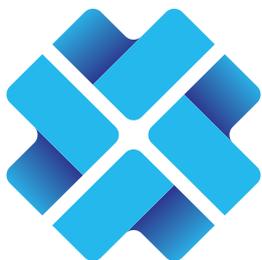


# YEAR IN REVIEW

## 2016-17



**Small Business  
Commissioner**

SOUTH AUSTRALIA

INFORM | MEDIATE | ADVOCATE



Government of  
South Australia



**Small Business  
Commissioner**

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## MESSAGE FROM THE SMALL BUSINESS COMMISSIONER

The State Government's focus on small business increased substantially during 2016-17, with the official opening of the Small Business Centre's city shopfront in November 2016 and the launch of the first Small Business Statement in December 2016.

The Gawler Place shopfront marks a milestone in the evolution of the Office of the Small Business Commissioner (OSBC), giving us a much more public face after four and a half years in operation.

The shopfront was jointly opened by Hon Martin Hamilton-Smith MP, Minister for Small Business, and Hon Tom Koutsantonis MP, Treasurer who led the creation of the role of Small Business Commissioner while he was the Minister.

In his address, Mr Hamilton-Smith emphasised the need for government, business and industry associations to work together to grow the economy.

The Government's commitment to the OSBC and to the State's 143 000 small businesses is welcomed and supports our efforts to improve the information flow on initiatives across all levels of government that assist small business. It is particularly pleasing to see the continued work across the State Government to better link services, including grant information.

The Small Business Centre allows small businesses to seek information on a wide range of topics, with staff ready to respond to queries or make enquiries on behalf of customers.

Together with the Department of State Development (DSD) and the Office of the Industry Advocate, a range of services is offered to small business, including business workshop, information and training sessions.



Small Business Centre at 99 Gawler Place, Adelaide.

## OPENING OF THE SMALL BUSINESS CENTRE



Industry Advocate Ian Nightingale, Minister for Small Business Hon Martin Hamilton-Smith, Treasurer Tom Koutsantonis and Small Business Commissioner John Chapman at the opening of the new Small Business Centre.



Staff of the Office of the Small Business Commissioner were singled out for special mention at the official opening of the Small Business Centre.



Plaque recording the official opening of the Small Business Centre on 15 November 2016.



Office of the Small Business Commissioner staff member Susie Sammut provides a welcoming face for small business owners seeking assistance or information from the Small Business Centre.



Department of State Development's Small Business Statement.

Mr Hamilton-Smith formally released the Small Business Statement, which reinforced a determination within the Government to better recognise the role of small business in the development of the South Australian economy.

The document, which was co-ordinated by DSD, involved detailed consultation with industry associations and reflects key issues that individual groups believe would support their respective sectors.

The work with industry and business groups is seen as pivotal to small business growth and it is pleasing to see the continued increase in participation in the Minister's Small Business Roundtable, which meets quarterly to discuss a wide range of issues.

As a former chief executive of an industry association, I welcome the improved access and debate of issues by the Government.

Legislatively it was a busy year, with amendments to the *Retail and Commercial Leases Act 1995* and the *Building and Construction Industry Security of Payment Act 2009* (SoP Act) drafted and placed before the Parliament following extensive stakeholder consultation.

In the latter case, the proposed changes are significant in that the Government has agreed to include a clause, on my recommendation, outlawing intimidation by those seeking to exert pressure on subcontractors not to use the SoP Act.

The issue of threats of not receiving any further work if a subcontractor or supplier used the SoP Act was repeatedly raised with me during the independent review of the SoP Act by former District Court Judge, Mr Alan Moss, as well as in a subsequent consultation process undertaken directly by my office.

This behaviour is simply unacceptable and only seeks to undermine the will of the Government and the Parliament.

I wish to make it clear that if this industry does not improve its behaviour paying subcontractors and suppliers, I will recommend further regulatory interventions to the State Government. This may impose a level of red tape, but it will ensure those seeking rightful payment are paid.

Further details on the changes to both Acts are included later in this report.

The table below shows the number of enquiries based on the legislation it relates to:

	2015-16	2016-17	Variance
<i>Small Business Commissioner Act 2011</i>	1 285 (41%)	1 573 (45%)	22.4%
<i>Retail and Commercial Leases Act 1995</i>	1 392 (44%)	1 333 (38%)	-4.2%
<i>Building and Construction Industry Security of Payment Act 2009</i>	68 (2%)	49 (1%)	-27.9%
Other jurisdictions	389 (12%)	521 (15%)	33.9%
<b>TOTAL</b>	<b>3 134</b>	<b>3 476</b>	<b>10.9%</b>

## ENQUIRIES

During the year, the OSBC received 3 476, up 11% on 2015-16 enquiries covering the *Small Business Commissioner Act 2011*, the *Retail and Commercial Leases Act 1995* and the *Building and Construction Industry Security of Payment Act 2009*, and general small business enquiries.

## COMMUNITY CABINET

During the year I attended the Bordertown, Whyalla, Port Pirie and Kangaroo Island Community Cabinet meetings to promote the services of the OSBC. These events provide a great opportunity to discuss assistance available with regional business owners.

## REGIONAL VISITS

At the invitation of the Minister for Regional Development, I attended “Regions in Focus” workshops held throughout the State, including in Port Pirie, Port Augusta, Kangaroo Island, Mount Gambier, Lyrup and the Barossa Valley.

The workshops involved key State government, local government and industry representatives and provided a very interesting insight into particular issues affecting each region, as well as the opportunity to showcase the work of the OSBC.



Premier Jay Weatherill addresses a large audience at the Community Cabinet event at Bordertown.



John Chapman Small Business Commissioner with Minister for Small Business Hon Martin Hamilton-Smith at the Bordertown Country Cabinet in September 2016.



Member for Stuart Dan Van Holst Pellekaan, John Chapman Small Business Commissioner and Minister for Regional Development Geoff Brock at Port Augusta on 13 July 2016.

## BIZLINK IN THE REGIONS

In August and September 2016 and June 2017, the OSBC convened regional sessions of the BizLink program, which provides the opportunity for small business owners to gain an insight into what services are available to assist them across local, State and Federal governments, as well as local Chamber of Commerce and Regional Development Associations (RDAs).

The various events in Port Lincoln, Whyalla, Port Pirie, Murray Bridge, Victor Harbor, Mount Barker and Mount Gambier were attended by representatives of the Office of the Industry Advocate, DSD, ReturntoWorkSA, SafeworkSA, Australian Securities and Investment Commission, Australian Taxation Office, local councils, local RDAs, Revenue SA, Fair Work Ombudsman, Department of Industry, Consumer and Business Services and the EPA.



Hon Martin Hamilton-Smith, Minister for Small Business speaking at the BizLink Expo held at the Mount Gambier Main Complex on Tuesday 13 June 2017.



Accountant Mark Tilley with Australian Taxation Office staff member, Steven Hocking at our ATO Digital Services for Small Business Information Session held in Mount Barker on 16 October 2016.

## EVENTS

The OSBC conducted 32 information sessions during 2016-17.

The OSBC's commitment to holding regional events increased significantly, as shown in the following table.

	2015-16	2016-17	Variance
Total number of events held	19	32	68.4%
Events in metro Adelaide	15	19	26.7%
Events in regional Adelaide	4	13	225.0%
<b>TOTAL NUMBER OF ATTENDEES</b>	<b>357</b>	<b>630</b>	<b>76.5%</b>

In addition, I attended Regional Voice sessions with Business SA in Whyalla, Port Pirie, Barossa Valley, Victor Harbor and Wallaroo.

The demand for our services and support continues to increase, which I believe emphasises the need for a strong and independent voice for small business.

In conclusion, I would like to take the opportunity to thank Minister Hamilton-Smith and his staff for their support of the OSBC and prompt consideration of the matters which I raise concerning small business.

The success of the operation of the OSBC is a tribute to my staff – a great team of positive, committed and experienced operators. They continually strive to work with all parties to ensure South Australia is the best place to do business.

**John Chapman**

Small Business Commissioner



# OPERATIONS OF THE OFFICE OF THE SMALL BUSINESS COMMISSIONER

The Small Business Commissioner (the Commissioner) is an independent statutory authority created by the South Australian Government to help small businesses resolve disputes with other businesses, landlords or local or State government bodies.

With a strong legislative framework, the Office of the Small Business Commissioner (OSBC) is well placed to service, support and advocate for the needs of small business. It provides information and tailored, industry-specific support to improve business management and decision-making.

The OSBC also processes, holds and administers security bonds for retail and commercial leasing and manages matters in relation to security of payment in building and construction and the late payment of Government debts.

The Commissioner provides independent recommendations to the Government on issues affecting small business and makes representations or submissions for relevant inquiries to the Minister for Small Business, other relevant Ministers, Government agencies, or State or Federal Parliaments.

