LEGISLATIVE COUNCIL

Tuesday, 17 October 2017

The PRESIDENT (Hon. R.P. Wortley) took the chair at 14:18 and read prayers.

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

Bills

SUMMARY OFFENCES (INTERVIEWING VULNERABLE WITNESSES) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (TRANSPORT ONLINE TRANSACTIONS AND OTHER MATTERS) BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (UNIVERSITIES) BILL

Assent

His Excellency the Governor assented to the bill.

SOUTHERN STATE SUPERANNUATION (PARENTAL LEAVE) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

PUBLIC INTEREST DISCLOSURE BILL

Conference

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:21): I seek leave to move a motion without notice concerning the conference on the bill.

Leave granted.

The Hon. P. MALINAUSKAS: I move:

That the sitting of the council be not suspended during the continuation of the conference on the bill.

Motion carried.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

Reports, 2016-17—
- Auditor-General and Treasurer's Financial Statements, Parts A, B and Appendix to Annual Report, Volumes 1-5
- Independent Commissioner Against Corruption and the Office for Public Integrity
  - Ordered—That the Report be printed
- Judicial Conduct Commissioner
  - Ordered—That the Report be printed

By the Minister for Employment (Hon. K.J. Maher)—

Reports, 2016-17—
Architectural Practice Board of South Australia
Attorneys-General Department
Australian Crime Commission—Assumed Identities and Witness Identity Protection
Australian Energy Market Commission
Construction Industry Long Service Leave Board
Distribution Lessor Corporation
Essential Services Commission of South Australia
Lotteries Commission of South Australia
ReturnToWorkSA
Section 47, Criminal Investigation (Covert Operations) Act 2009
South Australian Government Boards and Committees Information as at 30 June 2017
State Planning Commission
Construction Industry Long Service Leave Board Valuation of Long Service Liabilities as at 30 June 2017
Controlled Substances Act 1984 and Summary Offences Act 1953 Statutory Reports 2016-17
Regulations under the following Acts—
Criminal Law (Forensic Procedures) Act 2007—Prescribed Authority
Summary Offences Act 1953—Vehicle Immobilisation Devices
Rules of Court—
Magistrates Court—Magistrates Court Act 1992—Criminal—Amendment No. 62
Adelaide Park Lands Management Strategy 2015-25
Charles Sturt Council Heritage Places Development Plan Amendment
Dangerous Area Declarations for the period 1 April 2017 to 30 June 2017
Remuneration Tribunal Determination No. 8 of 2017 and Report—Electoral Districts Boundaries Commission
Road Block Authorisations for the period 1 April 2017 to 30 June 2017

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Regulations under the following Acts—
Education and Early Childhood Services (Registration and Standards) Act 2011—Saving Provisions
Primary Produce (Food Safety Schemes) Act 2004—Dairy—General

Parliamentary Committees

JOINT COMMITTEE ON FINDINGS OF THE NUCLEAR FUEL CYCLE ROYAL COMMISSION

The Hon. D.G.E. HOOD (14:25): I bring up the report of the joint committee, together with minutes of proceedings and evidence.

Report received and ordered to be published.

SELECT COMMITTEE ON TRANSFORMING HEALTH

The Hon. S.G. WADE (14:25): I lay upon the table the sixth interim report of the select committee.

Report received and ordered to be published.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. J.M. GAZZOLA (14:25): I lay upon the table the report of the committee, 2016-17.

Report received and ordered to be published.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.E. HANSON (14:26): I lay upon the table the report of the committee, 2016.

Report received and ordered to be published.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

The Hon. T.T. NGO (14:26): I bring up the report of the committee, 2016-17.

Report received and ordered to be published.

PARLIAMENTARY COMMITTEE ON OCCUPATIONAL SAFETY, REHABILITATION AND COMPENSATION

The Hon. J.E. HANSON (14:27): I lay upon the table the briefing report of the committee on work health and safety concerns related to Home Care and support of South Australians with a disability and elderly South Australians.

Report received.

The Hon. J.E. HANSON: I lay on the table the report of the committee, 2016-17.

Report received.

NATURAL RESOURCES COMMITTEE

The Hon. J.M. GAZZOLA (14:28): I bring up the report of the committee on Marine Scalefish Fishery, Summary of Evidence 2014-2017.

Report received.

The Hon. J.M. GAZZOLA: I bring up the report of the committee on the Northern and Yorke regional fact finding visit.

Report received.

Ministerial Statement

SITE CONTAMINATION, THEBARTON

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:28): I seek leave to make a ministerial statement on the subject of TCE investigation at Thebarton.

Leave granted.

The Hon. I.K. HUNTER: Earlier this year, the Environment Protection Authority commenced assessment works on the Thebarton area to assess the extent of groundwater contamination and to determine if there was soil vapour intrusion. Residents were informed of this work prior to its taking place. The final report from the site contamination consultant is yet to be provided, but as part of their contract the consultant is required to inform the EPA of any soil vapour data that is potentially concerning.

I am advised that this is what occurred on 7 September when the EPA was provided data showing high concentrations of trichloroethene (TCE) vapour in soil in a small portion of the assessment area. The contaminant TCE is a volatile organic chemical that was historically used in industrial and commercial activities. Over a period of time, TCE can change to a gas form and then migrate upwards through the soil as vapour.

Upon receipt of the preliminary data, the EPA identified a total of 17 property titles with potential vapour intrusion risks associated with the high soil vapour results. Subsequently, on 8 and 9 September, the EPA contacted the impacted property owners and residents to seek permission to undertake subfloor and indoor air testing. Eight properties initially agreed to have indoor testing conducted and a further six have now provided permission for this to occur.

The EPA has contacted every owner/tenant that has had testing undertaken to date and provided them with the results. Other residents in Thebarton have also been provided with an update.

The subfloor and indoor air testing results received so far indicate that three properties fell within a safe range, with no TCE vapour detected indoors, and five properties were found to be in the intervention range, between 20 to 70 micrograms per cubic metre of TCE detected indoors, and these will need mitigation action.

In line with the orphan sites policy, Renewal SA will be managing the installation of the mitigation system as an extension of the Beverley pilot project. It is important to note that two homes in Beverley have had systems installed that have successfully mitigated the soil vapour intrusion. The EPA has commenced discussions to formalise mitigation options as well as to progress any logistics regarding the timing for mitigation system installation in properties. The EPA will continue to work closely with each resident who lives in the area identified with high levels of TCE vapour in near surface soils and will continue to keep the community informed.

ROYAL ADELAIDE HOSPITAL OUTPATIENT MEDICAL IMAGING

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:31): I seek leave to make a ministerial statement about the Royal Adelaide Hospital outpatient medical imaging.

Leave granted.

The Hon. P. MALINAUSKAS: I rise to inform the council that, following a testing of the market, the government will keep the provision of outpatient medical imaging services at the Royal Adelaide Hospital in-house. By way of background, earlier this year SA Health commissioned KPMG to provide a report on the different options available for managing an expanded outpatient radiology service at the new hospital. This report considered the merits of either keeping the service in-house or entering into a contract with an external provider.

In June 2017, SA Health released the report and announced that it would consult with staff, unions and other stakeholders. At the same time, an invitation to supply was issued to test the market and confirm whether there was interest from private providers in undertaking this work. Several private radiology providers responded to this invitation; however, none of the submissions would deliver the full suite of radiology services as outlined in the specification document, including the vital role of training and supervising radiology registrars at no additional cost to SA Health.

At the same time, a submission was received from the radiologists who currently work at the RAH, which set out a model for keeping the service in-house. Since then, SA Health has been in close discussions with the radiologists and is confident that their submission represents the optimal model for delivering this service.

As a result of the review of outpatient medical imaging at the RAH conducted by the government, we will now have an expanded service that will nearly double the amount of activity to around 50,000 exams a year, such as X-rays, CT scans and MRIs. At the same time, the new model is cost-effective and maximises the revenue received by SA Health, while ensuring that staff are not affected. In fact, additional nurses have already been recruited and additional radiographers will be needed to operate the service.

This is an excellent outcome for staff, who will be able to grow the service they currently provide. This is an excellent outcome for taxpayers, who can be confident that the government has diligently ensured that the model for the RAH's outpatient imaging represents the best use of public resources. However, most importantly, it is an excellent outcome for patients, who will have much greater access to a world-class service in a state-of-the-art facility, meaning far fewer patients will be referred to the private sector for outpatient radiology appointments.

The new hospital differs from the old site in that it has separate medical imaging equipment for the emergency department, inpatients and outpatients, whereas previously these three different radiology services were all conducted using the same equipment. The separation of these services at the new site means that the amount of outpatient imaging performed at the hospital can be significantly expanded as the equipment will not need to be prioritised for the emergency department or inpatients.

There was a range of factors that needed to be fully considered before any changes could be made to the model used at the old RAH site, including quality and safety, cost effectiveness and

education and training. I am very pleased to announce that this service will be kept in-house and that SA Health is very confident that the public sector staff will deliver a top quality, expanded outpatient service now and into the future.

Parliamentary Procedure

ANSWERS TABLED

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

Question Time

SOUTHERN ADELAIDE LOCAL HEALTH NETWORK

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:41): I seek leave to make a brief explanation before asking the Minister for Health questions about the Southern Adelaide Local Health Network.

Leave granted.

The Hon. D.W. RIDGWAY: Last week, in an update to members, the Australian Nursing and Midwifery Federation stated:

> Taking into consideration the efficiencies demonstrated by SALHN management, the ANMF (SA Branch) sought an immediate undertaking that additional beds would be made available in order to address the immediate demand to provide safe patient care.

My questions to the minister are:

1. How many beds have been or will be closed in the Southern Adelaide Local Health Network this financial year as a result of the efficiencies demonstrated by the Southern Adelaide Local Health Network management?

2. How many additional beds did the Australian Nursing and Midwifery Federation seek?

3. Can the minister confirm that 20 beds at Ward RV at the Repatriation General Hospital will continue to be to be used on an ongoing basis, as claimed by the Nursing and Midwifery Federation last week?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:43): I thank the honourable member for his question. Put simply, there has been, of course, a number of changes that have been occurring within the Southern Adelaide Local Health Network (SALHN) for a number of months as the government's policy continues to be implemented. I think the most significant change and certainly the one that has—understandably and probably quite rightly—had the most attention within the community and the media is the transfer off-site from the Repat hospital.

All services that are currently being provided at the Repat hospital are being transferred to another facility. In most instances, that is occurring at state-of-the-art facilities. Take, for example, the Jamie Larcombe Centre, which I had the great pleasure and good fortune of being able to open up very recently, or, indeed, the other brand-new facilities at the Flinders Medical Centre. The government is committed to making sure that all the services—all the beds that are currently operational at the Repat—are provided for elsewhere in the system.

Of course, the government is very grateful for the extraordinary support and hard work that has been undertaken by those employees within SALHN, including nurses. The honourable member referred to nurses in his discussion. I had an opportunity to be able to chat to some of the nurses who work at the Repat when I visited there recently. It was genuine and sincere and also enlightening to see the depth of feeling that existed amongst nursing staff who work at the Repat about the work they have undertaken on that site for many, many years.

I spoke to two nurses, who had been working at the Repat for in excess of a decade, in one conversation. They were conveying to me a real passion about the Repat site and all the work that had been undertaken there, but at the same time they understood that there was potentially a brighter

future ahead by being able to undertake that same work with the same level of commitment and being able to do it in the state-of-the-art facilities that are being provided for across our health network, including in and around SALHN.

So that work is continuing. All the services that exist at the Repat are being provided for elsewhere. I will be the first to acknowledge—and I think anyone who has followed this public policy question for some time I am sure would also acknowledge—that this has not been without its difficulty. Closing a hospital is never going to be easy, but I think it demonstrates that this government is willing to make the tough decisions to ensure we get the best possible outcome for the people that we are here to make sure we serve, and that is the people who need these services: patients. That is what we are interested in. We are not interested in cheap political points. If we were we would not have gone down the path that we have elected to do.

We are serious about making sure that we have a modernised health system in this state, that people, when they do get ill, do not just get access to great services but get access to great services in world-class, modern facilities. That is what we are delivering, that is what we will continue to deliver, and we thank all the staff who work at existing facilities for supporting us in that endeavour.

SOUTHERN ADELAIDE LOCAL HEALTH NETWORK

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:47): As a supplementary, arising out of the minister's non-answer, three very simple questions:

1. How many beds have been or will be closed?

2. How many were asked for by the nurses and midwifery federation?

3. Can the minister confirm that 20 beds at Ward RV at the Repat hospital will continue to be used on an ongoing basis, as claimed by the nurses and midwifery federation? Pretty simple, Mr President. Three simple questions.

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:47): I am more than happy to confirm for the honourable member that the existing 20-bed ward located by SA Health at the Repat's own ViTA site will continue to be available to SA Health. The unit will continue to be co-located with other existing clinical services and will be trialled for subacute services. My advice and understanding is that that is an outcome that the government has arrived at in conjunction with working with the ANMF. We thank them for their ongoing advocacy. We thank them for not just representing their members' interests but also, in their discussions with the government, making sure that the best interests of patients is the priority when it comes to delivering services. So, yes, I am happy to confirm that those 20 beds will continue to be available.

SOUTHERN ADELAIDE LOCAL HEALTH NETWORK

The Hon. S.G. WADE (14:48): As a supplementary question: could I ask the minister whether those 20 beds are in addition to the 10 beds that are being leased from Flinders Private Hospital, or are the 10 beds from Flinders going into the Repat ward?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:48): I have received advice regarding the previous use of the 10 beds from Flinders Private, and my understanding is yes, that will continue to be the case.

SOUTHERN ADELAIDE LOCAL HEALTH NETWORK

The Hon. S.G. WADE (14:49): As a supplementary question: so the minister is therefore suggesting that with the 20 beds at Ward RV and the 10 beds at Flinders Private there are 30 beds from the Repat that are being either retained at the Repat or leased from the private sector. Doesn't this mean that the government has failed to achieve the efficiencies that it said it would achieve before it closed the Repat, and that this is a politically driven decision, not an outcome of efficiencies?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:49): I am not too sure what the honourable member is getting at. The government's stated policy objective when it comes to Transforming Health, including in and around the Repat, has always been one thing first and foremost, and that is improving our capacity to deliver

high-quality public services in public hospitals that relate to public health care. That has always been our first and foremost objective, and that is what is being realised.

The government has invested an extraordinary amount of money right across our health system in South Australia, the flagship of which is an investment in excess of $2 billion—which was, of course, opposed by members opposite—to make sure we have a world's best practice hospital available to South Australians. However, that is only part of the story. We are a government that is also committed to investing in our suburban facilities.

We have $52 million in the pipeline for doubling the emergency department at the Lyell McEwin Hospital, we have invested over $200 million in upgrading the Flinders Medical Centre, and over a quarter of a billion dollars is being invested at The Queen Elizabeth Hospital. We are doing all this because we want to make sure we are providing outstanding quality healthcare services in state-of-the-art facilities. That has been our objective.

Of course we would like to achieve efficiencies in undertaking that exercise, but our decision in and around the Repat is making sure that we improve the services we provide for residents who rely upon it in and around the southern suburbs. That is what we are committed to delivering.

SOUTHERN ADELAIDE LOCAL HEALTH NETWORK

The Hon. S.G. WADE (14:51): In relation to the 20 beds the minister referred to in Ward RV in his original answer, what is the net monthly cost of maintaining those 20 beds in Ward RV, and for how long will they be needed?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:51): I am more than happy to get that number; I am happy to take the question on notice, as I don't have that number at hand.

HYDROTHERAPY SERVICES

The Hon. J.M.A. LENSINK (14:51): I seek leave to make an explanation before directing a question to the Minister for Health on the subject of hydrotherapy services at Flinders and the Repat.

Leave granted.

The Hon. J.M.A. LENSINK: Hydrotherapy services at the old Flinders pool and the Repat pool have been used by approximately 200 people at Flinders and nearly 300 at the Repat—and I must declare that I am a former employee of the latter. Amongst these people are acute patients using it for rehabilitation as well as some self-help individuals who are managing their own chronic conditions.

In August the government faced a public backlash and was forced to backflip on an announcement made that the new Flinders pool, to open in November, would primarily be for acute patients; the government admitted that it underestimated how many self-help users made use of the services. As a result of this backflip, the government has agreed to provide access to the new pool to current self-help users; however, the sessions offered—three per day for five days a week plus one on Saturday mornings, with 17 spots in total—accommodate a total of 272 people, far short of the approximately 500 that use the services weekly. Furthermore, advice from constituents is that they are no longer able to book a spot on an ongoing basis. My questions are:

1. Can the minister confirm that there are only three sessions per day available to the community-based hydrotherapy pool users and only 272 spots per week?

2. How is this honouring the government's commitment to provide access for those existing self-help users?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:53): I thank the honourable member for her important question, providing me with the opportunity to refer, yet again, to the in excess of $180 million investment this state government has made in the Flinders Medical Centre—which, of course, includes a brand-new hydrotherapy pool that will be of extraordinary benefit to the people who use those facilities. In fact, I have had the chance to see that pool while being there with patients who will be the type to benefit from it, and they are very excited at the prospect of being able to use a brand-new facility.

It always perplexes me that those opposite seem to be fundamentally opposed to the modernising of our health system. Whether it be changes in and around SALHN, whether it be investments we are making at The QEH, or whether it be the branding of a brand-new, world-class hospital, there always seems to be a way for the opposition to find something to criticise. Despite that, we are pressing on with making sure that people in South Australia don't get access to buildings that were built in the fifties or sixties, but instead get modernised healthcare facilities.

In response to the specific nature of the honourable member's question, it won't surprise the general community that our primary function at SA Health is to look after those people who are within our care. That is what will be occurring at the brand-new hydrotherapy pool. To the extent there is additional capacity available when that pool is not being used by patients who are under our immediate care, we will be working to make that access available. There have already been extensive discussions that have taken place with many of those self-help users to try to accommodate their requests.

We are also hopeful, and have had discussions with the ACH Group, that the existing pool (the old pool) at the Repat could continue to be made available to public services into the future, but that of course is principally a matter for ACH. We have been working with ACH to try to facilitate that, and we look forward to ACH potentially making announcements about that in due course.

Nevertheless, the government's priority remains making sure that those people who are in the care of SA Health, those people who are currently patients of SA Health, who need access to hydrotherapy services get it at the brand-new pool and that where we have additional capacity and have the ability to be able to provide for self-help users to gain access that we accommodate that accordingly.

HYDROTHERAPY SERVICES

The Hon. J.M.A. LENSINK (14:56): A supplementary question arising from the minister's answer: do I take it then that what the minister is saying is that acute inpatients or specific outpatients of SA Health get higher priority than people who are trying to manage their own chronic conditions? Is it the government's policy then that they don't really support primary health and people doing their best to manage their own conditions?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:57): With all due respect, I don't think that is an accurate representation of what I have said, except to say that naturally those people who are existing patients of SA Health have to be the priority in terms of getting access to those services. Where we can accommodate other people getting access to the pool for the purposes of self-help, then of course we actively encourage that, welcome it and help facilitate it. But it goes without saying that the people who are within the care of SA Health, who need access to hydrotherapy pools, need to be sure that we can provide for that, and that is exactly what we will be doing at the brand-new pool that the government has built.

HYDROTHERAPY SERVICES

The Hon. J.M.A. LENSINK (14:57): A further supplementary arising from the minister's original answer in relation to negotiations with ACH: can the minister update the house on where those negotiations are at in terms of the hydrotherapy pool?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:58): What I can confirm is that this issue has been discussed with the ACH Group, and to the extent that the government is able to advocate for the existing use of that pool in a way that benefits potential self-help users, we will continue to do so and we will continue to work with ACH to see if we can't facilitate that, notwithstanding the fact that that will ultimately be a responsibility for the ACH Group.

ROYAL ADELAIDE HOSPITAL OUTPATIENT MEDICAL IMAGING

The Hon. S.G. WADE (14:58): My question is to the Minister for Health. I seek leave to make a brief explanation before asking the question.

Leave granted.

The Hon. S.G. WADE: I note that the contract for the new Royal Adelaide Hospital was signed in 2011. Staff were told after the contract was signed that more outpatient imaging services would be brought in-house into the new Royal Adelaide Hospital. Obviously, since 2011, the devolved configuration of medical imaging around the new Royal Adelaide Hospital was clear, yet the government put the proposal to the market this year merely months before the new hospital opened. My questions to the minister are:

1. Why did the government fail to plan for the clear increase in the need for medical imaging personnel, technicians and staff in the context of the devolved nature of the new RAH and the need to bring the services in-house?

2. Why didn't the government engage clinicians in putting forward an alternative model until the second half of this year?

3. What is the net additional cost of the new arrangement?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (14:59): I thank the honourable member for his question. I do not accept much of the premise of his question, in that the government did plan for the additional outpatient medical imaging services, as was comprehensively outlined in my ministerial statement. I refer the honourable member to my ministerial statement, which goes into a bit of detail around exactly the process the government has followed and the conclusion that we have arrived at.

Needless to say, the government is very satisfied with the outcome that we have achieved through this process, where we called for private operators to, essentially, compete against the in-house model. The numbers, in terms of finances, I am advised, are subject to a commercial-in-confidence arrangement. What I can say with a great degree of authority is that I am advised that it is a very good outcome for South Australian taxpayers, notwithstanding the fact that our priority is about getting better outcomes for patients and that's what will be provided for in this new facility.

