes to the Act will result in the introduction of general entry charges to the Adelaide Botanic Garden, the Mount Lofty Botanic Garden and the Wittunga Botanic Garden.

As I carefully explained to Mr Batty, and the staff from your office when we briefed them on the changes of our act on 28th September at your request, the Board has never had any intention to levy a general entry charge to the Botanic Gardens and has no intention of doing so in the future. Indeed, further amendments to the Act, which I am advised were filed in Parliament on October 18th, enshrine this stipulation into the Act.

No proposed changes to the Act reference general entry charging, with the exception of special sites and projects that have been subject to entry charges for many years, and across multiple governments. Given that we were very clear with your team on this, statements that there is a plan to introduce general entry charges across our sites, and the stress that this claim is causing our loyal visitors and our staff, are particularly disappointing. Your passion for the gardens is well understood to us and we would like to ensure you fully understand the Board's position and intentions.

Free daytime general entry to BGSH sites is a fundamental part of our ongoing success in serving the community of South Australia. Thanks to the hard work, innovation and creativity of the Gardens' staff in building on our core offer with special events and programs aimed at growing and diversifying our audience, we have seen significant growth in visitation over recent years, leading to a 6 year high of 1.3M visits to the Adelaide Botanic Garden in 2022/23.

Under your letter of direction as our Minister (17th September 2021), the Board was asked to pursue commercial opportunities to supplement our State Appropriation within the extent of our powers. We have found that the 1978 Act is limiting in what we can pursue and needs to be updated to be fit-for-purpose in 2023 and beyond. The fundamental objective of these changes is to give the Board the flexibility to pursue commercial opportunities consistent with our mission and purpose, and it is the responsibility of the Board and Minister of the day to ensure that these activities are in line with that purpose and with community standards.

Parking fees at our sites have long been part of our operation, and funds raised from these go directly to support the important horticultural, conservation and public engagement work of the BGSH. The modification of the 1978 Act's blanket ban on parking charges on Sunday were proposed to better enable the Board to manage parking demand at a time when parking charges apply across the City on Sundays. Again, I was clear with your office that there was no immediate plan to implement this, rather it was to give the Board the flexibility to respond to parking demand over the future life of the act.

Mr Speirs, the Board takes its responsibility to ensure that the BGSH serves its community very seriously. The Board and I would strenuously oppose any proposals to introduce general entry charging to the sites we manage and the suggestion that we are seeking to do so is a misrepresentation of the Board's position, and of the changes that have been proposed to the Act. On behalf of the Board, I ask you to correct the record on the suggestion that general entry charges are being introduced, or even contemplated, by the Board.

Noting we have not discussed this with you in person as you were not able to attend the briefing, I would welcome the opportunity to discuss this matter with you at your convenience.

Yours sincerely

Judy Potter

Presiding Member

This was followed up on 2 February 2024 with, again, a letter to the Hon. David Speirs, Leader of the Opposition, which reads:

Dear Mr Speirs

I refer to the Board's letter to you on 15th November 2023 regarding your campaign around entry and parking charges at the Botanic Gardens and State Herbarium sites. It has come to our attention that, in spite of the Board clearly setting out the fact that this campaign is promulgating misinformation, there are still leaflets being handed out containing such misinformation and suggesting that general entry and parking charges are being planned for the Wittunga Botanic Garden. To be absolutely clear, there is no plan from either Board or Government to introduce any such charges at this garden. Any suggestion to the contrary is false.

I can also state that suggestions that we have seen in the media that either the Premier or the Deputy Premier have sought to have general entry charges introduced to any of our sites are also incorrect.

The Board is particularly concerned by the continuation of this campaign of misinformation, after I have both briefed your office on the actual intents of the Board, have written to you to formally correct the record, and have flagged the negative effect this is having on our community, visitors and staff.

I note that we have not received a response from you to our earlier letter. I remain available to meet with you to brief you directly in case you remain unclear on any aspect of the amendments to the BGSH Act.

Yours sincerely

Judy Potter

Presiding Member

Board of the Botanic Gardens and State Herbarium

I seek leave to table these two documents, the letters of 15 November and 2 February, from the Board of the Botanic Gardens and State Herbarium presiding member to the Leader of the Opposition.

Leave granted.

The Hon. T.A. FRANKS: It had not been my intention to read those letters out today. They were provided to me in the briefing. I share the concerns of the board about the lies and misinformation put out by the Liberal opposition with regard to this particular bill. It should not have been a controversial bill. Indeed, it was a bill initiated at the request of the Leader of the Opposition when he was minister. Politics is yet again being played in this place. The Greens support the bill. We look forward to its speedy passage and we hope that in the future, the Liberal Party will not continue to play post-truth politics with the people of South Australia.

The Hon. E.S. BOURKE (12:32): The Botanic Gardens of South Australia, like other cultural institutions, deserves the opportunity to avail itself of the choice to raise funds—for example, through special events and productions—so it may continue to deliver the existing and new services and events for which it is renowned and beloved by South Australians, visitors and many to our state. Quite importantly, such funds may also support the Botanic Gardens to continue to undertake and expand its important work of research and conservation.

The Botanic Gardens and State Herbarium Act will be amended to enable the board to raise funds where they are needed for such purposes. It is also important for the Botanic Gardens of South Australia to be able to raise these funds to maintain and improve the gardens and their assets in a sustainable and ongoing way. The changes proposed in this bill will, quite simply, assist the board to broaden their methods of raising money to support the work of the Botanic Gardens.

These amendments bring the Botanic Gardens in line with very similar acts, like the SA Museum and Art Gallery of South Australia acts, as well as acts under jurisdictions with very similar bodies. Currently, there is a specific list in the Botanic Gardens act of commercial activities that the Botanic Gardens may pursue and raise revenue from. Because this is a prescriptive list, it means that many commercial activities which are not listed are not open to broader consideration.

The amendments will mean that the list in the act will be replaced by general functions of allowing the Botanic Gardens to seek revenue from activities which support its work. In addition, the regulations limiting the days on which parking charges may be levied haven't been deleted, which will reduce flexibility to the board in deciding how and when car parking revenue may be raised. I am advised that the types of activities the Botanic Gardens might engage in, once these amendments are passed, include the development of new products for sale, licensing images from the beautiful collections or establishing new special access programs and services.

It is actually really exciting to think of the possibilities that are now open to the gardens to increase exposure and public awareness of these unique places, while also creating revenue to support their important conservation work that we see at our museums and also our art gallery in South Australia, which I hope everyone in this gallery would support.

Following the passage of this bill, the Botanic Gardens will begin developing ideas and seeking new commercial partnerships. There are many options that have not yet been explored. One option not currently under consideration is charging an entry fee to access the Botanic Gardens. This has been well covered by the Hon. Tammy Franks. I thank her for tabling the letter, so I will not go over that letter again.

The Hon. T.A. Franks: Two letters.

The Hon. E.S. BOURKE: Two letters, sorry, thank you, the Hon. Tammy Franks. It has been made clear that the act currently permits the charging of entry fees. The board has made it

clear that they have no plans to begin charging entry fees for the public for general access and there is no reason to suggest that changes proposed in this bill lead to the current arrangements being changed. However, it is the case that under the current arrangements, fees are applied for access to certain special events and services. Regulated charges apply for the range of the gardens' sites and services. These are reviewed on an annual basis.

It is regrettable that the opposition has chosen to spread misinformation about this and to such an extent that the board of the Botanic Gardens asked the opposition to publicly correct the record. As I said, the Hon. Tammy Franks read and tabled the letters that were written to the opposition leader. *The Advertiser* on 22 November had the headline 'Correct the record: Botanic Gardens board berates Libs over picnic tax claims'.

They go on to say that the board's presiding member, Judy Potter, said that Mr Batty from the other place was personally briefed about the board having no 'intention to levy a general entry charge to the botanic gardens'. It is therefore disappointing that they continued to run this misinformation.

I would hope that across all sides of the chamber we can all agree that the Botanic Gardens of South Australia are a fantastic asset to our community. They contribute wonderfully to public enjoyment, tourism and conservation. In November last year, the Adelaide Botanic Gardens was named as a 'Garden of the world worth travelling for in 2024' at the International Garden Tourism Awards, a well-deserved recognition of excellence. All our Botanic Gardens, as well as our state board, are cherished institutions that we are fortunate to have in our community.

The Hon. C. BONAROS (12:37): I rise very briefly to speak in support of this bill and, more importantly, to echo the sentiments just expressed by the Hon. Tammy Franks and the Hon. Ms Bourke. I feel compelled to do so because of the misinformation that has, once again, caused undue unrest in the community as a result of fearmongering by the opposition.

The first point I will make is that—and I think the Hon. Tammy Franks has summed this up perfectly, so I am not going to repeat everything she said—the fact we are back here having to speak to something to quell what has become a frenzy in the community amongst those who love visiting the Botanic Gardens, the undue consternation in the community over something that was never at risk, is disappointing, especially to do so under the guise of wanting to protect and preserve those gardens for public access. I think the opposition should reflect on the comments that have been made in this place today with respect to an apology because we have all been offered the same briefings.

I find myself questioning: if we were so concerned about this picnic tax, why it is that the opposition when they were in government never sought to amend the legislation, given that it has always provided the gardens with the ability to charge for admission, if that was ever their intention? The simple answer to that is because we all know that that has never been their intention, despite those provisions having existed in this legislation for so many years.

This should have been—and I am hoping after this it will be—a relatively simple passage of this bill, but the reality is that we have all had the benefit of enjoying these gardens, which are immaculate and are renowned around the world. It does not help stirring up these sorts of campaigns and undoing the amazing work that the good people at the Botanic Gardens do.

On that note, I acknowledge also the briefings and discussions I have had with the Director of the Botanic Gardens, Mr Michael Harvey—who is here with us today, in fact—not only for the amazing work that he has done, and hard work I have to say, because we know that this legislation has not been changed since 1978. It takes an extraordinary amount of money, and everybody at the gardens works on what can only be described as a very tight budget to provide to the South Australian community, and indeed the broader community, the gift that is the Botanic Gardens in South Australia.

Rather than focus on the amazing work that is done at the Botanic Gardens to make that such a special spot in Adelaide, we have sought to stir up this media frenzy around picnic taxes and things that just were never envisaged. I do question the opposition's intentions around that, particularly given they always had the ability to fix this when they were in government.

I should also note that times have moved significantly since 1978, and so if we want to be able to maintain those beautiful gardens to the level that we have today, then obviously the gardens have to become, I suppose, more adaptable and more creative in the sorts of things that they can do there, the special events that we all visit and enjoy at the gardens, which do enable them to raise the capital to be able to keep the gardens in the pristine condition that they are in now.

That was really the intention of this bill, nothing else. I did not enjoy the phone calls either saying, 'You are not going to support the picnic tax, and you are not going to support the parking fees that are going to be implemented by the gardens,' because we know that that was never the intention. I thank everybody at the gardens, not only for the amazing work they do to keep them in the pristine condition they do, on the budget that they have, but also for correcting the record in relation to what the intention behind this piece of legislation is.

I fully support the comments that other members have made in this place, and they have done a much more eloquent job than I have. I thank everybody at the gardens again for correcting the record, not just for our sake but for the sake of all South Australians who enjoy and benefit from those pristine gardens.

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (12:42): I thank all honourable members for their contributions on this bill. The government is certainly looking forward to passing this bill and putting behind us the shameful and harmful misinformation campaign that so many people have referred to that was instigated by the opposition, and passing the bill to enable the board of the Botanic Gardens to modernise and continue its operations.

As has been set out by the Deputy Premier, in another place, and by members here, the bill's primary purpose is to clarify the board's ability to raise money in diverse ways to support the work of the organisation. These amendments bring the act closer in line with the SA Museum and Art Gallery SA acts and other acts of jurisdictions establishing such comparable bodies.

Despite the efforts of many members opposite to mislead the public—many of whom are already struggling with cost-of-living pressures—there has never been, as has been articulated by other members and in correspondence from the Botanic Gardens board itself, an intention to introduce things such as paid parking on Sundays, nor to charge any sort of admission fee, general admission fee to the gardens, nor to charge for parking at the Wittunga Botanic Gardens. With that, I commend the bill to the chamber and look forward to the committee stage.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (12:46): I move:

That this bill be now read a third time.

Bill read a third time and passed.

Sitting suspended from 12:46 to 14:16.

Parliamentary Procedure

VISITORS

The PRESIDENT: I acknowledge the students from the Sunrise Christian School in Naracoorte in the gallery. Welcome.

PAPERS

The following paper was laid on the table:

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

Report by the Department of Treasury and Finance on the Review of Amendments to the Land Tax Act 1936

Ministerial Statement

STATE PROSPERITY PROJECT

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:17): I table a copy of a ministerial statement made in the other place by the Premier on the topic of State Prosperity Project.

Parliament House Matters

RECOGNITION OF SERVICE

The PRESIDENT (14:17): Before I call questions without notice, I acknowledge the presence in the chamber today of one of our Hansard reporters, Mrs Jann Fyfe. I wish to acknowledge her significant service to this parliament, as well as that of the Deputy Leader of Hansard, Mr John Clarke, in the production of the official records of debate, *Hansard*. They have reached over 50 years of service in the public sector, 47 of those years in reporting for Hansard and 37 of those years specifically with the Parliamentary Reporting Division of the Joint Service, established by the Parliament (Joint Services) Act in 1985.

Honourable members: Hear, hear!

Question Time

O'HANLON, MS C.

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:18): I seek leave to make a brief explanation before asking the Hon. Reggie Martin a question concerning Cressida O'Hanlon.

The Hon. T.A. FRANKS: Point of order: the member has not used the appropriate standing order or processes.

The PRESIDENT: Sorry, could you repeat that, the Hon. Ms Franks?

The Hon. T.A. FRANKS: The member has not applied the appropriate standing order or processes or given an explanation under that standing order for the purposes of her question. She has not used the appropriate standing order, which I am not going to number right now because the member who has just asked the question should know the number.

The PRESIDENT: The honourable member, under standing order 107, must identify:

> At the time of giving Notices, Questions may be put to a Minister of the Crown relating to public affairs; and to other Members, relating to any Bill, Motion, or other public matter connected with the business of the Council, in which such Members may be specially concerned.

So you just have to identify on what basis you are asking the question. Can I say that the honourable member is not a minister; he can choose to answer or not answer as he sees fit.

The Hon. N.J. CENTOFANTI: On accountability. I seek leave.

Leave granted.

The Hon. N.J. CENTOFANTI: Parliamentary records show that Ms Cressida O'Hanlon was working for the member's office on 7 February 2023. It has also been revealed that on the same day Ms O'Hanlon received an email from her husband, James O'Hanlon, asking her to arrange a meeting with the minister or Chief of Staff to discuss securing taxpayer funds for Mr O'Hanlon's business, Citadel Secure. My questions to the honourable member are:

1. Can the member advise the council whether his former staff member, Ms Cressida O'Hanlon, was working for him on Tuesday 7 February 2023?

2. Did Ms O'Hanlon speak with the member concerning her husband's desire to meet with the minister or Chief of Staff to secure funding for his business?

3. Does the member agree that this is entirely inappropriate for a member's parliamentary staffer to use their privileged position to access meetings with ministers or senior staff for personal gain?

The PRESIDENT: Before I invite the member to respond, Clerk, do you have a view? The reality is that standing order 107 is as to whether this refers to the business of the council. I do not see that the business of the council. However, if the Hon. Mr Martin wishes to respond he can, otherwise we will go to the next question.

The Hon. R.B. Martin: I agree with your determination, sir.

O'HANLON, MS C.

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:21): I seek leave to make a brief explanation before asking the Attorney-General a question concerning Cressida O'Hanlon and accountability.

Leave granted.

The Hon. N.J. CENTOFANTI: Parliamentary records show that Ms Cressida O'Hanlon was working for a member of this council on 7 February 2023. It has also been revealed that on that same day Ms O'Hanlon received an email from her husband, James O'Hanlon, asking her to arrange a meeting with the minister or Chief of Staff to discuss securing taxpayer funds for Mr O'Hanlon's business, Citadel Secure. My questions to the Attorney-General are:

1. Can the Attorney-General confirm if Ms Cressida O'Hanlon was working for a member of parliament on Tuesday 7 February 2023?

2. Did Ms Cressida O'Hanlon speak with any parliamentary member concerning her husband's desire to meet with a minister or Chief of Staff to secure funding for his business?

3. Does the Attorney-General agree that it is entirely inappropriate for a member's parliamentary staffer to use their privileged position to access meetings with ministers or senior staff for personal gain?

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 question. Unfortunately, there seems to be not a single thing in any part of that question that has anything to do with my ministerial responsibilities to this chamber.

The PRESIDENT: The honourable Leader of the Opposition, your third question?

Members interjecting:

The PRESIDENT: Order! I just want to listen to the question, please.

CROSS BORDER COMMISSIONER

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (14:23): I seek leave to make a brief explanation before asking the primary industries minister a question about the Cross Border Commissioner.

Leave granted.

The Hon. N.J. CENTOFANTI: Pursuant to section 9 of the Cross Border Commissioner Act 2022, the minister may appoint a person to act as the commissioner during any period for which no person is, for the time being, appointed as the commissioner. My questions to the minister are:

1. Has the minister appointed a person under section 9 of the act to act as the Cross Border Commissioner during this period where there is no commissioner?

2. If not, why not, given the minister's emphasis on the importance of this role in the past?

3. Will the minister concede that her failure to appoint an acting Cross Border Commissioner is another example of pretence without substance?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:24): I thank the honourable member for her question. The answer to the first question is, no, we haven't appointed a temporary Cross Border Commissioner. The answer to the second question, in regard to the reason, is that we have put arrangements in place so that queries can be dealt with for anyone who wants to approach the office of the Cross Border Commissioner. The third question was so ridiculous I won't deign to answer it.

YADU HEALTH ABORIGINAL CORPORATION

The Hon. M. EL DANNAWI (14:24): My question is to the Minister for Aboriginal Affairs. Will the minister inform the council about his recent visit Yadu Health Aboriginal Corporation in Ceduna?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:25): I thank the honourable question for her question about an area that I have portfolio responsibility for and am happy to inform the chamber of.

On a very recent visit to the Far West Coast of the state I had the privilege to meet with the Chief Executive Officer of Yadu Health Aboriginal Corporation, Leeroy Bilney. Leeroy has recently taken over the helm of Yadu Health from longstanding community leader and chief executive Zell Dodd. Established in 1986 as the Ceduna Koonibba Aboriginal Health Service, Yadu Health provides a suite of primary health services to the surrounding Aboriginal communities on the Far West Coast, which include Ceduna, Koonibba and Scotdesco. These services include general practitioners, nurses, visiting specialists and Aboriginal health support workers.

Yadu Health also plays a significant role in community programs like Connected Beginnings, which assists community with maternal, child and family health activities; social and emotional wellbeing, which includes emergency financial assistance, family support, housing support and liaison domestic abuse health and wellness programs; community home support, providing support to in-home care for elders; and youth programs and the Yadu Health Community Gym.

With that list of programs it is easy to understand just how significant Yadu Health is in providing health and wellbeing services to support Ceduna and its surrounding communities. However, for far too long Yadu Health was forced to provide many of these services out of a building with crumbling asbestos, black mould and wiring that posed an electrocution risk to staff when it rained. Additionally, this building was previously utilised by the Department for Community Welfare, where, as locals have told me, mums would take their children never to see them again, hardly a place that many Aboriginal people would consider safe and a place for wellbeing.

That is why in opposition the state Labor government in partnership with the federal Labor government committed a combined total of $15.8 million for Yadu Health to have a new purpose-built health clinic. It was one of the most extraordinarily disappointing comments I have heard in public life when we made this announcement to be met with a comment from the minister in the Liberal government at the time responsible for Aboriginal affairs of, 'Taxpayers should be extraordinarily concerned.'

Comments like this in the face of trying to improve a health service to deliver to some of the most disadvantaged and vulnerable South Australians in a building that, as I have said, was riddled with black mould, asbestos over much of it and dangerous electrical faults that I have seen firsthand a number of times concerned me extremely. I was extremely concerned. I would argue that any taxpayers who visited the old clinic would be extraordinarily concerned at the conditions Aboriginal people were forced to tolerate.

After our meeting in Ceduna, Leeroy Bilney provided a visit to the site to see the progress of the demolition—there is now a cleared space. I am pleased to report that the purpose-built facility is on track to be completed by the end of 2025. I look forward to seeing completion of the build and would like to thank former chief executive officer Zell Dodd; the current incumbent in that position, Leeroy Bilney; in particular Warren Miller for his staunch advocacy; and all Yadu Health staff and the community for their ongoing advocacy in advancing the wellbeing of Aboriginal people on the Far West Coast.

DENTAL HEALTH CARE

The Hon. S.L. GAME (14:28): I seek leave to make a brief explanation before directing a question to the Attorney-General, representing the Minister for Health, about children's dental treatment and services in South Australia.

Leave granted.

The Hon. S.L. GAME: In December of last year, a highly regarded Adelaide-based specialist paediatric dentist outlined to me the problems around access to much-needed dental treatment under general anaesthetic for South Australian children. He said many in his profession are being forced to deal with ever-increasing waiting times to treat patients under general anaesthetic, and as a result children are being forced to endure more pain episodes, more infections and more severe dental disease.

An Australian Dental Association report aimed at improving access to dental treatment under general anaesthetic noted that according to the latest available data South Australia's rate of preventable hospitalisations was the highest of any state, at 4.1 per 1,000 people versus the national figure of just 2.9 per 1,000 people.

The Australian Dental Association report stated that South Australia was unable to provide full data on waiting times for children. This lack of effective data collection for determining oral health benchmarks is the single most important of the 35 recommendations made in the Australian Dental Association federal submission. Without that data, I feel it is unreasonable to expect governments of any persuasion to undertake the full suite of reforms recommended by the ADA and likewise a Senate select committee into the provision of and access to dental service in Australia. My questions to the Attorney-General, representing the Minister for Health, are:

1. Will the government commit to liaising with SA Health on ways to provide more comprehensive data on dental waiting times for South Australian children?

2. Will the government report back on the steps it has taken towards this goal?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:30): I thank the honourable member for her question and I would be pleased to refer that to the minister in another place and bring back a reply.