## FUNCTIONS

The functions of the Commissioner are to:

- receive and investigate complaints by, or on behalf of small businesses, regarding their commercial dealings with other businesses and to facilitate resolution of such complaints through measures considered appropriate by the Commissioner, such as mediation or making representations on behalf of small businesses;
- on request, assist small businesses in their dealings with local and State government bodies;
- disseminate information to assist small businesses in making decisions relevant to their commercial dealings with other businesses and their dealings with local and State government bodies;
- administer Part 3A (Industry Codes) of the *Fair Trading Act 1987* and the *Australian Consumer Law (SA)* to the extent that responsibility for that administration is assigned to the Commissioner under the *Fair Trading Act 1987*;

- monitor, investigate and advise the Minister about:
  - non-compliance with industry codes that may adversely affect small businesses; and
  - market practices that may adversely affect small businesses.
- report to the Minister on matters affecting small businesses at the request of the Minister;
- report to the Minister on any aspect of the Commissioner's functions at the request of the Minister or on the Commissioner's own initiative;
- take any other action considered appropriate by the Commissioner for the purpose of facilitating and encouraging the fair treatment of small businesses in their commercial dealings with other businesses, or assisting small businesses in their dealings with local or State government bodies; and
- carry out any other functions conferred on the Commissioner by or under the *Small Business Commissioner Act 2011* or other legislation.

## ORGANISATION OF THE AGENCY

The OSBC organisational chart can be accessed on the OSBC website at [www.sasbc.sa.gov.au](http://www.sasbc.sa.gov.au)

## KEY STRATEGIES AND THEIR RELATIONSHIP TO SA GOVERNMENT OBJECTIVES

### Key Strategies

- Providing an efficient and effective dispute resolution process for South Australian small businesses.
- Delivering relevant information sessions to small businesses, both metropolitan and regional.
- Delivering high-quality customer service through a cross-trained and resilient team.
- Developing legislative amendments and policy initiatives to support changes to the *Building and Construction Industry Security of Payment Act 2009* and the *Retail and Commercial Leases Act 1995*.

### SA Government Objectives

#### Economic Priorities

- SA the best place to do business.
- Opening doors for small business.
- Adelaide – heart of the vibrant State.
- A modern public service.

## AGENCY PROGRAMS AND INITIATIVES AND THEIR EFFECTIVENESS AND EFFICIENCY

Program name	Indicators of performance/effectiveness/efficiency	Results
Dispute Resolution	Number of dispute resolution enquires received	3 476
	Number of new cases	288
	Number of cases closed	274 <ul style="list-style-type: none"> <li>• 261 prior to mediation</li> <li>• 13 through formal mediation</li> </ul>
Information Sessions to Small Businesses	Attendance at events	32 events held in Adelaide and regions, totalling 630 attendees
	Attendees' rating of events	98% of attendees indicated they were happy with the information provided
	Overall attendee comments and feedback	Feedback is sought from all attendees. Feedback provided is analysed for quality control and improvement

## DISPUTE RESOLUTION

The OSBC's core business is to ensure a fair and competitive operating environment for South Australian small businesses. A no-cost or low-cost dispute resolution service is offered to businesses for disputes with other businesses or local or State Government.

OSBC Case Officers provide expert and experienced advice to small businesses that need support and assistance to quickly and efficiently resolve matters that can sometimes prevent them from operating effectively.

At any one time, the OSBC has 80-100 active disputes under management.

There are three distinct phases in the resolution of a dispute by the Case Team:

- Phase 1 – Initial Assistance
- Phase 2 – Pre-Mediation
- Phase 3 – Formal Mediation

Information about each phase can be found on the OSBC website at [www.sasbc.sa.gov.au](http://www.sasbc.sa.gov.au).

### DISPUTE RESOLUTION STATISTICS

The Case Team provides a dispute resolution service to small business on a number of matters including business-to-business and business-to-government. During 2016-17, the OSBC took 288 new cases and closed 274 cases.

The “success rate” of cases closed stayed steady at 55% from the 2015-16 to 2016-17 financial years.

Cases closed	2015-16	2016-17	Variance
Successfully resolved	139	151	8.6%
Assistance provided	63	65	3.2%
Unsuccessful	49	58	18.4%
<b>TOTAL</b>	<b>251</b>	<b>274</b>	<b>9.2%</b>

NOTE: As a result of a July 2017 audit, a number of cases in the 2015-16 and 2016-17 financial years were identified as having no resolved date. These dates were found in the hard files and the number of cases closed in those years updated.

97 cases remained open past 30 June 2017.

The overall success rate for closed cases was pleasing, despite being skewed by the low (42%) success rate of 38 cases that related to Arrium entering into administration. Assistance was provided in a further 45% of Arrium cases, with only 13% unsuccessful.

It should be noted that the function of the OSBC is squarely set in the alternative dispute resolution space. Conversations are non-partisan and based upon the broader interests of disputing parties, as compared to any legal rights that might be determined by a court or tribunal.

The OSBC's impartial role can sometimes become a factor if clients have unrealistic expectations of the services that it can offer (i.e. they are actually seeking the enforcement of a contract or right). In some cases, one or both parties might be so adhered to a certain position that they are simply unable to concede any ground (as good faith bargaining tends to require).

There are also occasions where clients insist on a winner-take-all outcome and the OSBC is simply unable to fulfil those expectations.

### Results of Disputes Successfully Resolved



**142**  
Disputes  
successfully  
resolved prior to  
mediation



**9**  
Disputes  
successfully  
resolved at  
mediation

## MEDIATIONS

Formal mediations are conducted at the final stage of the dispute resolution process. The OSBC conducted 13 formal mediations in 2016-17, over 15 mediation days (i.e. two matters had two mediation days each). This includes one day where a party did not attend but mediation had been booked and paid for.

Of the 13 mediations:

- 9 (69%) were successfully resolved; and
- 4 (31%) were not successful but assistance was provided (1 of which was terminated due to one party not mediating in good faith).

In May 2016, the OSBC commenced an Expression of Interest process to update the preferred list of suppliers to provide mediation services. This process was completed on 23 June 2017 and nine mediators are included on the new list.

They are:

- Ruth Beach
- Steve Georgiadis
- Deb Black
- Alison Shaw
- Colin Fullerton
- Jon Clarke
- Greg Rooney
- Brenton Trenorden
- Ian Nosworthy

Their combined expertise and experience includes small business, commercial contracts, farming, retail leasing, franchising and building and construction.

All mediators must have at least two years' experience in mediation and at least five years' experience in a professional commercial environment.



Members of the OSBC mediation panel presenting at our Dispute Resolution for Small Business event held at the OSBC Office on 4 August 2016.

As part of the dispute resolution process, the Case Team allocates cases that have reached the formal mediation stage to an appropriate mediator. Factors such as the nature of the dispute, the expertise required and any specific requirements for the parties will determine which mediator is assigned to a particular case.

## ENQUIRIES

During 2016-17, the OSBC received 3 476 enquiries covering the *Small Business Commissioner Act 2011*, the *Retail and Commercial Leases Act 1995* and the *Building and Construction Industry Security of Payment Act 2009*, and general small business enquiries.

The graph below shows the number of enquiries based on the legislation to which they relate.

The table below shows the number of enquiries based on the legislation it relates to:

	2015-16	2016-17	Variance
<i>Small Business Commissioner Act 2011</i>	1 285 (41%)	1 573 (45%)	22.4%
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<i>Building and Construction Industry Security of Payment Act 2009</i>	68 (2%)	49 (1%)	-27.9%
Other jurisdictions	389 (12%)	521 (15%)	33.9%
<b>TOTAL</b>	<b>3 134</b>	<b>3 476</b>	<b>10.9%</b>



(L-R) Leigh Muster, Director, Wickham Flowers, John Chapman, Small Business Commissioner and Vaughn Colwill, Director, Wickham Flowers.

THANK YOU FOR YOUR ASSISTANCE WITH THE MEDIATION  
YESTERDAY, IT IS GREATLY APPRECIATED. CAN YOU  
ALSO PLEASE PASS ON MY THANKYOU TO STEVE FOR  
HIS MEDIATION, HE DID A GREAT JOB. IT WAS A GOOD  
OUTCOME I BELIEVE AND IT APPEARS WE MIGHT BE  
ABLE TO CARRY ON WITH A BUSINESS RELATIONSHIP  
BETWEEN US AND THE CUSTOMER GOING FORWARD.”