The honourable member was right to refer to the fact that we signed the contract to build the brand-new Royal Adelaide Hospital a number of years ago. All of us on this side of the house, who fought hard in one way or another to realise the new Royal Adelaide Hospital coming to fruition, are very proud of it. It takes time to build a $2 billion state-of-the-art world-class facility. All of us were committed to it. We weren't running away, complaining about it. We didn't buckle at the knees at the first sign of political pressure or opposition from those opposite. We weren't running around in cahoots with other newly formed political parties that had one singular objective, which was to stop the new Royal Adelaide Hospital. We pressed on, and we have delivered it—a brand-new world-class facility.

The honourable member is right to point out the fact that within that new world-class facility is an extended capacity when it comes to medical imaging services. We are really proud of it. It is a great outcome, and we know that for decades to come South Australians are going to be incredibly grateful for the fact that they are in this new facility rather than stuck in a 200-year-old facility that those opposite would have patients stuck in. Those people would have us stuck in it.

The Hon. R.L. Brokenshire: Two hundred years old—what a load of nonsense. Two hundred years old—you've got to be joking!

The PRESIDENT: Order, the Hon. Mr Brokenshire! The Hon. Mr Wade has the floor.

ROYAL ADELAIDE HOSPITAL OUTPATIENT MEDICAL IMAGING

The Hon. S.G. WADE (15:02): Supplementary: I ask the minister how it can be commercial-in-confidence when he is talking about his own employees delivering the service.

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (15:03): Again, I refer the honourable member to my ministerial statement, which went into substantial detail regarding the advice. I am acting on the advice that is available to me. I am not in a position to publicly disclose the exact terms of the agreement. Needless to say, it is one that we believe best reflects an outcome that the South Australian taxpayer would be satisfied with, but more importantly it represents an outcome that patients who will be beneficiaries of these new, expanded services and facilities will be grateful for for many years to come.

ROYAL ADELAIDE HOSPITAL OUTPATIENT MEDICAL IMAGING

The Hon. S.G. WADE (15:03): Supplementary: how can the minister say in his ministerial statement that a submission was received from radiologists who currently work at the RAH which set out a model for keeping the service in-house and suggest that that is commercial-in-confidence? I ask again: what is the additional cost of this proposal? He is accountable to this house for taxpayers' money.

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (15:04): I haven't stated that there is an additional cost associated with this. What I have said is that, by undertaking a process of this nature, we are able to deliver a better outcome, a more cost-efficient outcome, for the South Australian taxpayer than would otherwise be the case. That's my advice. It is a good outcome. I was very happy to be able to speak to a senior clinician who works within radiology at the NRAH this morning. I think they are satisfied with the outcome as well and we think South Australian patients will be for many decades to come.

ROYAL ADELAIDE HOSPITAL OUTPATIENT MEDICAL IMAGING

The Hon. S.G. WADE (15:04): Supplementary question: I take it from the minister's answer that there is no additional cost to the taxpayer of this proposal?

The Hon. I.K. HUNTER: Point of order: a supplementary question has to be based on the original answer, not a long-running quizzing following from a chain of answers that the honourable member is asking.

The PRESIDENT: The honourable member is coming to the end of his quizzing, but I will allow the question. The Hon. Mr Wade has the floor.

The Hon. S.G. Wade: The minister raised a point of order against my question. You did not uphold his point of order. The question stands.

The PRESIDENT: Yes. Minister, do you want to answer the question?

Members interjecting:

The PRESIDENT: Order! I don't need anyone to sit there and highlight the fact that I have given a ruling. The honourable minister is on his feet. Allow him to answer the question without interruption.

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (15:05): Again, I refer the honourable member to my ministerial statement, which goes into a lot of detail in regard to the process we have undertaken.

AUTOMOTIVE SUPPLIER DIVERSIFICATION PROGRAM

The Hon. J.E. HANSON (15:05): My question is to the Minister for Automotive Transformation.

The Hon. P. Malinauskas interjecting:

The PRESIDENT: Order!

The Hon. J.E. HANSON: Can the minister inform the chamber about measures assisting the diversification of the automotive industry?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:06): I thank the honourable member for his question and his ongoing interest in workers in the manufacturing sector, as I note he spent a large part of his life representing those interests.

There is a big circle around 20 October in the calendar—this Friday. It's the day when the last car rolls off the Holden manufacturing line and the manufacturing of whole cars ceases in Australia. It will be an incredibly sad day for this state and the nation as a whole. Naturally, people's minds turn to the question of what comes next, and it is a very good question indeed.

The state Labor government has been working incredibly hard to help automotive workers and automotive companies transition into new industries. For example, yesterday I was out at Sonnex. Sonnex is a northern suburbs metal fabrication business and has been a component manufacturer for Holden for more than 20 years. They currently have around 20 workers and have the contract now to dismantle much of the Holden factory. Over the next month, they plan to hire in excess of 20 former automotive workers. Last year, the company received a $417,000 Automotive Supplier Diversification Program grant from the state government to buy a new laser cutting machine. That grant was matched by an investment by the company, and they are already diversifying into a whole range of areas including defence.

Today I was at the fine food hub at Aberfoyle Park Shopping Centre. Steve Kovac, who runs the fine food hub, previously worked at Toyoda Gosei for 14 years in various roles on the factory floor, including as a team leader for the last five years. He is now the co-owner—

Members interjecting:

The PRESIDENT: If honourable members want to chat, there is a hallway out there. Minister.

The Hon. K.J. MAHER: He is now the co-owner of the fine food hub at Aberfoyle Park, having taken over the business in June. Using the state government's Drive Your Future program, Mr Kovac was able to access career advice, as well as personal support through our Beyond Auto and will soon undertake a small business course provided through the state government Automotive Workers in Transition Program. These are two great examples of companies and workers making the transition, and that is what we have been doing as a state government, which stands in very stark contrast to what we heard today from the federal government.

This morning, acting industry minister, Michaelia Cash, announced a measly $6 million for South Australian companies. This is after the federal government have pocketed almost $800 million in savings from the Automotive Transformation Scheme. They put in $6 million for South Australia. What adds insult to injury is that, at the same time today, they announced almost $25 million for Victorian manufacturers. They give us under $6 million and they give almost $25 million to Victoria. Once again, South Australia has been dudded by this federal Liberal government at the expense of the Eastern States.

With just a few days to go, this is far too little, far too late from the federal Liberal Party. While we are standing up for automotive companies and workers, the federal Liberal government are pocketing close to a billion dollars in savings and thinking it's good enough to come to this state and offer $6 million to manufacturing companies, none of which are auto companies. It is an outrage. Let's remember that it didn't have to be this way at all. Holden could and should still be making cars today.

We remember, in December 2013, that then Treasurer Joe Hockey launched an extraordinary attack on our car industry in question time, goading them to cease their operations in Australia. This is what then Treasurer Joe Hockey said: he said that it was time for Holden to come clean and be fair dinkum with the Australian people. 'Either you're here or you're not', goaded the then Treasurer. The very next day, after this extraordinary attack, Holden announced that they would be ceasing manufacturing in Australia. Do you know what's worse? That mob are proud of it! The federal Liberals are proud of what they did to South Australia. Those involved, those federal Liberal members, brag about closing down Holden—they wear it like a badge of honour.

The former Treasurer even said that they deliberately, willingly and knowingly used the closure of the auto industry as a bargaining chip for free trade agreements. He traded off our industry, our future, our jobs, as a bargaining chip for his own political purposes. All I can say is that I hope this week, as Joe Hockey is posing for Luxury Home Magazine in Washington DC, that he spares a thought for those auto workers who are losing their jobs.

It is in stark contrast what the federal Liberals are doing compared with federal Labor. Just this weekend, here in Adelaide, here in South Australia, the opposition leader, Bill Shorten, announced a $1 billion manufacturing fund—a $1 billion manufacturing fund—to help manufacturers in Australia, but particularly in South Australia and in Victoria. Put very simply, from the federal party's

point of view, $6 million is what the federal Liberal Party came up with today: on the weekend in Adelaide, federal Labor announced $1 billion. It is a very, very big difference.

What have we heard from the state Liberals? Absolutely nothing—complete and utter silence from the state Liberal Party. The Liberal leader is weak, he is ineffective, and he won't stand up for South Australia. This government will always stand up for auto workers. If you are thinking about how you will vote at the next state and federal elections, it is exceptionally simple and exceptionally clear.

If you are a supply chain worker who lives at Aldinga, if you are a Holden worker who lives in Golden Grove, you compare what the parties have done. You look at the federal Liberals: they have shut down an entire industry. They brag about doing it. They pocket nearly $1 billion in savings and they offer up $6 million. In contrast, Labor: a billion dollar manufacturing fund, a state Labor that is supporting workers, supporting companies, and a state Liberal Party that is doing absolutely bugger all about it.

AUTOMOTIVE SUPPLIER DIVERSIFICATION PROGRAM

The Hon. J.S.L. DAWKINS (15:12): Supplementary.

The PRESIDENT: Supplementary, and can we just tone down the language a bit.

The Hon. J.S.L. DAWKINS: Given that today the minister has advised me that the Beyond Auto section within the Department for Communities and Social Inclusion is engaged with the suicide prevention networks in the northern suburbs, can the minister tell me which networks they have been engaged with, when that happened and with what particular events Beyond Auto was involved?

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (15:13): I thank the honourable member for his question and his very genuine interest in this area. I am happy to go and get details of these programs. I might, while I am on my feet, talk about the programs this government is running. Over the last couple of years, the government has run a number of programs under the auspices of the Automotive Workers in Transition Program, targeted at auto workers in the auto supply chain.

Holden has been doing the same thing for their own workers. As of this weekend, the state government and Holden have combined forces to make sure we are providing as much service as possible to as many workers right across the auto industry. That means that the sites for the state government's program, as well as the transition centre at Holden, are being opened up to the whole auto supply chain and to Holden workers.

We also announced this weekend that both Holden and the state government will continue on for an extra year, until mid-2019, the availability of these services for workers. What we have done consistently is, where there is a need to change, to adapt, to make sure we are doing absolutely everything we can to stand up for workers, that we are doing it in relation to the specific programs (I am happy to see whether I can provide more information), but we will continue as a Labor government to stand up for workers, because that is what we do.

NOARLUNGA HOSPITAL

The Hon. J.A. DARLEY (15:14): My questions are to the Minister for Health. In light of the government‘s recent announcements regarding the Modbury and The Queen Elizabeth Hospitals, will the government also revisit its plans for Noarlunga Hospital under Transforming Health? I understand there is a number of staff, including doctors and nurses, who would like the opportunity to tell the minister their thoughts on the plans for Noarlunga Hospital. Does the minister intend to visit the hospital to speak with staff, as he visited the new Royal Adelaide Hospital unannounced?

The Hon. P. MALINAUSKAS (Minister for Health, Minister for Mental Health and Substance Abuse) (15:15): The short answer to the Hon. Mr Darley’s question is yes, I would like to visit the Noarlunga Hospital. I am more than happy to arrange that accordingly. I do have the intention of continuing my policy of showing up to some hospitals unannounced, although by saying that, it is in some way announcing it. However, I intend to do that because it provides an opportunity to get around and talk to people face to face in a different context and in a different format than is

the case if you do it with a formal visit where you inevitably have more of an entourage and so forth. Whether or not I apply that particular strategy at Noarlunga remains to be seen but, of course, I am more than happy to engage with staff at the Noarlunga Hospital so that they can raise concerns they have.

I have been in the job now for a few weeks and it is an incredibly steep learning curve, but I'm very grateful for the support that I have received from staff across the sector and for providing me with feedback. It is a good thing and it is healthy. It is unfortunate, of course, that I cannot meet every single one of the 40,000-odd people who work within SA Health. If I met all of them for one minute that would be all that I would do. Needless to say, I'm grateful for the opportunities that I have had to be able to meet with frontline staff both on the shop floor, so to speak, but also in my office and, to the extent that I can continue to facilitate that, I will.

SA WATER

The Hon. R.I. LUCAS (15:16): I seek leave to make an explanation before asking the Minister for Water a question about E&WS.

Leave granted.

The Hon. R.I. LUCAS: Members would be aware that in 2012 the Weatherill government secretly paid the consultants KPMG $100,000 to provide advice on their secret plan for the sale or privatisation of SA Water.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: The Weatherill government ministers are squealing like stuck pigs because—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —they got trapped and they got caught.

The PRESIDENT: The Hon. Mr Lucas, take a seat, please.

Members interjecting:

The PRESIDENT: It is just totally unacceptable that the Leader of the Government and ministers on the front bench—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.S.L. Dawkins: You might have to stand up, Mr President.

The PRESIDENT: Well, I'm hoping not to. Allow the Hon. Mr Lucas to get up and ask whatever question he wants, without any interjection. The Hon. Mr Lucas.

The Hon. R.I. LUCAS: The ministers are squealing like stuck pigs, as I indicated, because the evidence given to the Budget and Finance Committee by no less a person than the Under Treasurer of the Department of Treasury and Finance confirmed in *Hansard* that $100,000 had been spent by you—

Members interjecting:

The Hon. R.I. LUCAS: —on the secret deal to try to privatise SA Water.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Lucas, take a seat. It's totally unacceptable for the minister or any minister—

Members interjecting:

The PRESIDENT: The next minister to talk while the Hon. Mr Lucas is on his feet will be named. The Hon. Mr Lucas.

The Hon. R.I. LUCAS: Thank you for your protection, Mr President. As I said, the evidence given by the Under Treasurer to the Budget and Finance Committee confirmed a payment of $100,000 to KPMG on a secret plan for the sale and privatisation of SA Water. Further evidence given to the Budget and Finance Committee from no less a person than the then chief executive officer of the Essential Services Commission of South Australia, Dr Paul Kerin, confirmed that the Under Treasurer had had a discussion with him and told him that the Weatherill government was considering the privatisation of parts of SA Water. Further on, in 2014 and 2015—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. Gago interjecting:

The PRESIDENT: The Hon. Ms Gago, order!

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —freedom of information documents released after a lot of battles by the opposition—

The Hon. G.E. Gago interjecting:

The PRESIDENT: The Hon. Ms Gago, please desist.

The Hon. R.I. LUCAS: I will repeat it, Mr President, because there were too many interjections. In 2014-15, after a long battle for the release of secret documents under freedom of information, SA Water revealed that their board had considered privatisation—

Members interjecting:

The Hon. R.I. LUCAS: This is separate, separate to the earlier one. The earlier study was done by Treasury. In 2014-15, the SA Water board documents released indicated they were still considering the privatisation of some SA Water assets. In 2015, again in evidence to the Budget and Finance Committee, the Under Treasurer confirmed that the Weatherill government had considered an unsolicited bid to sell part of the SA Water assets, which was the Aldinga treatment works.

In 2011, the Weatherill government decided to continue with the outsourcing to the private sector of the management of the metropolitan water supply for another 10 to 16-year period, and that contract was given to a new operator, Allwater joint ventures. My questions to the minister are:

1. Given the government's decision to establish an E&WS department, as they announced on the weekend, will the Weatherill government now discontinue the Allwater contract at the first available opportunity?

2. When the Weatherill government took this decision in 2011 to continue the contract, did SA Water at that time advise the Weatherill government that it was significantly cheaper to continue to outsource the operation to the private sector of the metropolitan water supply; and what was the estimated level of annual savings under that contract that convinced the Weatherill government that it should continue with the outsourcing arrangement?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:21): I have not heard in my life such a litany of inaccuracies in this place in my whole experience, but that is the nature of the man. This is a fellow who comes into this place and makes the most bald-faced statements knowing them not to be true and looking for a rise. Let's just go through chapter and verse of what that fellow across there did when he was last in government, when he told the South Australian public hand on heart, 'We will never sell ETSA,' and then months afterwards when they were in government that is exactly what they did.

You cannot trust a single word that comes out of that man's mouth, and why would the people of South Australia? I am incredibly proud that Labor's first election promise in the leadup to the 2018 state election is to bring back the corporatised asset that is SA Water, back under state control as an agency in the government. We all know what the Hon. Rob Lucas's intentions were in corporatising SA Water in the first place: to fatten up the calf for private sector sale. That is what his intentions were all along and it was only the good outcome of the people of South Australia voting for a Labor government that stopped them from getting their way with SA Water, which is exactly what they did with ETSA. These people have got privatisation in their DNA.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: As announced on 14 October, a re-elected Labor government will establish the energy and water services department to bring together publicly-owned water and electricity essential services and protect them from privatisation. This policy recognises that South Australians have become increasingly concerned by the effect of privatisation on the provision of essential services.

The Hon. R.L. Brokenshire: You're the ones doing it all. You're the ones that have done most of it—

The Hon. I.K. HUNTER: The Hon. Mr Brokenshire—

The Hon. R.L. Brokenshire: —without approval from the parliament. You broke your pledge and your promise.

The Hon. I.K. HUNTER: —in an embarrassing dimension—

The Hon. R.L. Brokenshire: It's disgraceful. You should be thrown out of government.

The PRESIDENT: Order! Minister, take a seat. The Hon. Mr Brokenshire, just try to contain yourself, and if you have any comments put them through the Chair. Allow the minister to answer the question. Minister.

The Hon. I.K. HUNTER: Mr President, the Hon. Mr Brokenshire intervenes—of course, out of order—but, of course, he is incredibly embarrassed because he was actually a minister at the time when he was responsible, supporting the Hon. Rob Lucas in privatising ETSA.

The Hon. R.L. Brokenshire: It went through the parliament, mate.

The Hon. I.K. HUNTER: Oh, now he says, 'It went through the parliament.' He promised the people of South Australia that he would never privatise ETSA, and then he turned around and did it. No wonder you can't trust these Liberals or ex-Liberals. No-one can believe a word they say.

This policy, as I said, recognises that South Australians have become increasingly concerned by the effective privatisation of the provision of essential services. A re-elected Labor government will introduce legislative changes that will protect SA Water from those opposite—or, indeed, those who used to be opposite but are now out on their own—who, given half a chance, would privatise SA Water, as they did with our state's electricity assets.

Currently, SA Water can be privatised without any parliamentary approval. This means it is at risk, and that is exactly what the Hon. Robert Lucas intended when he corporatised SA Water in the first place. We know they would. They couldn't help themselves; they would not be able to help themselves. They have foolishly privatised South Australian essential services in the past to the detriment of the whole state.

Members interjecting:

The PRESIDENT: Order! There are far too many voices in the chamber. The only voice I want to hear is the minister's.

The Hon. I.K. HUNTER: Thank you, Mr President, you are a very wise judge. The ACCC chairman, Mr Rodney Sims, has identified the Liberal Olsen government's privatisation of the

Moomba to Adelaide gas pipeline, along with the suite of electricity assets, as a prime example of poor government decision-making. He said:

> …you get a one-off gain but imposing a continuing cost on society, as that owner, unfettered by competition or unfettered by any sense of regulation of their monopoly, will charge what they like and that will damage the economy.

And that's exactly what we saw—that is exactly what we saw. In 1997, the Liberals' election platform included a promise not to pursue the privatisation of the state's energy assets. Let's just reflect on that. Their actual election platform, the promise they take to the community, was a promise not to pursue the privatisation of the state's energy assets. Well, we know what happened.

On 17 February 1998, less than five months after their fragile victory, premier Olsen introduced legislation into the South Australian parliament that recommended the immediate sale of the Electricity Trust of South Australia. That's how much their word is worth: five months; it lasted five months. When the Hon. Rob Lucas and the Liberals signed the contracts to sell our public assets—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: —they constrained competition, which in turn drove up the sale price. Of course, that's what they intended to do. That decision has led to a lack of competition among electricity generators and market behaviour that charges South Australians as much as possible. Indeed, this side of the chamber wants to protect these important essential services and ensure they remain in government hands and operate for the public good, as they should be.

Our new department will oversee water and sewerage assets currently held by SA Water and energy assets, such as the new publicly owned power plant. Let's not forget, these guys have privatisation stuck in their DNA. We haven't even bought and paid for the government-owned power station yet, and they have already announced out there that they are going to sell it. Before we have even signed the cheque they have already flagged out there, 'We're not in this. We privatised ETSA; we'll privatise all electricity assets.' Even before we have signed the cheque to purchase the government's own energy generator, the Liberals have announced they are going to sell it.

Members interjecting:

The PRESIDENT: This is not a three-way discussion. The only one who should be on his feet, talking, is the minister. Minister.

The Hon. I.K. HUNTER: Our new department will oversee water and sewerage assets currently held by SA Water and our energy assets, as I have said, such as the new publicly owned power plant. The only way to keep that publicly owned power plant in public hands will be to return a Labor government at the next election. By bringing SA Water into this new government department and passing legislation that prevents our central services being privatised, we are ensuring that South Australians will continue to have access to high-quality, reliable and affordable essential services and protect South Australian jobs.

The Liberal Party has announced plans to privatise the publicly owned power plant. Again, I have to say that, under the existing arrangements, they could do that to SA Water without reference to parliament. This is going to be a clear point of difference between Labor and the Liberal Party that will give South Australians a choice, a real choice, at the next election. Water services provided by SA Water, held in government hands for the people of South Australia, are highly valued by South Australians and we are committed to keeping these services owned by the public.

Over the last four years, SA Water customers have seen a 6.5 per cent decrease in combined water and sewerage average bills, which is the largest reduction for urban residential customers out of the 13 similar size water utilities across the country—the largest reduction across the country. Since the introduction of independent regulation in 2013, the government has driven down the price of the average household water and sewerage bill by $171. Do you really believe that if the Liberals get their way and privatise SA Water, those bills are going to come down? Never, ever. We have delivered on our commitment to contain cost-of-living pressures for South Australians by limiting water price and sewerage increases for next year—

The Hon. J.M.A. Lensink: The highest water prices in Australia and the highest electricity prices in the world.

The Hon. I.K. HUNTER: Well, it's not. The Hon. Michelle Lensink is peddling lies again. She is absolutely misinformed and she is telling the world untruths.