CITADEL SECURE

The Hon. J.S. LEE (Deputy Leader of the Opposition) (14:30): I seek leave to make a brief explanation before asking the Attorney-General a question about lobbyists.

Leave granted.

The Hon. J.S. LEE: It was referred to this Legislative Council yesterday that a business owned by Cressida O'Hanlon's husband, Citadel Secure, is heavily involved in government relations and networks with decision-makers. Despite this fact, Citadel Secure is not registered under the Lobbyists Act and has not disclosed any of their interactions with government. I refer specifically to Citadel Secure's website, which states, and I quote:

> We have built broad and representative bipartisan networks with key decision makers and influencers in Australia and NZ to maintain a clear picture of government priorities and future policies.

My question to the minister is: does the Attorney-General agree that a business that conducts representational work using networks with key decision-makers and influencers is undertaking lobbying as defined under the Lobbyists Act 2015 and therefore it should be registered as a lobbyist under the act?

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 her question. Without having the exact details of what a company does, and I am not aware of that, if you are engaging with government on behalf of your own company, I am not sure and I am not going to give legal advice but it would seem unlikely that you would be engaging in lobbying.

The Lobbyists Act 2015 under section 4(1) defines lobbying as constituted by communicating 'with a public official…on behalf of a third party' for money or other valuable consideration for 'the purpose of influencing the outcome'. If the honourable member has any concerns, I suggest she raises them in the appropriate manner. I have to say, I was not here and I did not hear it but I am disappointed with part of what I saw in the chamber yesterday.

The Hon. Michelle Lensink has spent much of her career gaining an admirable reputation for the way she conducts herself in this chamber and the way she goes about things, and I think when she reflects on her contribution yesterday she will think of herself as letting herself down in how she went about what she did.

Members interjecting:

The Hon. K.J. MAHER: I know the honourable member has taken on the role of government accountability spokesperson, presumably because she thinks—

The PRESIDENT: Order!

The Hon. K.J. MAHER: —it has some sort of—

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: Taking on the role of government accountability for the opposition, I assume the Hon. Michelle Lensink had intended that to get some sort of public profile and be able to be in the media, but I think she would, when she thinks about it in the weeks to come, be disappointed in herself for the way she has conducted herself.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.J. MAHER: If the Hon. Michelle Lensink thinks that there is something untoward that has happened, maybe she should repeat accusations outside of this chamber and, if not, she should take a good hard look at herself.

FIRE TOWERS

The Hon. R.P. WORTLEY (14:34): My question is to the Minister for—

Members interjecting:

The PRESIDENT: Order! I want to hear the question, please.

Members interjecting:

The PRESIDENT: Order! Sit down, the Hon. Mr Wortley. Order! You are wasting question time. The Hon. Mr Wortley, ask your question.

The Hon. R.P. WORTLEY: My question is to the Minister for Forest Industries. Will the minister update the council about the work currently being undertaken to upgrade fire towers in the South-East?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:34): I thank the honourable member for his question.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN: Forest industries are a significant contributor to the state's economy. I understand they employ both directly and indirectly over 21,000 people around our state, with a large section of that employment being in the South-East of the state. The industries have a value of over $1.4 billion to our economy. That is one reason why, prior to the last election, the Malinauskas Labor government committed $2 million to replace existing fire towers in the South-East with new technology to ensure assets that are worth millions of dollars are being protected from their biggest threat, which is, of course, fire.

In total, eight pre-existing fire towers are being upgraded with new technology, and one existing fire tower at Penola North is being replaced at the conclusion of this year's fire season due to its age and condition. I am advised that the new technology, which is an Australian first, is an artificial intelligence powered bushfire detection and monitoring system and will result in a fully integrated, active bushfire detection platform using satellite technology, ultra HD 360-degree panoramic cameras and AI aimed at improving the early detection of fires.

As of last week, six of the eight fire towers have been upgraded with the new technology and are live and operational. They are, Comaum, which I had the opportunity to visit and watch in action late last year, Mount Benson, The Bluff, Furner, Mount Burr and Carpenter Rocks. Of course, as we all know, early detection is the key and that is why this upgraded technology is so important. In the event of a bushfire in this region, safeguarding the regions' 130,000 hectare forest estate, along with the people and communities who support the industry, is vital.

We know that members opposite do not take the forest industry seriously. Last sitting week, they asked whether I had written to the federal agriculture minister in support of the Australian Forest and Wood Innovation Research Centre being based in South Australia.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN: As minister, I had done that back in early December. Applications to the federal department closed on 6 December. It would have been good to have bipartisan support on this matter, but it turns out that the shadow minister and the Hon. Ben Hood had not bothered to put in a letter of support by close of applications. In fact, they only signed a letter of support for the project the same day as they asked questions of me here in parliament, some nine weeks after applications had closed.

This is how serious and how important they think the industry is. It really does reinforce that the Liberal opposition does not care about forest industries. All they care about is trying for little 'gotcha' moments and attempting cheap little headlines.

Members interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN: However, the Malinauskas Labor government is committed to getting the job done and rolling out all of our election commitments rather than playing little games like those opposite. As we know, fire does not recognise boundaries so this project will not only benefit the forest industry in the region but all landowners, primary producers and South-East communities.

I want to thank all members of the Green Triangle Fire Alliance for their hard work and dedication to ensure that this project is delivered in the shortest time frame possible by ensuring that assets are protected. They have done a wonderful job, and I look forward to updating this place further once the work is complete.

GOVERNMENT APOLOGIES

The Hon. F. PANGALLO (14:38): I seek leave to make a brief explanation before asking the Attorney-General a question about government apologies.

Leave granted.

The Hon. F. PANGALLO: The Attorney-General has formally responded to a series of questions I asked him late last year about the unacceptable delay in a letter of apology from the state government to child abuse victim, Ki Meekins, as part of the National Redress Scheme.

As many of us in this place are aware, Ki was the catalyst for an inquiry into the abuse of children in state care led by former South Australian judge the Hon. Ted Mullighan in 2004, after revealing three decades ago how he was sexually abused as a child in state care by an evil children's television presenter, Ric Marshall, who now resides in hell. Ki's harrowing life story led to some of

the most substantial child protection reforms in the state's history, and also led to the Premier personally apologising to Ki in state parliament.

The redress scheme provides for three direct personal responses to the victim, including in person, in writing and in public. Ki opted for all three. Sadly, what started off so positively almost 12 months ago to the day—16 February 2023—when the in-person apology by a senior executive of the Department for Child Protection occurred, followed mid-year by the in-public apology by the Premier in parliament, continues to drag on to a completely unacceptable situation with the government refusing to sign off on the in-writing apology.

In the Attorney's response he indicated that a department senior executive had signed the letter, and that Ki's lawyer, the highly respected Jennifer Corkhill, had been made aware of such since September last year. Ms Corkhill informs me that the letter was in draft form, and a further draft was provided last week, but it still does not contain the passages they want included and believe are essential from Ki's perspective.

They are now seeking a personal meeting with the Minister for Child Protection in a desperate bid to get all parties to sign off on the letter—critically, to give Ki the closure he so desperately deserves. My questions to the Attorney-General, and most likely to the Minister for Child Protection, are:

1. Why is the government continuing to refuse to accept the wording Ki and his lawyer want included in the letter, particularly given that some of the words they want included were removed from the original letter drafted by the department executive and are exactly, in essence, what the department executive said to Ki last year as part of his in-person apology?

2. Has the DCP lawyer who contacted Ki without Ms Corkhill's consent—which is a serious breach of rule 33 of the Solicitors Conduct Rules—been reprimanded about her behaviour?

3. Do the minister and Attorney-General agree that 12 months is far too long to wait for such a letter?

4. Is the government prepared to meet with Ki and Ms Corkhill in person in a sign of good faith to finalise the letter and finally bring some closure and peace of mind to Ki?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:42): I thank the member for his question and his advocacy in this area. As the honourable member correctly states, I tabled a response on behalf of the Minister for Child Protection in relation to questions the honourable member has previously asked.

As the honourable member outlined, I think it was some time last year that the Premier delivered an apology in this parliament and there has also been, I think, that in-person apology from the department. I do not have firsthand knowledge of this because, as the honourable member states, this is between the Department for Child Protection and Ki, that written apology.

I accept the honourable member's assertions that it still remains outstanding. I will certainly pass on to my colleague the Minister for Child Protection, who has responsibility for this matter—and I am sure she is aware of it—the desire for this to be concluded as quickly as possible.

As I said, it is not my portfolio. There may be some legitimate reasons that specific wording is being discussed back and forth, but I will certainly pass on to my colleague the Minister for Child Protection the questions that were raised here today and let her know that the parties are very keen for this to be concluded—understandably, as soon as possible.

CITADEL SECURE

The Hon. J.M.A. LENSINK (14:43): I seek leave to make a brief explanation before directing a question to the Minister for Primary Industries regarding Citadel Secure.

Leave granted.

The Hon. J.M.A. LENSINK: As referred to yesterday in this place, it has been confirmed that Cressida O'Hanlon received an email from her husband, James O'Hanlon, asking her to arrange

a meeting with ministers or chiefs of staff to secure funding for his business. The email included references to assistance that would 'enhance regional relationships' and 'give export opportunity to Australian companies'.

My question to the minister is: given that some of the matters referred to in the email appear to directly relate to her portfolio, can the minister confirm whether she, her staff or departmental officials have ever had meetings with, or been approached for meetings with, Mr James O'Hanlon, anyone from Citadel Secure or any business associated with Citadel Secure?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:44): I think the member is under the misapprehension that if the word 'regional' is used in any context whatsoever then it must relate to my portfolio. I think she is mistaken.

CITADEL SECURE

The Hon. J.M.A. LENSINK (14:45): Is the minister refusing to rule out having had any meetings?

Members interjecting:

The PRESIDENT: Order! I could not get a supplementary question out of the original answer. I am prepared—

The Hon. T.A. Franks interjecting:

The PRESIDENT: Order! I am prepared to listen to your supplementary question arising from the answer. Are you going to ask a supplementary?

The Hon. T.A. FRANKS: Am I allowed to? Because Michelle Lensink doesn't seem to want me to stand up.

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Franks, ask a supplementary question.

LOBBYISTS

The Hon. T.A. FRANKS (14:45): Supplementary: as a minister of the Crown, is the minister aware of the Lobbyists Act 2015 and the section that defines the purposes of lobbying and the definition of lobbying? Section 4(3) states:

> (3) For the purposes of subsection (1), a person will not be taken to communicate with a public official on behalf of a third party if the third party is a designated organisation and the person, being an employee of the organisation, communicates with the public official in the ordinary course of that employment.

I would hope that as a minister of the Crown she would be aware of that; the opposition surely isn't.

The PRESIDENT: That is not a supplementary question arising from the answer, as we all know.

Members interjecting:

The PRESIDENT: Order!

PORT LINCOLN MAGISTRATES COURT

The Hon. R.B. MARTIN (14:46): My question is to the Attorney-General. Will the minister please inform the chamber about his recent visit to the Port Lincoln Magistrates Court?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (14:46): I thank the honourable member for his question. I would be most delighted to provide an answer to him and to the chamber. On my recent visit to Port Lincoln, I had the opportunity to meet with His Honour Paul Foley, local elder Haydn Davey and two local lawyers of the Magistrates Court.

A particular focus of the discussion was the progress of the recently legislated Nunga Court, which was an election commitment we made as a Labor opposition and progressed when we came to government that came into effect last year enshrining the practice of the Nunga Court into legislation in South Australia.

The Nunga Court is a division of the Magistrates Court and is currently operating in courts at Port Adelaide and Murray Bridge, where they have been operating in some form or another since I think 1998 as the first such courts anywhere in Australia, and also Maitland and now at Port Lincoln. At Maitland, it is known as the Narungga Court.

The Port Lincoln location is the most recent of the Nunga Courts and is the first to begin operation since the enshrining of the Nunga Court in legislation last year. The first sitting commenced in the second half of last year of the Nunga Court in Port Lincoln. The state's Nunga Courts allow for Aboriginal communities to participate in the sentencing process through court elders or respected persons sitting with the magistrate in matters that can be finalised in the Magistrates Court and where an Aboriginal or Torres Strait Islander person has pleaded guilty.

It was a great opportunity to hear from local elders, such as Mr Davey, who sits as a respected elder through the sentencing process, and I am happy to report that the feedback provided on the Nunga Court and its process is widely supported by the community in the region and by legal practitioners in the region. The importance of this process was widely acknowledged, particularly in that it gives a magistrate the chance to hear and consider advice on relevant cultural and community matters that may assist in the sentencing process.

In addition, having the magistrate advised on relevant cultural and community matters can contribute to increased confidence of Aboriginal people in the criminal justice system right around South Australia and particularly in that region.

I would like to commend those within Port Lincoln and the wider region who are involved in this important initiative: the Aboriginal justice liaison officers, those who are involved with the Port Lincoln Magistrates Court and elders like Haydn Davey. I look forward to hearing about the Nunga Court's continued impact and progress in the future, ensuring cultural and community knowledge forms part of our sentencing proceedings in South Australia.

WINE LABELLING

The Hon. R.A. SIMMS (14:49): I seek leave to make a brief explanation before addressing a question without notice to the Minister for Primary Industries and Regional Development on the topic of Barossa wine.

Leave granted.

The Hon. R.A. SIMMS: On Monday evening, the ABC's *Four Corners* program reported on a bottle of wine that was purchased from the Coles-owned Vintage Cellars: Two Churches The Preacher Shiraz. The model was marketed as wine from the Barossa Valley and it featured on the label a story of two churches purportedly from the Barossa. The wine was actually produced by Coles. In the program, the Barossa grapegrower Adrian Hoffmann said:

> It sounds like a Barossa story but…you can't be guaranteed that it's Barossa fruit…

Rod Simms, who was the ACCC chairperson—Simmses are usually a good authority on these matters—between 2011 and 2022, stated in the program:

> …the test under law is, would a reasonable consumer be misled? Now if on the label of the bottle you are telling a story that's unrelated to the product, then I think that runs a serious risk of being misleading.

My question to the Minister for Primary Industries and Regional Development is: what is the government doing to protect the brand reputation of the South Australian wine regions, and is she concerned that this practice is widespread?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:51): I thank the honourable member for his question. Indeed, this is something that has been raised with me literally within the last probably week and a half, prior to the *Four Corners* program but that of course has also brought it into the public eye. I think we

would probably all join with wanting to see accuracy in terms of the story that's being told on labels and in terms of other narratives, I guess, around where particular products originate, and that there is not misleading labelling.

On the whole, many of the issues around labelling are within the federal jurisdiction. I am keen to see whether there is anything that can be done to address the issue that has been identified and to understand to what extent it is widespread or whether it is contained to a small number of examples. Either way, if it was the latter we wouldn't want that to expand to become widespread. I am keen to look at what actions may be possible within the state jurisdiction.

However, I would also just mention that labelling is a huge cost to the wine industry. We would all be aware of the challenges that the wine industry is facing at the moment. Where there are additions to labelling, that can often incur huge costs. Where there are different requirements between states, given that many of our wineries do sell their wine interstate, that can cause additional problems and challenges as well. So I think it is important to look at this issue but also to ensure that any potential action doesn't have unintended consequences that may actually be to the detriment of the wine industry and the very producers we might be trying to support.

WINE LABELLING

The Hon. R.A. SIMMS (14:53): Supplementary: noting the minister's statement that labelling is a federal issue, will the minister undertake to raise the matter with her counterpart in Canberra?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:53): We will be looking at all opportunities to be able to investigate and, where appropriate, to advocate to my commonwealth counterparts.

CROSS BORDER COMMISSIONER

The Hon. H.M. GIROLAMO (14:53): I seek leave to make a brief explanation before asking the Minister for Primary Industries and Regional Development a question about the Cross Border Commissioner.

Leave granted.

The Hon. H.M. GIROLAMO: It is the opposition's understanding that, despite the Office of the Cross Border Commissioner being advertised on the door as open Monday, Tuesday, Thursday and Friday from 9am to 4pm, the office today has been closed and the phone is unattended and unanswered. Given the minister's comments in answering a previous question on the Cross Border Commissioner today that members of the public can access the Office of the Cross Border Commissioner, my questions to the minister are:

1. Can she confirm to the chamber as to whether the Cross Border Commissioner's office is currently staffed?

2. Can members of the community who have cross-border issues contact the Cross Border Commissioner's office in any form?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:54): Given the honourable member started her question with, 'It's the opposition's understanding that' and given how little they do seem to understand, I wouldn't be surprised if the premise of the question is a little misleading. In terms of whether the office is open today, I will endeavour to find that out, but it's entirely possible that a staff member could be sick. It could be that a staff member could be sick. Perhaps those opposite—

The Hon. H.M. Girolamo interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN: —think that staff illness shouldn't be considered an issue in having an office unstaffed.

The Hon. I.K. Hunter: It could be COVID.

The Hon. C.M. SCRIVEN: Indeed, it could be COVID, as the Hon. Mr Hunter points out. It could be any number of reasons, if indeed the opposition does understand correctly. What I think we all need to understand in this chamber is what the real purpose of these constant questions about the Cross Border Commissioner office are. These questions originate from a motivation to undermine the role of the Cross Border Commissioner. We know those opposite didn't want it established. They didn't want it established. Why didn't they want it established?

Members interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN: I will tell you why. They didn't want it established—

Members interjecting:

The PRESIDENT: Order!

The Hon. C.M. SCRIVEN: —because it wasn't their idea. It wasn't their idea. Whose idea was it? It was the idea of the Independent former Liberal MP, Troy Bell, the member for Mount Gambier. So because it's not their idea therefore it cannot have any merit in the view of the opposition. That is their position. Since day one they have opposed the idea of a Cross Border Commissioner. In recent weeks, they have asked—

Members interjecting:

The Hon. C.M. SCRIVEN: Pardon?

Members interjecting:

The Hon. C.M. SCRIVEN: I am advised that my colleague the Hon. Emily Bourke just called them and they answered the call.

Members interjecting:

The PRESIDENT: Order! Have you finished your answer?

Members interjecting:

The PRESIDENT: Order! Just sit down.

The Hon. C.M. SCRIVEN: I rest my case.

ALLOCATION REVIEW COMMITTEE

The Hon. J.E. HANSON (14:56): My question is to the Minister for Primary Industries and Regional Development. Will the minister inform the chamber of the fisheries Allocation Review Committee recently established to conduct reviews on the allocations of South Australia's important aquatic resources to ensure resource sharing remains to the benefit of the whole community?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (14:57): I thank the honourable member for his question and his understanding of these important issues as they apply to the whole state. The Fisheries Management Act 2007 requires that access to the aquatic resources of the state is allocated between users of the resources in a manner that achieves optimum utilisation and equitable distribution of those resources to the benefit of the community. Of course, this is underpinned by our government's commitment to sustainable fisheries, a strong commercial sector, a growing recreational fishing community and maintaining the culturally important Aboriginal traditional fishing sector.

As required by the act, formal sector allocations of primary and secondary species are provided in management plans for South Australian fisheries. The management plans and the PIRSA Allocation Policy, which supplements the act, set out how allocations are to be monitored and reviewed. The monitoring and review process works to identify when allocations have been breached, whether an assessment of allocation is required and, following the outcomes of a full assessment where there have been significant and permanent changes in the sector values, whether a sector should be managed back within their allocation or whether indeed the allocations should be adjusted.

To oversee any full assessments of allocations that may occur over a three-year term, on 6 November last year I established the Allocation Review Committee under section 20 of the Fisheries Management Act 2007. The membership of the Allocation Review Committee is consistent with the requirements of management plans and the Allocation Policy and spans the three fishing sectors for which shares have been allocated, those being the commercial fishing sector, the recreational sector and the Aboriginal traditional fishing sector. These sector positions are supported by an independent chair, an independent economist and an independent fisheries management expert.

In establishing the committee and including recreational fishing representation, we are delivering on an election commitment to have recreational representation to help shape access and allocation in support of healthy fish stocks. The Allocation Review Committee commenced work on their first assessment in December, considering the commercial-only allocation of southern calamari.

Following the release of the 2021-22 survey of recreational fishing, PIRSA will soon commence initial allocation reviews for several species to determine which, if any, should undergo a full assessment by the Allocation Review Committee. I look forward to seeing the work of the committee and the positive outcomes that will come from it in ensuring long-term sustainability and shared access of our very important marine resources.

APY ART CENTRE COLLECTIVE

The Hon. T.A. FRANKS (15:00): My question is to the minister representing the Minister for Arts on the APY Art Centre Collective. On what occasions has the Minister for Arts visited the premises, the galleries or the studios of the APY Art Centre Collective, and what is her understanding of their work?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:00): I thank the honourable member for her question. Obviously, I will refer those questions to the Minister for Arts in another place and bring back a reply. From my point of view, I have certainly visited regularly not just the APY Art Collective in its former home on Light Square but also at its current home in Thebarton.

I also have visited and continue to visit on many occasions some of the constituent art centres that make up the collective, from Iwantja Arts at Indulkana on the APY lands, Ernabella Arts at Pukatja, Kaltjiti Arts at Fregon—Ernabella Arts not being a member of the collective, but I regularly visit it as well—Lil Ninuku Arts at Kalca near Pipalyatjara and Maruku Arts at Mutitjulu, which is a member of the collective.

Certainly, as I regularly visit arts centres, they are often one of the hubs of Aboriginal communities, and I know that particularly during COVID they provided distribution centres for all sorts of things, including food, health needs, safety and protecting the community. In terms of the Minister for Arts, I will be happy to pass on that question and bring back a reply.

CONSTRUCTION, FORESTRY, MARITIME, MINING AND ENERGY UNION

The Hon. D.G.E. HOOD (15:01): I seek leave to make a brief explanation before asking the Minister for Industrial Relations and Public Sector a question regarding the CFMEU activity in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: In recent days, the Construction, Forestry, Maritime, Mining and Energy Union was criticised in the media for its negotiations in Victoria that could see basic labourer and traffic control wages—that is, the people who move the stop-go signs—increase by up to around $120,000 a year due to a new workplace agreement to be signed, which includes a significant pay rise, obviously.