**VAUGHN COLWILL, WICKHAM FLOWERS**

## STATISTICS UNDER THE SMALL BUSINESS COMMISSIONER ACT 2011

How were enquiries made?													Total 2016-17	Total 2015-16	Variance
2016						2017									
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun			
Email	5	9	4	9	8	3	16	27	13	9	16	22	141	44	220.5%
Phone	131	137	103	123	105	77	75	104	108	57	122	95	1 237	1 171	5.6%
Online form	0	0	0	0	0	1	2	0	3	2	3	2	13	28	-53.6%
Fax	0	0	0	0	0	0	2	0	0	0	0	0	2	0	-
Walk-in	1	2	6	9	26	12	39	10	15	13	25	11	169	40	322.5%
Letter	0	0	0	0	0	0	3	1	0	0	0	1	5	2	150.0%
Direct contact*	0	0	0	0	0	0	0	0	0	0	6	0	6	n/a	n/a
<b>TOTAL</b>	<b>137</b>	<b>148</b>	<b>113</b>	<b>141</b>	<b>139</b>	<b>93</b>	<b>137</b>	<b>142</b>	<b>139</b>	<b>81</b>	<b>172</b>	<b>131</b>	<b>1 573</b>	<b>1 285</b>	<b>22.4%</b>

\*New option added in 2016-17

Subject matter													Total 2016-17	Total 2015-16	Variance
2016						2017									
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun			
Farming	2	1	0	3	0	0	4	0	3	0	0	1	14	17	-17.6%
Franchising	2	7	0	2	3	2	0	2	3	3	1	3	28	22	27.3%
Local government	0	0	0	0	2	0	1	0	2	3	2	2	12	4	200.0%
Small business issue	111	110	90	108	87	66	61	82	93	48	111	80	1 047	991	5.7%
State Government	3	3	0	3	0	2	11	11	0	1	5	5	44	25	76.0%
Motor vehicle	6	5	2	2	4	2	0	1	9	1	1	4	37	63	-41.3%
Newsagent	1	0	0	1	0	0	0	0	0	0	0	0	2	2	0.0%
Other	3	2	2	0	1	1	3	3	2	0	1	0	18	43	-58.1%
No selection	9	20	19	22	42	20	57	43	27	25	51	36	371	118	214.4%
<b>TOTAL</b>	<b>137</b>	<b>148</b>	<b>113</b>	<b>141</b>	<b>139</b>	<b>93</b>	<b>137</b>	<b>142</b>	<b>139</b>	<b>81</b>	<b>172</b>	<b>131</b>	<b>1 573</b>	<b>1 285</b>	<b>22.4%</b>

## SIGNIFICANT CASES

### South Road Businesses

Businesses along South Road were affected by the structural problems that closed the tram/cycle overpass between Wednesday 18 January and Sunday 22 January 2017. The greatest impact was felt by fast food businesses and others that rely on walk-in customers.

The Commissioner was asked by the then Minister for Transport and Infrastructure, Hon Stephen Mullighan MP, to work with businesses to analyse the impact of closing South Road between Anzac Highway and Cross Road. This involved a letterbox drop to 188 small businesses along South Road to Daws Road, as it was evident that traffic flows had dropped off substantially between Daws and Cross Roads.

Thirteen businesses responded to the initial request for information, with 11 submitting detailed financial information. Recommendations made to the Minister were still being considered at the end of the financial year.

The Government also committed to schedule restoration work on the overpass at night to reduce traffic impact.

### Torrens-to-Torrens Project – Port Road

The Commissioner was asked to assist businesses on Port Road affected by traffic delays and road closures caused by the Torrens-to-Torrens (T2T) upgrade of South Road.

Working closely with the T2T project team and the Department of Planning, Transport and Infrastructure (DPTI), an awareness campaign including electronic signs and core flutes was undertaken, along with new precinct advertising.



Road Closures on Port Road affecting small businesses

### Glenelg Tram Track Replacement

Traders along Jetty Road at Glenelg raised concerns about a lack of consultation on proposed road closures during the replacement of tram tracks and associated works.

The Commissioner raised with the then Minister for Transport and Infrastructure, Hon Stephen Mullighan MP, the idea of engaging with small businesses earlier in the design and contract development process. This would allow for feedback to be taken into account to determine the best times to undertake such works.

The Commissioner has also been working with DPTI on the development of guidelines to ensure a greater level of communication occurs prior to work commencing and earlier engagement with small business on options relating to work plans and access.

### A Financial Institution and Small Manufacturing Business

One of the longer running cases for the OSBC was finally and successfully closed in January 2017.

For over two years the OSBC had been working with a small manufacturing company which faced being evicted by a large financial institution as mortgagee-in-possession. The case had a particularly complicated background, and when the OSBC originally became involved in October 2014 the company had been given notice to vacate.

Initially the financial institution was unco-operative when the OSBC sought to engage to see if a solution could be navigated. Ultimately the Commissioner approached one of its directors directly and subsequently there was a much more considered response by the senior executive team.

The financial institution was constrained by its position as mortgagee-in-possession in terms of any lease which could be offered. At the same time, the company asserted that it had a right to an ongoing lease. Eventually an interim monthly rental was agreed.

In addition, there were environmental concerns about the site and potential future risks to the financial institution had to be considered and investigated.

Through goodwill at senior levels of the financial institution, a pathway was negotiated which allowed for the sale of the property after a failed auction. The purchaser negotiated new lease terms with the owner of the company, which took effect on settlement in January 2017.



The case involved a number of meetings with the parties and two informal mediations.

Final settlement took place on 1 February 2017.

*"It was 3 years ago that I approached the Office of The Small Business Commissioner for help, I know that without your help my company would not be here today, I was caught up in a legal battle going nowhere.*

*From the moment I sat with you and Thomas your staff and yourself have acted promptly to the predicament I was in, you made things happen that the Lawyers couldn't.*

*My company is only small with 6 staff, I had started out late in my life with the vision of my own company, never did I expect to find myself in the position that I was caught up in, with the help from yourself and the hard work from my staff I have been able to hang on to the Company not only keeping myself employed but my staff who are all from low income families and who have also stood by me through this hard time, it really has been a tough journey!*

*Not only did your office act promptly and in a very professional way but you had empathy for all of us here for that I am grateful I never just felt like a case number.*

*Keep up the excellent work that you do and I can't thank you enough for standing by us all and getting us through all that you did.*

*I am confident that without your assistance the outcome here would have been very different than the successful outcome that I have now.*

*Once again  
Thank you!"*

*(Email 2.2.17)*

### **Elite Systems Australia Pty Ltd**

A number of businesses approached the Commissioner with concerns following the collapse of Elite Systems Australia Pty Ltd in May 2016. Elite had been engaged by the SA Motor Sports Board (SAMSB) to design and construct new pit straight grandstands and corporate platforms for the 2016 Clipsal 500 Supercar race.

The businesses claimed significant outstanding payments were owed and believed the State Government should step in to assist.

The SA Tourism Commission (SATC), which took over responsibility for the Clipsal 500 on 1 July 2015 when the SAMSB was abolished, rejected an offer by the OSBC to mediate the dispute, claiming that it had no legal or commercial relationship with the subcontractors.

The Commissioner undertook a detailed inquiry into the contract between the SAMSB and Elite, and the management and administration of the contract through to completion of the Clipsal contract.

The inquiry raised a number of concerns about the management of the contract. As a result, a series of recommendations was made on ways to improve State Government contract management to ensure that the interests of subcontractors and suppliers are taken into account.

The State Government is still considering the recommendations.

### **BJ Jarrad Pty Ltd**

The collapse of BJ Jarrad Pty Ltd in 2014 had a number of similarities to Elite in terms of the management and administration practices adopted by SA Water.

A detailed report was prepared for consideration by the State Government. It recommended that ex-gratia payments be made to subcontractors who worked on the Kingscote Water Upgrade project affected by the collapse of the company.

The administrators of BJ Jarrad found that it had been trading while insolvent as far back as December 2013, which raised questions as to the effectiveness of SA Water's financial analysis, given the contract for the Kingscote project was awarded in April 2014.

The State Government is still considering the Commissioner's report and recommendations.

### **SA Government and Arnie's Restaurant**

The owner of Arnie's Restaurant in the Adelaide Parklands sought the Commissioner's assistance with negotiations with the promoters of the Clipsal 500 Supercar Event, the SA Tourism Commission (SATC). Arnie's had been impacted by the construction of the O-bahn through the parklands and was experiencing significant financial pressure.

The Commissioner had been interviewed by Leon Byner on 5AA concerning a requirement for Arnie's to pass on a significant share of profits and also a restriction on the ability to sell four particular types of products. It is pleasing to note that the Minister for Tourism, the Hon Leon Bignell MP, immediately took up the issue and met with the restaurant's owner.

The Commissioner also held a number of discussions with SATC and the issue was quickly and satisfactorily resolved.

Such a response by the State Government to very real issues affecting small business is appreciated.

### Utopia@Waterfall Gully



Justin and Kelly Markos at Utopia@Waterfall Gully.

The OSBC was approached by the Department of Environment and Natural Resources (DEWNR) after a landslide on 3 October 2016 in the Cleland National Park damaged the Utopia@Waterfall Gully restaurant and reception area.