The Hon. J.M.A. Lensink: It's true.

The Hon. I.K. HUNTER: It is not true at all. Sewerage increases for the next year will be kept to CPI. Keeping SA Water in public hands will ensure this essential service continues to be provided in the long-term best interests of South Australians, rather than being driven by the financial considerations of the private sector and the profits the Hon. Rob Lucas could get his hands on.

These changes will bring together publicly owned essential services and protect them from that privatisation. The new department will oversee water and sewerage assets currently owned and held in public hands for perpetuity as well as, as I mentioned, the publicly owned power plant. Above all, this election commitment will keep these assets for the public to control, to protect our existing jobs in these industries, to continue to provide essential services for all South Australians.

There is no way to run away from this. The Liberal Party made solemn promises over two decades ago to never privatise ETSA, and then they did. Is it little wonder that when they come out again—five, six months before a state election—and say, hand on heart, 'Trust us this time; we'll never privatise SA Water like we did ETSA,' is it little wonder that no-one believes a word they say?

SA WATER

The Hon. R.I. LUCAS (15:32): Supplementary question: will the minister answer the question I asked him, and that is: what is his position in relation to the Allwater contract, and given the position on the E&WS is it the Weatherill government's position that they will take the first available opportunity to finalise that contract and bring it into an E&WS department?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:32): The honourable member would like me to concentrate on that question so I don't concentrate on the question that everybody wants to know: how can you trust the Liberal Party with key public assets like SA Water when you see what they did to ETSA? How can you trust the Liberal Party on anything they say when it comes to privatisation, with their track record?

That is the problem they are going to have to bear, and that man over there, the Hon. Rob Lucas, was key and responsible for the sale of ETSA, along with the Hon. Robert Brokenshire, who was in the government at the time. They both broke their solemn promise to South Australians, and now they come, out from an election, and say to the population of South Australia once again, 'Trust us this time; we won't do to SA Water what we did to ETSA.' It is highly unlikely that South Australians will give them a second's notice.

SA WATER

The Hon. R.I. LUCAS (15:33): Supplementary question arising out of the minister's original answer: is the reason the minister is refusing to answer both questions I have put to him that he is too embarrassed by the actual facts of the situation; that is, the government was advised by SA Water of significant savings if they continued the Allwater contract, and that's the reason why the minister is now steadfastly refusing to answer either of the questions that have been put to him?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:34): I'm not steadfastly refusing to answer anything. What I am doing is poking my finger in the hole, the gaping hole, in the Liberal Party's plan about privatisation. That's what they don't want us to talk about. Well, I can tell you now: every day from now to the election I will be telling South Australians about your track record on privatisation, your track record on the privatisation of ETSA, and how could anybody take you at face value when you make a promise about SA Water. No-one is going to believe you. No-one is going to believe you, Mr Lucas.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Why would they? You misled them.

The PRESIDENT: Order! Minister, take your seat.

The Hon. J.S.L. DAWKINS: Point of order.

The PRESIDENT: I have just called order.

The Hon. J.S.L. DAWKINS: I make a point of order. The minister has just said that you misled the house, sir. I think he needs to refer through you, not to you.

The PRESIDENT: The minister has the floor. It is totally inappropriate for a debate across the chamber. The minister will speak through the chair. Have you finished your answer, minister?

The Hon. I.K. HUNTER: I will take your instructions, sir, as I always do. Mr President, I invite you to tell the Hon. Mr Lucas that no-one will trust a word he says, in the lead up to the next election, about SA Water or privatisation, because he has no record that anyone will ever trust.

SAGASCO

The Hon. R.L. BROKENSHIRE (15:35): A supplementary: based on the minister's answer, how can he justify that it was alright for Labor to be the first government in the history of this state to privatise an essential service—namely Sagasco—under the late Hon. John Bannon? As a result of that privatisation we have the highest gas prices in Australia. How can he justify that? You sold Sagasco, mate; that was the start of it all. Forestry—it goes on.

Members interjecting:

The PRESIDENT: Minister, do you want to answer that? Okay. Hon. Ms Gago.

NATURE-BASED TOURISM

The Hon. G.E. GAGO (15:36): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister update the chamber about South Australia's new nature-based tourism prospectus?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:36): I thank the honourable member for her most important question. South Australia's nature-based tourism sector is thriving. When the government released Nature like Nowhere Else, our nature-based tourism strategy in 2016, we outlined our vision to make South Australia a world leader in nature-based tourism.

The plan was built on a foundation of consultation with stakeholders, industry and local communities. The recognition that we needed to work together to get the best for our state was widespread, and I am very pleased at the level of input we received from our stakeholders. The action plan that was developed included five main themes:

- to lead South Australia's nature-based tourism activation agenda;
- to support existing nature-based tourism experiences and create new ones;
- to remove red tape and barriers to investment;
- to raise awareness of South Australia's unique appeal to tourists generally but, particularly, to international tourists; and
- to empower and build the capacity of our community-based tourism networks.

Since the release of the strategy, we have seen new investment and more international and interstate tourists flowing into our state. This means more jobs and more opportunities for businesses and entrepreneurs to invest in exciting new projects.

Last Thursday saw another great step forward in our nature-based tourism strategy journey. The member for Mawson in the other place, who is also the Minister for Tourism, and I announced that the state government had identified 18 unique sites and was inviting proposals for nature-based

business opportunities such as eco-sensitive accommodation, adventure tours, cafes, cellar doors, guided walks and the like. For the first time businesses and entrepreneurs will be invited to submit their proposals to develop nature-based tourism ventures that will entice interstate and international visitors to our state, provide new opportunities for South Australians to stay in touch with nature, and encourage a different way of thinking about our natural assets.

We have a range of suggestions but, ultimately, what we have done is identify locations we think would work—at the first stage, anyway—for nature-based tourism businesses, and have opened it up to the market. We may get applications or submissions back that will push the envelope a little bit more broadly, and of course we welcome that. The options range from small hospitality institutions adjacent to a new popular playground, for example—such as a coffee shop, or indeed a pop-up coffee shop—to high-end luxury accommodation at one of our more remote and spectacular national parks.

Included in the suggested sites are the new nature play space at Morialta Conservation Park, which provides a fantastic opportunity for a cafe or a nature-themed, small hospitality venture—I suppose much like the facility we have at Waterfall Gully—to capture the steady number of patrons who are already there to enjoy the beautiful play space. As I am advised, there are currently more than 100,000 visits to the park annually, and that can only grow. The provision of much-needed coffee and refreshments to the families, and in particular parents who already frequent the park, provides some obvious benefits.

There is also the opportunity to complement the existing great white shark tourism activities and operate remote island adventure experiences in the Neptune Island Conservation Park on Eyre Peninsula. New businesses will be able to develop visitor experiences focusing on the island's marine wildlife and history, including opportunities to investigate alternative uses for the lighthouse keeper's cottage, for example. In doing this, they will be able to expand on the already successful nature-based tourism options and utilise the infrastructure and access already in place on the island.

There is also the opportunity to lead mountain bike tours or provide training activities and guided tours at Mount Lofty parks. With 300,000 people, I am advised, already visiting this area, this is one of the many ways that nature-based tourism can enable people to experience the outdoors and promote the relationship between health, physical activity and nature.

Among the sites is the Old Government House in Belair National Park. This iconic site provides an ideal setting for accommodation perhaps or hospitality and dining, even function and event spaces, with the main house and surrounding outbuildings and gardens. This property and the new business prospects it offers complements its place in South Australia's rich history and the world-class wine and food attractions that surround it, including over 50 cellar doors, local craft breweries and cider houses, not to mention cheeseries.

South Australia's first lighthouse is another of the amazing sites available for a new business to enhance and showcase its history and amazing surroundings, that being the Cape Willoughby Conservation Park on Kangaroo Island. It provides opportunities for new accommodation, tours and tourism options that conserve the natural and cultural values of the park. South Australia's heritage sites provide opportunities to share our history through guided tours, providing unique tourism experiences, dining, retail, camping or event spaces.

The Old Adelaide Gaol, for example, and Fort Glanville are two of South Australia's oldest and most fascinating sites, each situated in growing tourist areas. Fort Glanville is close to the National Maritime Museum, the Adelaide Dolphin Sanctuary and a host of historic and cultural attractions in the Port Adelaide area, while the Old Adelaide Gaol is situated in the picturesque Riverbank Precinct, adjacent to some of South Australia's new and iconic buildings, including Elder Park, the Adelaide Festival Centre, the Convention Centre, restaurants and numerous cafes. Opening these spaces to new uses will enable them to continue to be thriving areas accessed by South Australians, as well as sharing their history and beauty with new audiences and potentially in new ways.

There is also the opportunity to revitalise Cantara Homestead in the Coorong National Park into a B&B or a tour-based venue. With 550,000 visits to the region each year and surrounding attractions, including the stunning coastline, we think that is a real option. The homestead could

become a place to relax and unwind and enjoy the many pleasures available on the Limestone Coast. Built in 1866, the homestead has 15 rooms and quite a quantity of unique landscape surrounding it which could accommodate picturesque camping spots. This site is a perfect space for a new business to develop a new accommodation hotspot.

Of course, the Mount Lofty Botanic Garden in the heart of the Adelaide Hills is the perfect spot for tours or a new cafe, mobile culinary or outdoor dining experience. The botanic garden is surrounded by food producers and a major wine-growing district. It is a perfect setting to showcase both the beautiful garden landscape and locally sourced produce.

These are just some of the sites and some of the ideas that new businesses might like to think about. We really want them to come to us to help us create world-class nature-based tourism experiences in South Australia to fill a niche where there is already demand. We are asking the market to give us their ideas and we will work with the proponents on the various licensing and tenure arrangements that will need to be managed to bring their vision to life.

Our prospectus lists 18 unique and beautiful natural sites across South Australia that can be leveraged to increase public access and enjoyment to these areas while simultaneously providing strong economic opportunities and the potential for new jobs in South Australia. This is an unprecedented example of how our state government works with business and local communities. We go out there and say, 'Tell us what you think you can do for our state.'

We are not a government that is in the business of telling people what to do. We invite their contributions. We do that with communities in terms of our funding and project ideas—Fund My Neighbourhood, Fund My Community—and that has been a fantastic success for us as a government. People feel like they have some buy-in, and I think in the same vein when we ask the private sector to come to us with their ideas, we will see the very same positive response. I am looking forward to seeing them.

Bills

INDUSTRY ADVOCATE BILL

Committee Stage

In committee.

Clause 1.

The Hon. T.A. FRANKS: Since we last debated this bill, I have received a significant number of pieces of correspondence, and I simply want to draw the chamber's attention to that correspondence. The Greens will be opposing the proposed amendments currently filed by the Australian Conservatives and the opposition.

The first piece of correspondence is from Andrew Clarke of the Master Plumbers Association of South Australia, who notes in his email of 15 October to the Industry Advocate that the association would like to support the Industry Advocate Bill. The email goes on to state that they do not support the amendments that have been proposed. They feel the amendments would detract from the original intent of the bill and express their members' belief that they want this bill to pass and pass quickly. Certainly, Andrew Clarke, the executive officer of the Master Plumbers Association of South Australia, has made that clear.

I also note that Larry Moore, of the National Electrical and Communications Association (SA/NT chapter), indicates that they do not support the proposed amendments to the Industry Advocate Bill, which from their viewpoint would seriously impede the effectiveness and intent of the proposed legislation, and urges similar swift passage of this bill. This bill, the Greens believe, would be knobbled should the amendments filed by the opposition and the Australian Conservatives be upheld, and we will be vehemently opposing them.

The bill has strong support across the sector. For those members who are not aware, it has received quite widespread support. Indeed, it is supported by the Australian Industry Group, it is supported by Business SA, and it is supported by a joint select committee of the federal parliament, authored by one Nick Xenophon. It is supported by OneSteel Manufacturing and Integration. It is supported by Best Bricks and Pavers. It is supported by Bowhill Engineering, and it is supported by

KW Wholesale Stationers, no stranger to this place for the effect that decisions to not employ local procurement practices had on that particular company. Indeed, I am happy to see that that company continues to thrive with a different attitude from government.

It is supported by the Civil Contractors Federation; it is supported by Zancott Knight Facilities Management; it is supported by Vintek; it is supported by Sage Automation; it is supported by the Australian Steel Institute; it is supported by Consult Australia; it is supported by the Australian Subcontractors Association; it is supported by the Air Conditioning and Mechanical Contractors' Association of South Australia; and, indeed, today it is strongly supported by the Greens. We welcome the reintroduction of debate into this place on this bill and wish its speedy passage.

The Hon. D.G.E. HOOD: I rise to indicate the Australian Conservatives will also be supporting the passage of the bill today and that I will be withdrawing the amendments in my name to clauses 13 and 16 following consultation with the groups that the Hon. Ms Franks has mentioned, and others. We are satisfied that the bill is broadly supported, and also, following consultation with the Industry Advocate himself, Ian Nightingale, I am satisfied that he is strongly supportive of the bill and that there is broad support for the bill to proceed. As such, we will be supporting it today.

Clause passed.

Clause 2 passed.

Clause 3.

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

Amendment No 1 [SusEnvCons–1]—

Page 3, after line 16 [clause 3, definition of *procurement operations*, (a)]—After subparagraph (ii) insert:

(iii) the delivery of a service by a third party on behalf of the authority; or

This amendment seeks to change the definition of 'procurement operations' in clause 3 of the Industry Advocate Bill to be consistent with the changes proposed for the State Procurement Act. The proposed change to the definition of procurement operations specifically includes the delivery of the service by third party on behalf of government and excludes funding classified as grants in accordance with the Treasurer's Instructions.

The scope of the Industry Advocate Bill includes as part of the scope of government contracts projects receiving state government funding or assistance separately from procurement operations, therefore the changes proposed to the State Procurement Act will not affect the scope and coverage of the Industry Advocate Bill.

Amendment carried.

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

Amendment No 2 [SusEnvCons–1]—

Page 3, line 22 [clause 3, definition of *procurement operations*]—Delete 'operations excluded from this definition by the regulations;' and substitute:

—

(e) the provision of funding to a third party by the authority that, in accordance with Treasurer's instructions, is classified as a grant; or

(f) operations excluded from this definition by the regulations;

Amendment No 3 [SusEnvCons–1]—

Page 3, after line 37—Insert:

Treasurer's instructions means instructions issued by the Treasurer under Part 4 of the Public Finance and Audit Act 1987.

These amendments go to the same topic that I spoke about before in terms of the definition of procurement operations.

Amendments carried; clause as amended passed.

Clauses 4 to 12 passed.

Clause 13.

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

Amendment No 1 [Lucas–1]—

Page 7, after line 32—Insert:

(3a) A participant cannot be compelled to give information or a document under this section if—

(a) the participant is a party to a dispute or complaint (however described) in respect of a government contract; and

(b) the information or document is relevant to the dispute or complaint; and

(c) disclosure of the information or document would materially affect the participant's position in the dispute or complaint.

(3b) A participant cannot be compelled to give information or a document under this section if the information or document—

(a) has commercial value to, or relates to the commercial or financial affairs of, the participant; and

(b) disclosure of the information or document—

(i) may cause damage to the participant or the interests of the participant; or

(ii) may confer an unfair commercial or financial advantage on a person.

This amendment, and the amendments being moved by the Liberal Party, came as a result of discussions the Law Society raised with the shadow attorney-general in a range of discussions. The Law Society expressed some concerns about aspects of the legislation and the Liberal Party accepted the position that was argued by the Law Society and the shadow attorney-general that there was substance to the arguments that have been raised about the extent of the powers in relation to the operation of the bill.

As I indicated in the second reading, the Liberal Party's position is to support the legislation, but nevertheless is proposing these three amendments. This is the first of those. The shadow attorney-general and the Law Society have pointed out that what this particular aspect of the legislation—that is, clause 13—does is allow the government via the Industry Advocate to demand, under the threat of penalty or a major fine, documents for information when that party may already be in litigation with the government.

The argument from the Law Society is, essentially, that there may well be a dispute between a party and the Industry Advocate, which may well be going through the courts in terms of litigation, and that in some way this particular power would allow the Industry Advocate to demand, under the threat of penalty, various documents which might be the subject of that litigation with the government. As the shadow attorney-general summarised in her contribution in the House of Assembly, 'It is a backdoor disclosure of discovery processes that is completely unacceptable.'

That is the essential problem that the Law Society has highlighted to the shadow attorney and the Liberal Party, and this particular amendment seeks to correct that particular issue.

The Hon. K.J. MAHER: I rise to indicate that the government will be opposing the amendment. One of the main statutory mechanisms in the bill to assist the Industry Advocate to perform his functions is the power to require information. The proposed amendment will prevent the Industry Advocate from exercising his power to compel information required to investigate and resolve a complaint under clause 6 of the bill, as well as the Industry Advocate's ability to perform functions as an advocate more broadly under the bill.

Industry seems to be as stunned as we are about why these amendments are being proposed. Phil Sutherland from the Civil Contractors Federation says, in relation to this, 'What is being proposed will seriously hamper the efforts of the Industry Advocate and in some cases make

the role almost unworkable.' Christopher Rankin from the Air Conditioning and Mechanical Contractors' Association sets out the impact of these amendments when saying:

> In the building and construction industry the government is a large client of all industry participants, and as such must be accountable like any other participant. Practically, such an amendment would leave the way open for government and businesses to use this proposed amendment to 'frustrate' the work of the [Industry Advocate].

Grant Eckert from KW Wholesale Stationers sums up what is the widespread industry view:

> The amendments seem odd, and we fully understand the negative influence this would have.

The way in which the Industry Advocate can use and disclose information disclosed to him is already limited by:

- the functions set out in clause 6 of the bill;
- the confidentiality requirements under clause 16 of the bill; and
- the general principles of administrative decision-making.

The proposed amendments refer to disputes or complaints, however described. This is very broad and would likely encompass a complaint made by a participant in a government contract to the Industry Advocate under clause 6. Accordingly, this would create an anomalous result whereby the information required to resolve the complaint becomes exempt under clause 13(3a).

Essentially, the real world impact of this amendment is that companies that know they are failing to meet their obligations under the industry participation plan could simply claim that they were having a dispute with the Industry Advocate, thus locking the Industry Advocate out of obtaining that information and performing the essential roles of ensuring contractors meet their original binding commitments. This amendment would leave the Industry Advocate's position in an even weaker place than it is currently as a non-statutory role.

Steve Jones from the Bedford Group sums up industry sentiment about this amendment when he says:

> It weakens the role of the Industry Advocate to the point that these changes will make it ineffective and undo the gains made by the office, changes that have helped SA business immensely. The original proposal really supports SA businesses at a time when we have a high level of unemployment…and it needs to be addressed, this is one vehicle to assist that.

The Hon. J.A. DARLEY: For the record, I indicate that I will oppose all three of the opposition's amendments.

The Hon. D.G.E. HOOD: I must confess that I was originally somewhat attracted to these amendments, going back when they were initially filed and touted. However, during the course of consultation, again as the Hon. Ms Franks indicated, there has been a great deal of industry support for the bill to remain as is. It is very broad support, quite to my surprise originally, right from the industry groups to some of the companies involved and some of the umbrella organisations. So, having consulted very broadly on this, we have come to the position of not supporting the amendments.

The Hon. T.A. FRANKS: The Greens will be opposing these amendments.

Amendment negatived; clause passed.

Clause 14 passed.

New Clause 14A.

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

Amendment No 2 [Lucas–1]—

Page 8, after line 14—Insert:

14A—Review of certain decisions by South Australian Civil and Administrative Tribunal

(1) The South Australian Civil and Administrative Tribunal is, by force of this section, conferred with jurisdiction to deal with matters consisting of the review of a decision of the

Industry Advocate under section 13 to require a participant to give the Industry Advocate information or documents (a *reviewable decision*).

(2) An application for review of a reviewable decision may be made to the South Australian Civil and Administrative Tribunal by the participant to whom the requirement relates.

(3) An application for review of a reviewable decision must be made within 14 days after the participant is notified of the requirement under section 13 (or such longer period as the Tribunal may allow).

(4) However, the South Australian Civil and Administrative Tribunal may only allow an extension of time under subsection (3) if satisfied that—

(a) special circumstances exist; and

(b) another party will not be unreasonably disadvantaged because of the delay in commencing the proceedings.

I move the amendment on behalf of the Liberal Party. Again, as I indicated earlier, this was as a result of discussions between the Law Society and the shadow attorney-general. This is, as described in the debate in the House of Assembly, an administrative law function—as the shadow attorney-general described it. It essentially applies an appeal mechanism to review an Industry Advocate's notice.

Ultimately, if SACAT decided that it agreed with the Industry Advocate, then the impact of the Industry Advocate's notice would sustain. However, if it was an unreasonable notice, SACAT obviously would have the power to not agree with the Industry Advocate's position. So, essentially, all it is seeking to do is to provide an appeal mechanism against what might have been an unreasonable decision of the Industry Advocate.

I think it is fair to say that there is no perfect operation of a perfect public sector position such as the Industry Advocate. All of us are capable of making errors of judgement, at the very least, and all this is essentially seeking to do is that if an error of judgement or something worse has occurred in relation to a decision, there is an appeal mechanism available to somebody for an aggrieved party.

The Hon. K.J. MAHER: The government opposes the amendment. As clause 13 is currently drafted there would be very limited circumstances in which a person seeking a review by SACAT would be entitled to relief from a request to provide information or documents; for example, if the Industry Advocate sought privileged information, information that tends to incriminate a person, or information that was clearly not connected with the performance of the Industry Advocate's functions.