The Master Builders Association of South Australia has expressed concern that, if a similar wage hike in our state were to be implemented, it would threaten South Australia's construction industry and economic rating and indeed its very viability. When referring to Victoria's construction industry, the CEO of Master Builders SA stated:

> Their high-volume, high-cost model has no place in South Australia. It is the height of arrogance to try to replicate a failed system in other states...The CFMEU should be run by someone based in South Australia to understand the differences that it has to other states.

My question to the minister is simply: will the state government assure South Australia's construction industry stakeholders and the general public that it will not allow standover tactics to be used as a negotiating tactic by strong unions in order to achieve excessive wage decisions, as we are seeing in Victoria?

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. I have said before and I am happy to repeat it: we expect all players in the industrial relations system to abide by the rules and the laws that govern those systems. For private sector industrial relations, it is the commonwealth which has responsibility for industrial relations systems and negotiations.

Certainly, I think it is fair to say that South Australia has a comparatively enviable harmonious industrial relations landscape, and we expect that to continue. The players in South Australia have been mature and pragmatic and it has brought about good results for South Australians, and there is no reason that won't continue, and that is exactly what we expect to happen.

SHOP TRADING HOURS

The Hon. T.T. NGO (15:04): My question is to the Minister for Industrial Relations and Public Sector. Can the minister tell the council about extended shop trading in the CBD during the Fringe and Gather Round?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:04): I thank the honourable member for a question about shop trading hours, and we will touch on the very significant reforms we were able to make that previous Liberal governments haven't been able to make through overextending their blind ideology in these sorts of areas.

The Adelaide Fringe, the Adelaide Festival and the upcoming Gather Round are three landmark events in South Australia which bring thousands of tourists to our city and millions of dollars to local trade and local businesses. The government has been very pleased to grant shop trading exemptions to allow extended trading hours in the city on Saturdays during the Fringe and during Gather Round. These exemptions follow very collaborative discussions between key industry stakeholders such as the Adelaide Economic Development Agency and the Shop, Distributive and Allied Employees Association, to name two leaders for the respective different groups that have views in this area.

Under these shop trading hours exemptions, shops in the Adelaide CBD will be allowed to trade to 6pm on the Saturdays 17 February, 24 February, 2 March, 9 March and 16 March. We know that trading exemptions are important for cultural events like this and can give a boost to local businesses. When similar exemptions were granted last year under groundbreaking legislation that allowed for an orderly process for these exemptions to be applied for and granted, we saw foot traffic in Rundle Mall, I am advised, increase by an average of over 100 per cent during extended trading hours compared with the previous year, when shops shut at 5pm. We hope that this year's exemptions will see a similar boost for the local economy and provide important support for local businesses as well as meeting the needs of tourists visiting our state.

It is important to reflect that this is an example of exactly how the reforms to the shop trading hours were intended. We saw the approach taken by the former government, when the then Treasurer and industrial relations minister the Hon. Rob Lucas issued trading exemptions which were simply used as a weapon to defeat the intent of the legislation that had struck a balance that all other members of this parliament had agreed with in relation to shop trading hours in this state.

The exemptions that were provided under the previous government attempted to strip away the workers' right to take things like a break on public holidays with zero consultation. In response to the exemptions that were made, this government had previously offered shop trading reform for things like extra trading hours on a Sunday, but they were dismissed by the former government, so it led to no reform whatsoever.

In the new shop trading hours legislation, consultation is required to ensure there is adequate discussion on these issues between government and industry parties like businesses and the trade unions which represent the workers in the retail sector. Since those reforms we have seen a very different approach to trading hours exemptions. Businesses and unions have come together to support these targeted extended trading hours, which benefit the entire community, and the government has been pleased to facilitate that.

Importantly, these exemptions do not undermine the trading hours regime established by this parliament, do not take away workers' public holidays and maintain the principle that a worker cannot be forced to work these additional hours unless they agree to do that. The government looks forward to continuing to work with industry stakeholders on both sides of the fence to deliver outcomes for the South Australian community.

ULURU STATEMENT FROM THE HEART

The Hon. L.A. HENDERSON (15:07): My question is to the Minister for Aboriginal Affairs. Now that the state First Nations Voice is legislated and elections—

The Hon. T.A. FRANKS: Point of order: the topic is meant to be cited as well as the minister.

The Hon. L.A. HENDERSON: On Aboriginal affairs.

The PRESIDENT: Continue.

The Hon. L.A. HENDERSON: Now that the state First Nations Voice is legislated and elections occur soon, what is the government's plan to implement the next stages of the Uluru Statement from the Heart—the establishment of the Makarrata Commission to supervise Treaty and truth-telling?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:08): I thank the honourable member for her question. We did indeed take as a policy to the election and, as I think I have outlined to this chamber before, it was the very first policy we announced, way back in July of 2019 during NAIDOC week—and I don't think it's a deliberate mischaracterisation that the honourable member is making, I expect it is just she is not as familiar with this policy area as some others, but what we did was committed to a state-based implementation of the Uluru Statement. We didn't commit to implement it in exactly the same way that has been proposed federally.

The honourable member, I think, in suggesting the definitive proposition that we will establish a Makarrata Commission, as she said in her question—we never said that we will be doing that. What we did say is that we will be looking at the elements that make up the Uluru Statement from the Heart: Voice, Treaty and Truth. The Voice component this parliament has implemented and, as the honourable member points out, there are elections occurring now. Nominations closed over a week ago and elections are due to finalise on 16 March, with successful results declared later in that month.

The other elements of the Uluru Statement from the Heart, Treaty and Truth, we don't have a definitive plan about how we are going to do that and that is the whole point of listening to Aboriginal people: we don't say what we are going to do to Aboriginal people, we consult with Aboriginal people about how we go about that.

It is the case that back in, I think, 2015, we started in South Australia and we were proudly the first place in the nation to do so, as we were with the legislated Voice, to start on Treaty discussions with Aboriginal communities. We had what was at the time the largest consultation with Aboriginal communities which was only surpassed recently with our First Nations Voice Commissioner's more extensive consultations about Treaty in South Australia.

As a result of those discussions on Treaty during the last term of the last Labor government, we started negotiations with three nations, Narungga, Ngarrindjeri and Adnyamathanha, and signed the first agreement on the way to a Treaty process ever signed in Australia, the Buthera Agreement with the Narungga Nation.

Since the scrapping of any discussions about Treaty with the intervening one term of a Liberal government, much has changed in the Treaty space around Australia. Victoria is now well advanced with their First People's Assembly. There is a report from the Commissioner for Treaty in the Northern Territory, there is Treaty-enabling legislation that has passed in Queensland, there is a commitment in New South Wales to look at Treaty discussions and there are discussions in Tasmania.

In Western Australia, the Noongar native title settlement, I think most people regard as Australia's first ever Treaty, although it was an ILUA and a native title settlement. Once the Voice is up and running and settled in, we intend to discuss with the Voice to get some views about how we progress that in South Australia. We don't have a definitive view about how we do it, but we are certainly not going to do it in isolation from Aboriginal people.

BLUE CRAB FISHERY

The Hon. M. EL DANNAWI (15:11): My question is to the Minister for Primary Industries and Regional Development. Will the minister inform the chamber on the progress to develop the replacement management plan for South Australia's important blue crab fishery?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:11): I thank the honourable member for her question. Management plans for South Australia's fisheries developed under the Fisheries Management Act 2007 provide certainty for stakeholders in the fishery by describing the goals and objectives of management of the fishery and strategies in place to meet those objectives.

The current management plan for the South Australian commercial blue crab fishery expires on 30 June this year. A formal review of the existing management plan has been undertaken by the Blue Crab Fishery Management Plan Review Committee, established under section 20 of the Fisheries Act to undertake the review. The committee membership includes an independent chair and representatives from the commercial blue crab fishery, the recreational fishing sector, an Aboriginal traditional fisher, SARDI and PIRSA.

Following consideration of a report on the outcomes of that review prepared by the review committee, I approved PIRSA to prepare a replacement management plan, with feedback provided by the established Blue Crab Fishery Management Plan Review Committee. A draft plan has been prepared and the executive director of fisheries and aquaculture, as my delegate, released the draft management plan for public comment.

The draft management plan recommended by the Blue Crab Fishery Management Plan Review Committee includes consideration of the outcomes of a revised ecological sustainable development risk assessment. The draft replacement management plan was released for public consultation in December. All interested parties can have their say on the draft management plan by providing written submissions to PIRSA until 3 March 2024. Details on this process can be found on the PIRSA website.

A public hearing will also be held at 4pm on 6 March 2024 at the PIRSA offices at 2 Hamra Avenue, West Beach, at which interested persons may appear to be heard in relation to the draft management plan and the submissions. The proposed amendments in the draft plan are expected to have a positive impact on fishery stakeholders. As one of our most popular seafood species, both for seafood consumers and recreational fishers, I encourage those who would like to have a say to do so before 3 March.

BLYTH BATTERY

The Hon. F. PANGALLO (15:14): I seek leave to make a brief explanation before asking a question of the Minister for Primary Industries, representing the Minister for Infrastructure, Transport, Energy and Mining, about the government's latest big battery project.

Leave granted.

The Hon. F. PANGALLO: Work has just begun on the Blyth battery. It will be the biggest battery project in South Australia when it is finished this year. French company Neon has the contract to operate the battery and provide energy into the grid. It will be built using battery packs provided

by CATL, which are made in the People's Republic of China by a company closely linked to the Chinese government.

On 14 February, American energy company Duke Energy agreed, under pressure from the US Congress, to decommission energy storage batteries produced by CATL at a North Carolina marine corps base over concerns the batteries pose a security risk, including that the batteries and its inverters may have cyber vulnerabilities that state-backed hackers could use to compromise the US's electricity grid—in other words, shut it down.

CATL has denied their batteries are a security risk and do not have communication interfaces that may enable CATL to control sold products. My question to the minister is: was he or the government aware of the security concerns raised by the US Congress about CATL, and will the government now investigate whether the batteries at Blyth are the same as those installed and now decommissioned in the United States and order an immediate review of the project and the use of CATL projects?

The Hon. C.M. SCRIVEN (Minister for Primary Industries and Regional Development, Minister for Forest Industries) (15:16): I will refer the question to the minister in the other place and bring back a response.

APY LANDS

The Hon. B.R. HOOD (15:16): My question is to the Minister for Aboriginal Affairs regarding the APY lands. When will the APY staffing model, in conjunction with South Australia Police, be fully implemented and staffed appropriately?

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:17): I thank the honourable member for his question. Certainly, the provision of services to remote Aboriginal communities right across South Australia is of great interest to me as Aboriginal affairs minister. I know that regularly on visits to the APY lands that I have been on, both working in policy development as a staff member for former ministers and in my role as a minister and shadow minister over the last eight years, the issue of policing in the APY lands has been regularly raised.

One element that I am particularly pleased about was the recent announcement for extra facilities to be built in Pipalyatjara, Fregon and Indulkana—I am pretty sure they are the three places where further facilities are intending to be built. These complement facilities that were built, I think, in the late 1990s with the help of the federal government in Murputja, Amata, Pukatja and Mimili. Certainly, there is a new multi-use facility that I attended the opening of in the middle of last year at Umuwa that brings together a number of agencies, including police, child protection and other agencies that provide services in the APY lands.

I am aware that the issue of staffing, not just for the police but for other service providers in the lands, such as teachers, nurses, doctors and others, isn't always easy. It is an exceptionally remote part of the state and it is not always easy to attract workers to go there. In relation to the policing model that currently exists in the APY lands, that was changed when I think the member for Hartley, Vincent Tarzia, was police minister. I certainly expressed views at the time about what I thought about a reduced frequency of individual officers being at individual stations in the APY lands where now, for a two-person police posting, you can have up to eight different officers in any one given month.

Some of the police officers that I have got to know in the APY lands have been extraordinarily good at what they do. A lot of it has been preventative policing, knowing the community well enough to know who to go and talk to if there seems to be trouble arising. I have seen remarkable policing over the years in the APY lands and I know that, regardless of the model, there are, and there continue to be, issues attracting staff. It is an issue I have had discussions, and will continue to have discussions, with the police commissioner about making sure we can provide a suitable policing model and as strong staffing as we can in the APY lands.

Bills

BAIL (TERROR SUSPECTS AND FIREARM PARTS) 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 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) (15:20): I move:

That this bill be now read a second time.

The bill I introduce today is the Bail (Terror Suspects and Firearm Parts) Amendment Bill 2024. This bill contains two distinct parts, one dealing with the definition in the Bail Act 1985 of a 'terror suspect' and the other dealing with the use of the terminology 'any part of a firearm' in the Bail Act.

Both sets of amendments contained in the bill have arisen via submissions from SA Police, who have identified issues in relation to both the definition of 'terror suspect' and the use of 'any part of a firearm' during the course of their ordinary operations, and the government is grateful to SAPOL for bringing the issues to our attention.

In terms of the definition of 'terror suspect', the bill corrects a loophole in the way in which presumptions against bail applied to applicants who are terror suspects. The Bail Act was amended by the Statutes Amendment (Terror Suspect Detention) Act 2017 in response to a decision of First Ministers at the Council of Australian Governments meeting on 9 June 2017 that there should be a presumption against bail and parole for persons who have demonstrated support for or who have had links to terrorist activities. This amendment act commenced operation on 26 February 2018.

The presumption against bail for terror suspects operates as part of the prescribed applicant scheme inserted into the Bail Act by the amendment act. The definition of 'prescribed applicant' includes an applicant who is a terror suspect. In accordance with section 10A of the Bail Act, a 'prescribed applicant' is not to be granted bail unless they can demonstrate that there are special circumstances justifying their release on bail.

If an applicant has no past terrorist offence convictions or charges, but the current bail application follows an arrest for a state terrorist offence (that is not dealt with under the commonwealth Crimes Act), they are not a terror suspect pursuant to the Bail Act and will not fall into the prescribed applicant scheme, and the regular presumption in favour of bail being granted will apply. This will occur when an applicant has been charged with a state-based terror offence and there are no previous convictions, terror offences-related charges or terrorism notifications.

The proposed amendments will act to correct the anomaly in the way in which the provisions of the Bail Act apply to persons charged with state-based terrorist offences, and include them in the definition of 'terror suspect' such that they will be subject to the presumption against bail.

In relation to firearm parts, in the Bail Act the term 'firearm' and 'ammunition' are both defined by specifically referencing the definitions used in the Firearms Act 2015. However, the Firearms Act also contains a definition of 'firearm part' which is not picked up by the Bail Act. In the Firearms Act a 'firearm part' means a barrel, firing mechanism, magazine, cylinder, hammer, bolt breech block or slide designed as, or reasonably capable of, forming part of a firearm.

This definition is intended to cover those firearm parts that are essential to its function and that therefore can present a risk to public safety. Rather than using the term 'firearm part', the Bail Act instead uses the terminology 'part of a firearm'. The term used in the Bail Act, 'part of a firearm', is not specifically defined but has been interpreted more widely to include any part of a firearm, including non-operational or cosmetic parts.

The difficulty SA Police has encountered as a result of the use of 'part of a firearm' in the Bail Act relates to the automatic condition of every bail agreement, pursuant to section 11, that the applicant is prohibited from possessing a firearm, ammunition or any part of a firearm. Therefore, a

person is required to surrender these items to avoid breaching the conditions of their bail. If a person breaches a bail condition, all items in their possession falling within the ambit of 'part of a firearm' are liable to be seized by police who are then required to store items. This presents a particular difficulty if the person in question is a firearms dealer, as this results in their entire stock being seized, including such items as pins and bolts.

Another example of the issues caused by the discrepancy between the Firearms Act and Bail Act relates to firearms prohibition orders pursuant to section 45(2) of the Firearms Act. Currently, a person who is on bail will be required to surrender all firearms, ammunition and 'any parts of a firearm'. If they were subsequently convicted and a firearms prohibition order imposed, they would be prohibited from possessing firearms, ammunition and 'firearm parts', requiring police to return to the person all items seized under the Bail Act that are 'parts of a firearm' but not a 'firearm part'.

This causes significant confusion. As the non-operational parts of a firearm do not present a public safety risk, there is little reason for them to be seized, therefore to address this issue the bill amends the Bail Act to replace the use of the terminology 'part of a firearm' with 'firearm part' and defines 'firearm part' in the same way as the Firearms Act. This will ensure the terminology is consistent between the Bail Act and the Firearms Act. I commend the bill to members and seek leave to insert the explanation of clauses in *Hansard* without my reading it.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clause are formal.

Part 2—Amendment of *Bail Act 1985*

3—Amendment of section 3—Interpretation

This clause inserts a definition of *firearm part*.

4—Amendment of section 3B—Terror suspects

This clause amends section 3B to apply to persons charged with a terrorist offence under State law.

5—Amendment of section 11—Conditions of bail

6—Amendment of section 11A—Bail authority may direct person to surrender firearm

These clauses are amended to refer to the new defined term of *firearm part*.

Schedule 1—Transitional provision

1—Transitional provision

The proposed amendments to section 3B of the *Bail Act 1985* would only apply in relation to a person taken into custody on a charge of an offence allegedly committed after the commencement of that provision.

Debate adjourned on motion of Hon. L.A. Henderson.

STATUTES AMENDMENT (SOUTH AUSTRALIAN EMPLOYMENT TRIBUNAL) BILL

Introduction and First Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:26): Obtained leave and introduced a bill for an act to amend the Equal Opportunity Act 1984, the Fair Work Act 1994, the Magistrates Court Act 1991, the South Australian Employment Tribunal Act 2014 and the Work Health and Safety Act 2012. Read a first time.

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:27): I move:

That this bill be now read a second time.

It is now nearly a decade since the passage of the South Australian Employment Tribunal Act 2014 established the South Australian Employment Tribunal as a one-stop shop for employment in industrial relations disputes in this state. It is appropriate at this milestone to reflect on whether SAET's governing legislation is meeting its statutory objectives, particularly having regard to the practical experience of workers, employers, representatives and members of the tribunal since SAET was created.

At the 2022 state election, the government committed to a review of SAET. Following the election, the Attorney-General's Department invited feedback from stakeholders to inform any changes to the practice and jurisdiction of the tribunal. I take this opportunity to sincerely thank the many legal practitioners and organisations on both sides of the industrial fence who took time out to provide thoughtful ideas on areas of potential improvement. Having consulted with the tribunal and considered feedback from stakeholders, overall the government is satisfied that SAET is effectively carrying out its function as a one-stop shop for industrial disputes.

SAET provides high-quality dispute resolution in a timely and efficient manner, with over 6,000 applications filed in the last financial year. SAET deals with large and complex case loads, while maintaining resolution time frames significantly faster than many other jurisdictions. Many stakeholders identified SAET as a best practice model for an industrial tribunal and a preferred forum for the conduct of proceedings, having regard to its specialised knowledge and practical focus on dispute resolution.

SAET's high-quality conciliation processes and the work of its commissioners were particularly commended; however, in the course of consultation, stakeholders did identify a range of issues arising from SAET's governing legislation, largely of a technical or procedural nature, which could be addressed to improve the efficiency of the tribunal and the experience of litigants.

Consultation also raised some issues about the rules, forms and practice directions of SAET. While those are matters for SAET itself to determine, the president advises me he intends to undertake stakeholder consultation on those issues with a view to potential improvements. The purpose of this statutes amendment bill is to address those technical and procedural issues which arise from SAET's governing legislation and other acts conferring jurisdiction on SAET. I take this opportunity to outline some of the key features of the bill.

Part 2 of the bill amends the Equal Opportunity Act 1984. This amendment provides that employment-related discrimination and victimisation complaints will be heard in SAET rather than the SACAT. That is appropriate given SAET's expertise in employment-related matters, and is supported by the equal opportunity commissioner.

Part 3 of the bill amends the Fair Work Act 1994. In 2017, amendments were made to this act to consolidate the functions of the former Industrial Relations Court of South Australia and the Industrial Relations Commission of South Australia into the new SAET. An unintended consequence of those changes is that uncertainty has emerged over which powers under the act are now exercised by SAET constituted as the South Australian Employment Court, and which are exercised by SAET constituted as an industrial relations commission.

The bill clarifies this by inserting amendments to specifically state which powers are exercised by which part of SAET. These amendments are consistent with the orthodox principles that courts exercise judicial power to ascertain, declare and enforce existing legal rights and responsibilities, while industrial relations commissions exercise arbitral power to ascertain and declare what ought to be the respective future rights and liabilities of the parties.

The bill also clarifies which proceedings are required to be dealt with at a full bench level rather than by a single member. This generally applies to significant matters with implications across the state industrial relations system, such as the state wage case and applications to vary minimum standards for leave entitlements.

The bill amends section 4 of the act to make matters an industrial instrument relating to wages parity an 'industrial matter' for the purpose of the act. This bill also inserts a new section 4A to provide the declared employer for public employees is an instrumentality of the Crown and capable of binding the Crown in relation to an industrial matter. These amendments will give certainty that

when a declared employer of public employees negotiates an industrial instrument on behalf of the government, such as an enterprise agreement, workers and their representatives can have confidence that the government as a whole can be held to that agreement.

This bill repeals existing section 11 of the act. This section is redundant because the same power to make declaratory judgements is also conferred by section 26A of the SAET Act. The deletion is not intended to reflect any diminishing of SAET's powers to grant such declaratory relief. In its place, the bill inserts a new section 11, which confers jurisdiction to settle and resolve industrial disputes. This section is inserted for the avoidance of doubt as a more express statement of the industrial dispute jurisdiction already exercised by SAET, consistent with other provisions in chapter 2, part 1 conferring jurisdiction on SAET. This is not intended to reflect any alteration to SAET's existing industrial dispute jurisdiction.

The bill also inserts a new section 13A to confirm that the prohibition on mandatory injunctions against the Crown under section 7(2) of the Crown Proceedings Act 1992 does not apply in respect of proceedings before SAET under this act. This amendment applies both to SAET sitting as a court and as an industrial relations commission.

The practical effect of the amendment is to restore the longstanding position in Dunk v South Australian Health Commission that orders may be made against the Crown to remedy or restrain contraventions of industrial laws. This is necessary after the recent decision of Chief Executive, Attorney-General's Department v Montrose suggested some such orders may be prohibited by the Crown Proceedings Act. This amendment ensures that when it comes to industrial laws and entitlements, the Crown is subject to the same principles and remedies as any other employer in the state industrial relations system.