The extent of the landslide and the damage had the potential to force the permanent closure of the site, which was leased by Justin and Kelly Markos. The Commissioner immediately made contact with Mr Markos and commenced discussions on options which could assist his business survival.

Fortunately, Utopia had a second venue to which they could transfer booked weddings and other events. However, it was a very stressful and uncertain time, as ongoing storms and rain delayed full engineering assessment of the site until January 2017.

The Commissioner and his staff worked with DEWNR and the Markoses regularly during this time to navigate solutions to particular problems as they arose. A solution to stop further landslides

was devised with large mesh being installed from a 200-tonne crane reaching over the top of the restaurant.

A SafeWork SA order prevented external access to the site until early in March 2017 and finally the site was handed back to the Markoses on 10 March. They rapidly prepared for two weddings which had been locked in for the next day.

The OSBC thanks all parties for their cooperation and assistance, particularly DEWNR Group Executive Director Ben Bruce, who worked tirelessly to resolve issues amid enormous uncertainty.

### Personal Property Security Registration Claim

Another complex case emerged during the year when an Adelaide small business (the Business) lost control of approximately \$4 million of equipment in the application of the Federal Personal Property Security Registration (PPSR) laws.

The case involved a company (the Company) which went into administration while the equipment in question was located on its land.

The administrators asserted ownership rights under the PPSR because the equipment had been incorrectly registered under the PPSR by a former employee of the business. The business owners faced being bankrupted as they were still responsible for the finance on the equipment but no longer had control or access to the assets.

The OSBC commenced discussions with the Company's administrator who, while understanding the concerns, was faced with its own legal dilemma as to a resolution. The Commissioner recommended that the business engage specialist lawyers to assist in navigating a path forward, while he worked closely with the Administrators on a solution.

Again, thanks to good faith on both sides, an agreement was reached which allowed both parties to fulfil their obligations with a positive commercial outcome.

This case highlights a concern about the powers of administrators/receivers/liquidators to seize equipment due to technical errors of small businesses.

In its guidance material, ASIC urges users to: *"Make sure you enter all names and numbers correctly. If not, no matter how small the error, you may lose out because a searcher would not be able to discover it on the register."*

In this case, the equipment was discovered, but the wrong corporate entity was listed as being the owner of the location on which the equipment was situated.

### **Business Disruption**

Wild storms and torrential rain in July, September and December 2016 and January 2017 left tens of thousands of businesses without power, highlighting the need for business interruption insurance to protect revenue flows and for SA Power Networks to provide clearer messaging to consumers both online and through “Power at My Place”.

Businesses were regularly frustrated when blackouts continued beyond SA Power’s stated resumption times, making it difficult to plan in relation to staff or refrigeration needs. As a result, the Commissioner has joined the SA Power Networks Business Reference Group to provide a voice for small business on a range of electricity issues.

### **Business dispute over faulty vehicle parts**

The OSBC was contacted by a small business owner regarding his business vehicle. The dispute related to issues arising from faults with a specific motor vehicle part which, based on the information provided, had failed three times. The first two failures were resolved, but on the third occasion negotiations stalled on the grounds that the warranty had lapsed.

In normal circumstances an expired warranty makes it difficult to negotiate an outcome. However, as this seemed to be a recurring problem the Commissioner was keen to seek further information regarding the failings of the specific part for the model of the vehicle in question during the period it was manufactured.

Correspondence was forwarded to the CEO of the motor vehicle manufacturer requesting further information and asking them to engage in the dispute resolution process on a voluntary and co-operative basis. As a result, negotiations recommenced with the OSBC and a suitable offer was put forward as a sign of goodwill. This was accepted.

This is a good example of where the persistence of the OSBC resulted in a positive outcome.

### **Business dispute relating to roll over accounts**

The OSBC was approached by a small business operating in the mobility aid industry which raised issues in relation to its advertising company.

A significant amount of money had been deducted from its account and it had also been automatically rolled over into a further 12 month contract. The owner had attempted to contact the advertising company directly on numerous occasions without success and approached the OSBC for assistance.

Through the dispute resolution process, the Commissioner and his staff were able to engage effectively with the advertising company. After reviewing its records, it acknowledged that the contract had not been authorised and made an offer which demonstrated its willingness to negotiate and act in good faith. The offer included cancellation of the contract and a full refund of all monies paid. This was accepted by the business owner and exceeded their expectations.

The business owner showed their appreciation in resolving this matter in stating *“it has been a long time since receiving such fantastic service!”*

### **Business dispute with government over compliance requirements**

The OSBC was approached by a small business operator looking to diversify and expand their business. This required liaising with local and State government agencies to ascertain what was required then apply for the appropriate approvals and licences.

The business operator had spent a considerable sum of money to engage professional services to assist in navigating a path to ensure that the business would be operating in a compliant manner. Prior to coming to the OSBC seeking assistance, there had been delays and miscommunication.

The Commissioner and his staff liaised with the various local and State government agencies and the business operator. Through this involvement, the operator was able to gain the appropriate approvals to expand and diversify their business. They were most appreciative of the support and assistance the OSBC provided.

## INFORMATION SERVICES

During 2016-17, the OSBC continued to find ways to engage with and provide information to South Australian small businesses. This included the use of social media, written publications, unaddressed mail, print advertising, online services and information sessions.

### INFORMATION SESSIONS

Thirty-two free information sessions were delivered in 16 locations around the State (metropolitan and regional areas) during the year, allowing the OSBC to engage with more than 600 business people.

These information sessions were delivered in conjunction with Business Enterprise Centres and Councils, including at the Adelaide Business Hub, Polaris Centre, Eastside BEC, Mount Barker District Council, Mount Gambier District Council, the City of Victor Harbor and the City of Marion.

Information sessions in relation to safety in the workplace, running a family business or franchise, dispute resolution, business disruption and industrial relations were delivered in partnership with government departments, including Safework SA and the Australian Taxation Office, as well as industry associations such as Business SA, Family Business Australia and the Franchise Council of Australia.

The OSBC again worked with GM Holden to deliver “Working with Skills” information session designed to bring small businesses together with skilled workers needing employment. DSD also attended to discuss how State Government funding can assist with the employment of new staff. Further sessions are planned prior to the closure of the Holden factory.

The OSBC’s BizLink program, which brings various Federal, State and local government departments together to provide information on services available to business start-ups in particular, also continued during the year. Seminars were held in Port Lincoln, Whyalla, Port Pirie, Victor Harbor and Murray Bridge. A new concept, the BizLink Expo, was held in Mount Barker, as part of the May Business Month. A BizLink Expo was also held in Mount Gambier.

## PUBLICATIONS

The OSBC continued to review and update its information and distributed nearly 2 000 packs to the small business community during the year. These were available at various events, including Meet the Buyer events, the Gawler Business Expo and Business SA Regional Voice events.

Material was also provided to all members of State Parliament to assist them in informing constituents about the OSBC’s services.

### “We’re Here to Help Small Business” Brochure

Following a review in August 2016, the “Services and Overview” brochure was renamed the “We’re Here to Help Small Business” brochure. There are two versions.

The A4 version is the OSBC’s key publication as it provides a concise summary of overall operations, including up-to-date information about the dispute resolution service, retail and commercial leasing, building and construction industry responsibilities, advocacy and information services.

The smaller DL brochure provides a summary of the key information. In June 2017, copies were included in a bulk mail delivery to 50 000 South Australian businesses in relation to the ReturnToWork SA Scheme.

### Industry Codes Brochure

In March 2017, the OSBC developed an Industry Codes Brochure, which provides information on the four Industry Codes for which the Commissioner is responsible.

The brochure was developed to assist businesses in understanding their responsibilities and rights under these Codes as they relate to dispute resolution in the key sectors of farming, newsagency, motor vehicles and franchising.

More information relating to the Codes is included later in this report.

## INFORMATION SESSIONS



John Chapman Small Business Commissioner with Rose Bradshaw, President, Hair and Beauty SA at our BizLink Seminar held at the Payneham Library on 25 November 2016.



Sean Holden from the Ai Group speaking at our Industry Skills Fund Information Session held at the Adelaide Business Hub on 19 July 2016.



Ben Makepeace, CFE, Franchise Manager Gametraders and Franchise Council of Australia SA Vice President speaking at our Franchising in a Nutshell information session held on 14 February 2017 at the Cove Civic Centre at Hallett Cove.



Family Business 101 Information Session held at our office at 99 Gawler Place on 18 November 2016. L-R Debbie Reed, Chair of Family Business Australia SA Chapter, Lowen Partridge, Accredited Family Business Adviser with Family Business Australia and Principal Consultant, Peartree Brand Strategy with John Chapman Small Business Commissioner.



Jamie Getgood, Senior Human Resources Manager, Manufacturing Operations at Holden speaking at our working with Skills event held at the Holden Transition Centre on 22 September 2016.



Andrew Leung, Business Architect and Coach, at our Understanding Business Disruption Information Session held at the McLaren Vale Visitor Centre on 25 May 2017.