In practice, informal communication between a participant and the Industry Advocate is likely to be a more effective and convenient means for a person to seek the same relief as SACAT, with less cost to participants in government contracts and the Industry Advocate. As it currently operates, a failure to comply with the direction would be prosecuted as a summary offence in the South Australian Magistrates Court, a low cost and open legal forum with significant experience and expertise. A balance between the benefit that will arise from the use by the Industry Advocate of the information versus the perceived detriment to the participant from disclosure to the Industry Advocate is struck by the interaction between clause 13 and clause 16's confidentiality provisions.

Again, many businesses have indicated that they find it difficult to understand the need for review powers by SACAT when the Industry Advocate Bill is simply establishing the need for contractors to prove that they are meeting the commitments they have made. Christopher Rankin, of the Air Conditioning and Mechanical Contractors' Association, notes:

…conferring jurisdiction on the South Australian Civil and Administrative Tribunal ('SACAT') to review a decision of the Industry Advocate, to require a participant to give the Industry Advocate information or documents. AMCA consider that this amendment will increase costs to all participants in the industry and the OIA.

Keith Gillard from Business Aspect says:

Having looked at the SACAT role and question what practical difference there is between them and the Magistrates Court?...I feel the latter will likely drive greater compliance by small to medium business than the tribunal. Larger organisations will play hardball regardless.

New clause negatived.

Clauses 15 and 16 passed.

Clause 17.

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

Amendment No 3 [Lucas–1]—

Page 9, lines 7 to 12—Delete clause 17

I must admit that, again, this was as a result of discussions between the Law Society and the shadow attorney-general, but I am intrigued by the extent of the desire of the government to prevent from scrutiny access to information under freedom of information about the operations of the Industry Advocate.

Can we hasten to say that under the proposed amendment, but clearly even under the existing arrangements, commercially confidential information in relation to a business is perpetually being refused to freedom of information applicants on a daily basis. Any of us in this chamber who have used the current freedom of information laws know that we are told regularly that we cannot get access to information because it is a private interest, a personal interest, or it is commercially confidential to an individual operator, individual or an individual company. So, there are clearly existing powers under the legislation, as it exists, and it is often used to refuse information.

If, for example, at some stage in the future the Industry Advocate were to correspond with his or her minister and say, 'I think that a government procurement operation or a new policy that the government has announced is unfairly impacting on business operations in South Australia or is having this deleterious effect and I urge the minister and the government to do something about it,' in essence, that sort of correspondence, information and view of the Industry Advocate would be prevented from being accessed by freedom of information. For the life of me, I cannot work out why any member would want to keep information along those lines from being accessed by freedom of information.

I understand the need to keep commercially confidential information commercially confidential, although I think that particular provision has been abused, I suspect, by governments of all persuasions over the years; nevertheless, it is there and it is an available protection. There are also other protections within the legislation that would prevent the release of information.

What is proposed here is that the Industry Advocate can release statistical information and aggregate information and that sort of general stuff, which is fine. We see the same thing in the Small Business Commissioner's reports and the Industry Advocate reports in terms of the overall level of work and undertaking, etc. However, there is a variety of other examples, only one of which I have highlighted, where I cannot see why that sort of information should be hidden by a government that wants to keep that information hidden.

It does not impact on the access of individual companies to procurement contracts. It does not prevent the Industry Advocate from doing his or her work in terms of assisting small business, but if the Industry Advocate were to express a negative view about a government policy or a range of government policies in relation to the operation of the office or, for example, the staffing of the Office of the Industry Advocate, if at some stage the government of the day decided to apply an efficiency dividend or reduce the funding or apply a particular public sector policy to the Industry Advocate which he or she might think would impact negatively on the operations of the Industry Advocate, and the Industry Advocate corresponds with the minister expressing that particular view, why would members in this chamber want to keep that information secret?

The government clearly would. They do not want it out. The Industry Advocate wants to keep his or her position so they are not going to release the information publicly; or they may take the view, not inappropriately I might say, that, as a senior executive, that is the sort of view they would express to the minister of the day and the government of the day and that it is not their role to put that into the public arena. That is what we have freedom of information laws for, so that sort of uncomfortable and embarrassing information that might be available within an agency such as the Industry Advocate statutory authority should be available.

We exempt agencies like the courts and others for obvious reasons, but the Industry Advocate is nothing like that in relation to its operations. Many other statutory authorities—SA Water, for example, and there is a long list of statutory authorities in the back of Budget Paper 3—do not

have this particular exemption. A small number do, but the majority of them do not. I, for the life of me, do not understand why members would want to keep that sort of information secret and unable to be accessed under freedom of information.

The Hon. K.J. MAHER: The government opposes this amendment. Very simply, clause 17 is drafted as an exemption so that the advocate can treat sensitive commercial information as just that: sensitive information. Again, I will refer to a number of the industry participants. Christopher Rankin, from the Air Conditioning and Mechanical Contractors' Association, says:

> Such an amendment is not required, the partial exception is to keep confidential information provided by businesses exempt from FOI applications – the normal administrative and financial operations of the Industry Advocate would be subject to FOI applications.

It is important to note that the Small Business Commissioner has an almost identical partial exemption from FOI requests. The wording in the Small Business Commissioner's freedom of information exemption came out of negotiation at the time with Liberal Party members of the Legislative Review Committee when they were dealing with the establishment of the Small Business Commissioner exemption regulation. As part of the negotiation for that position, it was agreed that the Small Business Commissioner's administrative and financial operational information and statistical information that does not identify any business should not be protected from an FOI request.

The same arrangements are proposed under this scheme. Again, a large number of businesses have voiced their complete opposition to this amendment on the basis that it would deter businesses from tendering for government projects due to concerns that their commercially sensitive information would be put out into the open. One concern often raised with the Industry Advocate is that general FOI provisions, although exempting some information, still leave enough information intact to allow the reader to fill in the blanks. Neil Howells, from Hudson Howells, notes:

> The deletion of the partial exemption for the Industry Advocate from the operation of the Freedom of Information Act…from the Bill has the potential to be a significant disincentive for businesses tendering for government contracts. The outcome of this would be that government fails to get access to optimum suppliers. Again the risk is that it places government at a financial disadvantage and the state at an economic disadvantage.

Clause 13 of the Industry Advocate Bill gives the Industry Advocate the power to request highly confidential and commercially sensitive information from businesses participating in government contracts. It is not appropriate to expect businesses to rely on the government's ability to exclude a document from an FOI request on the basis of the exemption for documents affecting business affairs under the Freedom of Information Act itself.

The need for the partial exemption that is proposed in section 17 of the bill is strongly supported by industry on the basis that businesses need to be assured that commercially sensitive information will be exempted from FOI requests. That is probably best summed up by Grant Eckert, from KW Wholesale Stationers, who has indicated that:

> We would be uneasy providing the Industry Advocate with commercially confidential information that could surface at a later date and subsequently be accessed by our competitors.

The Hon. T.A. FRANKS: The Greens will be opposing this amendment. I appreciate the Hon. Rob Lucas's ability to create an enormous straw man and his brilliant sophistry. I am not in any way convinced by his need to find what he has termed 'embarrassing information'. We are here to protect local jobs and local procurement, and that is more important than the ability for accessing potential political pointscoring exercises.

The Hon. D.G.E. HOOD: I am attracted to this amendment on a number of levels, but when consulting with industry on this particular amendment—as we have, quite extensively—I have not found any support amongst any of the industry bodies or companies themselves for this amendment, to my initial surprise. When one thinks through their reasons for wanting to oppose an amendment like this, I guess you can see from their perspective why it might be significant. It is a very difficult one, because in almost 12 years in this place I do not think I have ever voted to in any way curtail freedom of information access, but I believe there may be significant enough circumstances in this particular instance to do that. So, we will be opposing the amendment, I must say with some discomfort about it, but that is our position.

The Hon. R.I. LUCAS: I just rise to respond to a couple of the comments. I am, firstly, very disappointed at the position the Greens have adopted in relation to this—that they are supporting a position which restricts access to documents under freedom of information. Certainly, on behalf of the Liberal Party, I reject strongly the notion that using freedom of information is only for political pointscoring. I am sure the Greens, as does the Liberal Party, use freedom of information to try to get to the truth and the facts of a situation. I am sure the Hon. Mr Parnell and the Hon. Ms Franks are users of freedom of information laws, and their purpose for using freedom of information is not political pointscoring, I am sure; it is to try to get to the truth and the facts of a situation.

As I said, if an industry advocate was strongly opposed to particular government policy, what is the dilemma or the problem in actually being able to access that sort of information, and how wouldn't it assist a public debate, if some future government was adopting a policy which was going to be anti the operations of the Industry Advocate, anti-jobs, anti-small business—even though they had established this particularly body they were nevertheless adopting a policy which was going to circumvent the role of the Industry Advocate in some way?

So, I am disappointed in the position of the Australian Greens and in particular the assertion that this is only being done to get information for political pointscoring. I certainly reject that. We use freedom of information to try to get facts and the truth and put it in the public arena and then let people make their own judgements in relation to what the facts are. We think this government for too long—for 16 years too long—has used freedom of information laws to suppress the release of information, and we think this is just one further step down that path.

On the second point I would like to make, I accept the position that industry groups have put to the government and to other members of this chamber, but can I say that that has been as a result—and I have had a discussion with a couple of them—of their having been told that the impact of these particular amendments would mean that their commercial-in-confidence information would be released. I just said to them, 'Well, that's a nonsense,' but I accept that that is what the government and those who support the bill have said to them and put to them, that this particular amendment would stymie the operations of the Industry Advocate and that their confidential commercial information would be made public.

As I have indicated before, and as any of us who have used the freedom of information laws know, there are very significant barriers within the existing laws in the commercial confidentiality area, where every day of the week we get refusals from the government on the basis that it is commercial and confidential. We do not get copies of contracts, we do not get copies of tender documents, we do not get copies of commercially confidential information on a whole range of issues. I am sure the Australian Greens and the Australian Conservatives in this chamber would have any number of examples where information has been refused.

The existing laws make it clear that commercially confidential information is not to be released unless there is some overwhelming public interest, and the only way you are ever going to establish that generally is an 18-month battle with the Ombudsman—after an internal appeal, to then get to the Ombudsman, and the Ombudsman might then force the release, and then the government might still take you to court in terms of not wanting to release that particular information.

I accept that the numbers are not with the Liberal Party on this issue, but I wanted to correct the record—from our viewpoint, anyway—that this is certainly not a political point-scoring exercise at all. In relation to any commercially confidential information being released, we do not believe the impact of this would have been any different than the current operations of the freedom of information legislation.

Amendment negatived; clause passed.

Remaining clause (18) and title passed.

Bill reported with amendment.

Third Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:21): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (RECIDIVIST AND REPEAT OFFENDERS) BILL

Second Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (16:21): I move:

That this bill be now read a second time.

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

Leave granted.

In the criminal justice system in South Australia there are two existing regimes that provide for the extended supervision and the continued detention of offenders beyond their existing sentence. This Bill extends these regimes to enhance community safety.

The Bill also expands the category of offenders for whom there is a presumption against release on bail.

The Statutes Amendment (Recidivist and Repeat Offenders) Bill 2017 builds upon existing provisions in the *Criminal Law (Sentencing) Act 1988* (the Sentencing Act) concerning both youth and adult repeat offenders.

By force of section 20B(a1) of the Sentencing Act, a person will be taken to be a serious repeat offender (SRO) if they have been convicted of committing, on at least three separate occasions, any of a number of specified serious offences. Section 20B(1) then continues to provide that a person is liable to be declared a SRO if they have been convicted of committing any of a number of other serious offences on at least two or three separate occasions, depending on the offence type.

Once a person is either taken to be, or declared to be, a SRO, the sentencing court is not bound to ensure that the sentence it imposes for the offence is proportional to the offence and any non-parole period fixed in relation to the sentence must be at least four-fifths the length of the sentence.

However, the sentencing court retains a discretion to declare that these provisions do not apply if the offender satisfies the court, by evidence given on oath, that his or her personal circumstances are so exceptional as to outweigh the primary policy of the criminal law of emphasising public safety and it is, in all the circumstances, not appropriate that he or she be sentenced as a serious repeat offender.

Under section 20C of the Sentencing Act, a youth is liable to be declared a recidivist young offender (RYO) if the youth has been convicted of committing, on at least two or three separate occasions (depending on the offence type) any of a number of specified serious offences.

If a youth is declared a RYO, then the sentencing court is not bound to ensure that the sentence it imposes for the offence is proportional to the offence (but, in the case of the Youth Court, the limitations relating to a sentence of detention under section 23 of the *Young Offenders Act 1993* apply to the sentence that may be imposed by the Youth Court on the RYO). In addition, any non-parole period fixed in relation to the sentence must be at least four-fifths the length of the sentence.

Under the Bill, new consequences will flow from being a SRO or a RYO under the Sentencing Act, the *Criminal Law (High Risk Offenders) Act 2015* (the HRO Act) and the *Bail Act 1985* (SA) (the Bail Act).

Part 2 Division 3 (including section 23, 23A and 24) of the Sentencing Act establishes a regime whereby adults (and youths sentenced as adults) who are convicted of, and/or sentenced for, specific serious sexual offences (we will refer to these offenders as serious repeat sexual offenders) can be the subject of an order to be detained indefinitely, on the basis that they are incapable of controlling, or unwilling to control, his or her sexual instincts. This is referred to as a detention order.

The same regime also provides for a consequent release on licence (with conditions) and for applications to be made for the detention order to be discharged.

Section 23 of the Sentencing Act provides that:

- at the time of sentencing the prosecution can apply to the Supreme Court for a detention order against the serious repeat sexual offender;
- the Attorney-General may also apply to the Supreme Court for a detention order against a serious repeat sexual offender, whilst they remain in prison;
- the paramount consideration of the Supreme Court in determining whether to make an order that the serious repeat sexual offender be detained in custody until further order must be the safety of the community; and
- before making the order, the Supreme Court must direct that at least two legally qualified medical practitioners inquire into the mental condition of the serious repeat sexual offender and report to the Court on whether they are incapable of controlling, or unwilling to control, his or her sexual instincts.

Under the Bill, section 23 is expanded to apply to RYOs and SROs (referred to in the Bill as prescribed offenders).

The Bill provides that, before making any order under section 23 concerning a SRO or a RYO, the Supreme Court must direct that at least two legally qualified medical practitioners inquire into the mental condition of the RYO or SRO and report to the Court on whether they are incapable of controlling, or unwilling to control, their sexual instincts or violent impulses.

In addition, section 23 does not currently allow the Supreme Court to make interim orders, so the Bill creates a scheme whereby an interim order can be made detaining the offenders who are the subject of an application under section 23. The Bill also precludes the release of the offender (for example, the release of an adult offender on parole) whilst the section 23 application is being determined.

In all cases, the paramount consideration for the Supreme Court in making an order for an offenders continued detention is, and will continue to be, the safety of the community.

Once an offender is the subject of a detention order made under section 23, sections 23A and 24 of the Sentencing Act allow for a conditional release on licence and also for the detention order to be discharged. The Bill amends these provisions to also apply to RYOs and SROs who are made the subject of a detention order.

The Bill also amends the HRO Act.

The HRO Act provides a regime whereby an application can be made for the extended supervision of high risk offenders (both violent and sexual offenders) beyond the completion of their sentence, and their continued detention if an order is breached.

Under the HRO Act an application can be made to the Supreme Court by the Attorney-General, in the last 12 months of the offenders sentence (whether that is being served in custody or on parole) for an extended supervision order (ESO) which has conditions attached.

Under the HRO Act, before determining whether to make an ESO, the Supreme Court must direct that one or more legally qualified medical practitioners examine the offender and report to the Court on the results of the examination.

For a high risk serious sexual offender the medical practitioner undertakes, and reports on, an assessment of the likelihood of the respondent committing a further serious sexual offence.

For a high risk serious violent offender the medical practitioner undertakes, and reports on, an assessment of the likelihood of the respondent committing a further serious offence of violence.

Under the HRO Act, the Supreme Court can order that the offender be the subject of an ESO if satisfied that:

- the respondent is a high risk offender; and
- the respondent poses an appreciable risk to the safety of the community if not supervised under the order.

Again, the paramount consideration of the Supreme Court in determining whether to make an ESO must be the safety of the community.

If the offender breaches the conditions of their ESO, the matter is either dealt with by the Parole Board amending their conditions, or the Parole Board can elect to have the person appear before the Supreme Court and an application can be made for a continued detention order (CDO). The Attorney-General then becomes a party to the proceedings.

At the moment the HRO Act does not apply to youths and only applies to a certain category of high risk offender.

Under the Bill it is proposed that the HRO Act be extended to apply to SROs and RYOs, such that SROs and RYOs automatically fall under the definition of high risk offender.

This would allow the Attorney-General, during the last 12 months of the sentence of a RYO or a SRO, to lodge an application for an ESO.

Under the Bill, the Supreme Court must then direct that one or more legally qualified medical practitioners examine the RYO or SRO, and report to the Court on the results of the examination.

For both a RYO and SRO, under the Bill, the medical practitioner undertakes, and reports on, an assessment of the likelihood of the respondent committing a further offence of any kind that resulted in them becoming a SRO or RYO (as the case may be)

This ensures the medical report consider the types of offences that resulted in the offender being either declared a RYO or deemed or declared a SRO in the first place.

Under the Bill, the Supreme Court can order that the RYO or SRO be the subject of an ESO if satisfied that they pose an appreciable risk to the safety of the community if not supervised under the order.

Once a RYO or a SRO is the subject of an ESO, under the existing provisions of the HRO Act if the RYO or SRO breaches the conditions of their ESO, the matter is either dealt with:

- in the case of adult, by the Parole Board amending their conditions or electing to have the person appear before the Supreme Court with an application being made for a CDO; or
- in the case of a youth, by the Training Centre Review Board amending their conditions, or electing to have the person appear before the Supreme Court with an application being made for a CDO.

The Attorney-General then becomes a party to these proceedings.

Again, in all cases, the paramount consideration of the Supreme Court in determining whether to make an ESO will remain as the safety of the community.

The Bill also proposes an amendment to section 10AA of the Bail Act to introduce a presumption against bail for any RYO or SRO.

Lastly, the Bill amends the *Sentencing Act 2017* (SA), which has not yet commenced. These amendments mirror the amendments to the Sentencing Act and ensure the new regime contained in the Bill that applies to RYOs and SROs will continue when the *Sentencing Act 2017* (SA) commences.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Bail Act 1985*

4—Amendment of section 10A—Presumption against bail in certain cases

This clause amends the Bail Act to provide a presumption against bail for recidivist young offenders and serious repeat offenders.

Part 3—Amendment of *Criminal Law (High Risk Offenders) Act 2015*

5—Amendment of section 3—Object of Act

This clause makes a consequential amendment to the objects provision.

6—Amendment of section 4—Interpretation

This clause inserts definitions for the purposes of the measure.

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

This clause includes serious repeat offenders who are serving a sentence of imprisonment and recidivist young offenders who are serving a sentence of detention in the definition of 'high risk offenders' for the purposes of applying the Act to them.

8—Amendment of section 6—Application of Act

This clause ensures that the Act applies in relation to a youth who is a recidivist young offender.

9—Insertion of section 6A

This clause prescribes modifications of the Act for the purposes of applying it to youths who are recidivist young offenders and allows the regulations to prescribe further modifications if necessary.

10—Amendment of section 7—Proceedings

This clause makes consequential changes to the requirements relating to proceedings.

11—Transitional provision

This is a transitional provision.

Part 4—Amendment of *Criminal Law (Sentencing) Act 1988*

12—Amendment of section 21—Application

This clause ensures that the Division can be applied to a recidivist young offender.

13—Amendment of section 23—Orders to protect safety of community

This clause amends the current section allowing orders for ongoing detention of offenders who are incapable of controlling, or are unwilling to control, sexual instincts by extending that section to recidivist young offenders and serious repeat offenders who are incapable of controlling, or are unwilling to control, sexual instincts or violent impulses.

14—Amendment of section 23A—Discharge of detention order under section 23

This clause makes consequential amendments.

15—Amendment of section 24—Release on licence

This clause makes consequential amendments.

16—Amendment of section 25A—Inquiries by medical practitioners

This clause makes consequential amendments.

17—Amendment of section 29—Regulations

This clause makes consequential amendments.

18—Transitional provision

The amendments will apply after commencement regardless of when the relevant offence or the offence that resulted in the person becoming a serious repeat offender or a recidivist young offender was committed or when the person was sentenced for that offence.

Part 5—Amendment of *Sentencing Act 2017*

19—Amendment of section 56—Application of this Division

This clause ensures that the Division can be applied to a recidivist young offender.

20—Amendment of section 57—Orders to protect safety of community

This clause amends the current section allowing orders for ongoing detention of offenders who are incapable of controlling, or are unwilling to control, sexual instincts by extending that section to recidivist young offenders and serious repeat offenders who are incapable of controlling, or are unwilling to control, sexual instincts or violent impulses.

21—Amendment of section 58—Discharge of detention order under section 57

This clause makes consequential amendments.

22—Amendment of section 59—Release on licence

This clause makes consequential amendments.

23—Amendment of section 62—Inquiries by medical practitioners

This clause makes consequential amendments.

24—Amendment of section 67—Regulations

This clause makes consequential amendments.

25—Transitional provision

The amendments will apply after commencement regardless of when the relevant offence or the offence that resulted in the person becoming a serious repeat offender or a recidivist young offender was committed or when the person was sentenced for that offence.