The bill repeals section 24 of the act, which deals with the circumstances in which legal costs may be awarded. This section is unnecessary because section 52 of the SAET Act already provides a default position that parties bear their own costs in proceedings before SAET, subject to the provisions of a relevant act.

The bill amends section 34 of the act to align the rules for the calculation of interest on monetary claims with those applied under the commonwealth Fair Work Act 2009. The practical effect is that interest should be calculated from the date an unpaid amount falls due, rather than from the date a monetary claim is commenced in SAET.

The bill inserts a new section 100A to provide a streamlined process for the conduct of the annual State Wage Case. Since the referral of industrial relations powers to the commonwealth, the State Wage Case almost inevitably results in a flow-on to the state industrial relations system of the minimum wage decision made by the commonwealth Fair Work Commission. Nonetheless, every year parties are required to produce evidence and make submissions to SAET prior to the determination being made.

New section 100A will permit SAET to simply adopt the outcomes of the Fair Work Commission determination without the need to conduct a hearing or receive evidence, provided there is no objection from an interested party. If there is such an objection, then SAET will be required to conduct a hearing on the issue within the existing processes.

Part 4 and part 6 of the bill amend the Magistrates Court Act 1991 and the Work Health and Safety Act 2012. These amendments increase the monetary threshold under which a criminal offence can be dealt with by a deputy president magistrate of SAET to $1.5 million. This particularly affects prosecutions under the Work Health and Safety Act. In practice, deputy president magistrates deal with most work health and safety offences and have expertise in these matters. However, the existing monetary threshold of $300,000 means many work health and safety prosecutions may need to be referred to a deputy president judge for hearing or sentencing instead.

This amendment will assist SAET in efficiently allocating its caseload between different judicial members by ensuring deputy president magistrates can fully deal with a work health and safety prosecution up to a category 2 level. Matters above this penalty range may continue to be referred for consideration by a deputy president judge.

Part 5 of the bill amends the South Australian Employment Tribunal Act 2014, amending section 6 of the act to clarify the assignment of matters between SAET sitting as a court or as an industrial relations commission. These amendments are consistent with and facilitate the amendments to the Fair Work Act 1994 discussed above. These amendments will ensure matters assigned to the court can continue to be subject to compulsory conciliation conferences conducted by commissioners.

This bill amends section 19 of the act to provide additional flexibility to the president in the composition of the full bench by allowing commissioners to sit as members of the full bench when SAET is acting as an industrial relations commission. This recognises that commissioners are appointed to SAET having regard to their significant on-the-ground industrial relations experience and expertise, which is essential in achieving the practical resolution of disputes. This amendment ensures that experience and expertise can be deployed as part of the full bench in appropriate arbitral matters.

The assignment of members in any particular case will remain at the discretion of the president, and at least one member of the full bench must always be a presidential member. The amendment also provides that the president must be satisfied that a person has appropriate knowledge, expertise or experience relating to the class of matter that is before SAET before assigning a commissioner to constitute SAET or sit as a member of the full bench.

The bill amends section 43 of the act to increase the maximum time frame for compulsory conciliation conferences in workers compensation disputes from six to 10 weeks. A number of SAET decisions now identify that, in practice, the current six-week time frame specified in the act is often unworkable due to unavoidable delays in obtaining specialist medical evidence or reports. As a consequence, it has become routine for SAET to exercise its power to extend the period for compulsory conciliation well beyond the six-week time frame of the act. Indeed, SAET itself has advised that, in reality, the time frame for conciliation is often closer to 12 weeks than the current six weeks.

It is essential that workers compensation matters are dealt with expeditiously. If an injured worker's claim has been wrongly determined it needs to be resolved as quickly as possible to provide the best opportunity for the worker to access necessary compensation and support to make a successful return to work.

However, time frames in the act also need to reflect the realities of litigation. There is no point in setting a time frame which is practically impossible to meet. Indeed, doing so risks trivialising the goal of completing the conciliation process as quickly as possible. The increase to the maximum compulsory conciliation time frame of 10 weeks acknowledges the existing time frame is often unrealistic and sets a more appropriate target which can actually be achieved in practice.

Importantly, the increase to a 10-week conciliation period operates in conjunction with an amendment to tighten the threshold for SAET to extend conciliation beyond this time frame, recognising that an extension of time should be the exception rather than the norm. This bill replaces the current broad good reasons test for extending the conciliation process with the requirement that SAET must be satisfied there is a substantial likelihood that proceedings will resolve by settlement if an extension occurs. That is appropriate as the settlement of a dispute should be the fundamental focus of a conciliation process.

The bill amends section 44 of the act to provide that the procedure for referral of matters for hearing and determination is subject to the provisions of another relevant act. This recognises that some legislation conferring jurisdiction on SAET may provide for an alternative procedure.

The bill amends section 51 of the act to provide for the confidentiality of communications between non-legally qualified representatives and members in proceedings before SAET. It has been common throughout Australian history for non-legally qualified officers and employees of industrial associations, both business associations and trade unions, to represent their members in industrial courts and tribunals. That is also the case in SAET, with several acts expressly providing for such a right of representation. This includes in workers compensation and industrial proceedings.

While it may be thought communications between a representative and a member would be confidential, the decision in Davies v Woolworths Group Limited has identified that such communications may be disclosed to opposing parties if a representative is not legally qualified. Disclosing confidential communications between a representative and a party to proceedings would substantially undermine the important representative function of industrial associations, which has been recognised in South Australia for decades.

The amendments in this bill ensure that, where a party is represented by a non-legally qualified person authorised by legislation to appear before SAET as a representative, documents and communications will be subject to similar confidentiality rules as apply between a legal practitioner and their clients.

This bill amends section 65 of the act to allow SAET, on application, to expand the scope of issues in dispute in workers compensation disputes where the tribunal is satisfied it is in the interests of justice that a question should be determined as part of the proceedings.

Workers compensation disputes are a unique jurisdiction. Proceedings are conducted using informal documents and without detailed applications or pleadings. It is common for the issues in dispute to ebb and flow as new medical and factual developments arise while a dispute is on foot and the parties' cases are sharpened closer to a hearing.

The jurisdiction is also unique in that the relationships between an injured worker and a compensating authority like ReturnToWorkSA often persists over a period of years and is rarely confined to a single issue. A workplace injury may result in a cluster of related claims which arise over time; some for weekly payments, some for medical expenses or surgery, some for return to work services and some for lump sum compensation.

While the act allows the issues in dispute in proceedings to be enlarged with the consent of the parties, concerns have been raised that one party's unreasonable refusal to consent can result in unnecessary duplication through the filing of separate applications about related issues, and ultimately increased costs and delay.

The aim should be for all relevant issues and dispute between a worker and a compensating authority to be heard and determined in the same proceedings insofar as just and appropriate, taking into account matters such as the objects of the tribunal, the need for procedural fairness and case management principles. That approach provides the best opportunity to achieve finality in litigation and allow the worker to move on with confidence in their affairs and the ability to focus on their recovery, rather than the dispiriting prospect of completing one proceeding before SAET only to face further proceedings arising from ancillary disputes, which could have been resolved simultaneously.

The amendment in this bill will ensure that, if the parties cannot agree on which issue should be dealt with in proceedings, SAET has the ability to supervise the litigation and ensure related issues are dealt with together insofar as is just and appropriate. This means, for example, that SAET can determine that it is appropriate to deal with both the question of whether the worker's injury arises from their employment and whether the worker is entitled to a particular surgery or medical expense related to an injury in the same proceedings.

The bill amends section 86 of the act to significantly streamline the process for the enforcement of monetary orders made by SAET. Currently, in order to enforce an order made by SAET a party must go through a labyrinth of legal processes. Having already won their case in SAET, if a debtor refuses to comply with an order the party must first seek to prove the order as a debt through a civil claim in the Magistrates Court or District Court. The purpose of this process is to effectively convert an order of SAET into an order of the other court.

This provides a forum where a debtor can seek to relitigate the substantive issues that were raised before SAET. Only once a debt has been proven in a civil claim can a party proceed to commence an application for enforcement of judgement under the Enforcement of Judgments Act 1991.

The amendments in this bill will remove these unnecessary barriers to the enforcement of SAET decisions and hopefully improve compliance with orders made by SAET generally. A worker

who has been underpaid and pursued that underpayment to receive an order from the court is entitled to expect their order will be complied with.

Under these amendments where a mandatory order is made by SAET sitting as a court it will no longer be necessary to prove the order as a debt. Instead, the order will be immediately enforceable as if it were a judgement of the Magistrates Court or District Court.

The amendments also promote access to justice by providing that where non-legal practitioner representatives, such as an officer or employee of an industrial association, is entitled to represent a party before SAET, then they may also represent the party in the proceedings under the Enforcement of Judgments Act.

The bill amends section 92 of the act to permit SAET to make rules providing for the suspension of inactive proceedings. It is common for workers compensation proceedings in particular to involve periods of inactive litigation, such as where the parties are awaiting the receipt of specialist medical reports or confirmation of a worker's prognosis following surgery. This amendment will support SAET in the efficient management of its workload by allowing specific rules to be made dealing with these circumstances, such as placing proceedings in a suspended matters list pending the resumption of active litigation.

It is essential that all parties in our industrial relations system—workers, employers and compensating authorities like ReturnToWorkSA—can have confidence in the high-quality independent dispute resolution processes that SAET provides. Continuous improvement is always welcome, and the government will monitor feedback on the practical effect of the amendments in this bill and consider any feedback from stakeholders on issues that may arise to ensure SAET can continue to deliver the best services for the entire community.

I commend the bill to members and seek leave to have the explanation of clauses inserted 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 *Equal Opportunity Act 1984*

3—Amendment of section 95B—Referral of complaints to Tribunal

This clause amends section 95B to provide for referral of matters to SAET (rather than the Tribunal) in certain circumstances.

Part 3—Amendment of *Fair Work Act 1994*

4—Amendment of section 4—Interpretation

This clause—

- makes an amendment consequential to clause 5
- amends the definition of *industrial matter* to specifically include matters in an industrial instrument relating to wage parity.

5—Insertion of section 4A

This clause inserts a new section 4A as follows:

4A—Meaning of employer for public employees

This provides that the employer for public employees is the body or person (not being a Minister) declared by regulation to be the employer of the employees (and the employer is an instrumentality of the Crown and is capable of binding the Crown).

6—Amendment of section 8—Jurisdiction to interpret awards and enterprise agreements

This clause provides that jurisdiction conferred under section 8 of the Act vests in SAET constituted as the South Australian Employment Court.

7—Substitution of section 11

The current section 11 is deleted because it is unnecessary. This clause substitutes a new section 11 as follows:

11—Jurisdiction to settle and resolve industrial disputes

Jurisdiction to settle and resolve industrial disputes is conferred on SAET constituted as an industrial relations commission.

8—Amendment of section 12—Orders to remedy or restrain contraventions

This clause provides that jurisdiction conferred under section 12 of the Act vests in SAET constituted as the South Australian Employment Court.

9—Amendment of section 13—Advisory jurisdiction

This clause provides that jurisdiction conferred under section 13 of the Act vests in SAET constituted as an industrial relations commission.

10—Insertion of section 13A

This clause inserts a new section 13A as follows:

13A—Mandatory injunctions

Section 7(2) of the *Crown Proceedings Act 1992* does not apply in respect of proceedings before SAET under the Act.

11—Insertion of heading

12—Insertion of heading

These sections divide Chapter 2 Part 2 into Divisions.

13—Repeal of section 24

Section 24 is repealed.

14—Amendment of section 34—Award to include interest

An award of interest, or lump sum instead of interest, must take into account the period between the day the relevant cause of action arose and the day the judgement is delivered.

15—Insertion of Chapter 3 Part A1

This clause inserts an interpretative provision as follows:

Part A1—Interpretation

65—References to SAET

A reference to *SAET* in Chapter 3 is a reference to SAET constituted as an industrial relations commission.

16—Amendment of section 69—Remuneration

This clause removes the requirement for SAET to establish a minimum standard for remuneration at least once in every year (which is consequential to clause 26) and provides that the minimum standard for remuneration is established by a Full Bench of SAET.

17—Amendment of section 70—Sick leave/carer's leave

18—Amendment of section 70A—Bereavement leave

19—Amendment of section 70B—Family and domestic violence leave

20—Amendment of section 71—Annual leave

21—Amendment of section 72—Parental leave

22—Amendment of section 72A—Minimum standards—additional matters

23—Amendment of section 72B—Special provision relating to severance payments

These clauses provide for various minimum standards to be established or reviewed by a Full Bench of SAET.

24—Amendment of section 79—Approval of enterprise agreement

This clause provides that an enterprise agreement may be referred to a Full Bench of SAET for approval in certain circumstances.

25—Amendment of section 90—Power to regulate industrial matters by award

This clause allows SAET to vary an award about remuneration and other industrial matters and removes an obsolete note..

26—Insertion of section 100A

This clause inserts a new provision as follows:

100A—State Wage Case

A Full Bench of SAET must, within 3 months of the conclusion of the Annual Wage Review conducted by the Fair Work Commission, conduct an annual review of the minimum standard of remuneration under section 69, minimum wage rates in awards and minimum work-related allowances and loadings in awards.

27—Amendment of section 108—Question to be determined at the hearing

This clause updates a cross reference.

28—Amendment of section 120—Application for registration

This clause provides that applications for registration under Chapter 4 Part 2 are to be made to SAET constituted as an industrial relations commission.

29—Amendment of section 125—Alteration of rules of registered association

This clause provides that SAET constituted as an industrial relations commission can register an alteration of rules.

30—Amendment of section 127—Orders to secure compliance with rules etc

This clause provides that certain applications under section 127 are to be made to SAET constituted as the South Australian Employment Court.

31—Amendment of section 130—De-registration of associations

This clause provides that SAET constituted as an industrial relations commission can de-register an association.

32—Amendment of section 132—Application for registration

This clause provides that applications for registration under Chapter 4 Part 3 are to be made to SAET constituted as an industrial relations commission.

33—Amendment of section 134—Registration

This clause is consequential to clause 32.

34—Amendment of section 135—De-registration

This clause provides that SAET constituted as an industrial relations commission can de-register an organisation or branch.

35—Amendment of section 138—Limitations of actions in tort

This clause provides that applications under section 138 are to be made to a Full Bench of SAET constituted as an industrial relations commission.

36—Amendment of section 140—Powers of officials of employee associations

This clause provides that in exercising powers under section 140(4) SAET must be constituted as an industrial relations commission.

37—Amendment of section 219D—Compliance notices

This clause provides for the making of applications to SAET constituted as the South Australian Employment Court for a review of a notice issued under the section.

38—Repeal of section 230

This section repeals section 230.

39—Transitional provisions

This clause provides transitional provisions related to the Part.

Part 4—Amendment of *Magistrates Court Act 1991*

40—Amendment of section 9—Criminal jurisdiction

This clause increases the jurisdictional limit applicable in the case of an offence under the *Work Health and Safety Act 2012* being heard by an industrial magistrate to a fine of $1,500,000.

41—Transitional provision

The new limit proposed under clause 40 will apply in relation to proceedings commenced in the Magistrates Court after the commencement of that clause.

Part 5—Amendment of *South Australian Employment Tribunal Act 2014*

42—Amendment of section 6—Jurisdiction of Tribunal

This clause removes the current section 6(2)(b)(ii) and provides that if a matter is assigned to the South Australian Employment Court, the Court may direct, or an Act or the rules may provide, that the matter be the subject of a compulsory conference in an industrial relations commission.

43—Amendment of section 6A—Conferral of jurisdiction—criminal matters

This clause increases the jurisdictional limit applicable in the case of a minor indictable offence heard by a magistrate of the South Australian Employment Court to a fine of $1,500,000.

44—Amendment of section 13—Appointment of Deputy Presidents

This clause requires consultation with the President before an appointment is made under the section.

45—Amendment of section 19—Constitution of Tribunal

Under this amendment a Full Bench of the Tribunal may, when acting as an industrial relations commission, consist of 3 members of which at least 1 must be a Presidential member. In addition it is provided that if a non-Presidential member is to constitute the Tribunal, or is to be a member of a Full Bench of the Tribunal, for the purpose of dealing with a matter, the President must be satisfied that the member has appropriate knowledge, expertise, or experience relating to that class of matter.

46—Amendment of section 43—Compulsory conciliation conferences

A conciliation conference must be attended by persons with sufficient decision-making authority to fully participate in settlement discussions. The amendments also make provision in relation to the maximum period over which a conference may occur and extension of such a period in certain cases. The amendments also make it clear that the conference may enlarge the scope of proceedings in accordance with section 65.

47—Amendment of section 44—Referral of matters for hearing and determination

This clause makes a minor clarifying amendment to section 44.

48—Amendment of section 51—Representation

This clause allows protection equivalent to legal professional privilege where a person is entitled to be represented in the Tribunal by a person who is not a legal practitioner.

49—Substitution of section 65

This clause substitutes a new section 65 as follows:

65—Power to enlarge scope

Under the proposed new provision the Tribunal may enlarge the scope of proceedings either with the consent of all parties or, in the case of proceedings are under the *Return to Work Act 2014*, where (on application and after giving all parties an opportunity to be heard), the Tribunal is satisfied it is in the interests of justice that a question should be determined as part of the proceedings.

50—Amendment of section 72—Functions of registrars

This clause provides for a review of an exercise of administrative power by a registrar.

51—Amendment of section 86—Enforcement of decisions and orders of Tribunal

This clause makes provisions in relation to recovery of monetary orders made by the Tribunal.

52—Amendment of section 91—Disrupting proceedings of Tribunal

This clause amends section 91 so that the section will also apply where a person contravenes or fails to comply with an order for payment of money.

53—Amendment of section 92—Rules

Rules may provide for the suspension of inactive proceedings.

54—Transitional provisions

This clause provides transitional provisions.

Part 6—Amendment of *Work Health and Safety Act 2012*

55—Amendment of section 230—Prosecutions

This clause increases the limit on sentencing for an indictable offence against the Act charged on complaint in the South Australian Employment Court to a fine of $1,500,000.

56—Transitional provision

The new limit proposed under clause 55 will apply in relation to proceedings commenced in the South Australian Employment Court after the commencement of that clause.

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

INTERVENTION ORDERS (PREVENTION OF ABUSE) (SECTION 31 OFFENCES) AMENDMENT BILL

Introduction and First Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:47): Obtained leave and introduced a bill for an act to amend the Intervention Orders (Prevention of Abuse) Act 2009. Read a first time.

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (15:48): I move:

That this bill be now read a second time.

Today, I introduce the Intervention Orders (Prevention of Abuse) (Section 31 Offences) Amendment Bill 2024. This bill amends the Intervention Orders (Prevention of Abuse) Act 2009 to address an historical charging error in relation to offences under section 31 of that act. Section 31 contains offences for breaches of intervention orders under the act.

Section 31(1) is a less serious offence of contravening a term of an intervention order which requires participation by the defendant in an intervention program. This offence carries a maximum penalty of a $2,000 fine or imprisonment for two years, with an associated expiation fee of $315. Section 31(2) is a more serious offence of contravening any other term of an intervention order. This offence carries a maximum penalty of three years' imprisonment for a basic offence and five years for an aggravated offence.

In September last year, I was informed that it had been identified that defendants had been charged with and found guilty of a less serious offence under section 31(1) where they should have instead been charged with and found guilty of an offence of breaching section 31(2) of the act. I am advised that this incorrect charging came about as a result of an error in a form used by SAPOL prosecutors to lay charges.

Nearly all of these prosecutions, I am advised, were resolved by way of a guilty plea and the defendant was sentenced by the court on the basis of their admitted, uncontested or proven conduct as if the prosecution were for the more serious section 31(2) offence. This error has not exposed any person to a greater penalty than they would have been liable to had they been found guilty of the offence of breaching section 31(2) of the act. Nonetheless, review proceedings may be available to those persons.

I am advised that this issue arose after the commencement of the act in 2011 and continued until an error in South Australia Police's charging system was finally remedied in May 2019. In practice, this was an error in SAPOL's charging system which produces the required documents to lay a complaint or information before the court. I am advised that a full audit of these matters has identified 771 files with 700 individual defendants to whom this error applies.

This bill represents the government's legislative response to this historical charging error. It provides a pathway for fresh prosecutions to be brought and for the safety of the community, particularly victim survivors of domestic violence, to be maintained. This bill would enact a scheme to apply to any review proceedings initiated by defendants that may be permitted by the court to be commenced out of time. Specifically, the bill will:

- Establish a process whereby fresh prosecutions for a section 31(2) offence could be brought out of time and be heard and determined in the same review court that is dealing with any appeal or review by a defendant (the section 31(2) proceedings). If these section 31(2) proceedings are contested, the review court has a discretion to remit the matter to a court of summary jurisdiction for trial, to deal with it in the ordinary way.
- Provide that any agreed or undisputed facts received in the original sentencing proceedings for the offence against section 31(1) are, unless excluded in the court's discretion, admissible as evidence of the conduct in fact engaged in on the occasion alleged for the purpose of the section 31(2) proceedings.
- Provide for the offsetting of the previously imposed penalty, including costs of the levy imposed under the Victims of Crime Act 2001, against any sentence imposed in any fresh section 31(2) proceedings, including removing any liability to repay the defendant any fine or compensation paid by the defendant.
- Amend section 31(2ab) of the Intervention Orders (Prevention of Abuse) Act to permit a person's section 31(1) conviction to be taken into account for the purposes of a 'second or subsequent contravention offence' in section 31(2aa) of that act.

The bill also provides that no liability attaches to the Crown for false imprisonment or any other act or omission relating to proceedings involving these incorrect charges. As I stated earlier, this error has not exposed any person to any greater penalty than they would have been liable to had they been charged and found guilty of the correct offence.

I have sought advice on the time line of events in this matter. I am advised that this error began in December 2011 upon the commencement of the act. In June 2017, I am advised the issue was identified and a warning was put in the SAPOL system to prevent the error reoccurring. However, I am advised that a change in the SAPOL database system in 2018 led to this warning being lost, and this error reoccurring.

I am advised that this continued until May 2019 when the issue was finally addressed and no further incorrect charges were laid. I am advised that in November 2019 the former Attorney-General, the Hon. Vickie Chapman, and the former Minister for Police, the Hon. Corey Wingard, were briefed on this issue.