## SOCIAL MEDIA AND ENGAGEMENT

Social media has been an effective and efficient tool for communicating with small business people and has been particularly valuable in promoting the OSBC’s information sessions.

During 2016-17, the OSBC used Facebook and LinkedIn to inform local businesses about important matters such as business scams, taxation, grants, mental health in the workplace, safety and compliance, business programs and events and much more.

Social media has also been used to support other government departments, local councils and industry associations in the services that they provide to the small business community.

The OSBC also sends a monthly newsletter to a growing client database. This now includes a message from Hon Martin Hamilton-Smith MP, Minister for Small Business.

In March 2017, the OSBC surveyed its database seeking feedback about the preferred format, structure and timing of information sessions. Among the planned improvements to the delivery of our information session will be the addition of webinars and video recordings.



OSBC staff member Erin Gossert serving the first customer in the Small Business Centre shopfront Livio DeGiovanniello.

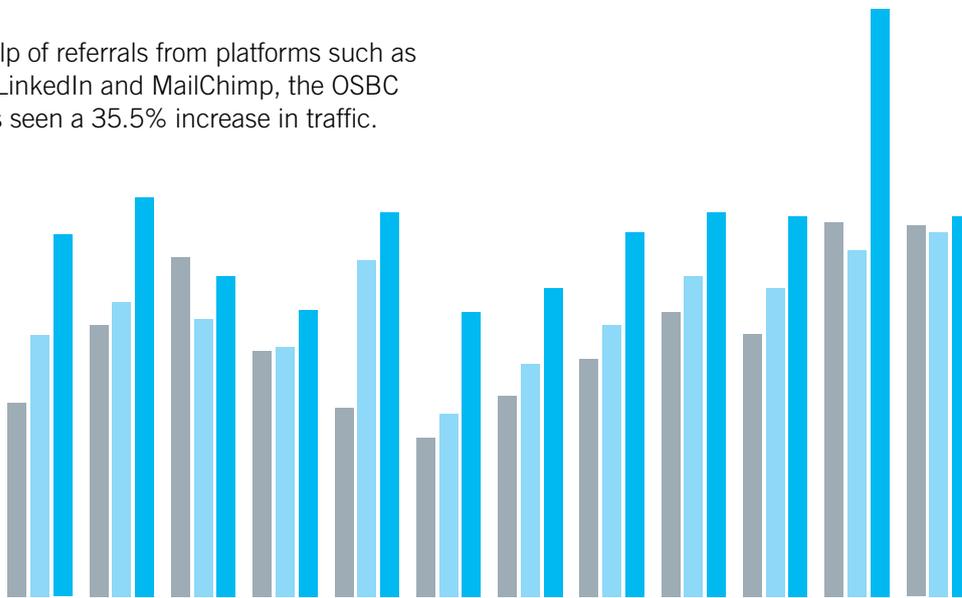
It continues to be the main entry point for submitting enquires, lodging retail and commercial bonds and registering for events.

There were significant visitation spikes in May, following announcements relating to the review of the *Building and Construction Industry Security of Payment Act 2009*, and in November, when the new Small Business Centre shopfront was officially opened.

Minor updates were made to the website during the year, including improvements to information and graphics and the inclusion of social media buttons. Behind the scenes, the site underwent an internal upgrade to support mobile devices.

## WEBSITE

With the help of referrals from platforms such as Facebook, LinkedIn and MailChimp, the OSBC website has seen a 35.5% increase in traffic.



Year	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	TOTAL
2014-15	1274	1785	2230	1614	1240	1044	1320	1561	1867	1728	2460	2436	20,559
2015-16	1721	1936	1825	1643	2212	1200	1529	1786	2103	2026	2278	2393	22,652
2016-17	2354	2904	2148	1971	2765	1891	2051	2403	2708	2677	4186	2653	30,711



# LEGISLATION

## LEGISLATION ADMINISTERED BY THE AGENCY

- *Small Business Commissioner Act 2011*
- *Retail and Commercial Leases Act 1995*
- *Retail and Commercial Leases Regulations 2010*
- *Building and Construction Industry Security of Payment Act 2009*
- *Building and Construction Industry Security of Payment Regulations 2011*
- *Farming Industry Dispute Resolution Code Regulations 2013*
- *Newsagency Industry Dispute Resolution Code Regulations 2014*
- *Motor Vehicle Industry Dispute Resolution Code Regulations 2014*
- *Franchising Industry Dispute Resolution Code Regulations 2015*

## BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT ACT 2009

The OSBC has responsibility for the administration of the *Building and Construction Industry Security of Payment Act 2009*, which is designed to facilitate prompt payment of subcontractors through an adjudication process and to provide industry participants with rights to seek progress payments from the other contracted party.

Under this Act, disputed claims are lodged with an Authorised Nominating Authority (ANA), which in turn appoints an expert building adjudicator to

determine the disputed issues. This results in a determination that is able to be enforced through the courts. The Act is based on similar legislation in NSW and became operative on 10 December 2011.

## Review of the *Building and Construction Industry Security of Payment Act 2009*

The SoP Act includes a requirement that its operation be reviewed after the first three years. An initial review was undertaken by former District Court Judge, Mr Alan Moss, who considered the 24 submissions received then formulated a suite of recommendations. The Moss Review was tabled in Parliament on 12 May 2015.

However, following the collapse of Tagara Builders in June 2016 the Commissioner instigated a further tranche of industry and key stakeholder consultations regarding 16 proposals which built upon the recommendations made in the Moss Review.

That two month consultation closed on 19 August 2016, with 37 submissions received. All submissions from the second period of consultation were placed on the OSBC website (unless confidentiality was requested). The final changes proposed for approval were:

- The insertion of an offence and penalty provision for intimidation, harassment, coercion or otherwise applying undue pressure to a person seeking payment under the legislation.

- The insertion of a provision to enable the Commissioner to publish adjudications.
- An amendment to Section 4 to clarify the Christmas shutdown period.
- The formal allocation of responsibility for the administration of the Act to the Commissioner, and then setting out the Commissioner's functions in some detail.
- An amendment of the current ANA Authorisation regime. This will put in place some light-handed rigour and oversight to the existing arrangements that provided open-ended "licences" when the legislation was enacted in December 2011.
- The development of a *Building and Construction Industry Code* under the *Fair Trading Act 1987* to provide for alternative dispute resolution services. Such a code would be similar to the structure of the existing codes and would provide the Commissioner with greater options to quickly inquire into and resolve disputes, including the ability to compel parties to undertake alternative dispute resolution. While the existing codes have been infrequently used, they have been successful in ensuring that big and powerful businesses must engage with the Commissioner. In the past 12 months, the Commissioner has deployed the Motor Vehicle Code and the Farming Code on four occasions in total, each resulting in successful outcomes.
- An ongoing program to promote the Act and educate the industry, which due to the ever-changing nature and population of the industry is dynamic and changes rapidly as various major building works commence and conclude over time. New participants regularly enter the industry; for example, when a recently qualified tradesman sets up their own small business as a contractor. It is typically these types of businesses that require education about the industry and the protections that can be afforded to them by this (amended) legislation.
- The development of a policy, in conjunction with the Industry Participation Advocate, which in effect will be a "good behaviour" test for principal contractors who bid for government projects of \$4 million and above for the metropolitan area and \$1 million and above for regional areas. This proposal seeks to apply the persuasive power inherent in major government procurement activity to drive positive behaviour as an industry standard.

The proposed changes are designed as a minimal regulatory approach to help ensure that small business subcontractors are paid for work performed. The proposals are also designed to set a standard for payment practices and disputes for the benefit of the wider industry.

These changes are designed to improve the confidence of industry participants in the process given the serious concerns that had been flagged by the Commissioner about the ability of some subcontractors to receive payment.

### **Claims under the *Building and Construction Industry Security of Payment Act 2009***

In 2016-17, the OSBC assisted contractors and subcontractors with 49 enquiries in relation to the Security of Payment legislation and provided advice in relation to the procedures in order to make claims under the Act.

In total, 32 claims worth a total of \$42 097 677.28 were made through adjudication mechanisms within the Act. Of these, 19 resulted in an award to the claimant.

The overall amount awarded through adjudication under this Act was \$1 006 279.77. The significant difference between the amount claimed and amount awarded is due mainly to the largest claim, of nearly \$30 million, being settled and withdrawn prior to determination, and another claim for about \$3.8 million being "invalid". Other claims were withdrawn or judged invalid, and there was no jurisdiction found regarding others.