The Hon. A.L. McLACHLAN (16:22): I rise to speak to the Statutes Amendment (Recidivist and Repeat Offenders) Bill. This bill has been called on urgently and passed through the House of Assembly with little or no debate. The Liberal Party agreed to progress the bill urgently and review it between the chambers. As you are aware, Mr President, it has been called on urgently, and we are advised by the government that they wish the bill to progress through all stages this afternoon. These are exceptional circumstances, and I will outline some of the difficulties the Liberal Party has with this bill. In the committee stage we will be seeking to put certain amendments to the chamber for its approval.

The Liberal Party supports the second reading of the bill. The bill seeks to amend the Bail Act 1985, the Criminal Law (High Risk Offenders) Act 2015, the Criminal Law (Sentencing) Act 1988, and the Sentencing Act 2017. I should add that I am making the assumption, when making my second reading contribution, that the second reading speech the government has tabled is identical to the one incorporated without reading—indeed, that has just been delivered.

The Sentencing Act currently enables indefinite detention of certain serious repeat sexual offenders, adults and youths sentenced as adults. The Criminal Law (High Risk Offenders) Act currently enables the extended supervision of high-risk offenders, sexual or violent, beyond the completion of their sentence. It is these two acts which we are seeking to amend. Honourable members might note that there is a reference to two sentencing bills—the Criminal Law (Sentencing) Act 1988 and the Sentencing Act 2017, which we recently passed but is not yet law. So, this bill seeks to amend not only the existing law but also the law that is yet to come into force. I might touch on that a little later.

The bill seeks to expand the regimes for continued supervision and detention orders to apply to serious repeat offenders and recidivist youth offenders. It also seeks to expand the category of offenders for whom there is a presumption against bail to include serious repeat offenders and recidivist youth offenders. It also adds provisions enabling a court to make interim orders for detention whilst applications for continued detention are under consideration.

I might touch upon the current powers to assist the members of the chamber. Under the Criminal Law (Sentencing) Act 1988, a person is taken to be or liable to be declared a serious repeat offender if they are convicted on at least two or three occasions, depending on the offence, of specified serious offences. Once taken to be or declared as a serious repeat offender, the court is not bound to ensure the sentence imposed is proportional to the offending conduct, or any non-parole period must be at least four-fifths the length of the sentence. However, the court has discretion to dispense with these requirements if it is satisfied by the evidence given on oath that the defendant's personal circumstances are so exceptional that it is not appropriate to sentence them as a serious repeat offender.

Section 20C relates to recidivist young offenders and is similar to the above. A youth is liable to be declared a recidivist young offender if they are convicted on at least two or three occasions, depending on the offence, of specified serious offences. Again, the court is not bound to ensure that the sentence imposed for the offence is proportional to the offence, although in the Youth Court the limitations on ordering a sentence of detention under section 23 of the Young Offenders Act apply and any non-parole period must be at least four-fifths the length of the sentence.

In relation to serious repeat sexual offenders—that is, adults and youths sentenced as adults—convicted and sentenced for specific sexual offences, they can be made subject to detention orders. An order can be made that a serious repeat sexual offender be detained indefinitely on the basis that they are incapable or unwilling to control their sexual instincts. The same regime also provides for consequent release on licence with conditions. Applications can also be made for the detention order to be discharged.

The current process for making detention orders is that at the time of sentencing the prosecution can apply to the Supreme Court for a detention order against a serious repeat sexual offender. The Attorney-General also has power to apply to the Supreme Court whilst the individual remains in prison. The paramount consideration for the court is community safety. Before an order is made, two medically qualified practitioners must report to the court on whether the offender is incapable of controlling or unwilling to control their sexual instincts.

The bill proposes to expand the detention order provisions to also apply to recidivist youth offenders and serious repeat offenders. It also provides for interim provisions that allow a court to make interim orders. The bill proposes to enable a court to make detention orders for offenders who are the subject of an application and precludes their release, for example on parole, whilst the application is being determined.

Under the existing Criminal Law (High Risk Offenders) Act, a court can order extended supervision orders of high-risk offenders beyond the completion of their sentence. Continued detention can also be ordered if an order is breached. This act only applies to high-risk sexual offenders and not youths. So, the current process is that, during the last 12 months of a sentence, the Attorney-General can make an application to the Supreme Court. One or more legally qualified medical practitioners examine the offender and report to the court.

For sexual offenders, they report on the likelihood of the offender committing a further sexual offence and, likewise, a violent offender committing a further offence of violence. The court makes an order if they pose an appreciable risk to the safety of the community if they are left unsupervised. If an offender breaches an order, the Parole Board can then elect to have the person appear before the Supreme Court and apply for a continued detention order.

In that context, the bill seeks to have serious repeat offenders and recidivist youth offenders fall under the definition of a high-risk offender. This would then allow the Attorney-General to apply for a supervision order in the last 12 months of their sentence. The same procedural and evidentiary rules are proposed to apply in relation to the court making such an order, except that the assessment is on the likelihood of the respondent committing a further offence of any kind that resulted in their becoming a serious repeat offender or a recidivist youth offender. Breaches of an order will be dealt with in the same manner, except for youths, who will be dealt with by the Youth Parole Board. I think that is government amendment No. 4.

The bill before us also seeks to make changes to bail provisions. The bill also proposes an amendment to the Bail Act that extends the presumption against bail for a serious repeat offender or a recidivist youth offender. Mirrored amendments are also proposed for the Sentencing Act 2017, which, as I have mentioned, is not yet in operation.

I think it is important for the benefit of the committee stage, which I am imagining is going to come at the conclusion of the second reading, for us to understand the nature of this bill. During my submission, I will be reading into *Hansard* some submissions by interested parties, which may go over again the operation of the bill.

We have a situation with a bill that is—after we have just debated the Sentencing Act, which came after consultation and a variety of reports for the benefit of the government—seeking to broaden the class of individuals who become high-risk offenders, in particular for youths, and also those who are serious repeat offenders. In essence, the application of that act and for the provisions in relation to serious sexual offences in relation to detention—we are talking about the concepts of detention and supervision—the class is being considerably expanded.

I touched upon, at the beginning of my second reading contribution, that this is urgent. It is, in my view, a complete undermining of the democratic processes in this state to bring a bill involving complicated and serious amendments to the Sentencing Act, which will have far-reaching implications, before this chamber and say that it has to be debated in an afternoon.

Effectively, the government's line is that there is the case of a youth. I will not go into the details of the case because we have not been provided with all the details of the case, and that is rightly so because they are confidential. I do not intend, during the course of my second reading contribution, or during committee, to abuse privilege and speak in any form of depth in relation to this particular case. We are told that the justification for the immediate passage of this bill today, through all of the stages, is that there is one individual, a youth, who they wish to apply the provisions to.

Honourable members need to take into consideration, when deciding their position on this bill, that we have a case, we do not have the details of this case, and we are being asked to take on good faith from the government that these bill provisions need to be made law. At the same time, there are considerably important provisions in here that relate to adults.

This is not a tailored bill for this one particular instance. It is a significant and, some in the community might say, radical step in changing the nature of sentencing. Traditionally, if you are sentenced, if you do your time, you then can go back into the community, potentially on parole, which is a sort of interim period where you have good conduct. In the past, the parliament has wrestled with detention orders for those convicted of serious sexual offences who are unable to change their ways.

The parliament decided in those circumstances that they were sufficiently exceptional, when the individual could not control their sexual feelings, that detention orders may well be appropriate after an application to the Supreme Court. Again, under high-risk offenders, which involves sexual and violent offending, similarly an application to the Supreme Court may be appropriate. But this is pushing it further, this is changing the dynamic. As a consequence, there should be proper community debate before we legislate. There needs to be significant consultation with key stakeholders in the community so that we can make an informed decision.

I have to say, I am deeply suspicious that this is an attempt to ram through a bill without proper community consultation, examination by the Law Society and members being properly informed with a case involving one individual. I am deeply suspicious. Despite that, the Liberal Party has decided that it will support the second reading and put forward amendments that it thinks are reasonable in the circumstances. I will touch on those later in my speech.

It is an unacceptable position to be in where we have to pass this bill today so that it can go to Executive Council during the week to apparently allow an application to be made soon after. It is almost farcical. It begs the great question, 'How did we get ourselves into this position?' but because it relates to a youth and because it probably relates to elements of government accountability in relation to its care of this child, then we are unable to debate the same.

We are muted out of respect for the individual, which I accept, but it is still not satisfactory and the government is refusing to hold itself to account by putting us in this position—no apology, no acceptance, but rather a second reading debate after the second reading explanation of the government has been tabled and no proper parliamentary processes in the ordinary course of placing this bill. I protest it, but again I say the Liberal Party is acting reasonably in seeking to amend the bill rather than simply opposing it.

What I am confident of is that there is a conga line of incompetence that brings us to this point. It dismays me that the minister responsible in the other place, the member for Port Adelaide, is not taking responsibility and at least setting out that the government holds itself to account for the position we find. No, there is silence. As I said, I suspect that the level of care we have provided this unfortunate youth may well have been a contributor. I do not know, but I suspect.

I point out to members again that we have just gone through the Sentencing Act 2017 and we are amending it substantially. Why were these provisions not incorporated as part of the government's policy initiative? I know why: because no-one recommended it to the government. This is a power grab using the excuse of an unfortunate youth.

There are stakeholder groups who, given the time pressures, have struggled and valiantly put forward some submissions in relation to this bill. Because we are dealing with it urgently, I intend to read them into *Hansard*. The first one is from Ms Penny Wright, the Guardian for Children and Young People. I have received two submissions from Ms Wright, and I intend to read both. The one I received this afternoon at 1.48pm is by email and is as follows—excuse me, I will not include the salutations:

> I am writing to you as Guardian for Children and Young People and as the Training Centre Visitor in relation to the Statutes Amendment (Recidivist and Repeat Offenders) Bill 2017, which is due for debate in the Legislative Council today. I have previously sent you my comments on the bill, but I attach here a further document prepared by my office, which discusses crucial framing principles for the secure therapeutic care. It sets out the minimum requirements that should be present in a situation where secure accommodation is being contemplated on the basis of condition, propensity, instinct in a young person that requires management. I hope this may contribute to thoughtful consideration of the implications and limitations of the proposed legislation.
>
> I understand that one of the rationales for the hasty introduction of this bill is that it is necessary to make arrangements for the continued management of a young person (currently detained in the Adelaide Youth Training Centre but due for imminent release), on the basis that his likely future behaviour poses serious risk to himself and/or the community.

I have now visited this young person. I have also acquainted myself with his history—both before he came to the attention of the state and what has happened to him subsequently. It seems indisputable that his history of family trauma and the experience he has subsequently endured have contributed to his current 'condition'.

I was not consulted about the Bill, nor were any of the other stakeholders who would ordinarily be considered to have expertise and interest in protecting human rights or civil liberties in South Australia.

The Bill observes none of the principles that I have identified in the attached document, and few of the human rights protections that are warranted in the case of detaining someone indefinitely.

In particular, the Bill provides no guarantee or provision that the young person in question (or others who may possibly end up in the same situation) will receive any therapeutic intervention at all. As is clear from my comments, I have significant and serious concerns about this proposed legislation.

Then there is just a salutation and 'please don't hesitate to contact me' paragraph, which I will not read into *Hansard*.

The document to which Ms Wright (or the Guardian) refers to is a government document from the Office of the Guardian for Children and Young People, dated 16 October 2017 and titled, 'Secure therapeutic care framing principles'. I know other members have received that. As it is a government document, I am working on the assumption that it is familiar to the minister and his advisers.

That is a damning piece of correspondence in relation to the government's handling of the situation—damning. Ms Wright also sent a more formal piece of correspondence, which I understand other honourable members have received. I also intend to read that into *Hansard*. It is accompanied by a series of tables, which I will seek leave to table. The correspondence is dated 15 October 2017 and is from the Office of the Guardian. It states:

The Statutes Amendment (Recidivist and Repeat Offenders) Bill 2017 was introduced into the parliament on 28 September and debated and passed in the lower house several days later. Please find set out below my initial response to the bill—

That is the matrix. It continues:

These comments are necessarily brief, due to the timetable in which they have been prepared. They take the form of observations and questions about the bill, having particular regard to the implications for children and young people.

As I have not seen this proposed legislation before it was introduced, I am able to respond solely to material available on the parliamentary website, the bill itself and the accompanying Statutes Amendment (Recidivist and Repeat Offenders) Bill 2017 report. In making these comments I am fulfilling the statutory obligations entrusted to me in my dual roles as Guardian for Children and Young People and Training Centre Visitor.

A disproportionate number of young people who come to the attention of the youth justice system, and particularly those who are detained in the youth training centre, are under the guardianship of the minister (approximately one quarter), which far exceeds the proportion who are in alternative care, and of those an average of two thirds have experience of being in residential care.

As the Guardian for Children and Young People, my statutory functions include promoting the best interests of children under guardianship or in the custody of the Minister for Education and Child Development, and in particular those in alternative care pursuant to paragraph 52C(1)(a) of the Children's Protection Act 1993, as amended by the Children and Young People (Oversight and Advocacy Bodies) Act 2016, which is yet to be commenced.

In carrying out those functions, the enabling legislation also requires the guardian to pay particular attention to the needs of such children who have a physical, psychological or intellectual disability, pursuant to paragraph 52C(2)(b) of the same act. Such children and young people are likely to be particularly and severely impacted by this current bill.

As a Training Centre Visitor my statutory functions include promoting the best interests of the residents of a training centre and to act as an advocate for the residents of a training centre to promote the proper resolution of issues relating to the care, treatment or control of such residents pursuant to sections 14(1)(c) and (d) respectively of the Youth Justice Administration Act 2016. My introductory discussion offers a broad perspective about the bill followed by more focused comments in the three accompanying tables.

Honourable members will note that I will be seeking to table those three tables, or matrices. It goes on under the heading, ‘Broad perspective’:

It is not possible in the time available to explore all the potential impacts of the bill in the lives and enjoyment of the rights of children and young people. Under the bill, serious new consequences will flow from a young person being designated as a serious repeat offender (SRO) or a recidivist young offender (RYO) under the Criminal Law

Sentencing Act 1988, the Sentencing Act 2017, the Criminal Law High Risk Offenders Act 2015 and/or the Bail Act 1985 (the Bail Act).

The potential impact of the bill invites the simple question: does South Australia need a new statutory basis for depriving children and young people of their liberty? The effect of the bill will be that the Supreme Court will be empowered to impose a new type of order on children and young people if certain conditions are met. A simple and blunter trigger is required, that a child or a young person meets the criteria of a repeat serious offender or recidivist. This alone increases the likelihood that children and young people from some backgrounds will have orders imposed, notably those from Aboriginal and Torres Strait Islander communities, and those who deal with the effects of mental health issues and certain disabilities.

The bill also envisages the extension of the problematic designation 'high risk offender' to children and young people, thereby requiring the Supreme Court to test whether they pose an appreciable risk to the safety of the community if not supervised under an order. Arguments raised in my recent response to the government's Statutes Amendment (Youths Sentenced as Adults) Bill 2017 could be revisited here, in particular the need to balance any invocation of community safety with the balance in recognition of the rights guarantee in relevant articles of the Convention of the Rights of the Child and other international and domestic instruments.

The bill ignores any need to resonate with, let alone apply principles embodied in the Young Offenders Act 1993, and other relevant legislation that compels responsiveness to a child or young person's developmental stage and factors that impinge upon the relationship to crime. This includes the central importance of the best interests of the child as a guiding principle to support their development.

There is a heading, 'What is the point of medical assessment?':

The bill provides a fig leaf of objectivity for the process of imposing an order by invoking the involvement of medical practitioners without clarifying the nature of the necessary medical assessment or other inquiry. Given the lack of specificity, it is hard to see this as anything more than a device for ignoring expectations and protections associated with mental health processes. Instead, a new potentially convenient 'too-hard' basket will be created into which the courts can consign individual children and young people who may present the risk of acting out problematic and challenging behaviour.

The lack of safeguards in this bill makes the creation of this new basis for depriving children and young people of liberty highly concerning. This is not the least because the bill resorts to vague concepts such as sexual instincts or violent impulses as a basis for justifying the imposition of an order. On what basis will the Supreme Court interpret such bio-socialogical concepts? If these are objective categories appropriate for and amenable to medical assessment why are they not dealt with through existing legislative arrangements, notably the Mental Health Act 2009? Even if the relevant propensities are not deemed to be mental illnesses as defined in this act, any illness or disorder of the mind or excluded through the operation of schedule 1 of the act has certain conduct not indicating mental illness, what are they and why is a medical professional required to assess them? What recourse does the bill provide to an SRO or a RYO to dispute or challenge the presumably medical opinion offered?

Similarly, if a medical opinion is seen to be sufficiently probative to justify indefinite detention, why is there no mandated requirement that it is to be accompanied by a prescribed treatment or therapeutic regime to address identified medical and other deficits? This is not required as part of an initial order and ongoing monitoring and review. How can a child or young person, protect their interests in the face of potential detention in perpetuity? Is there no need to create and sustain the conditions for rehabilitation?

There is a heading, 'What protections do children and young people need in this context?':

There is a stark contrast between the absence of protections for the rights of a child or young person in the bill and provisions available in various parts of the Mental Health Act 2009, including as detailed with respect to: Part 5, Treatment Orders, Part 6, Treatment of Care Plans, and Part 8, Further protections that cover issues as varied as a community visitor scheme and access to interpreters.

Minimal and statutorily enshrined protective conditions should apply to any new order enabled by the bill. The following tables mention a number of potential protections. For example, requirements for a detailed and funded therapeutic and developmental plan, and access to independent advocacy. There is a heading, 'Repeat offending and recidivism: what does it really tell us?':

The bill says nothing about why and how the youth justice system has failed to prevent a child or young person who is being subject to that system from becoming a serious repeat offender or recidivist young offender. Attending to this question probably would do more for community safety in the long term rather than penalising and stigmatising a handful of individuals.

There is a remaining paragraph but that refers to the tables, which I now seek leave to table. The first one is Table 1, 'Major concern for the proposed amendments to the Criminal Law (Sentencing Act) 1988'. The second table is Table 2, 'Major concerns for the proposed amendments to the Sentencing Act 2017'. The third table is, 'Major concerns with proposed amendments to the Criminal Law (High Risk Offenders Act) 2015'.

Leave granted.

The Hon. A.L. McLACHLAN: I should have alerted the chamber that, whilst this letter was distributed to honourable members, the letter is addressed to the Hon. John Rau, the Deputy Premier and Attorney-General, and so these questions that have been raised in this report have been brought to the attention of the government post 15 October 2017. It was delivered via email so I think we can safely assume that it was on that day. I would be interested for the government to address some of those issues which were raised, I assume in the second reading—well, I ask for it to be in the second reading summing-up.

I have a letter from the Law Society, which I also intend to read into *Hansard*, given that we are dealing with this bill urgently. I alert honourable members that it is 10 pages long and is dated 13 October 2017, is addressed to the Hon. John Rau MP, Attorney-General, and was via email, so I think we can safely assume that it was received on 13 October. I ask honourable members to note the dates of these submissions, as it is a credit to the Guardian and the Law Society—and I understand there may also be one from the Bar Association that another member is going to draw our attention to—that they have taken the time, under extreme pressure, to at least give some guidance or information to honourable members. This is a courtesy, I should say, that has not necessarily been extended to members by the government. The paragraphs are numbered and I intend to read it all into *Hansard*:

1. I refer to the Statutes Amendment (Recidivist and Repeat Offenders) Bill 2017 ('the Bill') introduced to the Parliament on 28 September 2017.

2. The Bill builds upon existing provisions in the Criminal Law (Sentencing) Act 1988 ('the Sentencing Act') which concern both youth and adult offenders and expands upon the category of offenders for whom there is a presumption against release on bail.

3. Under the Bill, a person will be taken to be a serious repeat offender (SRO) if they have been convicted of committing, on at least three separate occasions, any of a number of specified serious offences. Furthermore, a youth will be declared a recidivist young offender (RYO) if the youth has been convicted of committing, on at least two or three separate occasions any of a number of specified serious offences.

4. The Bill proposes to extend the provisions of the Sentencing Act, the Criminal Law (High Risk Offenders) Act 2015 (SA) ('the HRO Act') and the Bail Act 1985 (SA) ('the Bail Act') to apply to declared SROs and RYOs. This includes being subject to the provisions of the HRO Act whereby an application can be made for the extended supervision and detention of high risk offenders (both violent and sexual) beyond the completion of their sentence, and orders for indefinite detention under the Sentencing Act.

5. The Society has considered the Bill and has a number of concerns in relation to the proposed provisions, in particular in their application to young offenders. The Society's comments and concerns in relation to the proposed amendments are outlined below.

6. The serious implications of the Bill, addressed below, are such that the Society urges the government to defer the presentation of the Bill to the Parliament pending a detailed process of consultation with relevant stakeholders. This will allow the Society the time needed to provide a more comprehensive submission. The Society is concerned that this Bill is being rushed into the Parliament, without explanation for such a course of action, despite its serious implications.

Orders to protect the safety of the community

7. The Bill seeks to expand section 23 of the Sentencing Act, which provides for the making of indefinite detention orders for offenders incapable of controlling, or unwilling to control, sexual instincts, to include both SROs and RYOs.

8. Indefinite detention orders should be reserved for exceptional cases which involve serious and repeat sexual offenders. The Society does not support the extension of this provision to both adults and youths regarded as 'unwilling to control violent impulses' as proposed in the Bill.

9. The Society considers that to impose pre-emptive limitations on a person's right to liberty, even after they have completed and served their punishment, should be severely restricted to the exceptional case in which a person has been medically assessed as incapable or unwilling to control their sexual instincts.

10. The Society notes that the provisions of the High Risk Offenders (HRO) Act already allow for extended supervision orders of declared violent offenders, as well as serious sexual offenders, meeting the needs for protection of the community in certain necessary cases.