I was advised of this issue in September 2023 and in the months that followed I received a significant amount of advice from the Solicitor-General, the Crown Solicitor and the Attorney-General's Department on how this issue is best addressed. These efforts have led to the introduction of the bill that is before us.

It is worth noting that the former government took no legislative action to address this issue. It is not clear to me why ministers in the former Liberal government appear to have taken no action. This bill is overdue but its passage is critical to maintaining community confidence in the justice system and protecting victim survivors of domestic and family violence. It is regrettable that mistakes over the previous decade have necessitated this bill, but I believe it is incumbent on the government today and this parliament to address these historical errors.

I advise members that the government will seek to complete all stages of this bill on the Tuesday of the next sitting week. I commend the bill to members and seek leave to have the explanation of clauses inserted 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 *Intervention Orders (Prevention of Abuse) Act 2009*

3—Amendment of section 31—Contravention of intervention order

These amendments allow a *deemed subsection (1) offence* (which is defined) to be taken into account in determining whether a contravention of an intervention order is a second or subsequent contravention for the purposes of section 31(2aa).

4—Insertion of section 31A

This amendment inserts new section 31A:

31A—Special provisions applying to review or appeal in relation to certain offences against section 31

If applicable review proceedings are instituted in a court (whether before or after the commencement of the provision) in relation to a person's conviction or sentence for an offence charged against section 31(1) of the Act, provision is made for—

- those review proceedings to be heard by the Supreme Court constituted by a single Judge; and
- the person to be prosecuted (in the same proceedings) for an offence against section 31(2) (defined as *section 31(2) proceedings*) in respect of the conduct to which the conviction for the offence charged against section 31(1) relates.

Provision is also made in relation to the time within which the section 31(2) proceedings may be commenced, the admissibility of certain evidence in such proceedings, considerations relating to sentencing a person for an offence against section 31(2) and other relevant matters.

Certain other matters are provided for, including a provision relating to liability of the Crown in relation to acts and omissions in respect of offences charged against section 31(1).

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

Motions

EYRE PENINSULA WATER SUPPLY

Adjourned debate on motion of Hon. N.J. Centofanti:

1. That a select committee of the Legislative Council be established to inquire into and report on the water supply needs of Eyre Peninsula, including a focus on the potential location of desalination plant/s and with particular reference to:
   (a) assessing the current and future water supply and distribution requirements of Eyre Peninsula, including for potential industrial growth needs;
   (b) evaluating the feasibility and impact of locating desalination plant/s on Eyre Peninsula, including the selection process for locating a desalination plant in Port Lincoln, with particular emphasis on community engagement and consultation processes with residents and key stakeholders;
   (c) examining the environmental, economic, cultural and social implications of desalination plant operations in the proposed locations;
   (d) exploring the decision-making responsibility for water supply and distribution on Eyre Peninsula, including community engagement and consultation processes to ensure the active involvement of residents and key stakeholders in decision-making regarding water infrastructure;
   (e) any other relevant matters.
2. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council.

(Continued from 7 February 2024.)

The Hon. B.R. HOOD (15:56): I rise to speak briefly in support of this motion to establish a select committee into Eyre Peninsula's future water supply needs. The former Liberal government

initiated consultation into EP's water needs and established the desalination plant site selection committee, chaired by the former member for Flinders, Peter Treloar.

The committee was representative of the needs of local government, regional development, industry associations and local businesses. The committee, in their investigations, considered 20 potential site locations using a range of important factors: proximity to existing infrastructure, environmental considerations, and aquaculture and marine park sanctuary zones were factored in. The committee landed on Sleaford West as their preferred site but, as we know, SA Water's preferred location for the desal plant is at Billy Lights Point, a site selected for its convenience and because of its lowest cost option.

Unsurprisingly, the department and the minister received overwhelming opposition to their decision to ignore the advice of the site selection committee. Their chosen site presents unknown and significant risk to the prominent EP aquaculture and seafood industry that is so famous for its abundance of fresh premium seafood. Industry bodies and marine biologists are rightfully outraged by the disregard of the committee's advice and are determined to oppose this project.

Yumba, which has acquired Eyre Peninsula Seafoods and is working towards becoming Australia's national leading shellfish aquaculture company, shared its views that Billy Lights Point was its least preferred site location for the desalination plant. The views of this key industry partner are being discarded and, as a result, Port Lincoln is faced with a high-risk chance of untold damage occurring to the largest mussel farming region in Australia.

While strongly objecting to the proposed site, it is indisputable that EP is in urgent need of a secure water supply for the coming decades. There are clear alternative locations that have the support of industry, but here we have a minister and her department taking the lazy and cheap option for this multimillion dollar project that has the ability to destroy the Eyre Peninsula seafood industry and ruin natural ecosystems in the region.

The concerns of Hands Off Boston Bay—made up of community members who are united in their strong opposition to the Billy Lights Point desal plant—must be taken seriously. Proposing risky and permanent infrastructure in a location that threatens the state's seafood industry and goes against regional communities' wishes has become a trend of these state and federal Labor governments, with Eyre Peninsula and Limestone Coast fishing industries being Labor's latest victims, although I would note that luckily the state Labor government has opposed the wind farms down at Port Mac.

By establishing this crucial committee, voices like that of Mark Andrews and EP communities will be heard, a thorough investigation will occur into the feasibility and best location of the desal plant, and the environmental, economic and cultural implications of the desal plant site selection will be examined. Importantly, a select committee will ensure that the community is properly engaged with and their concerns taken seriously.

I thank the honourable Leader of the Opposition in this place for bringing this motion and, prior to commending it to the chamber, I will move an amendment to the motion. I move:

After paragraph 1 insert new paragraph 1A as follows:

1A That the committee consist of six members and that the quorum of members necessary to be present at all meetings of the committee be fixed at four members.

With that, I commend the motion to the chamber.

The Hon. T.A. FRANKS (16:00): I rise today to speak on behalf of the Greens in support of this select committee, which will look into Eyre Peninsula's water supply. As the driest state in the driest inhabited continent, South Australia has the imperative to lead on water innovation, security and resilience. We must ensure that water resource management in South Australia ensures access to potable drinking water as a fundamental human right.

Recent analysis of the state of Eyre Peninsula's underground water sources has confirmed the urgency required to secure the region's future water security. Despite several years of La Niña weather patterns, meaning heavy rainfall and cooler than average weather, there has not been sufficient aquifer recharge to see recovering water levels.

The Uley South Basin, which supplies the majority of water used across Eyre Peninsula—including homes as well as agriculture and mining industries—recorded water levels below or very much below average in almost half of its wells during the past 12 months. This trend has been observed in other groundwater resources across the region, including the Robinson Lens near Streaky Bay, the Polda Lens and the Bramfield Lens near Elliston, and the Lincoln Basin and Uley Wanilla Lens.

Eyre Peninsula Landscape Board general manager, Jonathan Clark, has expressed his concerns with current reports:

> An alternative water source is urgently needed for the Eyre Peninsula. Time is fast running out and we cannot continue to spend more years deliberating the merits of a range of solutions. Decisive action is required now, before we lose this critical resource forever.

Amid growing concerns that the region could run out of drinking water, SA Water first identified three sites in the Sleaford Bay area for a desalination plant for Eyre Peninsula back in 2009.

A site selection committee, set up by the previous Liberal government, recommended a Sleaford Bay site 25 kilometres south of Port Lincoln. However, ultimately, when the Billy Lights Point site was announced, it sparked community protest with unanimous opposition from the community, and council defied the recommendation of the 22-member committee. Multiple local government bodies have also rejected Billy Lights Point as a location for a desalination plant. None oppose a desal plant for the Eyre Peninsula region per se. It is recognised as crucial to ensuring its water supply, but the location and SA Water's process do not pass the 'do no harm' principle.

In late 2023, the Greens also received a letter from the Barngarla Determination Aboriginal Corporation regarding opposition to the location of Billy Lights Point. Their concern stems from the 'insurmountable ecological and heritage issues' they identify. In correspondence with the Barngala corporation, they have said that the site at Billy Lights Point was selected without any heritage surveys, and it is concerning to the Greens that SA Water would go against the wishes of traditional owners, failing to engage, and also why they would also refuse to provide adequate answers to ensure the Barngarla people understood why Billy Lights Point was chosen.

There are much better locations to select from, it is argued, that would not destroy a unique and pristine marine environment that is a community asset, that will not destroy jobs in a $200 million per year agriculture and fishing industry, and will not decimate a $400 million per year tourism industry, as well as all the benefits that flow from that. These are contentious issues but they are urgent issues so, with the Greens' support, I urge that this committee not drag on. It is a matter that is pressing, it is urgent, and it demands our full attention.

There are, of course, also significant fish trap complexes at Billy Lights Point, and the SA government heritage report from the 1980s, commissioned by the SA government's Department of Environment and Planning, indicated that the fish trap complex be preserved in its entirety.

It is clear that Billy Lights Point is a controversial site selection, but water security for Eyre Peninsula is vital and it is urgent, so these processes need to be appropriately and urgently scrutinised. We also need to unite to ensure that the future of water on Eyre Peninsula is protected. With that, I commend the motion.

The Hon. S.L. GAME (16:04): SA Water identified in 2008 that Eyre Peninsula would need to complement its South Basin supply through desalination to meet future demand. The decision of Minister Close and SA Water to disregard advice from the site selection committee and build a plant at Billy Lights Point is worthy of examination. The community needs to be heard and we need to know that the site selection is the best option for Eyre Peninsula. If there is a more appropriate option, this committee will assist in reevaluating the selection process and finding that better option. The desalination plant needs to be fit for purpose and the decision on its location needs to be guided by the experts and industry leaders.

I understand there is strong opposition to the desalination plant being located within the highly productive aquaculture zone of Boston Bay and this location requires further scrutiny. I support the motion and want to see the best outcome for the residents and businesses on Eyre Peninsula.

The Hon. J.E. HANSON (16:05): SA Water is preparing to build a 5.3 gigalitre desalination plant at Port Lincoln on Eyre Peninsula to supplement and take pressure off the stressed Uley Basin groundwater supply and provide water security to local communities. This will ensure the supply of reliable, climate-independent drinking water to supplement groundwater sources for around 35,000 customers on Eyre Peninsula by late 2025.

The South Australian government accepted the advice of the SA Water board that Billy Lights Point is the preferred location for the plant. SA Water is required to adhere to strict environmental protection legislation and SA Water has a proven history of designing and building desalination plants that protect the surrounding environment. SA Water is committed to providing the Eyre Peninsula community with transparent information about such an important project as this.

My understanding is that SA Water plans to lodge a development application for the plant at Billy Lights Point with the State Commission Assessment Panel for assessment in early to mid-2024.This provides an open, accountable and responsible decision-making process that includes community consultation.

The government is not opposing this motion, but it makes its intentions clear that it is acting now so residents of Port Lincoln, along with the broader Eyre Peninsula communities, can have access to a climate-independent drinking water source.

It is well known that SA Water needs an additional water source to supplement the Uley South groundwater basin to ensure availability of drinking water for its customers across Eyre Peninsula. It is also well known that there is a serious threat to water security on the peninsula and SA Water needs to act now to ensure fresh drinking water for Eyre Peninsula communities and to safeguard business confidence for industry.

The Uley South Basin is the last remaining major productive groundwater source on Eyre Peninsula, and it provides about 75 per cent of the drinking water for more than 35,000 people. In 2008, SA Water released its long-term plan for the water security of Eyre Peninsula, which identified that the Uley South Basin suppliers will need eventual augmentation to meet ongoing community need.

Extended low levels of recharge from rainfall to the Uley South Basin led to the former government announcing the construction of a desalination plant near Port Lincoln to provide water security and prevent permanent damage to the basin.

In June 2020, the former Minister for Environment and Water and now Leader of the Opposition stated that the former government was 'getting on with it', spending $90 million on a desalination plant at Sleaford Bay, proclaiming that they were looking forward to returning to the site in a couple of months to turn the first sod and see the project get underway.

In April 2021, SA Water instead announced that it was investigating potential alternative sites for its planned Eyre Peninsula seawater desalination plant so that it would determine if a new location would enable a more cost-effective delivery than the preferred position at the time near Sleaford Bay.

In October 2021, it was then announced that, following a comprehensive analysis of 20 sites around Port Lincoln and Lower Eyre Peninsula, the ex-BHP site at Billy Lights Point was the preferred site for the desalination plant. Around 17 months after the former minister and now Leader of the Opposition told us how this government was 'getting on with it', in November 2021, the former minister then opted for a further 12-month pause to the project to explore further site options along with further marine science monitoring and research.

At the time, the 2022 state election was just three months away and it might have made some sense for the former minister and now Leader of the Opposition to pause the project to the detriment of the broader Eyre Peninsula residents so that notionally his party might stave off any pressure from candidates in that election. To enable this, around 20 months after the former minister and now Leader of the Opposition told us all how his government was 'getting on with it', in February 2022 the Eyre Peninsula site selection committee was established with the remit to make its recommendation to SA Water and the South Australian government regarding a preferred site for the construction of the desalination plant.

At its first meeting, in February 2022, the former minister highlighted the need for the site selection committee to give close consideration to the financial implications of any recommendation, noting that the available budget was somewhere between $100 million and $150 million. Tellingly, the former minister advised that to do nothing was an option if the site selection committee could not align on an affordable site for desalination.

Fast-forward to March 2023. For some 33 months after we were told that the former government was getting on with it, this government did in fact get on with it by accepting the advice of the SA Water board that Billy Lights Point is the preferred location for a desalination plant at Port Lincoln.

While appreciative of the efforts of the site selection committee, the simple fact is that the committee's preferred site at Sleaford West poses a number of geological and transport challenges that would be difficult to overcome. Based on SA Water's latest estimates, the site selection committee's proposed Sleaford West site would cost around $200 million more than the estimated $313 million Billy Lights Point proposal, which would be worn by SA Water customers right across South Australia.

In introducing this motion, the honourable member has proposed that the committee will investigate what the consultation process was for the current desalination proposal from initial discussions to the present day. The honourable member also noted that, in its recent draft determination of SA Water's regulatory business proposal, ESCOSA raised concerns with SA Water's proposed operating cost for the EP desalination plant for the 2024 to 2028 period.

However, the honourable member failed to mention that in the exact same report ESCOSA said that the capital expenditure on the Eyre Peninsula desalination plant is in fact prudent, and the amount of capital expenditure is efficient. Despite SA Water's recommendation that the Billy Lights Point site provides a suitable site from an environmental, logistical, operational and financial perspective, it appears that the opposition want to add further impost to SA Water customers by advocating for a different site at an increased cost.

The opposition constantly remark that this government must do all it can to keep water prices as low as possible, yet fail to mention that the former minister and now Leader of the Opposition's inaction has meant that SA Water customers are going to be saddled with the increased project cost of at least $213 million since he first boasted that he was 'getting on with it' when the original project cost was $90 million. It appears that the opposition now want the 1.7 million customers of SA Water to put at least another $200 million towards the project on top of the $313 million, taking the project from $90 million to in excess of half a billion dollars.

This government agrees that water security is an important issue on Eyre Peninsula. In closing, Eyre Peninsula's water security is seriously under threat and this government and SA Water are acting now to ensure fresh drinking water for Eyre Peninsula. While the government will not be opposing the motion, it makes its intentions clear that, unlike some in the Liberal Party, it is now 'getting on with it' so that the residents of Port Lincoln, along with the broader Eyre Peninsula communities, can have access to a climate-independent drinking water source.

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (16:14): I would like to thank honourable members for their contributions this afternoon, namely, the Hon. Ms Franks, the Hon. Mr Hood, the Hon. Ms Game and the Hon. Mr Hanson. It has been clearly articulated that this select committee is not to determine whether Lower Eyre Peninsula requires an urgent water security solution, nor is it about whether or not a desalination plant is built in that region. We know that a water security solution is essential and that a desalination plant has been earmarked since the previous Liberal government was responsible for investigating solutions for this issue.

I want to place on the record that it certainly is our intention to ensure that this select committee is done in as timely a fashion as possible. We know and respect the scientific advice that a desalination plant is the most suitable solution for this region. That is not what is under debate and that is not what is to be investigated. What is to be scrutinised is general water security on Eyre Peninsula and, in particular, the decision-making process in determining the current site selection, by this Labor government, of that EP desalination plant.

Multiple times I have called on the Minister for Climate, Environment and Water to reconsider her decision to build the desalination plant at Billy Lights Point. No-one wants it there. The community does not want it there, the aquaculture industry does not want it there, the Barngarla Determination Aboriginal Corporation does not want it there, and the local tourism industry does not want it there. The only people who seem to want it there are SA Water and the Labor government.

It appears that the minister is not motivated to listen to the community and to advocate to her own government to find funds to build the desalination plant in the appropriate place at Sleaford West. I have asked Minister Close, on a number of occasions, to not only reconsider her decision but to seek from her federal colleagues—not from SA Water customers, as the Hon. Mr Hanson stated—the additional funding required to allow the site of Sleaford West. That of course was the recommendation of the independent Eyre Peninsula desalination site selection committee.

This is the same government that will be content to blow the budget when it comes to the north-south corridor in metropolitan Adelaide, or to throw tens of millions of dollars at again sponsoring a LIV golf tournament here in Adelaide, or to spend hundreds of millions of dollars on a university merger without doing its own due diligence and reading the business case. My point is that this is critical infrastructure for our state and for the communities of Lower Eyre Peninsula, and it should be given effort and respect. The site selection committee put forward a different location for the proposed desalination plant. The site of Sleaford West ticked many more boxes than Billy Lights Point.

There is no need for me to repeat everything that has been said previously in this chamber. There is no need to repeat everything that I have said on many radio programs and in regional papers about this issue. Suffice to say that I am proud to stand with my colleague in the other place, the member for Flinders, and I am proud to stand up with colleagues here in this place. I am proud to stand up and hold this vote as shadow minister for water resources and regional South Australia.

It is my hope that the motion for this select committee passes today and that we are able to understand how we can find a better outcome for the people of Port Lincoln and for the people of Lower Eyre Peninsula. I commend the motion to the chamber.

Amendment carried; motion as amended carried.

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (16:19): I move:

That the select committee consist of the Hon. C. Bonaros, the Hon. T.A. Franks, the Hon. J.E. Hanson, the Hon. B.R. Hood, the Hon. R.P. Wortley and the mover.

Motion carried.

The Hon. N.J. CENTOFANTI: I move:

That the select committee have powers to send for persons, papers and records, to adjourn from place to place and to report on 1 May 2024.

Motion carried.

PRIMARY INDUSTRIES SECTOR

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (16:20): I move:

That this council—

1. Notes that primary industries are early adopters of innovation and technology;

2. Applauds industry-led and progressed initiatives for research, development and extension; and

3. Calls on all governments to ensure that South Australia strives for future investment and growth within the industry by ensuring sufficient resourcing and ongoing focus on the South Australian Research and Development Institute.

Primary industries, encompassing agriculture, horticulture, forestry, fishing and aquaculture, have proven to be early adopters of innovation of technology and are driving advancements that reshape the landscape of these sectors. Embracing cutting-edge technologies has become imperative for these industries as they strive to enhance productivity, sustainability and efficiency.

In agriculture, precision farming techniques, such as GPS-guided tractors and drones, have revolutionised crop management, optimising resource use and minimising environmental impact. Advance sensors and data analytics enable farmers to make informed decisions from crop monitoring to irrigation control. Similarly, in forestry, automated machinery and satellite-based monitoring systems have streamlined logging operations, ensuring sustainable forestry practices.

The fishing industry benefits from innovations like sonar technology and GPS tracking, aiding in efficient fish location and catch optimisation whilst minimising bycatch. This is a win for fishers as much as it is for environmental monitors. These primary industries showcase a commitment to staying at the forefront of technological progress, not only for the economic reasons but also to address global challenges like food security and environmental sustainability. By encompassing innovation primary industries set a precedent for other sectors, illustrating the transformative power of technology in shaping the future of global economies and logistics systems.

I would like to highlight just one incredible emerging technology, which I have no doubt will be swept up and swiped up by industry. Quantum compassing could offer unique benefits to primary industries, enhancing navigation and positioning systems in challenging environments. Quantum compassing can provide highly accurate navigation, even in remote and challenging terrain, such as dense forest, deep sea fishing zones or remote pastoral sites. This technology would offer improved location accuracy, ensuring efficient operations in areas where traditional navigation methods may fall short. I can also undoubtedly see how this would add to worker safety and remote rescues.

In agriculture, precise navigation is absolutely crucial for optimising tractor routes, reducing unnecessary soil compaction and minimising environmental impact. Quantum compassing can contribute to more sustainable farming practices by enabling farmers to navigate with precision and minimising the ecological footprint of their operations—again a win for all.

This technology has the potential to aid the fishing industry by improving navigation accuracy for vessels. It could enhance the efficiency of fishing operations, helping vessels navigate to specific locations with minimal impact on marine ecosystems, and reducing fuel consumption through optimised routes. Quantum compassing can also play a role in optimising the logistics and supply chains of primary industries. Precise navigation can help streamline the transportation of agriculture, horticulture, forestry and fishery products, reducing transportation costs and improving overall efficiency.

Whilst quantum technologies are still in the early stages of development, their potential application in primary industries highlights the possibility of significantly improving operations and sustainability across a multitude of sectors. As quantum technologies mature, primary industries may integrate quantum compassing into their existing systems to gain a competitive edge in navigating complex and resource intensive environments.

I am truly excited about this field and we as a state and industry must leap at these opportunities. We must be at the forefront. The Liberal opposition is standing by ready to back the early adopters and support ag innovation, as we did in our time in government. Agtech is truly transforming agriculture with thrilling innovations. From precision farming using drones and AI to smart sensors optimising resource use, technology enhances efficiency, sustainability and yields. Exciting advancements promise to revolutionise farming practices, ensuring a more resilient and technologically advanced future for agriculture.

Industry-led and progressed initiatives for research, development and extension are crucial for primary industries, particularly for farmers and fishers, for several reasons. An industry-led initiative ensures that research and development efforts are aligned with the specific needs and challenges faced by farmers and fishers. These initiatives focus on practical, on-the-ground solutions that directly address the issues encountered in day-to-day operations. It leads to better outcomes.

Industry-led efforts are also more likely to produce research findings that are directly applicable to the realities of primary production. Farmers and fishers benefit from innovations that are tailored to their unique circumstances in their unique locations, allowing for the adoption of technology and practices that can improve efficiency and productivity in their specific contexts.