## TOTAL AMOUNT CLAIMED VS AWARDED

		2014-15	2015-16	2016-17
ABC Dispute Resolution Services	Claimed	-	\$37 273 034.11	\$14 782.75
	Awarded	-	\$3 021 397.23 <sup>^</sup>	\$14 782.75
Able Adjudication	Claimed	\$64 977.48	\$0	\$6 600.00
	Awarded	\$52 307.08	\$0	\$0
Adjudicate Today	Claimed	\$15 781 991.50	\$36 872 825.47	\$11 032 806.09
	Awarded	\$2 485 312.63	\$16 739 413.81	\$796 583.03 <sup>#</sup>
Australian Solutions Centre	Claimed	\$19 279.57	\$0	\$408 627.12
	Awarded	\$11 891.15	\$0	\$17 325.90
Resolution Institute	Claimed	\$2 710 285.32	\$121 412.50	\$630 770.15
	Awarded	\$1 298 476.16	\$35 420.00	\$117 588.09
Master Builders Association of SA	Claimed	\$10 768.90	\$0	\$40 108.70
	Awarded	\$0	\$0	\$0 <sup>-</sup>
Nominator	Claimed	\$0	\$0	\$0
	Awarded	\$0	\$0	\$0
RICS Dispute Resolution Services	Claimed	\$14 180 100.78	\$31 595 981.21	\$29 963 982.47
	Awarded	\$679 841.09	\$12 864 465.69	\$0 <sup>*</sup>
TOTAL	Claimed	<b>\$32 767 403.55</b>	<b>\$105 863 253.29</b>	<b>\$42 097 677.28</b>
	Awarded	<b>\$4 527 828.11</b>	<b>\$32 660 696.73</b>	<b>\$1 006 279.77</b>

<sup>^</sup> At the time of printing the 2015-16 Annual Report, a claim for \$37 273 034.11 was pending release. This has since been released and the updated figures for 2015-16 are included in the table above.

<sup>#</sup> An application for a claim of \$3 838 385.49 was determined to be "invalid".

<sup>-</sup> The awarded amount for a claim of \$19 000 hasn't been released due to non-payment of the adjudicator's fee.

<sup>\*</sup> An application for a claim of \$29 963 982.47 was settled and withdrawn one week prior to completion of determination.

## NUMBER OF ADJUDICATIONS

	2014-15	2015-16	2016-17
ABC Dispute Resolution Services	-	1	4
Able Adjudication	4	0	1
Adjudicate Today	20	30	15
Australian Solutions Centre	1	0	7
Resolution Institute	12	1	2
Master Builders Association of SA	0	0	2
Nominator	0	0	0
RICS Dispute Resolution Services	2	6	1
<b>TOTAL</b>	<b>39</b>	<b>38</b>	<b>32</b>



A BIG THANK YOU FOR YOUR RECENT ASSISTANCE  
IN HELPING TO RETAIN OUR BUSINESS ON A  
RENEWED PERMIT THROUGH ONKAPARINGA  
COUNCIL. AFTER TWO AND A HALF YEARS OF  
INCREASINGLY FRUSTRATING NEGOTIATIONS,  
YOUR OFFICE HELP WE BELIEVE WAS PIVOTAL IN  
HELPING US TO GAIN ACCESS TO SOME PEOPLE  
AT COUNCIL ... IN PARTICULAR THE CEO MARK  
DOWD AND MAYOR ROSENBERG, TO WHOM WE  
WERE ABLE TO AIR OUR CONCERNS DIRECTLY.  
ALSO WE MET WITH COUNCIL DIRECTORS ALLISON  
HANCOCK AND PAUL HARWOOD, WHO WERE ALSO  
VERY UNDERSTANDING.”

**ROB AND LINDA MACKAY, STAND UP STAN**

## APPROVED AUTHORISED NOMINATING AUTHORITIES

### ABC Dispute Resolution Services

Web: [www.abcdrs.com.au](http://www.abcdrs.com.au)  
Phone: 1300 857 383 Fax: 1300 857 384  
Email: [contactus@abcdrs.com.au](mailto:contactus@abcdrs.com.au)

### Able Adjudication

Web: [www.ableadjudication.com.au](http://www.ableadjudication.com.au)  
Phone: 1300 922 303 Fax: 1300 922 308  
Email: [info@ableadjudication.com.au](mailto:info@ableadjudication.com.au)

\*Note: Able Adjudication's ANA resources were absorbed into the Australian Solutions Centre ANA and it was de-authorised as an ANA on Friday 21 October 2016.

### Adjudicate Today

Web: [www.adjudicate.com.au](http://www.adjudicate.com.au)  
Phone: 1300 760 297 Fax: 1300 760 220  
Email: [sa@adjudicate.com.au](mailto:sa@adjudicate.com.au)

### Australian Solutions Centre

Web: [www.solutionscentre.com.au](http://www.solutionscentre.com.au)  
Phone: 1300 722 624 Fax: 1300 722 924  
Email: [info@solutionscentre.com.au](mailto:info@solutionscentre.com.au)

### Resolution Institute

Web: [www.iama.org.au](http://www.iama.org.au)  
Phone: 1800 651 650 Fax: 02 9251 3733  
Email: [nominations@resolution.institute](mailto:nominations@resolution.institute)

### Master Builders Association of South Australia

Web: [www.mbasa.com.au](http://www.mbasa.com.au)  
Phone: 1800 067 466 Fax: 08 8231 5240  
Email: [buildsa@mbasa.com.au](mailto:buildsa@mbasa.com.au)

### Nominator

Web: [www.nominator.com.au](http://www.nominator.com.au)  
Phone: 08 8267 4800 Fax: 08 8239 0728  
Email: [contact@nominator.com.au](mailto:contact@nominator.com.au)

### RICS Dispute Resolution Service

Web: [www.ricsdrs.com.au](http://www.ricsdrs.com.au)  
Phone: 1300 953 459 Fax: 1300 953 529  
Email: [drsAus@rics.org](mailto:drsAus@rics.org)

## STATISTICS UNDER THE BUILDING AND CONSTRUCTION SECURITY OF PAYMENT ACT 2009

Number of enquiries													Total 2016-17	Total 2015-16	Variance
2016						2017									
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun			
Enquiries	3	14	5	4	0	3	7	2	3	2	3	3	49	68	-27.9%
<b>TOTAL</b>	<b>3</b>	<b>14</b>	<b>5</b>	<b>4</b>	<b>0</b>	<b>3</b>	<b>7</b>	<b>2</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>49</b>	<b>68</b>	<b>-27.9%</b>

How were enquiries made?													Total 2016-17	Total 2015-16	Variance
2016						2017									
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun			
Email	0	0	0	0	0	0	0	1	0	0	0	1	2	9	-77.8%
Phone	3	14	5	4	0	3	7	1	3	2	3	2	47	57	-17.5%
Walk-in	0	0	0	0	0	0	0	0	0	0	0	0	0	2	-100.0%
<b>TOTAL</b>	<b>3</b>	<b>14</b>	<b>5</b>	<b>4</b>	<b>0</b>	<b>3</b>	<b>7</b>	<b>2</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>49</b>	<b>68</b>	<b>-27.9%</b>

Note: Statistics under the *Retail and Commercial Leases Act 1995* are listed under "Section B: Reporting required under any other act or regulation" in this document.

## RETAIL AND COMMERCIAL LEASES ACT 1995

Responsibility for the administration of the *Retail and Commercial Leases Act 1995* was assigned to the OSBC in November 2012. Under the Act, all security bonds taken by lessors are required to be lodged with the Commissioner. The Retail Shop Leases Fund is also assigned to the OSBC.

### Review of the *Retail and Commercial Leases Act 1995*

The retail and commercial sector is a vital driver of the growth and development of small business in South Australia. The Act is a form of consumer protection legislation that was designed to add an extra layer of consumer protection to lessees, which most often are small businesses.

When the Act was first devised by Parliament in 1995, it was designed to strike a reasonable balance between the competing interests of lessors and lessees (landlords and their tenants).

The Act incorporates extra protections for the lessees of “retail shops” that pay annual rents below the specified threshold (currently \$400 000). Any lease provisions that are contrary to the provisions of the Act are rendered void. The Commissioner administers the Act.

In December 2013, the State Government committed to a review of the Act. That review was initiated in December 2014 by the Commissioner on behalf of the then Minister for Small Business and conducted by retired District Court Judge, Mr Alan Moss, who later formulated the Moss Review.

The Commissioner published an Issues Paper in December 2014 seeking public comment on various issues relating to the Act. Advertisements were placed in *The Advertiser* on 20 December 2014 and 10 January 2015. Separate letters advising of the review were sent to all Members of Parliament and key interest groups, as well as all lessors and lessees recorded on the Commissioner’s Retail Bonds Management System database.

Submissions to the Issues Paper closed on 13 February 2015, with 37 submissions received from a broad range of organisations, industry groups and individuals. A number of complex issues were raised. Mr Moss and the Commissioner subsequently met with a number of parties at their request.

The finalised Moss Review was noted by Cabinet on 16 May 2016 and released for public

consultation on 24 May 2016. Interested parties were again invited to provide their views on the 20 recommendations set out in the Moss Review, and to make any further comments or suggestions which they considered necessary or relevant.