11. The proposed amendments to section 23 orders, go much further, allowing for indefinite detention of a person without charge until further order, and therefore represent an extreme curtailment of individual liberty and

human rights. This type of order should be reserved for the extreme cases of repeat sexual offenders, and should not be similarly expanded to violent offenders.

12. If the proposed expansions to section 23 of the Sentencing Act are pursued, the Society submits that the circumstances in which a person can become subject to such an order should be limited. The application of this provision should not be automatic, particularly in relation to RYOs.

Youth offenders

13. The extension of the section 23 orders as noted above to young offenders, convicted of non-sexual offences, who are still in the early stages of development and for whom rehabilitation should be the primary objective in sentencing, is strongly opposed by the Society.

14. I refer to the Society's letter to you of 10 August 2017 in relation to the Statutes Amendment (Youths Sentenced as Adults) Bill 2017…which highlighted a number of serious concerns with this Bill and the proposed amendments to the Young Offenders Act 1993 (SA) ('the Young Offenders Act').

15. At present, the Young Offenders Act recognises the developmental stage of young offenders and makes provision for the 'care, correction and guidance necessary for their development into responsible and useful members of the community and the proper realisation of their potential'.

16. The current Bill is another attempt by this Government to seek to treat children and young offenders as adults. They should not be treated as such, for very good reason. As noted in the letter of 10 August 2017, youths who commit serious offences or offences that form part of a pattern of repeated illegal conduct are not adults; their offending frequently demonstrates they are children who have not yet developed the requisite moral reasoning (such as prudence, empathy, self-regulation), or cognitive brain development of the frontal lobe (where higher mental processing is carried out, such as problem-solving, judgement, impulse control, planning) rendering them incapable of making 'adult decisions'.

17. From their pattern of repeat offending it is evident that they have not yet achieved the mastery of skills, emotions and thought processes to desist offending, nor have the positive scaffolding around them when in the community to develop and maintain a life beyond offending.

18. The safety of the community, the very premise and justification for this Bill, will be much better served by addressing what is causing the delay in the development of those skills, emotions and thought processes.

19. This Bill disregards fundamental principles established under the United Nations Convention on the Rights of the Child…and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ('the Beijing Rules') when considering changes to sentencing laws.

20. These well-established principles require the best interests of the child to be a primary consideration and that any sentences imposed on young offenders be proportionate to both the seriousness of the offence and to the circumstances of the offender.

21. The Bill proposes that if a youth is declared a RYO, then the sentencing court is not bound to ensure that the sentence it imposes for the offence is proportional to the offence.

22. Furthermore, the Bill provides that a young person who has been previously convicted of three prescribed offences (which would include, for example, non-violent vehicle offences such as driving to escape Police pursuit which do not result in death or injury to any person) would be automatically eligible for medical assessment and a declaration under section 23 of the Sentencing Act to be detained until further order, even after completion of their sentence. The Society strongly opposes this provision.

23. The sentencing of young offenders is an area of policy that has been the subject of consideration and debate for many years by a broad range of experts drawn from a variety of societies; where, over the past 25 years, a comprehensive set of principles has been developed based on the debate and existing research; where those principles have now been adopted by the international community; and where research continues to demonstrate that the fundamental direction and intent of the principles remain appropriate.

There are footnotes, but as honourable members have had access to this letter, I will not seek to read them out. It continues:

24. It should be expected in those circumstances that policy development in this area would be well considered, not reactive but most importantly, evidence based.

25. This Bill (like the Statutes Amendment (Youths Sentenced as Adults) Bill) fails to address the contradiction between its failure to have adequate regard to rehabilitation and whilst professing the safety of the community as the primary consideration.

26. As noted in our letter of 10 August, not only is failing to provide children with adequate rehabilitation is a breach of their human rights, as established under the international principles note above, but will also fail to deter future offending. A number of studies have shown that young offenders given more severe penalties are more likely to offend than those given less severe penalties, and that a longer term in detention does not deter from future offending.

27. Locking up young people for longer is more likely to impede the prospect of rehabilitation upon release from detention. Thus the proposed Bill runs contrary to the aim of decreasing recidivism and increasing community protection.

28. The Bill seeks to mandate the safety of the community as outweighing all other considerations where, for the reasons set out above, in the case of youths there are a number of other very important factors that need to be taken into account, in order to achieve what is in the best interests of the child and the community.

The disproportionate effect of the Bill on the Aboriginal community

29. The Society notes the overrepresentation of Aboriginal people in the criminal justice system. These blanket provisions will impact disproportionately on Aboriginal people and further contribute to the already catastrophic levels of Aboriginal incarceration in this country.

30. Aboriginal youths are one of the most vulnerable groups in our community and are grossly overrepresented in the youth justice system. One in five children and young people in secure care are under the Guardianship of the Minister and almost half (47.9%) of children and young people in secure care identify as Aboriginal and Torres Strait Islander.

31. These statistics are of great concern and point to the fact that the social and systemic drivers of offending in the community at large, but particularly in the Aboriginal community, are not being addressed.

32. South Australia currently has the third highest rate of Aboriginal incarceration in Australia. The Bill will only continue to exacerbate what can already be aptly described as an Aboriginal incarceration epidemic and further disadvantage and marginalise the Aboriginal community.

The presumption against Bail

33. The Society strongly opposes any extension to the presumption against bail. The proposed amendments to section 10A of the Bail Act, seek to expand the presumption against bail to any applicant who has been declared an RYO or who is a SRO.

34. The wording of these provisions suggests that they are intended to apply to a person who has at any time been declared a RYO or a SRO, regardless of whether they are still subject to any proceedings with respect to those classifications under either the Sentencing or HRO Acts.

35. The provisions also suggest that the presumption against bail will operate regardless of the offence the person is seeking bail for. On this basis, the Society understands that the provisions could operate against a person (including a youth) who had been declared a RYO or SRO 10 years ago, and was seeking to bail for a charge as minor as disorderly behaviour or similar.

36. Such a situation is clearly beyond the means necessary for protection of the community, which section 10A is designed to protect, and will only serve to increase the pressure on the already overcrowded prison system.

37. The amendment in its present form is strongly opposed. If amendments to section 10A in light of proposed changes to this legislation are pursued (which is opposed), it is suggested that they only apply to RYOs or SROs who are currently subject to proceedings with respect to those categorisations, seeking bail only in respect of certain serious prescribed serious offences which should be designated in section 10A.

38. For the reasons noted above, the Society strongly opposes the presumption against bail for RYOs. This constitutes a breach of their human rights as well as being contrary to well-established international principles such as the Beijing Rules which consider the detention of children a last resort. RYOs would be much better served by being kept in the community, complying with strict bail conditions whilst being in engaged in rehabilitation and support services.

39. This Bill needs to be considered in the context of a raft of recent Bills which [are] fundamentally inconsistent in approach to the traditional view of the criminal law. Instead of looking at the circumstances of the offending, the circumstances of the offender and matters of deterrence, which will have regard also to the safety of the community, the Government seeks to override this approach by looking predominantly at the safety of the community via incarceration only.

An 'unwillingness' to control violent impulses

40. The Society notes the absence of any medical or external evidence accompanying the Bill to support the need for the HRO's expansion beyond sexual offending to an unwillingness to control violent impulses.

41. The Society questions whether an 'unwillingness' to control violent impulses, is a matter which doctors are willing, or able to express opinions?

42. Whilst an unwillingness to control violent impulses may be, for an example an aspect of an antisocial personality disorder, is it recognised within psychiatry as a treatable or untreatable condition as such?

43. A basis in medical opinion—which clearly exists in relation to sexual instincts, may or may not exist in relation to violent impulses and is a matter which the Parliament should consider before enacting this Bill.

44. Implicit in all of the existing case law and legislation is a strong policy requirement for treatment. The Society questions whether judges will consider it desirable that they be called upon to make preventative detention orders, purely on the basis of 'community safety', without regard to medical opinion, if indeed none exists on this topic.

45. As a further note, the Society submits that any assessment of a youth offender under the proposed amendments to the HRO Act, be done by a psychiatrist or psychologist experienced in childhood and adolescence and that any assessment should be done holistically and take into account the protective factors and views of other professionals involved with the young person and their family.

46. The Society is particularly concerned by the definition of what constitutes 'unwilling'. It is by reference to whether there is a 'significant risk' that the person would, in circumstances that are reasonably likely to arise, fail to exercise appropriate control of the person's violent impulses. It is important to note that the word 'significant' has been judicially defined, albeit in different circumstances, to mean that anything which is not trivial, is significant. Given the circumstances of an offender who, by definition, will have already committed at least two serious violent criminal offences before being the subject of the provision, and that there is no indication, either in the Bill, or elsewhere, that the government intends to do any more by way of early intervention or rehabilitation, it will be difficult for a court not to conclude that there would be a relevant significant risk. The Society is concerned that the practical effect of the definition is that, overwhelmingly in cases where the provision applies, the end result will be indefinite detention. This is reminiscent of the so-called 'three strikes' policy adopted previously in some States of America and which was demonstrated to have failed demonstrably.

Transitional provisions

47. The Society has serious concerns about the transitional provisions contained in the Bill, which as drafted, will apply regardless of when the relevant offence was committed or when the person was sentenced for that offence. These clearly reactionary provisions are against the principle that a person should be sentenced against the laws that prevailed at the time of the commission of the offence, particularly when there is a proposed curtailment of fundamental human rights and liberties.

48. Another serious concern in relation to the Bill being applied retrospectively, is that current prisoners could be held indefinitely even though the sentencing judge at the time would obviously could not have foreseen that possibility. Applying punishments retrospectively is a violation of human rights.

Non-parole periods

49. The Society notes that the Bill proposes that any non-parole period for SROs must be fixed at least four-fifths the length of the sentence. This is also proposed to apply to RYOs.

50. The Society has consistently argued this year that the government approach to an automatic discount of 40 per cent for early guilty pleas should be reviewed. However, the Society has also consistently argued that there is already too much interference, generally, in the exercise of the judicial discretion with respect to sentencing. In the circumstances, the Society does not support the proposal that, in the circumstances identified the non-parole period must be at least four fifths the length of the sentence.

Interim Orders

51. The Bill creates a scheme whereby an interim order can be made detaining the offenders who are the subject of an application, under section 23 of the Sentencing Act. The Bill also precludes the release of the offender, for example, the release of an adult offender on parole, whilst the section 23 application is being determined.

52. In effect, the proposed amendments will make the head sentence, the only sentence that applies to persons subject to section 23 applications.

53. The Society is informed of many cases of prisoners who do not get access to programs until after the commencement of their non-parole period. This is concerning as it denies prisoners access to rehabilitation for most of their sentence. It also denies them a period of parole, being a supervised period post release in which their return to the community can be monitored and (hopefully) supported in the interest of the safety of the community.

54. Furthermore, what recourse is available to a prisoner who is subject to an application which delayed their release until the end of their sentence and the application is unsuccessful?

55. It is clear that the Bill aims to increase the length of imprisonment for offenders. The Society questions whether the Government plans to have a stronger focus on addressing the cause of offenders' criminal behaviour whilst they are in prison, or will it proceed with locking people up indefinitely at a significant cost to the community?

Additional remarks

56. The Society supports the release on license with conditions as a sentencing option in the case of SROs but that should apply to the period between the completion of the non-parole period and the head sentence. Offenders should be participating in rehabilitation programs during that period. That approach incorporates the dual aspects of deterrence from further offending and assistance in being rehabilitated effectively back into the community.

57. As noted above, it is of concern, that, despite recent emphasis on the importance of rehabilitation by many commentators and stakeholders, including the Victims of Crime Commissioner, the current government approach to recidivism is to focus on incarceration. To be clear, the Society acknowledges the importance of an appropriate custodial sentence and that necessarily involves, at times, lengthy custodial sentences for serious offending. The concern of the Society is that the government has failed to strike an appropriate balance between the deterrent effect of a custodial sentence and the need for both early intervention and rehabilitation. Moreover, except in the most exceptional of cases, a prisoner is entitled to know that there is a prospect of release on parole before the completion of the head sentence and that there is a right to release at the end of the head sentence. The knowledge of release into the community is an important factor. It, together with rehabilitation, provides hope and a prospect of a better life post release. The approach demonstrated by the Bill is likely to impede the prospects of rehabilitation and a successful return to the community.

58. It is unfortunate to note, in light of a Bills such as the current Bill and the Statutes Amendment (Youths Sentenced as Adults) Bill, that focus has been lost on addressing recidivism through an appropriate balance of deterrence of imprisonment and early intervention and effective rehabilitation into the community.

59. This Bill will perpetuate the chronic overcrowding in our prisons and is inconsistent with the Government's policy of reducing reoffending by 10% by 2020, which the former Minister for Correctional Services, the Hon Peter Malinauskas MLC, stated would involve a comprehensive approach incorporating early intervention, rehabilitation and reintegration back into the community.

60. This Bill will effectively lock up youths and adults who need help, for longer, and deprive them of the assistance they need, at considerable cost to the community. The Government has acknowledged the cost of over $100,000 per annum for every prisoner.

61. The Bill fails to address the systemic issues that lead to serious repeat offending and will further implode a prison system already at breaking point.

62. The Society notes that where we undermine the focus on rehabilitation, we invariably undermine community safety. We noted the short-sightedness of this approach in our letter of 10 August in relation to the Statutes Amendment (Youths Sentenced as Adults) Bill.

63. It is also a matter of concern that a Bill which fundamentally alters established legal principles is being rushed through the Parliament. The Society is not aware of any consultation having been undertaken with key stakeholders and urges the Government to delay further debate of the Bill until it has properly consulted such stakeholders.

That is signed with the signature block of Tony Rossi, the President of the Law Society. The correspondence that we have received from both the Guardian and the Law Society resoundingly, in my view, condemns this bill. Pointed out by the Law Society, and probably to the disappointment of the Hon. Mr Malinauskas, is the effect of the end of this government's attempt to rehabilitate youths.

This bill represents a significant policy shift by this government. They can talk all they like outside of this chamber. They can produce as many glossy brochures as they want, but you cannot seek to pass a bill through this chamber and expect to be taken seriously that you are committed to rehabilitation. I have always believed, from my earliest days of practising criminal law, that it is critical that rehabilitation be a significant focus because it is a key plank of ensuring community safety. Putting people inside prison and then releasing them without any attempt for them to make a better life for themselves will only lead to reoffending.

The government has adopted an insidious approach to this legislation. It has used the justification of one youth for a major reform to sentencing. I remind members of my comments earlier in my second reading contribution, that this is after we have just debated a reform of the Sentencing Act. There was nowhere that I could see in the justification for those provisions for this extension. This is opportunistic. The government is using a child in a particular circumstance, of which we are not fully apprised—and nor should we be, to protect that child's privacy—ruthlessly to justify this bill. I know that I have not been in this chamber long, but this is, I think, the worst case, certainly, I have seen for underpinning a bill.

It is a contempt of the committed stakeholders in the group. It is holding the Guardian in contempt. They were alerted to this bill by members of this chamber. The Law Society was not consulted by the Attorney: the Attorney came to the Liberal Party and sought the passage of this bill. It is the Liberal Party and other crossbenchers that have sought commentary from people in the community. What does that tell you about this bill? That this is a legislative overreach of the worst kind.

By holding us in contempt, this is holding the people of South Australia in contempt. This parliament deserves better and this chamber deserves better. However, the Liberal Party has taken a restrained course. With correspondence received like that, we would be more than justified to oppose this bill outright. We are not seeking to do that, we are seeking to amend it, to allow applications to be made in relation to use as high-risk offenders, and then we have a sunset clause that will remove the operation of this bill under the guidance of the next parliament so that parliament can properly debate these provisions.

I understand why. This government in its more than 15½ years has been an abject failure when it comes to caring for the most vulnerable children in our society. The government members may proclaim all their progressive credentials in the community, but this bill cuts it away. You cannot be a member of the Labor Party and say that you support the most vulnerable in the community. That is no longer part of the Labor brand. The Labor brand stands for oppressing the most vulnerable and treating them with contempt.

Rehabilitation used to be a key plank of Labor Party policy—it is gone. It is gone with this bill the moment it was brought into this chamber. This bill is a symbol of this Labor government's complete swing to a hard right philosophical position on the justification that it is going to bury its pitiful record looking after the youths in its care. In other words, its record with youths and now, more recently, the elderly with Oakden, is pitiful, absolutely pitiful. What is even more shameful, even after, there is really no apology or contrition, just political rhetoric.

The philosophy of this bill with unlimited detention (which in some cases is justified for those who cannot control their sexual impulses) was more commonplace in Europe in the thirties. We need to have a constructive debate in our community about vulnerable children and the care that the state provides them, not political rhetoric, not hard on crime rhetoric, which is simply designed to make the Labor government look good in less informed parts of the community, less informed—

The Hon. K.J. Maher interjecting:

The Hon. A.L. McLACHLAN: The Hon. member Kyam Maher says that—who have not had the benefit of experience in the criminal law system, who live their lives and rely on the expertise of others. Yes, they have had the effects of crime, but what you are doing is creating a crime factory in prisons. The Hon. Kyam Maher should be disgraced since he is a leader of the left, a disgrace in the left, because he should be holding up the progressive ideals of the Labor Party, but he washes his hands of them. I do not hold the community's views in contempt.

What I am saying is that not all of them have experienced crime, not all of them have experienced the prison system, and we need to educate them and bring their understanding up that rehabilitation is critically important—critically important. That is the responsibility of those of us who have had experience in the criminal justice system and as leaders in the community. We should not preach to them with propaganda. My position is supported by the Guardian and the Law Society—I repeat, the Guardian and the Law Society.

The irony of this legislation is that it claims to be founded on community safety, as I said. It is the failure of the government in developing its youths who are in the criminal justice system and seeking rehabilitation. That is the failure we are really debating today. There was a time when the Labor government was championing the rights of the vulnerable, but now it is the oppressor. So much for its progressive legacy! I ask the minister to address some of the issues raised in the letters of the Law Society and the Guardian in the summing-up of the second reading debate.

The Hon. M.C. PARNELL (17:25): I rise to speak to the second reading of this bill, which I describe as a case study of how not to manage complex legal matters. The bill is disrespectful of the parliament in the manner in which it has been introduced and is proposed to be debated, but more importantly it is disrespectful of the community, especially those in the community who have real and legitimate interests in the criminal justice system. None of these individuals or groups have been consulted by the Attorney-General, and instead the proposal is for the bill to be rushed through to completion today.

At the outset, I will say that I associate myself with the remarks of the Hon. Andrew McLachlan. Good on him for reading into the *Hansard* what the Law Society said. I do not know how many people the Law Society was able to get working on that submission, I suspect it was either one

or a very small number of people, but they probably were working day and night to get that to us because they knew how important this legislation was and they wanted members of parliament to have the best available information. Similarly the Hon. Andrew McLachlan read onto the record the submission of the Guardian for Children and Young People and tabled the tables that were part of that submission.

The question that needs to be asked first of all is: why are we rushing this bill through, against all of the principles this chamber has worked on for many years, including the ability for members of parliament to seek to have matters adjourned so that they can properly consult with stakeholders? Why is it that the bill is being rushed through now? The answer, we are being told, is that it is urgent. Why is it urgent? Well, we are told that there is a single hard case that is driving this legislation. I will come back to some of the details of that case—not too many of the details because, as the Hon. Andrew McLachlan said, there are issues of privacy and privilege. In fact, I do not think I have anything that is new, given what has been said—maybe a little bit more information—but I certainly do not know the name of the person involved, I do not know much at all about them.

The difficulty is that the bill goes much further than the one hard case that is the sole rationale for us rushing the bill through. Do not take my word for it: take the Attorney-General's word for it. When we discovered just a few days ago that this bill was to be rammed through today, I went back and had a look at the Attorney's second reading speech, which again, like today, he incorporated without reading, and the entire bill was passed in probably maybe 15 minutes in the lower house. But, when the minister summed up the second reading speech, he said:

> It is an unusual matter, and it is a matter that obviously is proceeding in a way that is unusual. I can assure the house that I would not be proceeding in this way if I did not feel it necessary to do so.

Okay, that sounds fair enough: he has to proceed because it is urgent. But then he goes on:

> In terms of the question about the genesis of bits and pieces of this—

I think that is Attorney-General talk for clauses and parts of the bill—

> I think it is fair to say that, inasmuch as this refers to some matters, they are matters of concern to me which were not necessarily of acute concern to me because they were not presently matters which were threatening to cause any disruption to the community. They were matters that had some longer standing, and it was my intention that in due course I would get around to looking at those matters.

The Hon. Andrew McLachlan used the words ‘opportunistic’ and ‘legislative overreach’. Let’s look at opportunistic. The Attorney has said that he has brought a whole package of measures, many of which are completely unrelated to the one hard case that is driving this legislation, and it was convenient for him to bundle it all in and convenient for him as well to not consult anyone in the community about it.

That is an appalling way to legislate, so, I understand why the Hon. Andrew McLachlan and his party have tried to disaggregate this bill. I will come later to whether I think that is the right approach but I understand why they are doing it. The Attorney said there are urgent things, yet there are a whole lot of things in here that are completely unrelated to that urgent case. Let’s have a bit of a look at the time frame for this. It is easy to stand up here and say, ‘The government has rushed it through,’ but let’s have a look at the time frames.

On the information that has been provided to me, it seems as if the Attorney-General’s Department first found out about this hard case around about 21 or 22 September. It then, I understand, pulled out all stops to get legislation drafted in a week and it was tabled in the lower house of parliament on Thursday 28 September, so that is only a week. As I said, it went through. The Attorney, when asked, ‘Have you consulted anyone?’ said, ‘No, no, no, there’s no time at all to consult anyone, so, no, we haven’t consulted anyone.’ Mind you, there was that whole week, since presumably some instructions were provided to parliamentary counsel, but anyway there were several days there where consultation could have at least commenced.