Extension programs associated with industry-led initiatives play a crucial role in transferring new knowledge and technologies to farmers and fishers. These programs facilitate the dissemination of information, training and support, enabling primary producers to adopt and implement the latest advancements in their operations.

This is something the Liberal Party of South Australia truly backs. As a regional member who grew up on a working citrus farm and who used to be a country veterinarian, I know how important this is. Conducting research in silos and publishing that research in journals is all well and good, and I do encourage that, but the findings and outcomes must be delivered and shared to those who would benefit.

Farmers and fishers operate in highly competitive markets, and their economic viability depends on adopting efficient and sustainable practices. Industry-led initiatives help ensure that research and development efforts focus on innovations that not only improve productivity but also contribute to the economic sustainability of primary industries.

Industry-led initiatives often involve collaboration between researchers, industry experts and primary producers. This collaboration fosters a two-way exchange of knowledge, with researchers gaining insights from practitioners and producers benefiting from the latest scientific advancements. This collaborative approach enhances the effectiveness and applicability of research outcomes.

We know that South Australian primary industries face evolving challenges, including changing climates, market fluctuations and regulatory changes. Industry-led initiatives have the potential to enable rapid responses to these dynamic conditions by fostering a proactive approach to research and development. This adaptability is essential for the long-term resilience of farmers and fishers in South Australia.

Importantly, there is empowerment in collaboration. Involving farmers and fishers in the research and development process empowers them to be active partners in shaping the future of their industries. By contributing to decision-making and solution development, stakeholders are more likely to embrace and implement innovations, leading to widespread adoption across the sector. We must bring community along.

Overall, industry-led initiatives for research, development and extension ensure that the outcomes are relevant and practical and directly benefit South Australian primary producers, contributing to the sustainability and success of the imperative sectors of primary industries and regional communities, the backbone of our state economy and, I would say, an incredibly important part of our South Australian culture.

I would like to move on to the final part of this motion—that is, the acknowledgement of the importance of SARDI, the South Australian Research and Development Institute. Ensuring sufficient resourcing and continual strengthening of SARDI is crucial for fostering future investment and growth within South Australian primary industries.

Several reasons underscore the importance of state and federal governments prioritising support for SARDI. The institute plays a pivotal role in driving innovation and technological advancements in South Australian primary industries. Adequate resourcing enables SARDI to conduct research that leads to the development of cutting-edge technologies, practices and solutions, positioning the state as a leader in agricultural and fisheries innovation, not only here in Australia but globally.

Through research and development SARDI continues to enhance the productivity and sustainability of our primary industries. This includes developing new crop varieties, improving farming practices and implementing sustainable fishing methods. These advancements are essential for ensuring the long-term viability and competitiveness of our industries that employ thousands of South Australian workers.

Continued investment in SARDI helps South Australia's primary industries remain globally competitive. Research outcomes from SARDI can lead to the development of high-quality products, efficient production processes and sustainable practices that position South Australia as a preferred supplier in international markets, attracting investments and fostering our economic growth and

economic resilience. SARDI serves as an important hub for collaboration between researchers, industry stakeholders and government bodies.

By ensuring ongoing focus and resourcing, governments can strengthen this collaborative network, facilitating the effective transfer of knowledge and technologies between research institutions and primary producers. A vibrant and well supported SARDI contributes to job creation and adds to the economic growth in South Australia. As primary industries evolve and become more efficient and sustainable through research-driven initiatives, there is potential for increased employment opportunities and a positive impact on the state's economy.

The institute's research extends to biosecurity measures, helping to identify and mitigate risks associated with pest disease and invasive species. This proactive approach is crucial for protecting South Australia's agricultural and fisheries assets, safeguarding the industries against potential threats.

In my home region, SARDI has been incredibly important in supporting industry and by extension the community of the Riverland. They have historically played a significant role in supporting and contributing to the horticultural and economic development of the Riverland region in South Australia. They were leaders in viticulture research, irrigation efficiency, citrus industry support, crop diversification, pest and disease management, soil health and nutrient management and, in more recent years, helping farmers adapt to changing seasonal conditions.

Through these initiatives, SARDI became a valuable partner for the Riverland community, providing scientific expertise, research outcomes and practical solutions to enhance the resilience, sustainability and productivity of the region's primary industries. The collaborative efforts between SARDI and local stakeholders contributed to the success and growth of the Riverland's agricultural sector.

However, today industry leaders told me they feel SARDI is not the pinnacle of research and innovation it once was. It is being starved of funds for all but pet projects and is potentially losing some of the brightest and most passionate industry leaders and researchers for interstate and overseas opportunities. SARDI must be a priority. Primary industries are far too important to this state and to the thousands of people employed in primary production right across South Australia.

Neglecting investment in primary industries research and development carries serious consequences. First and foremost, it stifles innovation, hindering the adoption of advanced technologies and practices crucial for enhancing productivity, sustainability and global competitiveness. Without research and development investment, primary industries may struggle to address emerging challenges such as water security, pests and diseases, jeopardising food and resource security.

The lack of R&D funding also inhibits the diversification of crops and farming methods, making primary sectors vulnerable to economic downturns and environmental uncertainties. Insufficient research can result in outdated practices, reducing efficiency and hindering the industry's capacity to adapt to evolving market demands. Moreover, without ongoing research and development support, primary industries risk falling behind global standards, impacting international trade and opportunities, and diminishing the overall economic contribution of those sectors.

Inadequate innovation undermines the potential for job creation, economic growth and environmental sustainability within primary industries, limiting their capacity to thrive in a rapidly changing world. Ultimately, the consequences of neglecting research and development investment in primary industries reverberate across economic, social and environmental dimensions, compromising the resilience and long-term viability of those critical sectors.

Ensuring sufficient resourcing and ongoing focus on SARDI is an investment in the future of South Australia's primary industries. The research and development conducted by SARDI has far-reaching impacts on productivity, sustainability and global competitiveness, making it a strategic imperative for governments to prioritise support for the institute.

The Liberal Party of South Australia champions agtech innovations that will bolster the state's agricultural sector. By endorsing technological advancement, our party aims to enhance the productivity, sustainability and global competitiveness of the state. We will ensure that South

Australia remains at the forefront of cutting-edge agricultural practices for the prosperous and resilient future of our regions.

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

PLANNING, DEVELOPMENT AND INFRASTRUCTURE ACT REGULATIONS

Orders of the Day, Private Business, No. 3: Hon. R.B. Martin to move:

That the general regulations under the Planning, Development and Infrastructure Act 2016, concerning schedule 6A, made on 16 August 2023 and laid on the table of this council on 29 August 2023, be disallowed.

The Hon. R.B. MARTIN (16:34): I move:

That this order of the day be discharged.

Motion carried; order of the day discharged.

COUNTRY FIRE SERVICE

Adjourned debate on motion of Hon. B.R. Hood:

1. That a select committee of the Legislative Council be established to inquire into the Country Fire Service (CFS), with particular reference to:

   (a) assessing support mechanisms available to volunteer firefighters throughout the state;

   (b) examining the processes, procedures, criteria, and timeliness of investigations into volunteer conduct;

   (c) examining the adequacy and state of facilities at CFS stations across regional South Australia, with an emphasis on change rooms, bathrooms, and other essential amenities;

   (d) determining the transparency and effectiveness of the CFS's capital programs, including facility and appliance replacement programs;

   (e) evaluating the communication channels and procedures within the CFS, especially concerning volunteers' ability to voice their concerns and the organisation's responsiveness;

   (f) assessing the role and responsibility of the minister in addressing and supporting the concerns of the CFS volunteers;

   (g) exploring the adequacy of proposed investments into station upgrades, equipment provisions and other support mechanisms for the CFS volunteers; and

   (h) any other relevant matters related to the functioning, governance, and support structures of the CFS.

2. That this council permits a select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council.

(Continued from 1 November 2023.)

The Hon. F. PANGALLO (16:35): I rise to say that I will be supporting this motion, although I believe it will end up being referred to another committee. I respect and commend the CFS for its service to the communities around South Australia for so many decades. They have kept our community safe, they have protected properties and they have always been there when we have needed them most.

They are a remarkable volunteer organisation made up of units drawn from their communities. They have to make sacrifices for us, often having to leave their work and their families, and putting their own lives on the line. CFS volunteers have died in the line of duty fighting fierce blazes. The CFS is a unique organisation in that the thousands of volunteers must answer to superiors who are, of course, fully paid, and who run it in a regimented way.

Volunteer brigades need to follow the orders and directions imposed by the hierarchy in headquarters. Discipline is in force and it is accepted by the rank and file. However, any dissent or open criticism is not taken lightly. It is also forbidden and can result in severe reprimands. However, such disciplinary impositions tend to suppress legitimate complaints ever being heard or made. No organisation can say they do not experience some dissatisfaction from its members about decisions

made by administrators or their managers, and the CFS would not be an exception, but it can also lead to morale issues.

During the Kangaroo Island bushfires in 2020, I met with several CFS volunteers who were unhappy at some of the decisions that had been made or not made that may have resulted in a much different scenario from the holocaust that ensued. In particular, there was a failure by headquarters to provide early advice to members on the ground on Kangaroo Island to move in and create firebreaks in Flinders Chase, just as the blaze was taking hold.

Bulldozers were ready to move in. The fire at the time was described to me as being the size of a football field; however, it took several hours for CFS command in Adelaide to respond, much to the frustration and chagrin of those on the ground. By then, it was too late. The damage was enormous, as we know, to the flora and fauna of this environmentally unique piece of paradise. From there, the fire spread rapidly. The firefighters I spoke to—and there were many—were livid, of course, but could not voice their anger in public for fear of retribution.

There were also complaints about the availability of fire bombers and pilots, and also the use of private aircraft to monitor the fire in its early stages and beyond. As we know, COVID had just broken out so many of these voices could not express their views to the subsequent inquiry by Bill Kelty. In fact, Mr Kelty was due to call me but that never eventuated. The Kangaroo Island firefighters believe that, having the local knowledge and experience, they were best placed to make decisions rather than have to wait for commands to come from headquarters in the city. The chain of command was their prime concern.

We saw media reports last year that CFS volunteers had been muzzled, threatened and also suspended by the organisation for speaking out. The CFS has denied this; however, I heard similar complaints from my discussions while on Kangaroo Island as the fires blazed around us.

This motion by the honourable member seeks to address those communication concerns. It also seeks to get an understanding of support mechanisms for firefighters, and also the way the CFS carries out its inquiries into member conduct. It will also look at the facilities provided and assess the CFS appliances and equipment requirements. I fully support and commend the motion to the chamber.

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (16:40): I rise today to add my remarks to this important motion, and indicate my support. The CFS, or Country Fire Service, plays a crucial and wonderful role in safeguarding communities from the devastating impact of bushfires. Comprising dedicated and selfless volunteers, the CFS demonstrates an unparalleled commitment to public safety.

Their tireless efforts in fire prevention, preparedness and response contribute significantly to minimise loss of life, property, and natural habitats. The CFS embodies the spirit of community resilience, fostering a sense of unity and solidarity amongst its members. Their extensive training, targeted equipment, and strategic planning enables them to combat wildfires effectively.

I would like to make a special note of those other volunteers who are not on the frontline of accidents and emergencies yet who play as imperative a role as the first respondents: the radio operators, the logistics coordinators, personnel and shift managers, the admins in the background, the voice at the end of the phone, the vollie who is always ready with a water bottle, a washcloth and a much-needed iceblock. I know your hard work and I know your commitment. That is what can make an organisation like the CFS accessible to more people, to help keep the wheels of the brigade running smoothly, no matter your individual ability.

Beyond firefighting, the CFS engages in community education, raising awareness about fire safety and prevention. Their dedication and bravery in facing unpredictable and dangerous situations makes them true heroes, earning the gratitude and admiration of the communities they serve. In essence, the Country Fire Service stands as a beacon of hope and protection, embodying the best qualities of the Australian spirit of mateship in the face of nature's challenges.

What my honourable colleague is calling for is a parliamentary inquiry that is comprehensive and transparent. I believe, through my own experiences with the River Murray flooding event, that this is necessary in addition to any internal reviews by the minister. The same minister who thought

the response to the flooding event was flawless also did not originally believe there were any issues with the reg 21s and the process of suspending and gagging volunteers.

Like my honourable colleague, I too live in a regional area and I too have been a beneficiary of the CFS in times of need. I am on the ground in the community that my local volunteers come from. We play each other in the country footy league, we visit each other's businesses, and our children go to school together. I hear directly from CFS volunteers in my day-to-day life and that of my family. I support this motion because of what I hear directly from these volunteers.

I will be fair: there are many who are extremely happy volunteering with the CFS. It can be a wonderful organisation with excellent brigade leadership, well-supported units, and a strong group of youth cadets coming through the ranks. However, that is not a universal sentiment, and there are serious concerns that must be heard and addressed.

There are complaints, both registered and told anecdotally, about rundown or non-existent facilities. I have been told that even though there are some stations that are extremely well equipped and emergency-ready, there are others that are merely big sheds without indoor plumbed water—so no toilets and no showers.

If there is one thing this Malinauskas government detests it is transparency. This inquiry will bring to light answers to questions that the minister and his government have refused to answer to date. How many CFS volunteers and paid employees are currently suspended? How many are under gagging orders? Are funds to the CFS distributed to ensure all units have equity in facilities and equipment; if not, why not? These are just some of the avenues of inquiry that should be investigated.

I acknowledge the amendment put forward by the Hon. Tammy Franks and I am happy to support that amendment. The key thing with this motion is that the inquiry be independent and able to do the work without bias and influence. I reiterate that this inquiry is not about demonising a wonderful, volunteer-led organisation. It is giving air to issues that need addressing and that the responsible minister has to date ignored. It is about improving setting up the organisation to be the best it can, today and into the future.

Let us use this opportunity to allow the success stories to be the example for those who are struggling. Let the grassroots inform the leadership at a state level of what they need to do, what they do best, and to do it safely and with dignity. It is about making sure that our beloved CFS are always at their best. I am proud of my colleague for introducing this motion calling for an inquiry and I commend this motion to the chamber.

The Hon. T.A. FRANKS (16:45): I rise on behalf of the Greens to support this select committee motion, noting, as other speakers have done, that we will be moving an amendment to refer it to the appropriate standing committee. In doing so, I do note that I did a count yesterday of how many current select and standing committees we had yesterday, and we had one for every single member of this place if you included the standing and the select committees put together. We have just passed another select committee, so now we actually have one for every member of this place plus one. It is like musical chairs in reverse.

For those of us who are on committees and take them seriously, it can actually be quite a stretch not just for us but for the staffing, resourcing and appropriate running of those committees. While it is not yet on the *Notice Paper*, I do note that there is a bill coming before this place that takes on board the previous recommendations of the select committee on committees, which looks at streamlining and giving a portfolio basis to committees to ensure ongoing expert research and resourcing and the ability of members to have more flexibility and be better supported to look at these important matters.

Volunteer firefighters put their lives and their health on the line each time they go out to protect their communities and other people's communities right across our state and right across our nation. Just over the SA border, 60 per cent of a 1,400 square kilometre cattle station has been burnt by bushfires from late 2023. That station, which has been owned by the same family for more than a century, is now blackened. To quote the manager of the station, Ben Hayes:

> There's not a lot left there now… trees are just skeletons on the ground.

This comes also as the Northern Territory reports 33 million hectares of land has been burnt this bushfire season alone. That is five times the state of Tasmania and far surpasses the area burnt in the devastating Black Summer bushfires of 2019-20. Tragically, these bushfires are killing people, destroying property and ravaging our fragile ecosystems rich in natural and cultural values.

The government does have to get serious about building a disaster response capability in this state and a very large part of that is our volunteers. I want to be clear that the Greens have absolute faith in our volunteer firefighters, and we thank them for risking their lives to help keep us safe.

We do of course need to ensure that the level of resources these highly skilled people are being provided with is of the highest quality possible and that the support they need to do their jobs under threat of increased fires and floods and driven by a changing climate is paramount. As the climate crisis continues to fuel these disasters, South Australia must ensure that we do have an emergency response capability to respond to what is becoming our new reality.

I indicate to the chamber that the Greens have received feedback from the CFS Volunteers Association concerning the terms of reference with some trepidation and it was disappointing that the CFS Volunteers Association was not adequately consulted prior to this motion coming before this place. The association and its members do not wish for this inquiry to be a platform for self-promotion, political pointscoring or witch-hunts, and I am comforted by the words of the Hon. Nicola Centofanti where she has just given a commitment that that will not be the case. Certainly, neither do the Greens.

It is not our place to put unnecessary mental stress on these volunteers. It is our place to ensure that they are well resourced and supported while protecting our state. That is why the Greens put on the agenda last year the facilities paucity issue and will continue to work for better supports, respect and resources for our volunteers in emergency services.

As such, the Greens will also move today to have this motion referred to the appropriate standing committee to deal with these matters—the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation—for inquiry and report. With that, I move that the motion be amended as follows:

Paragraph 1.

Leave out the words 'That a select committee of the Legislative Council be established to inquire into' and insert the words 'That the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation inquire into and report on'

Leave out paragraph 2.

Members who have been here for some time would know that I have long worked with CFS volunteers, in particular on the cancer consultation presumptive approach to ensuring that our volunteer firefighters were afforded the same workers compensation and respect that career firefighters were able to access, and indeed putting that issue itself on the agenda for all firefighters in this state.

In that spirit, the conversations and the correspondence that I have received quite rightly pointed out that the role of volunteer firefighters in this state is already recognised under our various pieces of legislation as employment rights because while they may not be paid it does not mean that these volunteer firefighters are not expert. While they may not be career firefighters, or they may well be, certainly their skills, expertise, training, health and safety deserve and demand and are already delegated the same rights as those of employees.

So when you are looking at issues of grievances, when you are looking at issues of resourcing of facilities and of safety, the occupational safety, rehabilitation and compensation standing committee of the parliament is a very appropriate place for this committee's work to be undertaken.

The Hon. I.K. HUNTER (16:51): I rise to make some comparatively brief observations about the motion before us. They will be very brief because, as the Hon. Tammy Franks was continuing on with her speech, I could see pages of mine dropping away. I will speak very briefly on the points that she has already covered.

Firstly, however, I want to go to some general issues of the government's approach to our fantastic frontline emergency service volunteers and how we are supporting them, and then to raise a couple of concerns I have about another select committee, which Tammy has already covered. I might offer some suggestions to the committee in terms of how they might proceed.

On volunteer conduct investigations, which were mentioned in the terms of reference, the government has been acting on this for some time, as the committee will find out. In August last year, I am advised, the emergency services minister, Joe Szakacs, already announced an examination to streamline investigations to preserve fairness and expedite time lines for those involved. I am also advised that Mr Szakacs routinely meets with brigades to hear directly from them their feedback, unfiltered by organisations or superiors, about how circumstances can be improved for those brigades on the ground.

Since the announcement of an examination in August 2023, the Office of the Commissioner for Public Sector Employment has engaged with emergency service agencies about how to improve processes for volunteers. This has included, I am advised, the provision of expert independent advice and preliminary review of past practices that will better inform case management within emergency services. The government will consider whether a legislative change or update of regulations is required as part of that examination, and I am sure they will look forward to the report of the committee on this matter. This is already expediting an investigation, as I understand, and has more than halved the number that is currently under management by the CFS, I am advised.

In terms of facilities, the CFS has quite a diverse portfolio of assets, as also mentioned by the Hon. Tammy Franks, that are located throughout outer metropolitan, regional and remote areas of South Australia. This includes over 400 brigade stations, six regional headquarters and the State Training Centre at Brukunga. Many of the stations now operated by the CFS were first built by councils before transferring to state government ownership through the 1990s and were in considerably poor condition at that time. The state government recognises the need for appropriate facilities and equipment for those who volunteer and give of their own time to protect the lives and property of our community.

The CFS has programs, both capital and facility renewal, that provide an ability to effectively plan and invest in CFS facilities into the short-term future. The CFS is forecast, I am advised, to invest $12 million in these measures over the next four years. The CFS has a risk approach to the planning of those programs, safety being the number one consideration. The CFS is committed to providing a safe and fit-for-purpose environment for all members and aligns its decision-making to legislative requirements, industry standards and service needs, as you would expect.

I am also advised that design and construction of new stations is undertaken in consultation with the brigades. The government is working in consultation with the CFS and the CFS Volunteers Association to ensure all efforts are made to strategically consider building capital works right across the state. The government is also considering further measures to enhance this program into the future in response to volunteer needs and feedback.

Further, the government has agreed to a review by this parliament. In November, I am advised, following advocacy from the Hon. Tammy Franks—she is relentless—the Attorney-General proposed that the CFS undertake to provide to the Economic and Finance Committee an audit and assessment of their current resources and facilities. In that setting, committee members also have the opportunity to directly question the Chief Officer of the Country Fire Service.

In last year's state budget, the government invested heavily in the CFS and the emergency services sector, significantly enhancing the state's aerial capability to combat the risk of bushfires. A record $26.7 million has been invested in the Country Fire Service's aerial firefighting capacity, resulting in five new aircraft being added to the service's aerial firefighting fleet this season, which will now total 31 assets. This investment has already significantly enhanced South Australia's responses during bushfires and has supported on-ground firefighters.

Automatic vehicle location is a crucial safety tool that has been rolled out across CFS, SES and MFS vehicles. It provides real-time asset tracking, ensuring emergency services assets can be accounted for while responding to bushfires and other emergency incidents. AVL provides improvements to response and coordination of resources for bushfires, structural fires and

emergencies. In the event of a life-threatening hazard exposure—for example, a burnover—or crew injuries, the AVL capability will also provide for faster response to the exact vehicle location at the last known location of the vehicle if the device is damaged or destroyed. It is another practical way to show how we support our volunteers by investing in higher quality equipment for their safety.

I can also advise the chamber that the government has to spend significant time to turn this program around and deliver installation in all vehicles after inheriting it from the Liberals in their previous incarnation in government. The lack of attention at the time, shown by that government, was symbolic of their approach to volunteers.