When submissions closed on 26 August 2016 it had elicited 60 submissions from lessors, lessees, conveyancers, shopping centres and other key industry stakeholders, including law firms and the Law Society of SA (“the broader retail/commercial lease sector”).

The final legislative amendments recommended to the State Government can be broadly characterised as:

- clarifying and simplifying various issues around “rent threshold”, including the impact of future variations in the rent threshold;
- clarifying arrangements around the provision of disclosure Statements to lessees;
- permitting the Government to exclude certain “classes” of leases and licences from the Act, and permitting the Commissioner to certify exclusionary clauses and exempt leases and licences from the Act;
- clarifying various terms and definitions to improve certainty, and removing terms that deal with “stamping” and “stamp duty”;
- requiring lessors to return bank guarantees to lessees within 60 days of the lessee having performed all of their obligations under the lease;
- clarifying that the jurisdiction for “distress for rent” actions under the Landlord and Tenant Act 1936 resides with the Magistrates Court; and
- increasing the various maximum penalties within the Act broadly in line with CPI increases of 68.4% to 2015 (with one exception), and adding two further \$8 400 penalties for two new offences.

A number of changes mooted in the Moss Review are not being pursued; are being pursued through an alternative approach; or have been deferred to be reconsidered at another time.

There was also broad industry opposition to proposals such as:

- security being by way of three months’ rental (currently a maximum of four weeks);
- all bank guarantees provided as security by lessees being held by the Commissioner;
- the provision of a legislative pathway for an orderly exit from a lease by a failing business (very strongly opposed); and



- expanding the role of the Commissioner to be able to mediate (as now) and if necessary, determine disputes under the Act up to \$100 000.

The Moss Review proposal that no amendment to the Act should be undertaken until the effect of the Commonwealth Unfair Contracts legislation is clearly understood was viewed by some as an indeterminate and unnecessary delay to the implementation of sensible changes to the Act. The Law Society of SA was of the view that it is not necessary to “wait until some undetermined future point in time” for the Commonwealth’s “Unfair Contract laws to become operative”.

The new Unfair Contract laws became operative on 12 November 2016 after a long and extensive stakeholder awareness campaign by the ACCC. All larger businesses, including major shopping centres, have had ample warning of the expansion of the scope of these laws to cover small businesses. The Government is of the view that to seek to impede their commencement within the State for a limited class of businesses (shopping centres) would be impractical and ineffective. On balance, the Government can see no reason to delay the implementation of these reforms.

Closer detail on the changes which are due to be introduced to Parliament in July 2017 is as follows.

1. Make it express within the Act (at section 4 and at Regulation 4) that it is possible for a retail shop lease to move within and out of the application of the Act; for example a lease might move out of the Act when rent increases above the threshold, or move back in if the threshold is increased (as held in Victoria).
2. Place a duty upon the Valuer-General to recommend increases to the threshold to the Minister each five years i.e. fixed term reviews.
3. Make it express in the Act (and the Regulations if appropriate) that “rent” and the quantum of the rental threshold are each exclusive of GST.
4. Make it express in the Act that (subject to Recommendation 7 below) any retail shop lease with a rental below the rental threshold (as varied from time to time) will be deemed a “small business” (and will remain within the scope of the Act), regardless of whether or not that retail shop is part of a larger franchise, brand or group.
5. Amend the Act to allow (by regulation) a list of classes of leases and licences provided by government and local government that are excluded from the Act.

6. Extend the power to exempt leases and licences from the Act (currently by the Minister or the Magistrates Court) to include the Commissioner.
7. Make it express that for the purposes of Section 4(2)(c) of the Act that the term “public company” has the same meaning as in Section 9 of the *Corporations Act 2001* (essentially that a public company is a company other than a proprietary company).
8. This concept is to be extended to ensure that companies that are incorporated overseas, or companies incorporated in Australia but controlled by overseas registered companies, do not enjoy the protections of the Act.
9. These provisions are to prevail over any entity that would otherwise be deemed to be a “small business” pursuant to Recommendation 4 above.
10. Amend section 12 of the Act to make it clear that:
  - a Disclosure Statement must be provided to the lessee before any binding agreement can be made;
  - the Disclosure Statement must be signed by the lessor, or agent of the lessor, and served upon the lessee; and
  - the Disclosure Statement must be signed by the lessee or his or her agent.

However, there is no requirement to provide a Disclosure Statement before the exercise of a right of renewal.

As a public deterrent, a new penalty (\$8 400) for a breach of these provisions (at section 12) will be inserted into the Act.

11. Amend sections 14 and 16 of the Act to delete all references to “stamped”, “stamping” or “stamp duty”.
12. Insert provisions (pursuant to section 15(3)(e)) that will require a lessor to return a bank guarantee to the lessee within 60 days after the lessee has performed all lease obligations secured by the bank guarantee.
13. As a public deterrent, include a new penalty (\$8 400) for a breach of these provisions (at section 12).
14. Amend section 20B(3)(b) of the Act by deleting the words “with the consent of the lessor and the period of holding over does not exceed 6 months”, or otherwise as necessary to make it certain that any period of “holding over”:
  - does not imply a new lease term; and
  - will allow either party to terminate any period of “hold over”.

15. Pursuant to Section 20K, provide the Commissioner with the power to certify exclusionary clauses in leases, including the ability for the Commissioner to be able to recover a modest fee for the occasional provision of such a service.
16. Clarifying the jurisdiction over actions for distress for rent under the Landlord and Tenant Act 1936, to expressly place such actions under the jurisdiction of the Magistrates Court (and not the District or Supreme Court).
17. As well as proposing two additional penalties of \$8 400 for breaches of Proposals 8 and 10 above, it is proposed to increase the 11 existing penalties within the Act (broadly aligned with CPI increases of 68.4% between 1995 and 2015) with one exception.
18. That exception will be to substantially increase one maximum penalty (for failure to provide the prospective tenant with a copy of the lease at the pre-negotiation stage) from \$500 to \$8 400. The (prospective) lease is an important document in the decision-making process of the lessee (the tenant). It is this document which, once executed will govern almost every aspect of the relationship between the lessee and the lessor for five, 10 or in some cases 30 or more years.  
In short, the (prospective) lease document, together with the Disclosure Statement are the critical documents upon which:
  - the lessee will make his/her decision; and
  - the entire legal relationship between the parties is governed and underpinned.

#### Administration of Retail and Commercial Lodgements and Refunds

The OSBC has processed 767 lodgements to the value of \$1 327 107.77 and 535 refunds to the value of \$864 560.21, which is split between Lessee \$549 518.27 and Lessor/Agent \$315 041.69.

A total of 159 Notice of Claim letters were sent to landlords, lessees and agents during the year. Of these, nine were disputed. One other claim carried over from the previous financial year also was disputed in 2016-17.

#### Lodgements



Lodgements Processed



Lodgement Value

	Lodgements Processed	Lodgement Value
2014-15	775	\$1,280,116.14
2015-16	815	\$1,288,988.71
2016-17	767	\$1 327 107.77

#### Refunds

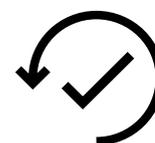


Lessee Amount



Lessor/Agent Amount

	Lessee Amount	Lessor/Agent Amount
2014-15	\$451 077.88	\$341 571.63
2015-16	\$522 485.85	\$380 797.81
2016-17	\$549 518.52	\$315 041.69



Refunds Processed



Refunds Value

	Refunds Processed	Refunds Value
2014-15	485	\$792 649.51
2015-16	535	\$903 283.66
2016-17	535	\$864 560.21



STATISTICS UNDER THE RETAIL AND COMMERCIAL LEASES ACT 1995

How were enquiries made?													Total 2016-17	Total 2015-16	Variance
	2016						2017								
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun			
Email	15	5	2	3	1	1	0	1	4	3	6	6	47	36	30.6%
Phone	98	107	104	92	124	93	86	118	121	84	104	107	1 238	1 315	-5.9%
Online form	0	0	1	0	0	0	0	0	1	0	1	1	4	12	-66.7%
Walk in	3	2	5	6	6	1	7	2	2	3	3	3	43	29	48.3%
Letter	0	0	0	0	0	0	0	0	1	0	0	0	1	0	-
<b>TOTAL</b>	<b>116</b>	<b>114</b>	<b>112</b>	<b>101</b>	<b>131</b>	<b>95</b>	<b>93</b>	<b>121</b>	<b>129</b>	<b>90</b>	<b>114</b>	<b>117</b>	<b>1 333</b>	<b>1 392</b>	<b>-4.2%</b>
Lessee	44	35	31	29	42	28	31	51	41	30	40	35	437	424	3.1%
Lessor	14	15	9	11	14	11	17	7	10	4	5	8	125	169	-26.0%
Sub lessee	2	0	0	1	0	1	0	0	0	2	0	3	9	7	28.6%
Franchisee	0	0	0	0	1	0	0	1	1	0	1	1	5	n/a	n/a
Franchisor	0	0	0	1	0	0	0	0	0	0	0	0	1	n/a	n/a
Real estate agent	10	10	4	4	15	6	15	11	9	11	6	10	111	166	-33.1%
Solicitor	3	1	2	2	2	0	0	3	1	2	0	2	18	16	12.5%
Assignee	0	0	0	1	0	0	0	0	1	0	0	0	2	1	100.0%
Assignor	0	1	0	0	0	0	0	0	0	0	0	1	2	n/a	n/a
Other	5	6	2	4	7	3	2	6	0	3	3	2	43	53	-18.9%
No selection	38	46	64	48	50	46	28	42	66	38	59	55	580	556	4.3%
<b>TOTAL</b>	<b>116</b>	<b>114</b>	<b>112</b>	<b>101</b>	<b>131</b>	<b>95</b>	<b>93</b>	<b>121</b>	<b>129</b>	<b>90</b>	<b>114</b>	<b>117</b>	<b>1 333</b>	<b>1 392</b>	<b>-4.2%</b>