However, you then fast-forward nearly two weeks to last Wednesday 11 October, and that was when the members of the Legislative Council were told that we had to finalise the bill today. I sought an urgent briefing and I obtained a briefing two days later on Friday 13 October. I will take the opportunity to thank the Attorney’s staff for a very detailed and frank briefing; I have no problem

with the briefing they gave me. What I then did was quickly send off letters to a small targeted group of stakeholders who I knew would have something to say about this: the Bar Association, the Law Society, the Guardian and the Council for Civil Liberties.

The Hon. Andrew McLachlan has read into the record two of those submissions but a third one that arrived in fact only yesterday was from the Bar Association. It is my intention to read not the whole of it, but some part of it into the record. I will say that we probably would not need to do this if we had been through a proper process but, otherwise, the official record of the parliament in this place will show that some pretty dodgy legislation may have got through and the casual reader will be saying, 'Surely stakeholders had something to say about it. This is quite draconian in its terms.' So, it is important for us to put these submissions on the record.

All the groups that put in submissions complained about the process. The submission I refer to is from yesterday afternoon. Ian Robertson SC, the President of the South Australian Bar Association, states:

> Dear Mark,
>
> Further to [your] email advising of the above Bill, I attach a letter in response. The letter attaches the commentary of the Law society (which we support) and makes some general observations about this Bill and the process that sees it come before Parliament [potentially] tomorrow. A substantive response of our own will not be available in time for that deadline.

The submission, which is addressed to me but which I understand has been circulated to other members, includes a range of observations, some of which are similar to things that the Law Society and the Guardian said, but some of them are different. In its submission in relation to the idea of using a hard case to drive legislation, the Bar Association states:

> Reactive legislation is couched with hidden dangers. In endeavouring to address a single mischief, the drafter may inadvertently expose the public, or an individual, to multiple other mischiefs. The unintended consequence of that may be to erode public confidence not only in the State, but also confidence in the State's ability to protect all of its citizens.

The Bar Association goes on to talk a little about the fact that it is a child that is the single hard case that is supposedly driving this bill. The association states:

> The treatment of children as adults is a fundamental shift away from accepted social, moral and jurisprudential norms. It should not be undertaken without full consultation and based on empirical evidence. If there is any evidence to justify the extension of existing extreme measures applicable to sexual offenders to child-age and violent offenders, then that should be identified. If the Government has any evidence, they should produce the results they have collated and make them available for public scrutiny and comment. There should be a better reason to undertake systemic and fundamental changes in law and policy than a single, albeit tragic case. There is an old adage that 'hard cases make bad law.'

Then, because it is the Bar Association, they have to actually put in a reference for that quote, which I did not realise goes all the way back to the case of Winterbottom in 1842. We have known for a very long time that hard cases make for bad law. The Bar Association, quite reasonably I think, feels that the Attorney regularly disregards their commentary in relation to law reform because the submission includes this observation:

> On another occasion, the Attorney has expressed the view that Bar association is a mere interest group concerned only about the income of its members. I have expressed our dissatisfaction with those comments publicly. However, lest the refrain be reprised, you will observe that there is nothing in our opposition to the manner in which this Bill comes before the Council that advances the financial position of our members. The passage of the Bill might in fact provide those members substantial employment challenging its terms. The interest we are championing is fairness, the rule of law and the proper operation of the machinery of democracy in this State.
>
> As the gatekeepers of our democratic parliamentary system, the Legislative Council should not be called on to debate proposed legislation of such wide-reaching significance when it comes before the Council in this way. Of course if the Government insists on it being tabled and debated, that is its right. However, it is the Council's right to have the opportunity to consider the bill, obtain advice upon it, and to formulate its position. That is a right that applies no less to the Cross Bench than it does to the Opposition. The competition between these rights should, in my opinion, be determined in favour of informed debate.

The final sentence of the Bar Association's submission states:

> The Association will publicly support any reasonable motion that you or your fellow members of the Cross Benches, or the Opposition, might move to oppose the pre-emptory passage of this ill-considered Bill.

Yours sincerely,

Ian Robertson S.C.

President

The rushed consultation undertaken by non-government members has resulted in three quite lengthy and considered responses, but one thing all those responses have in common is that, given more time, they would do even better. They would be able to consult their members and they would have presented an even wider range of arguments in relation to the merits of this bill.

It has now been three and a half weeks since the drafting of the bill started, or two and a half weeks since the drafting of the bill finished, but still not one skerrick of consultation undertaken by the government. So, I want to quickly look at the two aspects of the bill, that is, the part of the bill that deals with a single hard case, the 'young person', which has been referred to, and, secondly, to look at some of the general principles involved in the bill.

As I said, I do not know a great deal about the individual concerned. We have received a briefing from government, and the following information is what I feel comfortable putting on the public record. I think it is pretty much what the Hon. Andrew McLachlan said. We know that this one hard case has hijacked the parliamentary priorities, not just for today but I think for this week and for future weeks, when we should really have been debating it.

We know that it is a young person, which means they are under 18 years of age. We know that they are under the guardianship of the minister. In other words, it is a person for whom we, as a society, have taken responsibility. It is someone who has, presumably, been removed from their family. I do not know anything about their family circumstances, but they are wards of the state, if you like. They are under the guardianship of the minister. That is important because it suggests that we, as a society, owe some responsibility to this person, however badly they have behaved. I am not aware of the crimes they have committed, but they certainly would not be incarcerated in a youth detention centre if they had not committed serious crimes.

So, we know that. We know the person has been sentenced and detained and we also know that their sentence is about to expire. This is where the information starts to become very scant, making it very difficult for the Legislative Council to make proper judgement on this bill. We are told there is evidence that this young person will reoffend if released and that they are a danger to society. They have provided no evidence for that, other than the say-so of government officials. They are effectively asking us to trust them; they have not provided any evidence.

I had a joint briefing with people from the Hon. Kelly Vincent's office, and one of the suggestions we put forward was that if there are psychiatrists' reports that suggest what a danger this young person is to society if they are released, show them to us. Redact all the names, take out all the information that might identify them and let us have at least some expert report, even if it is a one-sided report. We do not even have that. All we have is a sort of whisper around the place that there is a hard case and we need to legislate today. That is a very poor way to manage these things.

We are told that it has to go through today because the way these things work is that the bill has to pass both houses, obviously. The government has its own amendments that will need to go back to the lower house. The Governor needs to give assent and, presumably, the Attorney-General then has to make an urgent application to the Supreme Court in order for this young person to continue to be detained beyond the period of their sentence.

However, the question I still have, and it has not been satisfactorily answered, is whether this is necessary. Is there another way? Let us assume that the objective is the right one and let us accept that this person, for their own sake and the community's sake, needs to be detained for longer. The question that I have is whether a bill like this is the only tool to achieve that. My understanding is that this person, whilst they have been charged, convicted and sentenced, may well have other charges pending, in which case my suggestion to the Attorney-General's staff was, 'If there are other charges, bring them on. Get him into court, and if he is as dangerous as everyone is telling us he is, then he is not going to get bail.' Problem solved.

If there are outstanding charges or things for which he could be brought back before a court before his sentence expires, it would seem to me—and I do not have the Hon. Andrew McLachlan's

advantage of having practised very much in a criminal jurisdiction—that that would have been a simpler and, I would have thought, a fairly sure-fire way to make sure that the detention and supervision continues. But the government does not want to go down that path. Maybe the problem is that they think he might get bail. It seems to me that if a judge faced with all the evidence that we are being denied thinks that they deserve bail, maybe it is not as serious as the government is telling us. I do not know any of that; it is pure speculation. That is part of the problem: we are legislating by speculation.

This bill is, obviously, the government's preferred plan A for dealing with this young person, but I have heard no cogent arguments why what I have just suggested as a plan B should not be tried. It seems to me that there may even be other options to the bill that the government has presented. The Hon. Andrew McLachlan mentioned in passing—it was in one of the submissions—that we already have provisions that relate to detaining people against their will, even outside the criminal justice system. The Mental Health Act is a classic example. It is a longstanding regime where people do not have to have committed any offences; we have a system where the state says, 'Look, I'm sorry, but you need to be detained for your protection and for the community's protection.' That is how the mental health system works.

The Attorney and his staff can say, 'Well, someone having uncontrollable violent or sexual urges is not a mental illness.' Well, no, it is not, but what I am saying is: the advantage of using the mental health regime—and they could have brought amendments to that legislation towards this—is that it is partnered with a therapeutic response. It is not just locking them up and throwing away the key. That is the difference between the mental health system and the criminal justice system. So I am disappointed that that option was not pursued.

In terms of the actual merits of the bill, as I have said, it goes far beyond the young person who we are told is the rationale for it. For example, there is a whole provision in here in relation to the presumption of bail. That has nothing to do with the young person who is currently detained. It is not a question of bail. It is a question of their sentence expiring and the fact that they, in the normal course of events, would be released, because that is how the criminal justice system works. You do the crime, you do the time, and then you get released. So the fact that reforms to the bail regime are in this legislation is completely irrelevant. The minister himself admitted that he has found a bit of a grab bag of things that he had been thinking about for a while, and he has chosen to attach them to this bill so that we will let them go through without too much fuss, because there is a hard case, a bad case, that is driving the whole thing.

There are four questions, I think, that spring to my mind in terms of the actual legal merits of this bill. The first question is: is it ever appropriate to keep a person locked up even after their sentence has concluded and even if they have not committed any further offences? My answer to that is actually, yes, there are sometimes cases where we need to keep someone, for the protection of the community and for their own benefit, locked up. People have mentioned people with uncontrollable sexual urges who are a danger to the community. Yes, there is a regime where that makes sense, but this bill, with the complete absence of consultation and the absence of any therapeutic intervention, does not cut it. But as a matter of principle I am prepared to say, 'Yes, I am prepared to consider locking people up after their sentences have expired: it is sometimes the right thing to do.'

Even if we accept that, what evidence should be provided? What is the burden of proof? Who is the decision-maker? What are the rules of natural justice around what has been described as indefinite detention (because that is what this bill provides for)? You could have someone, in a worst-case scenario, who does their time in gaol and they then stay in gaol for the rest of their lives. This bill can achieve that result, so I want a few checks and balances in there, and they are not in the current bill. So that is the second question: what evidence, burden of proof, natural justice?

The third question is that once a person is detained, how and when is it reviewed? Again, I do not think the bill deals with this adequately. Certainly, judges might be like a dentist or an optometrist and say, 'See the receptionist on the way out'—well, not on the way out, because you are not going out—'we'll make an appointment for you in a year's time. We'll come back and see whether you should still be locked up.'

The fourth question—and this goes to the heart of it—is: what assistance are we providing these offenders to give us any chance that they will ever get back into the community and live normal lives? What regime is in this bill that provides assistance to these people? The answer is that there is none at all. The Hon. Andrew McLachlan referred to the secure therapeutic care framing principles. The fact is that a lot of people have spent a lot of time thinking about how these things should work. That is why they have gone to all the trouble of coming up with principles, referring to international treaties and best practice from other countries. Is that the way we do things in South Australia? No. We draft a bill in a couple of days and we rush it through parliament and tell the upper house, 'Don't even think about trying to delay it or to consult further in the community, because we won't let you.'

The Hon. Andrew McLachlan used a phrase I like, and I will probably shamelessly steal it on other occasions: he talked about the 'conga line of incompetence'. I think that does sum up how a lot of this is done. This is not the first time we have debated child welfare and youth criminal justice in this place. There is a sad tale to be told. I think the way I would sum up this entire legislation in four words—because apparently three and four-word slogans are the flavour of the month—is that this is 'the too hard basket'; what we are legislating for is the too hard basket. We are talking about people whom we have failed. Maybe with this young person in question the failure is the failure of us as a society, as their guardian, to care for them properly, a failure of intervention early enough, failures across the board. I am not saying it is a failure of their home life, of their parents, but a failure across the board.

We also have to remember, when applying this new regime to young people—especially to someone who is, say, 17½ or 17¾, even if they are 16—that if they are kept in long enough they are going to end up in an adult gaol, and the therapeutic regime in adult gaol, as we have heard from some of the submissions that have been read out, is very, very poor. I have mentioned it here before, but if we are to take to heart the words of the Thinker in Residence the Labor government brought out some years ago, Peggy Hora, the judge from America, who said that yes, sometimes we have to lock people up but we want them to come back out better, then we either lock them up forever or we put in a system that has them come back better. This is the first of those; this is the 'lock 'em up forever'.

I think this bill is ill-conceived. It deserves to be opposed at the second reading and the Greens will oppose it at the second reading. However, we understand that the Liberals have a plan as well to let it go into committee and then have a look at some amendments that confine its operation, so I am not going to divide on the second reading. I just want on the record that the Greens oppose this bill. We look forward to the committee stage of the debate because that will be an opportunity for us to tease out which elements of this bill the government says are absolutely essential to deal with this one case and which bits of it are, in fact, the minister's grab bag of issues that he has opportunistically attached to this bill. With those words, the Greens are opposed to this bill but we will not divide. We look forward to the committee stage.

The Hon. J.A. DARLEY (17:52): Advance SA is supportive of this bill as we understand there is an urgency for it to pass to address a particular urgent situation that the Department for Correctional Services has notified the government about. From time to time parliament is asked to put aside normal procedure and conventions and consider bills as a matter of urgency, as is the case with this bill. However, I want to put on the record that this is not good practice and does not allow for full consideration or consultation on matters. We in this place cannot be experts on everything that comes before us, and we need time to consider the implications of what the government is proposing.

Today, I received an email from Ms Penny Wright, the Guardian for Children and Young People, that essentially echoed this. She said that neither she nor the regular stakeholders were consulted about this bill. Notwithstanding this she raised a number of issues, and one particular issue that I thought needed attention was with regard to the expiration of extended supervision orders. Essentially, Ms Wright said that one of the framing principles of an order should be that it is a measure of last resort and should be for a specified and limited amount of time. I believe the government has addressed this first measure; however, the bill does not seem to address the issue of the expiration of extended supervision orders or whether rolling orders can be issued against an individual continuously. I would be grateful for clarification on this from the government.

I understand the matter that this bill seeks to address concerns a juvenile and, as such, only a few details as to why this urgency is needed can be divulged. In short, the government is asking us to trust it with the information it has without providing that to us. In my time here I can recall this situation of being asked to simply trust the government occurring on several occasions. Each time I have been very uncomfortable about giving my blind support to the government, but I have done so because I have been told that it is in the interests of community safety. I want it noted that while I agree on this occasion, this may not always be the case going forward.

The Hon. K.L. VINCENT (17:54): There is so much to cover with this bill that it is difficult to know where to begin, but can I start by saying, as other members have said, that the Dignity Party is very concerned that the government is again expecting the parliament to pass a bill that was in the lower house for all of about 10 or 15 minutes and was not discussed in that house, and that has arrived in our chamber today with an expectation that we will go through all stages and pass that bill today.

I will not rehash the many points that have been made by my colleagues, the Hon. Mr McLachlan and the Hon. Mr Parnell, and to some extent the Hon. Mr Darley, but I would certainly like to put on the record that the Dignity Party shares similar concerns. The several submissions on this bill have been read by the Hon. Mr McLachlan onto the record, and I thank him for that, because it means that the rest of us will not have to do the same, but I want it known that I take those submissions very seriously.

Usually, the forming of legislation goes something like this. I will oversimplify it, because of the time, and the lack of time that we have to discuss this bill. Usually, each house of parliament, the upper and the lower house, will discuss the bill at length after it is drafted, after it has gone through consultation, after it has reached a point where all the relevant people in the community, civil and professional, are happy with it. It will pass one house and then the other, then it will be assented to and then it will become law.

Then, there is a separate arm, the court, judges and magistrates, who are expected to make judgements based on those laws and see how they might impact individual people, individual cases, that come before it. It is the judge's or the magistrate's job to judge how an individual law should be handed down to a particular individual person. It is our job in the parliament, usually, to make broad laws that apply to everybody, and it is the judge's job to assess how that law should apply in individual cases.

The judge has to take into account the background of that person before them, the particular needs of that person before them, and what led that person to make the decision that has led them to be before a judge. Interestingly, this evening, the parliament is being asked—in fact, is being demanded, because we have been given no option, it would appear, but to pass this legislation today—to play both roles, to pass legislation that will apply to everyone, ultimately, all 1.7 million people in South Australia, and to be the judge, because we are passing this legislation on the strength of a particular, very difficult case. We are being asked to pass a law that affects everybody in this state because of one person.

I do not deny that it is a very difficult case. I do not deny that it is a very serious case, with very serious consequences, but I do very strongly object to the fact that I as a parliamentarian, and everyone in this room here this evening, am being asked to act as a judge. Not only that, we are being asked to act as judges with less information than a judge would have to do that job. As previous speakers have said, we have not seen the psychiatric or psychological reports that have been made about this particular young person, so we have no information, or very little information, about their background, one that I understand involves significant trauma. It is one that obviously has led them to come under the guardianship of the minister, and that is not something that happens lightly; it is not something that happens overnight. That is something that happens with significant difficulty and trauma in the life of that person. Other than that, we have no detail as to this young person.

We know, of course, that they are a young person. In other words, they are a child. They are under the age of 18, which means that their brain, technically, psychologically, biologically, has not finished forming. We know because of that they are likely to need significant investment and significant support in trying to rehabilitate wherever possible. It may not be possible. It may be possible for this person to rehabilitate, it may not be.

I do not know—I am not a psychologist and I am certainly not a judge, although I am being asked to act as one this evening—but I do know that, from the submissions and from the correspondence that I have received, it seems very clear from my perspective that this young person has not been given enough support, enough investment, enough opportunity to rehabilitate. It certainly does not appear that the significant trauma they appear to have lived through in their young life, in a child's life so far, has been adequately taken into account in dealing with this case.

As other speakers have said, I am also very, very concerned about the fact that ultimately this bill is not even only about this very difficult and very significant case. As the Hon. Mr Darley has said, sometimes we do have to deal with cases urgently and without the time frame that we would usually expect, but it is usually because there is a case or a situation that is very significant, very serious and that could not be foreseen and that is only about that one case.

But in this particular bill, neither of those things are true because we know that this young person's detention is due to expire on Friday (I think I am correct in saying) but we cannot possibly accept that it has suddenly occurred to the department for public prosecutions or SAPOL or the government, we cannot possibly expect that they did not know until today that that person's detention was due to expire on Friday. We cannot possibly be expected to accept that that is oversight, that could not be foreseen, that was not predictable.

When that person was put into detention, this young person, this child—and I am going to say that word a few times because I think it is important that we are discussing the future of the life of one person who is still, biologically, psychologically, a child—I cannot accept that the government, that SAPOL, that the department for public prosecutions simply forgot or did not remember or did not foresee that that detention period would have a time limit on it that would need to be dealt with long before three days before it was due to expire.

I also do not believe that this bill is only about the very difficult case of that one young person, that one child, because as other speakers have already said, and as the Attorney-General himself has said in the other place as outlined in the quotes read by the Hon. Mr Parnell, there are other elements to this bill that are not to do with the case of this child that are arguably similar subjects in relation to which the Attorney-General thought, 'Since I have got this bill going with this one case, I might as well whack it in there and give it a crack,' because that is apparently the way our Attorney-General legislates in this place and in this state in 2017. If there is something remotely similar to a bill that you are already drafting, just whack it in there, no consultation, not even discussion in the house where it is introduced, the lower house, and have it pass all stages in 10 to 15 minutes.

It is not only about this one young person: it could have very serious consequences for all South Australians, particularly all those who come before the legal system and the child protection system. Also, it does not adequately deal with the particular circumstances of that one young person. If the Attorney-General expects us to act as judge, jury and executioner, then he should at least put in place measures in the bill that deal with the particular circumstances of the person we are judging, that they do have a background of trauma, that they are still under the age of 18, that their brain is still developing and that they have been failed significantly, it would appear, by the system and by those people, formal and informal, who could rightly have been expected to do more if they have ended up under the guardianship of the minister.

That is not something that happens overnight, it is not something that happens lightly and it is not something that happens on a whim, unlike the amendments or the additional factors of the bill that are not to do with this particular young person. It is something that happens to people who have had a great deal of complexity and hardship in their life.

So, in addition to targeting one particular youth in this case, the government bill also brings into force a range of measures that disregard our human rights commitments, our rehabilitation commitments and our investment commitments in the prison system and the corrections system. But, do not take my word for it: there are a number of submissions that have already been read into the record. The Leader of the Government will be pleased to know that I do not intend to rehash all of those, but there are a significant number of submissions that, I would add, have been prepared with great haste because of the lack of consultation on this bill.

Those submissions come from the Guardian for Children and Young People in this state, Ms Penny Wright (the Guardian) who has a responsibility for all young people in the situation in which this young person finds themselves. Not only that, she has actually visited that young person and made an assessment on the situation of that young person, which is much, much more than we in this chamber have had the opportunity to do, yet we are being expected to pass this bill without amendment, if the Attorney-General gets his way.

Not only does the Guardian for Children and Young People in this state have significant concerns about this bill, particularly the unamended version of this bill, but the Law Society submission, prepared as I understand only once a crossbencher alerted them to the existence and the impending passage of this bill, points out that, in its current form, this bill is in breach of fundamental principles established under the United Nations Convention on the Rights of the Child and the Beijing Rules regarding standard minimum rules for the administration of juvenile justice.