This brings me to the question of setting up another select committee. For some time now, I have been concerned about the processes in this place of setting up yet another select committee every time an honourable member has a bright idea and might want to go out and get a bit of media coverage. We have standing committees in this place for a particular reason, namely, to deal with the issues that are important to our community from time to time. I have been concerned, in recent times, that they are being underutilised in favour of setting up a select committee that is supposed to be sort of like a burner phone: you set it up, make a press release, make a few comments and then you just ignore it and forget about it.

I do not think this is the way that we should be consulting the community. We should be using our existing standing committees more than we currently do, and I think the amendment the Hon. Tammy Franks has moved is a very sensible one. We have that standing committee that some might argue is underutilised in terms of the expertise and experience of its members, and I think this is a very appropriate way of dealing with this motion in particular.

I also would like to suggest to the committee, when they come to consider this referral—should it pass, and I expect it probably will—that they put to their minds the timing of their consideration. We are still in a significant period of bushfire danger, and putting an inquiry like this together requires significant resources for the organisations involved—their members and their volunteer organisations.

I would suggest that you probably consider delaying it by a number of weeks, if not a month or two, until we get past this peak bushfire danger season, and allow those people who put their time and their lives, and their families' lives and time, on the line so that they can go off and protect members of the community. Give them time to actually do that work, and then adjust to what the committee is setting out in terms of the references and the call for expressions of interest for evidence and position papers. I think that would be a sensible consideration for the committee to look at. Timing is quite crucial.

Another concern I have is about why we would be putting forward a select committee process right now in the middle of bushfire season when you will be distracting those members who want to be out protecting their community. It is just the wrong time to do it. Give it a few weeks, let things settle down and give people time to think about what they want to say to the committee. With those remarks, I support the amendment moved by the Hon. Tammy Franks and look forward to its passage.

The Hon. B.R. HOOD (17:00): I thank the Hon. Frank Pangallo, the Hon. Nicola Centofanti, the Hon. Tammy Franks and the Hon. Ian Hunter for their contributions to this motion. I would also like to say that I support the amendments from the Hon. Tammy Franks and thank her for her long advocacy for the CFS.

When this came to this house last year, I did listen to the concerns of my parliamentary colleagues regarding forming such a committee over the summer bushfire period and the impact it may have on CFS volunteers over that busy time. I took on board those concerns to ensure that it would not cause any distractions, but I still believe that this is an important motion and a critical one to investigate the issues and concerns of the brave individuals in the ranks of our Country Fire Service.

I heard from many volunteers, as well as CFS staff members, that they are terrified of speaking up for fear of being silenced or expelled. This essentially goes to the crux of the issues. The volunteers do not feel that they have agency to speak about the issues they see on the ground,

and that any review conducted within the bounds of the organisation or by the instruction of the minister will yield more of the same.

A referral of this issue to the Parliamentary Committee on Occupational Safety, Rehabilitation and Compensation will allow all stakeholders, all volunteers, the CFS Volunteer Association and the CFS command themselves to engage and ventilate the structures and processes, not just across disciplinary matters but also capital programs, equipment and training.

An inquiry such as this has now been called on by hundreds of current volunteers, former volunteers and staff of our Country Fire Service, all of whom signed a petition organised by Selina Laing. My sincere thanks and appreciation go to Selina for her tireless advocacy on behalf of CFS volunteers and staff, and for shining a light on this issue through the petition and the Fair Go for Firies campaign.

In her fight for justice on behalf of those who have faced disciplinary regulations, referred to as reg 21s, she has identified, as I am advised, 101 CFS volunteers and four CFS staff members who have spoken out about the disciplinary process and shared their personal experiences of being the subject of investigations, suspensions and terminations, and that is just over the last six months.

These 101 volunteers and four staff members shared their stories because they believe they have suffered injustices and have been the subject of unprofessional investigation processes and were denied their basic rights, not only as Australians but as members of South Australia's largest volunteer emergency service organisation. The most frequent themes that arose were denials of procedural fairness and lack of communication and transparency. I have also heard about the significant impacts of reg 21 investigations on the mental health of volunteers and their family and friends.

In reading the South Australian Country Fire Service Volunteer Charter, it is worth highlighting that, after ensuring the safety of the community remains a priority for all, the next most prominent intention of the charter is to ensure that consultation occurs with volunteers about all matters that affect them. This is not only listed at the key intent of the charter but also is specifically applied to the relationships between the government of South Australia, the South Australian Fire and Emergency Services Commission and the SACFS organisation. It is clear it is a requirement to consult with the volunteers and that it is not being adhered to.

I would reflect on some of the comments made with regard to yet another select committee for this place, and I am glad for the amendment that has come from the Greens and the Hon. Tammy Franks, because I do believe we have a significant load in terms of our committees. Referring this matter to the committee named in the amendment of the honourable member I think is a smart move, a sensible move, and I certainly support it.

What we do not want to see is letting this issue languish for too long. We do not want to see the issue we have seen in Victoria over the last two years, with some 2,000 CFA volunteers leaving the service. I have heard from volunteers around this state, most especially in my patch down on the Limestone Coast, that CFS volunteers are at the end of their tether, that they will just grab their fire units on the back of their ute, they will do what they need to do to protect their properties and that will essentially be it.

The CFS is about community, it is about keeping communities together and we want to ensure that through this referral to this committee that the terms of reference contained in this motion are followed and that the investigations hear from all of those who have something to say.

I echo the words of the Hon. Nicola Centofanti that this is not a witch-hunt. This is about doing what is right. This is about inquiring into what is happening with our volunteers to ensure that they are heard, and it is my hope that in shining a light on this people see that good things are being done, that the CFS is something that people can join and serve, and we can increase the number of our volunteers around the state.

We know that not only the CFS but all volunteer associations are losing members, and that is something that most definitely needs to be addressed. It is my true hope that this referral to this committee enables a genuine, proper and thorough inquiry into the issues CFS volunteers have raised with the opposition and the crossbench and aired extensively through the media in recent

months. Of course, that includes the Country Fire Service Volunteer Association and the CFS command themselves to be involved with what will be referred to this committee.

This is why we need the select committee—to enable open dialogue, to ensure transparency in how we deal with CFS volunteers and employees, to ensure our volunteers are being supported appropriately, to ensure that they have adequate facilities at our CFS stations, to ensure that when they risk their lives for businesses, for families, for communities they are supported in doing the amazing work they do. This is purely about the volunteers.

I am glad this will be referred to the committee through the amendment from the Hon. Tammy Franks. With that, I commend the motion to the chamber.

Amendment carried; motion as amended carried.

Bills

HERITAGE PLACES (PROTECTION OF STATE HERITAGE PLACES) AMENDMENT BILL

Second Reading

Adjourned debate on second reading.

(Continued from 30 August 2023.)

The Hon. F. PANGALLO (17:08): I rise to support the bill of the Hon. Robert Simms and the intent of what this bill is going to do. One of the first images that really springs to mind when we are considering what this bill is hoping to do is Bell's Plumbers Shop. I do not know whether you are familiar with that place, but Bell's Plumbers Shop is that glaring eyesore on Payneham Road opposite the Maid and Magpie. There were court orders in 2018 for the then owner, Philip March, to repair the vandalised, dilapidated and fire ravaged shop. He was the first and, to my knowledge, the only person convicted of neglecting a state heritage building.

The whole thing is at a standstill now because during criminal proceedings, ownership had changed. In 2018, the then environment minister, David Speirs, said the government did have an option to compulsorily acquire the property, but as yet that has not been exercised. Norwood Payneham and St Peters council want the government to acquire it and restore it. It is an eyesore now.

Communicating with the Mayor of Norwood, Payneham and St Peters council, Robert Bria, only yesterday to ask him if there had been any movement on trying to get something done with this building, he told me, 'No, it just seems to be forgotten,' and yet there it is, an old heritage building that would have been in its day an attractive little place, just looking like it has been forgotten, trashed, and almost like a tiny ghetto of a building in that part of Adelaide.

The cost to bring the 140-year-old building back to its old glory would no doubt be exorbitant now but the question is, what could you possibly do with it now? If you actually had to spend hundreds of thousands of dollars fixing it, what would you do with it? You could not open it up as another plumber shop, so now it becomes nothing more than a museum piece, and I think that is also the conundrum that the state government and also Norwood Payneham and St Peters council and others face about this building.

It is almost symbolic of government and local government being frozen in making a decision on what to do, and it is probably also symbolic of what Mr Simms wants to do with his bill. It has a unique history. It was built in 1883 by one of our premiers, John Colton, and it is a unique memory of a bygone era and we are starting to lose much of that around the city. So I support the bill because it seeks to preserve heritage buildings that are neglected, like Bell's, and that deteriorate to the point where they have to be demolished. I fear that that could well be the fate of Bell's plumber shop: it will end up being demolished.

The state owns several heritage-listed buildings and not all of them are in an acceptable state or receive the maintenance that is required. One example of that is the magnificent Martindale Hall near Clare. I visited Martindale Hall three years ago, and I was alarmed to be told that this magnificent building, which featured in Peter Weir's movie *Picnic at Hanging Rock* and has been

used as a backdrop in many cultural events and fashion shoots and other occasions, badly needed repairs to its leaking roof, along with other maintenance work to the building.

When the state does not want to spend money, they try to flog off these buildings to private enterprise and commercial operators and that seemed to be the fate that was going to befall Martindale Hall. Before there was a change of government, there were moves afoot to try to at least get some commercial value as a result of it. Mr Simms pointed out the state of Romilly House on the corner of Hackney Road and North Terrace. He also highlighted the lack of tenants for Edmund Wright House. This is a stunning example of, I think it is Georgian-era architecture, with its breathtaking interior. It is in a prime location but, sadly, no business is interested in bringing it back to life.

Some years ago, the popular Parlamento restaurant across the road tried to make a go of it as a reception centre. That did not last too long, unfortunately, and it has not been open since 2015. I really hate to see what it looks like now. What has the current owner done to make it still an attractive proposition for a new buyer? It is simply stunning inside, from the last time I was in there.

This bill wants to provide more incentives to heritage building owners to bring them up to scratch. Councils do this, to some extent, but usually it is not enough to meet the cost of this exercise. Mr Simms proposes significant penalties for intentional or reckless damage through neglect. The penalties are quite significant, up to half a million dollars, but I must ask: what is 'intentional or reckless damage'? Some owners simply do not have the funds to spend on a building that may not provide a return on their investment. This is where the government has to step in and contribute.

Adelaide is blessed with some magnificent heritage buildings, many saved by the intervention of a visionary in former Premier Don Dunstan. Some were not, unfortunately. You only have to think of the imposing Jubilee Exhibition Building on North Terrace, which had a unique place in Australian history because that is where the fathers of Federation actually met and started to construct the constitution. It happened here in Adelaide.

It was a magnificent building on North Terrace. It would have had incredible pride of place even if it was there today. It would have been an enormous attraction but, for some strange reason, it was flattened. It was demolished. Modern buildings that are not anywhere near as attractive have sprung up there. Talking about that section of North Terrace, I certainly hope that from King William Street on towards Hackney Road, on that left-hand side, we do not see the intrusion of modernistic buildings that will detract from the attractiveness of those buildings that we have there today.

Talking about Don Dunstan and that era of the 1970s, we had quite an imposing hotel called the South Australian, which was directly across the road. It was a fantastic building, reminiscent of Raffles in Singapore. As a young reporter, I would often walk past that building on my way into work and just marvel at the architecture and the decor inside. Of course, it also had another unique place in our history—our music history, anyway—because that is where The Beatles stayed when they were here in 1964. That building was demolished and you can see what is across the road there now: a hotel that certainly is nowhere near as visually attractive as what the South Australian was.

You also need to think of Ayers House. That fabulous residence was also set for demolition until the government stepped in and saved it. Another one that was of quite unique historical interest was the Harbors Board department building, which was saved from demolition to enable the government to construct the headquarters for the insurance business it had at the time, SGIC. With some clever civil engineering and some innovation, the building was actually moved on rollers that were placed under the foundations. That space was then used to build the multistorey building that is currently standing there on the corner of Wakefield Street and Victoria Square.

The Hon. Mr Simms laments the impending demolition of the police barracks at Thebarton to make way for the Women's and Children's Hospital. I supported the government's decision to do that, and I do not regret doing so. I never thought of them as being so attractive that they needed protection, and certainly there are examples of that style elsewhere in Adelaide. When they go I do not think they are going to be missed by anybody.

However, we are seeing Adelaide today, in 2024, starting to resemble Legoland—some tall towers, looking the same—and you have to ask yourself: where is the architectural creativity and

innovation in these designs? I am hoping that the current government does not approve a multistorey building. I believe some of the proposals that have been put to the government are for a building up to 37 storeys right behind Parliament House, next to the new building that has just been completed and opened. It would certainly cast Parliament House in shadow almost all day but also rob Parliament House of its own unique position here. I think it should be resisted, and I hope the government does not go for another multistorey tower.

Just talking about these new multistorey buildings that are going up everywhere, there are not many of them that you would think would be worth saving one day, to be honest. Another was unveiled yesterday for the CBD with, again, nothing really attractive about its design. Because of the size of allotments in the CBD—it is only a one-kilometre square, of course, as we know—allotments are also determining what goes on them, but now height is the new black in construction in the City of Adelaide.

We do have the SAHMRI building, which is affectionately known as the cheese grater, and that is one of the sort of modern designs that you would actually admire and think that that building would be here for quite a long time, certainly long after I have passed on. The view of the city skyline may look like a modern growing metropolis, but Adelaide's unique heritage styles are actually being swamped by modernism. They are in contrast to places, for instance, like Doha, Dubai and Abu Dhabi. Of course, there was nothing there at the time but desert sand, but the structures that go up there actually have some visual appeal as well, and it is something that is sadly missing from many buildings in the City of Adelaide.

One of my old newspaper bosses, Ron Boland, who was a long-time distinguished editor and a trusted adviser and colleague of Rupert Murdoch, once wrote a provocative opinion piece in *The News* in the mid-1980s where he lamented the demise of Adelaide's heritage buildings and urged greater protection for them. He also warned against the city becoming another Manhattan but, sadly, it is starting to look that way. With that, I support the bill from the Hon. Rob Simms, and I look forward to its passage through the Legislative Council.

The Hon. N.J. CENTOFANTI (Leader of the Opposition) (17:23): I rise in support of this bill on behalf of the opposition. In essence, this bill has three main objectives. Firstly, it allows for the creation of a heritage agreement to be entered into between the owner of the state heritage place and the minister to provide for the management, occupation and the future use of the land.

The second objective is to significantly increase the penalties applicable in circumstances where there is additional or reckless damage to a state heritage place. The penalty is increased from $120,000 to $250,000 for an individual and $500,000 for a body corporate.

Thirdly, the bill amends the provisions relating to protection orders. The existing act already allows for the creation of protection orders, but this bill introduces a penalty for failing to comply with a protection order. The penalty order is relatively high, equal to a tenth of the maximum penalty prescribed for that offence. For a body corporate, this could equal $50,000 per day.

There are numerous privately owned state heritage places in South Australia. As at mid-2023, there were 2,323 such places, of which more than 80 per cent were owned by private, commercial or local government entities.

The opposition does intend to support this bill because it fundamentally aligns with the approach we have taken as a party over the years. The opposition has been a significant promoter of heritage protection in South Australia. Heritage buildings tell the stories of our past and contribute to the built and cultural fabric of our future. It is imperative that we do everything we can to ensure that those buildings are maintained.

In 2018, under the then Marshall Liberal government, the Heritage Conservation Grant was reinstated. Under that program, $1.25 million was provided to support private owners to maintain heritage buildings. The grants acted as a significant incentive for many owners to commence restoration of their properties. While in government, we made it very plain that we were committed to maintaining state heritage places. The same cannot be said by those opposite. This is unfortunately another display of promises made and not kept by the current Malinauskas government.

The heading in a policy document released by the Labor government prior to the 2022 election is 'Protect State Heritage Places'—even the heading starts with a lie. It reads:

> To ensure that demolition cannot occur at the whim of a future government, Labor will—

and I emphasise 'will'—

> legislate to better protect state heritage places, including requiring a public report by the SA Heritage Council being prepared and laid in parliament before any consideration of a demolition approval and full public consultation so that all South Australians can have their views heard.

Yet, here we are, less than two months after that empty promise, with the government unilaterally deciding to demolish the numerous state heritage listed buildings in the Thebarton Police Barracks. Where is the promised public report laid in parliament? Where is the full public consultation? There has been none.

This is another example of how we cannot trust this current government. They have yet again broken another election commitment. The list of broken election promises by those opposite is growing by the minute, leaving a path of destruction behind them and seemingly no remorse.

My question is: how many more state heritage buildings do we have to see demolished without public consultation and without the requisite public report laid in parliament before the Malinauskas government feel a pang of guilt for their deception and failure to act in this area and decide to follow through on their election commitments?

As I said, the opposition intends to support this bill and we thank the honourable member for bringing forward this bill to the chamber.

The Hon. E.S. BOURKE (17:28): I am pleased to speak on this bill on behalf of the government and thank the Hon. Robert Simms for introducing it. This bill seeks to address the issues of neglect by amending section 33 (effect of heritage agreements), section 36 (damage or neglect), section 39A (protection orders) and section 42 of the Heritage Places Act 1993.

The bill proposes to strengthen heritage protection by allowing the government to occupy or make use of a state heritage place where a heritage agreement is in place; increasing the penalties for damage or neglect of state heritage places; and increasing penalties for failure to comply with a protection order under section 39A, including making provision for daily penalties.

In the 2022-23 Mid-Year Budget Review, which the Hon. Nicola Centofanti must have looked over, the Malinauskas Labor government announced $10 million in funding over 10 years to protect heritage for the future. This is twice as much money, over twice as many years, compared with investments in heritage from the previous government.

This funding included an additional $250,000 a year for heritage conservation grants to support the owners of state heritage places. The first round of this program saw grants awarded to some of our state's most iconic state heritage places in both metropolitan and regional South Australia. The funding will also deliver a reform agenda that includes providing additional support to the Heritage Council, reducing the backlog of outstanding heritage listings and moving the heritage register online, providing more detailed mapping and information for decision-makers and owners.

But most importantly, and most relevant to this bill, part of this funding was also committed to legislation and policy reform to modernise heritage protection in South Australia. This legislative reform work is already underway and is being conducted by the Department for Environment and Water. Reforms currently being considered include many aspects of what is proposed in this bill, such as demolition by neglect, compliance, regulation, penalties, incentives and more. It is for this reason that the government supports this bill.

The government believes that our precious history deserves protecting. Evidence of our commitment can be seen in the Ayers House Bill 2023, which was introduced to state parliament on 29 November with the aim of fulfilling the election commitment of establishing the state heritage listed property as the History Trust of South Australia's permanent home.

This expands and continues the vision of former Premier Don Dunstan, who granted Ayers House to the trust as a permanent home, only for the trust to be evicted—which, again, must have

been forgotten by the honourable member opposite—by the former Marshall Liberal government on a whim after more than 50 years of calling Ayers House home. Don Dunstan invited the trust to contribute to his plan to restore, furnish and present the house to the public, and we are ensuring that his vision once again can be restored. The government supports the intention of this bill and looks forward to its passage.

The Hon. R.A. SIMMS (17:31): I want to thank all members for their contributions: the Hon. Frank Pangallo, the Hon. Nicola Centofanti and the Hon. Emily Bourke. I know that we have had a few disagreements in the chamber this week, but it is nice to end on a Thursday with a moment of agreement where we see all parties on the same page in terms of dealing with this issue.

Many members have touched on the details of the bill, so I do not think it is necessary for me to go through them all again. Suffice to say the clear intention here is to give the relevant minister increased powers regarding those who are sitting on our iconic heritage buildings and allowing them to rot. This bill gives the minister the power to step in and incentivise those buildings being activated.

One of the key changes here is that, as part of a heritage agreement, the minister could potentially step in for the management or occupation of the site. It has always been the view of the Greens that it is morally wrong that we have these iconic buildings sitting there vacant in the middle of a once-in-a-generation housing crisis, so we should be doing everything we can to incentivise the activation of those buildings.

Another of the issues the Greens have been concerned about has been the lack of appropriate penalties for noncompliance, and that is another issue this bill seeks to address. I thank all members for their support. In particular, I want to thank Minister Susan Close's office. I have been in regular communication with the minister regarding this issue and look forward to, hopefully, this bill being supported down the track in the other place.

Bill read a second time.

Committee Stage

Bill taken through committee without amendment.

Third Reading

The Hon. R.A. SIMMS (17:35): I move:

That this bill be now read a third time.

Bill read a third time and passed.

Motions

CHILD PROTECTION

Adjourned debate on motion of Hon. L.A. Henderson:

That this council—

1. Recognises that the child protection system in South Australia is overwhelmed;

2. Recognises that South Australia spends less than the national average on services to prevent children from entering care; and

3. Calls on the Malinauskas government to provide earlier, more intensive intervention for at-risk families before they fall into crisis.

(Continued from 9 March 2023.)

The Hon. B.R. HOOD (17:36): I thank our shadow assistant minister for child protection for bringing this important motion to the chamber. I note that the government moved amendments at a very late hour, at about 2.13pm yesterday. They do not look like amendments but more like a completely new motion, patting themselves on the back. It is unfortunate that they do that, because the child protection system in South Australia is overwhelmed, and it is hard to think of a more important duty of our state government than providing safety, security and shelter to our most vulnerable and at-risk children.

I have had the great privilege of meeting, and hearing stories from, many of our state's dedicated and compassionate foster and kinship carers. I say 'privilege' because they are invariably kind and caring people. In an ideal world, I would not have to get to know these generous South Australians who volunteer their time and their home to care for our state's most vulnerable citizens. In an ideal world, I would never have to meet them because they would never have to share with me their harrowing experiences of navigating the child protection system, its bureaucracy and the tin ears—unfortunately—of the Minister for Child Protection and of Premier Malinauskas as well.

I have heard so many devastating stories that have resulted in real and significant physical and emotional harm to children. I have heard of unethical actions taken by the staff of the child protection department; I have heard of awful treatment of carers by DCP staff. So far, in my relatively short time in this place, I have heard nothing, absolutely nothing, apart from disappointment from carers, about the Minister for Child Protection, who is also the Minister for Recreation, Sport and Racing. I want to reflect on that because I believe, and I think most people in this state would believe, that child protection should have its own dedicated minister. They should not be sharing those responsibilities with sport, with racing and with recreation, however much we do like those things.