I want to say that again: this bill disregards standard minimum rules for the administration of juvenile justice. This is not some lofty, abstract benchmark that we are asking the Attorney-General to meet here: these are the standard minimum rules and, according to the Law Society, which is much more versed in how to apply and interpret laws than I, this bill in its current form does not even meet the minimum standard. Fittingly, I note that today the Australian Institute of Health and Welfare has released figures on young people in child protection and under youth justice supervision for 2015-16. Those national figures indicate that, in Australia, young people in the child protection system were 12 times more likely to also be under youth justice supervision.

Additionally, young Indigenous South Australians are 16 times more likely to have contact with child protection and youth justice supervision. These statistics indicate that it is certainly not just about this one young person. It is about a system—a system that is significantly and unacceptably failing many young people in this state, including this one young person who is allegedly the catalyst for the bill we have before us this evening, even though the measures in it go far beyond the case of this one person.

Here we have a situation where the government has not only failed to use the existing provisions that could have been used to deal with this young person under the high-risk offenders legislation, for example, or to some extent potentially under the Mental Health Act legislation. I do not know because I have not seen the psychiatrist's or the psychologist's report about this young person, so I do not know, arguably, whether it would have been suitable to use those pieces of existing legislation. That is why we are here tonight being asked to make sweeping and very severe judgements about this one young person.

The government has failed to use existing provisions and has failed to limit it to this one young person because we know that the bill, as it stands, has many features that are not just to do with this one young person. We know that the government and the system have apparently failed to provide this young person with the investment and the support that may well have seen them not end up in this situation in the first place. Again, I do not know because I am flying by the seat of my pants, as we all are tonight because we do not know the level of information that we arguably need to pass this bill in an informed, comprehensive way—in other words, the information that we could benefit from to do our jobs.

The situation we find ourselves in is between a rock and a hard place because, as the Hon. Mr Parnell has said, I think there may well be a case to keep some people in detention past the expiry of their sentence, the expenditure of their time, so to speak, but whether or not it is right for this person I do not feel qualified to say because I do not have the right information to help me make that judgement, nor should it be my job or anyone's job in this room here tonight to make that judgement.

I will say, at this stage, that I believe the opposition amendments make a completely unpalatable bill and process slightly less offensive and slightly more professional, so I will, at the very least, be supporting the opposition amendments to make sure that this young person and other young people in this situation at least get supervision as opposed to indefinite detention with no support, with no investment in their ability to develop, as they are still children. Let me say it again: they are still legally and biologically children. However, pending the passage of those amendments, I will reserve my right to make a decision about the third reading of this bill after that.

I will just say at this point that I support the opposition amendments because I think they make an abhorrent bill and an abhorrent process slightly less abhorrent. I am not denying that this young person has obviously done some very serious things and needs to be dealt with but I want to make sure—and in fact I feel I would only be doing my job if we made sure—that that was being done in a comprehensive way with every opportunity for investment, for rehabilitation, for support and for the acknowledgement of the trauma in this person's background because, at the end of the day, if we do not acknowledge that, we are not actually addressing the problem.

We are only sending this person down a path of reoffending, of being misunderstood and of being isolated, because no-one has acknowledged the real issues that have played a part in leading them to where they are today. Am I saying that with these investments they would absolutely 100 per cent not reoffend? Absolutely not, but I am saying that we owe it to this young person and to everyone in the community to actually do our jobs and make sure that we give every possible avenue the adequate exploration, investigation and implementation. So I will support the Liberal amendments and reserve my right to make judgement on the passage of the third reading, pending that.

The Hon. R.L. BROKENSHIRE (18:15): I will be brief because there is still a bit of other business to do, and I will talk much more on this whole issue around young people who are incarcerated and young people who for many reasons cannot live in general society. We are talking about a small percentage but, at the end of the day, first and foremost to me are the victims and also community safety. I look forward to debating the Statutes Amendment (Youths Sentenced as Adults) Bill in the near future, but I want to put on the public record that we do not like having bills rushed through this place either.

The Australian Conservatives have said before that we need, whenever possible, to have proper deliberation and consultation on these bills. We can worry about the blame and who is responsible, and why that young person went off the rails when that young person went off the rails at some point in time, and we can have a look at all of the unfortunate circumstances there, but the reality is that, for some young people at a particular time, incarceration or very close supervision is paramount for them and, as I said, for the victims and community safety generally.

Clearly, whether there was a muck-up somewhere in the Attorney-General's Department or not, we are now faced with this piece of legislation and we have to make a decision as a priority, and yes, it is more encompassing. Had we had more encompassing legislation than this when the government used to talk about being tough on law and order, and had we addressed problems around a small percentage of young people—but, nevertheless, young people who cause havoc through society and cause tragedy to families and loved ones of that family—the fact is we have to deal with what we are dealing with right now.

I advise the council that we will be supporting the government and we will not be supporting the myriad amendments that have been put up, but we say to the Attorney-General and the government, 'You need to not abuse the houses and you need to follow proper protocols as a rule.' I know from my experiences in former parliamentary years that there are times when governments do need urgent legislation put through, and we say that this is one of those times and therefore we will be voting with the government.

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (18:18): I thank honourable members for their contributions to this debate, and I acknowledge that members have been asked to pass this with the utmost urgency and speed. I acknowledge that we are occasionally called on to consider difficult matters in a short amount of time, and I acknowledge the work that members have done availing themselves to briefings to get things done quickly. I acknowledge many of the contributions that members made and the questions they raised; however, I think some in this chamber may reflect on some of the language that they chose to use and may regret the way they expressed themselves this evening. I think some of the language used does them and us little credit when debating such serious issues.

Very quickly, to address some of the specific questions that were raised by the Hon. Mark Parnell, particularly about burden of proof and natural justice and appeals: under the high-risk offenders act, the application is made by the Attorney-General to the Supreme Court. The court takes into account medical assessments and must be satisfied that the offender is a high-risk offender by considering their offending. The court must assess a risk, and it must be satisfied of an appreciable risk to the safety of the community. The act lists the matters to be taken into account in making this decision.

The act provides for appeals to the Full Court. The order cannot be made for longer than five years and the offender can seek the court's consent for a review of the order at any time. Orders under section 23 of the sentencing act for continued detention are only made by the Supreme Court. The court must consider medical reports and then decide whether to detain the person in custody, with a paramount consideration being the safety of the community.

Section 23 orders can be discharged on application by the offender or the DPP. In addition, an offender subject to a section 23 detention order can apply, and the DPP can apply, for a release on licence. In both cases, the Supreme Court gives paramount consideration to the safety of the community in deciding whether to discharge the order or release the offender on licence. Medical reports are considered. Again, appeals go to the Full Court.

The bill before us generally ensures that those serious repeat offenders, be they adults or youths, who are finishing their sentences but who continue to pose a threat to the safety of the community can be subject to court orders requiring them to either be supervised whilst living in the community or be detained. The bill does this by extending two existing regimes in the criminal justice system that provide for the extended supervision and continued detention of offenders beyond their existing sentence and by building upon the existing provisions in the Criminal Law (Sentencing) Act concerning both youth and adult repeat offenders.

The bill also expands the category of offenders for whom there is a presumption against release on bail, but only those people whose history of offending is such that, either by force of legislation or by court order, they are serious repeat offenders or recidivist young offenders. This bill is about community safety.

I think it may assist the chamber to put on record that the government intends to support the Liberal amendments that go to the sunset clause and the review, but will oppose the other Liberal amendments. It is the government's view that if those other Liberal amendments, apart from the sunset clause and the review, are supported and get up, the bill does not do any of the work that we think it needs to do. So, the government will be voting against the bill in the case that those amendments, apart from the sunset clause and review, are supported.

Bill read a second time.

Committee Stage

In committee.

Clause 1.

The Hon. A.L. McLACHLAN: I appreciate the minister's comments in the second reading summing-up and that the Labor Party has agreed to those two amendments. The Liberal Party has made a decision to amend and push forward with all the amendments and, in this instance, as the lead speaker of the bill, I am bound by those instructions. It is the Liberal Party's view that these amendments are the best option, given a difficult set of circumstances, and that allowing for a child over the age of 16 to be considered a high-risk offender is the appropriate course of action, given what we know about the circumstances.

I reiterate to members of the chamber that we do not know the full set of circumstances. We do not have the benefit of the knowledge that certain members of the government have, and we have to act in accordance with our consciences on the information that we have before us; therefore we will be pursuing the amendments.

Just in relation to one matter, on a personal level, that the Hon. Kyam Maher raised: if I offended him I apologise. I am very passionate about this issue. I have a strong lifelong commitment

to rehabilitation and it pains me greatly to see bills like this pass through. I worry that all of us do not have enough public commitment to rehabilitation and to taking the public with us. Perhaps I could have been more temperate.

That said, I understand that whilst technically the amendments are not all consequential, we are going to treat the first clause as a test—

The Hon. K.J. Maher: And divide once, on that first clause.

The Hon. A.L. McLACHLAN: We will divide, yes, and then I understand that we will know where we stand. I move:

Amendment No 1 [McLachlan–1]—

Page 2, line 4—Delete 'Statutes Amendment (Recidivist and Repeat Offenders)' and substitute:

Criminal Law (High Risk Offenders) (Young Offenders) Amendment

The Hon. M.C. PARNELL: The Greens will be supporting this amendment. As I have said, we do not like the bill at all, but these amendments make the bill more palatable, so we will be supporting all the Liberal amendments.

The Hon. K.J. MAHER: As indicated in the second reading speech, on all but the sunset and review, the government will be opposing those. I will not go into details except to say that we consider the suite of amendments render what we think the bill needs to do inoperable, so we will be voting against it. I indicate we will be dividing on this first one to establish that but agree that this can be a test clause for the rest of those, save the sunset and review clauses.

The Hon. A.L. McLACHLAN: I acknowledge my agreement to what the Hon. Kyam Maher said.

The Hon. J.A. DARLEY: I indicate that I will not be supporting this amendment.

The committee divided on the amendment:

Ayes 10
Noes 9
Majority 1

AYES

Dawkins, J.S.L.	Franks, T.A.	Lee, J.S.
Lucas, R.I.	McLachlan, A.L. (teller)	Parnell, M.C.
Ridgway, D.W.	Stephens, T.J.	Vincent, K.L.
Wade, S.G.		

NOES

Brokenshire, R.L.	Darley, J.A.	Gago, G.E.
Hanson, J.E.	Hood, D.G.E.	Hunter, I.K.
Maher, K.J. (teller)	Malinauskas, P.	Ngo, T.T.

PAIRS

Lensink, J.M.A.	Gazzola, J.M.

Amendment thus carried; clause as amended passed.

Clause 2.

The CHAIR: I put that clause 2, being these are all consequential, stand as printed.

Clause negatived.

Clause 3 passed.

Clause 4.

The CHAIR: Amendment No. 3 [McLachlan-1] is seeking to delete clause 4.

Clause negatived.

Clause 5.

The CHAIR: The next amendment is No. 4 [McLachlan-1].

Clause negatived.

Clause 6.

The CHAIR: The next one is amendment No. 5 [McLachlan-1], which is to clause 6.

Clause negatived.

Clause 7.

The CHAIR: Amendment No. 6 [McLachlan-1], clause 7, is to delete, of course.

Clause negatived.

Clause 8.

The Hon. A.L. McLACHLAN: I move:

Amendment No 7 [McLachlan–1]—

Page 4, lines 10 and 11 [clause 8(2), inserted subsection (2)]—

Delete 'a recidivist young offender' and substitute 'of or above the age of 16 years as at the time an application for an extended supervision order is made'

Amendment carried.

The Hon. A.L. McLACHLAN: I move:

Amendment No 8 [McLachlan–1]—

Page 4, after line 12 [clause 8(2)]—After inserted subsection (2) insert:

(3) For the avoidance of doubt, for the purposes of subsection (2) it does not matter how old the youth was at the time of commission of the relevant offences.

(4) However, after 1 July 2019—

(a) the Supreme Court may not make an order under this Act in relation to a youth (despite subsection (2)); and

(b) an extended supervision order made under this Act in relation to a youth in accordance with subsection (2) ceases to be of any force or effect.

Amendment carried; clause as amended passed.

Clause 9 passed.

Clause 10.

The CHAIR: The next amendment is amendment No. 9 [McLachlan-1] to clause 10 to delete the clause.

Clause negatived.

Clause 11.

The Hon. A.L. McLACHLAN: I move:

Amendment No 10 [McLachlan–1]—

Page 5, line 33—Delete 'the relevant offence was' and substitute 'any relevant offences were'

Amendment carried; clause as amended passed.

Clauses 12 to 25 negatived.

New schedule 1.

The Hon. A.L. McLACHLAN: I move:

Amendment No 11 [McLachlan–1]—

Page 5, line 35 to page 12, line 14—Delete Parts 4 and 5 and substitute 'Schedule 1—Review'

1—Review of Act

(1) The Attorney-General must undertake a review of the operation and effectiveness of the amendments effected by this Act.

(2) The review required under this clause must commence not later that 1 January 2019.

(3) The Attorney-General must prepare a report based on the review and must, within 12 sitting days after the report is prepared, cause copies of the report to be laid before each House of Parliament.

New schedule inserted.

Long title.

The Hon. A.L. McLACHLAN: I move:

Amendment No 12 [McLachlan–1]—Long title—

Delete *'Bail Act 1985*; the *Criminal Law (High Risk Offenders) Act 2015*; the *Criminal Law (Sentencing) Act 1988*; and the *Sentencing Act 2017'* and substitute *'Criminal Law (High Risk Offenders) Act 2015'*

Amendment carried; long title as amended passed.

Bill reported with amendment.

Third Reading

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy) (18:37): I move:

That this bill be now read a third time.

I will make a very quick comment. As I outlined to the chamber before, this bill was about a measure to protect the community. We accept that amendments were carried by this committee. We consider that they render what the bill was supposed to do effectively useless. We do not think the bill, with the amendments that were accepted, would protect the community as we wished. In our view, the bill in its amended form has nothing to do, so we will be voting against the third reading.

The Hon. A.L. McLACHLAN (18:38): I will set out the Liberal Party's position. The Liberal Party will obviously be supporting the third reading of the bill as amended. It is our view that the amendments are measured and would have provided, in the circumstances to the extent that we are aware, an opportunity for appropriate applications to be made in relation to the youth if the passage of this bill went through.

The council divided on the third reading:

Ayes.....7
Noes 12
Majority 5

AYES

Dawkins, J.S.L.	Lee, J.S.	Lucas, R.I.
McLachlan, A.L. (teller)	Ridgway, D.W.	Stephens, T.J.
Wade, S.G.		

NOES

Brokenshire, R.L.	Darley, J.A.	Franks, T.A.
Gago, G.E.	Hanson, J.E.	Hood, D.G.E.
Hunter, I.K.	Maher, K.J. (teller)	Malinauskas, P.
Ngo, T.T.	Parnell, M.C.	Vincent, K.L.

PAIRS

Lensink, J.M.A.	Gazzola, J.M.

Third reading thus negatived.

RETAIL AND COMMERCIAL LEASES (MISCELLANEOUS) AMENDMENT BILL

Introduction and First Reading

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

EDUCATION AND CHILDREN'S SERVICES BILL

Introduction and First Reading

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

STATUTES AMENDMENT (EXTREMIST MATERIAL) BILL

Introduction and First Reading

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

At 18:46 the council adjourned until Wednesday 18 October 2017 at 11:30.

Answers to Questions

NORTHERN ADELAIDE FOOD PARK

In reply to **the Hon. R.I. LUCAS** (2 November 2016).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for Agriculture, Food and Fisheries has provided the following advice:

The next stage of the Northern Adelaide Food Park is underway, with $7 million funding available to attract food and beverage processors, manufacturers, packaging and logistics businesses looking to locate at the new industry hub to create jobs, increase exports, and stimulate economic growth.

There are currently four well-known and reputable South Australian companies who are in negotiation to sign on as tenants of the Food Park.

The $7 million Food Park Business Attraction Fund is now available to help businesses looking to relocate to an innovative, smart and central food manufacturing area.

Existing food and beverage businesses located at the Food Park site in Edinburgh Parks, as well as international and interstate businesses looking to relocate to South Australia, may also be eligible to apply to the state government's $200 million Future Jobs Fund.

During this implementation phase, both new direct and indirect jobs are expected to be created through:

- Construction activities;
- Growth of local food manufacturing businesses; and
- Attraction of new interstate and overseas businesses.

NORTHERN ADELAIDE FOOD PARK

In reply to **the Hon. R.I. LUCAS** (28 March 2017).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for Agriculture, Food and Fisheries has provided the following advice:

The next stage of the Northern Adelaide Food Park is underway, with $7 million funding available to attract food and beverage processors, manufacturers, packaging and logistics businesses looking to locate at the new industry hub to create jobs, increase exports, and stimulate economic growth.

There are currently four well-known and reputable South Australian companies who are in negotiations to sign on as tenants of the Food Park.

NORTHERN ADELAIDE FOOD PARK

In reply to **the Hon. T.J. STEPHENS** (17 May 2017).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for Agriculture, Food and Fisheries has provided the following advice:

Following extensive assessment and due diligence, as well as engagement with potential new occupants, the Food Park will be located at Edinburgh Parks.

After site feasibility work, and discussions with the food industry, it was determined the Parafield Airport site proposal did not offer the flexibility of tenure or development opportunities many local businesses were looking for.

Since October 2015, over 180 businesses have registered their interest in receiving updates on the Northern Adelaide Food Park.

In early 2016, all of the registered businesses were invited to participate in a detailed demand study.

Additionally, PIRSA has endeavoured to contact all food processors, food manufacturers, service providers and businesses with a general interest that have registered. This has been done either by phone, email or broader communication networks.

NORTHERN ADELAIDE FOOD PARK

In reply to **the Hon. D.W. RIDGWAY (Leader of the Opposition)** (17 May 2017).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for Agriculture, Food and Fisheries has provided the following advice:

Following extensive assessment and due diligence, as well as engagement with potential new occupants, the Food Park will be located at Edinburgh Parks.

After site feasibility work, and discussions with the food industry, it was determined the Parafield Airport site proposal did not offer the flexibility of tenure or development opportunities many local businesses were looking for.

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Additionally, PIRSA has endeavoured to contact all food processors, food manufacturers, service providers and businesses with a general interest that have registered. This has been done either by phone, email or broader communication networks.

NORTHERN ADELAIDE FOOD PARK

In reply to **the Hon. D.W. RIDGWAY (Leader of the Opposition)** (20 June 2017).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for Agriculture, Food and Fisheries has provided the following advice:

Following extensive assessment and due diligence, as well as engagement with potential new occupants, the Food Park will be located at Edinburgh Parks.

After site feasibility work, and discussions with the food industry, it was determined the Parafield Airport site proposal did not offer the flexibility of tenure or development opportunities many local businesses were looking for.

A $7 million Food Park Business Attraction Fund is now available to help businesses looking to relocate to an innovative, smart and central food manufacturing area.

YOUTH MENTAL HEALTH

In reply to **the Hon. J.S.L. DAWKINS** (20 June 2017).

The Hon. K.J. MAHER (Minister for Employment, Minister for Aboriginal Affairs and Reconciliation, Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Science and Information Economy): I am advised:

The Beyond Auto section within the Department for Communities and Social Inclusion (DCSI) has engaged with the suicide prevention networks in the northern suburbs.

SEATBELT BUCKLE GUARDS

In reply to **the Hon. K.L. VINCENT** (5 July 2017).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): The Minister for Education and Child Development has provided the following advice:

1. In South Australia, all children under 16 years of age must be restrained in a suitable approved restraint that is properly adjusted and fastened.

In South Australia, it is illegal to use child restraints which do not comply with the Australian/New Zealand Standard (AU/NZS) 1754 Child Restraint Systems for use in motor vehicles.

The use of restrictive devices such as a hard plastic buckle guard to cover the seatbelt buckle is illegal, as they do not comply with the AU/NZS 1754 standard.

2. The minister is aware of the policy and operating practice of the DECD transport assistance program. The mode of transport assistance may be financial (car allowance/passenger transport grant) or direct assistance (taxi/bus/access). To access direct assistance a student must be safe to travel with other students and without adult supervision. If the student is unable to travel safely, the mode of support will be financial assistance.

3. If an eligible student is not safe to travel with other students and without adult supervision, the transport assistance offered will be financial. A car allowance is paid based on the distance between home and school for four trips per day (home to school and return to home for morning is two trips). In the 2016-17 state budget, the state government invested $13,207,000 in transport concessions for students and children.

Unlike some jurisdictions, which only provide partial concessions for transport assistance, South Australia provides a full financial subsidy for eligible students to access transport assistance.

4. The minister is aware that SA Health is one of five major sponsors of Kidsafe SA. The device sold by Kidsafe SA is a 'Hurphy Durphy' seatbelt buckle guard made from neoprene and plastic. This is the only device permitted by the DECD transport assistance program when used as per manufacturer's instructions:

'This product is designed as a protective device and is to be used only when a passenger car seat belt is anchoring a capsule or infant seat. Do not use when seat belt is not being used to anchor capsule or infant seat. Only to be used on a booster seat when the seat has separate harness and buckle.'

5. The 'Hurphy Durphy' is not a restrictive device when used appropriately according to manufacturer's instructions. It may be used when a student is secured by the five or six point harness within their car seat/booster restraint which is secured by the lap sash seatbelt.

BUILDING UPGRADE FINANCE

In reply to **the Hon. J.A. DARLEY** (9 August 2017).

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change): I have been advised:

Information regarding the tenancy status of buildings was not in the scope of the Building Upgrade Finance Early Adopter Program, however I can advise that all of the nine buildings that proceeded to the development of business cases have tenants.