I had the pleasure of meeting with The Carer Project, headed up by Joyce Woody and Lisa O'Malley, and have been inspired by their passion and commitment to drive meaningful change in the child protection system. Along with the Hon. Laura Henderson and the shadow minister for child protection, the member for Heysen, The Carer Project have enlightened me on the extent of the significant structural issues within the DCP. Lisa and Joyce and their 500-strong movement have been loud and vociferous in their advocacy on behalf of our state's foster and kinship carers. They have led the change in driving real reforms in this space, so much so that the peak body, Connecting Foster & Kinship Carers, have adopted the policy proposals that they have consistently and vehemently been advocating for.

The Carer Project has been unashamedly vocal in calling out wrongs where they see them. They have raised these concerns directly with the Minister for Child Protection, directly with DCP's executive and directly with Premier Peter Malinauskas.

While the carers have welcomed some of the changes we have seen at the top of the department's hierarchy, they have been left bitterly disappointed with the lack of engagement, the obfuscation and the lack of advocacy on behalf of the Minister for Child Protection. It must be kept front of mind of the minister, and for all of us in this place, that foster and kinship carers ultimately are volunteers, and no other volunteer pays out of their pocket like carers do. Collectively, they save the taxpayer hundreds of millions of dollars through opening their hearts and homes to troubled children.

I recently received correspondence from the minister in response to a letter I wrote on behalf of many carers who shared their concerns with me. In my letter I expressed to her their disappointment that they received no meaningful engagement regarding changes to the Children and Young People (Safety) Act. While recommendation 7 from the independent inquiry into foster and kinship care to create a Carer Council has now been rolled out, I have heard that carers were not given the opportunity to provide input or elect representatives. The Carer Council, after all, was established to, in the words of the minister, amplify the voice of carers through delivering direct advice to the minister and DCP.

It came as a shock then to be told by a carer that one of the Carer Council members was in fact employed by the Department for Child Protection. Thinking this could not possibly be true, I specifically asked the minister about this in my letter. Unfortunately, that question was ignored and I was instead told the membership of the council was formed through a comprehensive independent recruitment process. The minister was at pains to say that she took immediate action on several of the recommendations that came from the independent inquiry into foster and kinship care.

Dr Arney's November 2022 report extensively documents the concerns of carers about the current system, resulting in the first six recommendations specifically naming processes that will improve current inaccuracies. Dr Arney's terms of reference made it clear that the department's unjust complaints management process was a prominent reason for establishing the inquiry.

Instead of acting on those first six recommendations that hundreds of carers have been calling for, the minister has confirmed to me that she does not support establishing an independent complaints mechanism. To have that confirmed in black and white was a shock for many carers, and I found it particularly galling that in the same sentence, as the minister confirmed her lack of support for an independent complaints mechanism, she went on to say, 'I do, however, support the need for a transparent and rigorous complaints process.' Well, minister, you had six recommendations to choose from that would deliver what you said you would support, so what is the hold-up?

Another direct question I put to the minister in my letter's request for an update on her election commitment, a solemn promise to over 400 carers to review the outcomes of the independent inquiry's recommendation, was also ignored. I further raised concerns put to me by foster and kinship carers, including the need for carers to have standing in court, the need for the respite payments to be legislated, the necessity for an increase in base rate payments to keep up with the cost of living, and the need for better reporting on serious injuries to children. Needless to say, I have received unsatisfactory answers to each of them.

The minister confirmed that carers were not recognised as a legal party to court proceedings, but acknowledged the important role that carers play under the Children and Young Persons Act—more so importantly, apparently, that carers can at best make a written submission to the court only after applying to the court to do so. Prior to the election, in a personal meeting between the carers project, now Premier Malinauskas and the now Minister for Child Protection explained to them how carers were being shunted to the halls of the courts like babysitters.

When it comes to respite payments, this Labor government has thrown the carers scraps. Carers will now receive a little over $15 extra per week to access respite-like supports. To say this is a drop in the ocean when it comes to caring for children with complex additional needs is an understatement, particularly when combined with what carers are telling me is their number one concern in this cost-of-living crisis: the need for an increase in their base rate payments is needed immediately.

I could speak ad nauseum on the litany of issues and harrowing stories that have been shared with me:

- unsubstantiated and completely unwarranted care concerns levelled at carers doing nothing wrong;
- the Minister for Child Protection ignoring carers' pleas to help, despite raising evidence of abuse;
- DCP ignoring and overriding the advice of medical professionals;
- the inappropriate reunification of children with drug-addicted parents, resulting in physical abuse;
- acts of forgery by NGOs;
- abuse of process and spiteful treatment of carers by DCP staff;
- rude and dismissive treatment of carers by the Carer Council members;
- carers not receiving respite after many decades of caring;
- special needs loading payments being frozen for years;
- the deliberate exclusion of carers and a lack of transparency when utilising the child assessment tool; and,
- informal kinship carers without access to funding or services.

Ultimately, what carers want is accountability: accountability to carers' statements of commitment, accountability of DCP staff to the law of the land, accountability from NGOs, accountability of the peak bodies to the carers they represent, and accountability of the minister and this Premier to carers for their broken promises and commitments.

It is not only the child protection system that is overwhelmed; I believe, as the carers do, that it is the minister. I reiterate the calls of the Liberal opposition and those carers for this vital portfolio responsibility to have its own standalone minister. I commend this important motion to the chamber and thank every carer in this state.

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

Bills

STATE ASSETS (PRIVATISATION RESTRICTIONS) BILL

Final Stages

Consideration in committee of message No. 118 from the House of Assembly.

The Hon. R.A. SIMMS: I move:

That the House of Assembly's amendments be agreed to.

Motion carried.

AYERS HOUSE BILL

Introduction and First Reading

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

PASTORAL LAND MANAGEMENT AND CONSERVATION (USE OF PASTORAL LAND) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (17:48): 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.

Mr President, I am pleased to introduce to this place the Pastoral Land Management and Conservation (Use of Pastoral Land) Amendment Bill 2023. This Bill will deliver the government's election commitment to confirm that pastoral leases can be used for carbon farming and conservation.

The government acknowledges the enormous contribution pastoral lessees make to the sustainable management of land in South Australia.

The Pastoral Land Management and Conservation Act 1989 (the Pastoral Act) covers 323 leases, comprising 219 stations over an area of 40 million hectares. This is about 40% of South Australia's land area.

Of existing pastoral leases, 21 are already wholly used for conservation, with the approval of the Pastoral Board, and five leases are being used for carbon farming. However, legal uncertainty about the Board's ability to approve non-pastoral uses has arisen in recent years.

This Bill confirms the Board's ability to approve a range of uses of pastoral leases, which is simply a confirmation of the situation that has been in place 'on the ground' for over 30 years.

It will enable, with certainty, the ongoing efforts by lessees, Aboriginal people, and regional communities to manage pastoral lands in a variety of ways.

Specifically, this Bill:

- amends the Objects of the Pastoral Act to confirm that pastoral leases can be used for conservation and carbon farming (as defined in the Act);
- preserves the role of the Pastoral Board in relation to the approval of non-pastoral uses of pastoral land (for some or all of a pastoral lease);
- formally recognises previous Pastoral Board decisions approving the use of some, or all, of a pastoral lease for non-pastoral uses;

- clarifies that land assessments will take into account, for all leases, the purposes for which the land is being used; and
- clarifies the required qualifications of potential Pastoral Board members nominated by the Conservation Council of SA.

The Pastoral Board's powers in relation to the management of pastoral lands will not change. Current leases will not change. All leaseholders will still need to actively manage their leases and remain subject to Pastoral Act obligations, such as requirements to maintain fencing and watering points unless conditions are varied by the Pastoral Board.

Consultation

This Bill has been informed through consultation with a range of organisations who have a close interest in pastoral land management, including the Pastoral Board, Livestock SA, Primary Producers SA, the Conservation Council of SA, the SA Nature Alliance, SA Native Title Service and First Nations of SA.

Further discussions have also been held with pastoralists, coordinated by Livestock SA, and several conservation organisations, coordinated by the Nature Conservation Society of SA.

I want to take this opportunity to acknowledge and appreciate these contributions.

Implementation

It is intended that the Bill will give the Pastoral Board full certainty to continue exercising its power to approve non- pastoral activities on pastoral leases.

Importantly, where the Pastoral Board has previously approved a non-pastoral use, these approvals will remain in effect. Any new request to change the use of a pastoral lease will be considered by the Pastoral Board on a case-by-case basis, in accordance with the Act and the Pastoral Board's revised guidelines.

When the Pastoral Board approves a change in use of lease, that change will remain in force unless the lessee seeks a further change.

If the Bill is passed, the new legislation would allow for the Minister responsible for the Act to adjust the definition of carbon farming activities from time to time. This is because carbon farming markets and methods continue to evolve. The government will consult on any proposed changes to the definition which will happen through Regulation.

Benefits

This Bill will support the Pastoral Board's continued management of pastoral land for a variety of purposes.

It also ensures lease holders will continue to have flexibility in relation to how they use their land and can diversify their activities, subject to the approval of the Pastoral Board.

These changes confirm that Significant Environmental Benefit ' (SEB) Offsets, and Heritage Agreements under the Native Vegetation Act 1991 can be implemented on pastoral leases. These tools provide lease holders with opportunities to receive funding for conservation activities on their lease.

Impacts

These changes will not affect the economic viability of pastoral leases. In fact, they create more opportunities for more diverse uses.

Pastoralists and conservationists have worked together side- by-side across the rangelands for more than 30 years and they will continue to do so.

The economic viability of the pastoral industry is and will remain an object of the Pastoral Act. Supporting lease holders to manage their land flexibly—including for conservation and carbon farming—provides pastoralists with options for generating alternative revenue sources.

Leases used for conservation or carbon farming will continue to be regulated under the Pastoral Act, including requirements for land assessments, which will take into account the use of the land.

These changes will not impact on native title rights or agreements. The government recognises the importance of Aboriginal peoples' spiritual, social, cultural, and economic connections to Country. The Pastoral Board will continue to work with lease holders and Aboriginal people to ensure that the use of pastoral leases is consistent with native title rights.

The Pastoral Board requires native title obligations to be resolved prior to any decision for approval of changes in use or conditions of pastoral leases.

Mr President, I commend the Bill to the chamber and seek leave to insert the Explanation of Clauses into Hansard without my reading them.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

Part 2—Amendment of *Pastoral Land Management and Conservation Act 1989*

3—Amendment of section 3—Interpretation

This clause inserts new definitions of *carbon farming* and *conservation purposes* and makes an amendment to the definition of *pastoral lease* to recognise the fact that a pastoral lease may encompass purposes other than pastoral purposes (with the approval of the Board under the Act).

4—Amendment of section 4—Objects

This clause amends the objects to recognise the potential use of pastoral land—

- for conservation purposes (as well as, or instead of, pastoral purposes); or
- for other purposes approved by the Board (provided that the land is also being used for pastoral or conservation purposes).

5—Amendment of section 7—General duty of pastoral lessees

This clause makes a minor change to recognise the fact that there may be more than 1 enterprise taking place under a pastoral lease.

6—Amendment of section 8—Pastoral land not to be freeholded

This clause adds a clarifying note to section 8.

7—Amendment of section 12—Establishment of Pastoral Board

This clause updates some references and adds a requirement that the board members nominated by the Conservation Council be persons who, in the opinion of the Conservation Council, have knowledge of, and experience in, the conservation of the rangelands environment.

8—Amendment of section 19—Grant of leases

9—Amendment of section 20—Assessment of land prior to grant of lease

These clauses change some wording for consistency with the concept that land under a pastoral lease might be used for purposes other than pastoral purposes.

10—Amendment of section 22—Conditions of pastoral leases

This clause makes it clear that the other purposes that may be approved by the Board include (without limitation) conservation purposes or, if the land is being used for pastoral or conservation purposes, carbon farming.

11—Amendment of section 23—Rent

This clause makes a minor change to recognise the fact that there may be more than 1 enterprise taking place under a pastoral lease.

12—Amendment of section 25—Assessment of land

This clause recognises that an assessment of the capacity of the land to carry stock may not be necessary, or may need to be modified, where the land is being used for purposes other than pastoral purposes.

13—Amendment of section 42—Verification of stock levels

This clause provides that where pastoral land is being used for a purpose other than pastoral purposes, the Board may exempt the lessee from the requirement to provide a statutory declaration as to stock levels under this section.

Schedule 1—Transitional provisions

1—Interpretation

This clause contains a definition.

2—Approvals

This clause ensures certain approvals purportedly given by the Board in the past will continue as valid approvals after commencement of the measure.

Debate adjourned on motion of Hon. L.A. Henderson.

ASSISTED REPRODUCTIVE TREATMENT (POSTHUMOUS USE OF MATERIAL AND DONOR CONCEPTION REGISTER) AMENDMENT BILL

Second Reading

The Hon. K.J. MAHER (Minister for Aboriginal Affairs, Attorney-General, Minister for Industrial Relations and Public Sector) (17:49): 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.

Mr President, today I rise to introduce the *Assisted Reproductive Treatment (Posthumous Use of Material and Donor Conception Register) Amendment Bill* 2023. The Bill seeks to modernise legislation in line with evolving community expectations, empower individuals and extend fairer access to important information and technology.

The Bill seeks to enhance the operation of the donor conception register that records information in relation to people born through the use of donated human reproductive material by allowing donor conception participants access to certain types of information, overturning the historical preservation of anonymity of donors.

The Bill also seeks to legalise the posthumous use of an ovum or embryo in similar circumstance to what is already permitted in respect of posthumous use of sperm.

Donor Conception Register

In 2017, highly regarded academic in the field of assisted reproductive treatment and donor conception, Professor Sonia Allan conducted the State Government's Review of the Assisted Reproductive Treatment Act. Professor Allan recommendations included the establishment of a Donor Conception Register in South Australia and providing donor-conceived people aged 18 years and over the right to access identifying information about their donors.

Recognising the change in views, South Australia established a donor conception register in November 2021 in accordance with amendments to the Assisted Reproductive Treatment Act as moved by the Hon Connie Bonaros MLC in 2019.

The register currently holds information on donors, the recipient parent of this donated human reproductive materials, and any person who is born as a result of the donated material.

This Bill seeks to enable the donor conception register to function retrospectively and enable safe as well as supported access to the information it holds.

In doing this South Australia will not only join jurisdictions including Victoria, New South Wales and Western Australia that all have donor conception registers available to donor conceived people. South Australia will also follow Victoria in legislating the retrospective disclosure of a donor's identifying information for donor prior to 2004.

This will allow donor conceived people to access information about their donor, irrespective of when they were born. Where the information is verified the identity of the donor will be disclosed providing donor conceived people the right to their genetic parentage.

It is recognised that historical donors made those donations on the understanding they would remain anonymous, however it is important to note that these amendments place no requirement on any donor to have contact with their donor conceived offspring.

The Government has given careful consideration to legislate a retrospective donor conception register. The Government has sought expert input and has undertaken extensive consultation with those that this legislation will impact including the donor conception community, our state's fertility clinics as well as stakeholders across Australia.

This consultation which included the SA Donor Conception Reference Group and national advocacy group Donor Conceived Australia supported the development of this bill and helped ensure the model proposed for South Australia is workable and allows disclosure of personal information in a safe, respectful and ethical way.

The increase access and use to at home DNA testing and services including AncestryDNA has also contributed to donor conceived people being able to find out the identity of their donor.

However, this approach does not provide the systems, support and assurances that would be present under the proposed regulatory system for South Australia.

In recognising the particular impacts that may be felt by the pre 2004 donors, the Government will make important counselling and intermediary support services available to this group.

Posthumous Use of Human Reproductive Material

Strict conditions apply to the use of posthumous use of human reproductive material, including the deceased having consented to the use of their material posthumously prior to their death and for the partner seeking to use the deceased's material having lived in a genuine domestic relationship with the deceased prior to their death.

Currently the Assisted Reproductive Treatment Act only allows for posthumous use of sperm.

The amendment included in this Bill would make the legislation equitable for men whose female partner has died and for same-sex couples.

This amendment would also bring South Australia in line with Victoria and New South Wales the other jurisdictions that allow posthumous use of reproductive material.

Amendments to the Assisted Reproductive Treatment Act and consequential amendments to the Births, Deaths and Marriages, Family Relationships, and Surrogacy Acts are proposed to:

- Provide donor-conceived people over 18 years, regardless of when they were born, with access to information about their genetic parent (the donor).
- Ensure the effective operation of the Donor Conception Register.
- Provide donor-conceived people with options for the inclusion of donor information on birth certificates.
- Provide gender equity for the posthumous use of human reproductive material when certain conditions are met.

The Government recognise how important it is for all donor-conceived people to have access to information about their genetic heritage, it not only plays a significant role in the development of a person's identity and self-esteem, but it also enables them to access important medical and genetic information for things like family planning.

It is the Malinauskas Government's view that the Bill strikes a balance between upholding a person's welfare as paramount with safe and respectful disclosure of donor identities in a regulated environment.

I would also like to take the opportunity to make a few acknowledgements of those involved in getting the Bill to this stage including:

- Tony Piccolo, from the other place for his support of the donor conceived community in pursuit of this change over a number of years and helping to raise this matter.
- Connie Bonaros for her support and her legislative amendments that lead to the creation of the Donor Conceived Register; and
- All the members of the Reference Group that have contributed and helped support the development of this bill, including Donor Conceived Australia for their advocacy for this change and their ongoing support of the donor conceived community.
- Specifically, from Donor Conceived Australia I would like to acknowledge Damian Adams from South Australia and Aimee Shackleton at a national level who have been passionate drivers for this change for a number of years.

I thank you and all other members of the Reference Group for your contributions and input in developing this bill.

I commend the Bill to the chamber and seek leave to insert the Explanation of Clauses without my reading them.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

Part 2—Amendment of *Assisted Reproductive Treatment Act 1988*

3—Amendment of section 9—Conditions of registration

This clause provides for the use of human reproductive material from deceased donors in certain circumstances.

4—Insertion of section 14A

This clause inserts a new section providing for the Register provisions to apply to assisted reproductive treatment provided before commencement of the Part.

5—Amendment of section 15—Donor conception register

Section 15 is amended:

- to clarify the obligations under that section;
- to provide for the inclusion of additional information on the register;
- to give the Minister discretions to authorise the disclosure of information contained in the register in certain circumstances and to refuse to disclose information in the register in certain circumstances (the latter determination being subject to a right of review);
- to allow a person engaged in connection with the administration of the Part to disclose information contained in the register in certain urgent circumstances;
- to allow any person (not being a registered provider of assisted reproductive treatment) to provide information of a prescribed kind for inclusion in the register;
- to oblige registered providers of assisted reproductive treatment to provide the Minister with information required by the Minister for inclusion in the register in the manner and form determined by the Minister.

6—Insertion of sections 15A, 15B, 15C and 15D

This clause inserts new sections as follows:

15A—Authorisation of entities

The Minister may authorise an entity to carry out certain functions under this section.

15B—Notice requiring provision of information etc

The Minister may, by notice, require a person or a public authority to provide the Minister with information. It is an offence for a person to refuse or fail to comply with a notice (without reasonable excuse) or to knowingly or recklessly provide false or misleading information to the Minister. The maximum penalty is $10,000. The Minister may also require the Registrar of Births, Deaths and Marriages to provide information, or specified kinds of information, in relation to donors recorded in the Register under the *Births, Deaths and Marriages Registration Act 1996*.

15C—*Freedom of Information Act 1991* does not apply

The register and other documents held for the purposes of this Part that relate to a particular person are not subject to access under the *Freedom of Information Act 1991*.

15D—Liability

A registered provider of assisted reproductive treatment or other person required or permitted to provide information under this Part does not incur any civil or criminal liability in respect of providing that information.

7—Amendment of section 16—Record keeping

This clause makes a number of amendments relating to record keeping. Under proposed section 16(2a), a person who is in possession of documents relating to the provision of assisted reproductive treatment must keep the documents in accordance with the regulations. The maximum penalty for contravention is $50,000. The proposed provisions also allow the Minister to authorise a transfer of records to another person and makes it an offence to fail to comply with any conditions imposed on such an authorisation. This provision also has a maximum penalty of $50,000.

8—Amendment of section 18—Confidentiality

This clause clarifies the confidentiality requirements in the Act.

Schedule 1—Related amendments

Part 1—Amendment of Births, Deaths and Marriages Registration Act 1996

1—Amendment of section 4—Interpretation

This clause inserts new definitions of *donor* and *donor conception* for the purposes of the measure. For the purposes of this Act, *donor conception* means conception of a child by any insemination procedure involving a donor and is not limited to assisted reproductive treatment within the meaning of the *Assisted Reproductive Treatment Act 1988*.

2—Amendment of section 14—How to have the birth of a child registered

This clause amends section 14 to require a birth registration statement for a child born as a result of donor conception to state that fact and include particulars of the identity (if known) of the donor.

3—Amendment of section 18—Alteration of details of parentage after registration of birth

This clause makes a minor related amendment to section 18.

4—Amendment of section 46—Issue of certificate

This clause contains requirements relating to the issue of a birth certificate in a case where the Register indicates that a person was born as a result of donor conception.

Part 2—Amendment of *Family Relationships Act 1975*

5—Amendment of section 10C—Rules relating to parentage

This clause makes amendments to the rules relating to parentage to deal with the situation where a woman becomes pregnant as a result of a fertilisation procedure using an ovum from, or an embryo created by using an ovum from, the woman's deceased spouse or partner.

Part 3—Amendment of *Surrogacy Act 2019*

6—Amendment of section 4—Interpretation

This clause inserts a definition of *human reproductive material*.

7—Amendment of section 18—Court may make orders as to parentage of child born as a result of lawful surrogacy agreement

This clause makes amendments to allow orders to be made where human reproductive material used in relation to a relevant lawful surrogacy agreement came from a person who has died.

8—Amendment of section 19—Court may revoke order under section 18

This clause is consequential to clause 7.

9—Amendment of section 21—Court to notify Registrar of Births, Deaths and Marriages

This clause is consequential to clauses 7 and 8.

Debate adjourned on motion of Hon. L.A. Henderson.

At 17:49 the council adjourned until Tuesday 5 March 2024 at 14:15.