## STATISTICS UNDER THE RETAIL AND COMMERCIAL LEASES ACT 1995

Subject matter												Total 2016-17	Total 2015-16	Variance	
2016						2017									
Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun				
Assignment	1	2	2	5	2	0	1	1	4	1	0	7	26	29	-10.3%
Bond security	29	36	51	41	61	42	36	38	54	26	51	43	508	473	7.4%
Disclosure statements	1	1	0	1	1	1	1	0	0	1	0	2	9	10	-10.0%
End of lease negotiations	6	6	3	6	1	2	3	7	4	8	6	4	56	50	12.0%
Term of lease	5	0	2	3	8	3	2	9	1	0	6	5	44	61	-27.9%
Outgoings	9	8	9	8	9	11	6	10	7	6	8	10	101	136	-25.7%
Pre-lease negotiations	11	9	11	3	3	4	0	6	9	7	5	2	70	92	-23.9%
Rent	11	8	2	4	9	4	8	5	9	4	4	7	75	88	-14.8%
Repairs & maintenance	10	14	11	7	15	6	11	19	12	11	3	6	125	151	-17.2%
Termination	9	18	10	14	10	9	12	15	21	10	10	16	154	143	7.7%
Other	18	6	7	6	4	6	5	6	6	15	8	8	95	104	-8.7%
No selection	6	6	4	3	8	7	8	5	2	1	13	7	70	55	27.3%
<b>TOTAL</b>	<b>116</b>	<b>114</b>	<b>112</b>	<b>101</b>	<b>131</b>	<b>95</b>	<b>93</b>	<b>121</b>	<b>129</b>	<b>90</b>	<b>114</b>	<b>117</b>	<b>1 333</b>	<b>1 392</b>	<b>-4.2%</b>

## STATISTICS UNDER THE RETAIL AND COMMERCIAL LEASES ACT 1995

Details of the Lease												Total 2016-17	Total 2015-16	Variance	
2016						2017									
Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun				
Shopping centre	1	0	0	1	0	0	0	0	1	0	0	0	3	4	-25.0%
Strip	0	0	0	0	0	0	0	0	0	0	0	0	0	3	-100.0%
Standalone	1	0	0	0	1	1	3	0	0	0	0	0	6	7	-14.3%
No selection & other	114	114	112	100	130	94	90	121	128	90	114	117	1 324	1 378	-3.9%
<b>TOTAL</b>	<b>116</b>	<b>114</b>	<b>112</b>	<b>101</b>	<b>131</b>	<b>95</b>	<b>93</b>	<b>121</b>	<b>129</b>	<b>90</b>	<b>114</b>	<b>117</b>	<b>1 333</b>	<b>1 392</b>	<b>-4.2%</b>

STATISTICS UNDER THE RETAIL AND COMMERCIAL LEASES ACT 1995

Action taken in Response													Total 2016-17	Total 2015-16	Variance
	2016						2017								
	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun			
Advice given	69	83	78	85	111	75	67	86	104	75	89	88	1 011	938	7.6%
Referred to external agency	5	1	0	1	4	0	1	0	2	1	1	1	17	71	-76.1%
Directed to solicitor/agent/other	12	11	10	4	4	2	8	7	9	3	6	13	89	155	-42.6%
Invited to lodge formal dispute	2	3	4	4	1	7	4	3	0	2	5	3	38	71	-46.5%
Sent out information	25	12	17	6	8	9	12	22	14	9	12	11	157	122	28.7%
Directed to publications	1	2	2	0	2	1	0	0	0	0	0	1	9	16	-43.8%
Directed to application forms	1	2	1	1	1	0	1	3	0	0	0	0	10	17	-41.2%
Other	1	0	0	0	0	1	0	0	0	0	0	0	2	2	0.0%
No selection	0	0	0	0	0	0	0	0	0	0	1	0	0	0	-
<b>TOTAL</b>	<b>116</b>	<b>114</b>	<b>112</b>	<b>101</b>	<b>131</b>	<b>95</b>	<b>93</b>	<b>121</b>	<b>129</b>	<b>90</b>	<b>114</b>	<b>117</b>	<b>1 333</b>	<b>1 392</b>	<b>-4.2%</b>

## INDUSTRY CODES

### Industry Codes of Conduct under the *Fair Trading Act 1987*

Four Industry Codes are currently available to the Commissioner. Each has been made pursuant to Part 3 of the *Fair Trading Act 1987*. They are:

- Farming Code – *Fair Trading (Farming Industry Dispute Resolution Code) Regulations 2013*;
- Motor Vehicle Code – *Fair Trading (Motor Vehicle Industry Dispute Resolution Code) Regulations 2014*;
- Newsagency Code – *Fair Trading (Newsagency Industry Dispute Resolution Code) Regulations 2014*; and
- Franchising Code – *Fair Trading (Franchising Industry Dispute Resolution Code) Regulations 2015*.

Each Code was drafted in a manner that allows the Commissioner to effectively mandate that parties participate in the alternative dispute resolution process, most often by way of formal mediation. Under each Code, the Commissioner is required to be satisfied that the parties have made a reasonable attempt to resolve the dispute before accepting a matter.

The Codes and associated powers under the *Fair Trading Act 1987* provide the Commissioner with significant powers of enquiry, supported by civil penalties of up to \$4 000 for a body corporate and up to \$500 for an individual.

If deemed appropriate, the Commissioner can proceed to prosecute a party through the courts, where maximum penalties of \$10 000 for an individual and \$50 000 for a corporation can be ordered.

### Industry Code Activation

Since their inception, these Codes have been used sparingly. In total, the Farming Code has been activated four times, the Motor Vehicle Code twice and the Franchising Code once. In 2016-17, the Farming Code was activated three times and the Franchising Code once.

Importantly, the Commissioner's experience has been that by merely intimating that one of the Codes may be activated, parties voluntarily engage in good faith mediation, most often resulting in a negotiated outcome.

### Proposed new Industry Code for the Building and Construction Sector

As part of the Review of the *Building and Construction Industry Security of Payment Act 2009*, the Commissioner proposed the development of a fifth code to cover the Building and Construction Industry. This recommendation to the State Government is contained in the Commissioner's response to the Moss Review.

Consultation on this Code, which is expected to mirror the four existing Codes, together with a raft of other amendments to improve the operation of the Act, will be actively pursued in the latter half of 2017.

## FARM DEBT MEDIATION BILL

In 2015-16, the State Opposition through the then Leader in the Upper House, Hon David Ridgway MLC, introduced into State Parliament the Farm Debt Mediation Bill 2015, which was similar to legislation passed in NSW and Victoria. The Bill passed the Legislative Council on 18 May 2016.

The House of Assembly disagreed to the transmission of the Bill and as a consequence it has not progressed further.



# INQUIRIES AND SUBMISSIONS

## INQUIRIES

### UNFAIR CONTRACT TERMS

A new Federal law protecting small businesses from unfair contract terms came into force on 12 November 2016.

The law applies to a standard form contract entered into, renewed or varied on or after that date. Contracts covered include those between businesses where one of the businesses employs fewer than 20 people and the contract is worth up to \$300 000 in a single year or \$1 million if the contract runs for more than a year.

Standard form contracts provide little or no opportunity for the responding party to negotiate the terms – they are offered on a “take it or leave it” basis.

The law sets out examples of contract terms that may be unfair, including:

- terms that enable one party (but not another) to avoid or limit their obligations under the contract;
- terms that enable one party (but not another) to terminate the contract;
- terms that penalise one party (but not another) for breaching or terminating the contract; and
- terms that enable one party (but not another) to vary the terms of the contract.

Only a court or tribunal (not the Australian Competition and Consumer Commission – the ACCC) can decide that a term is “unfair”. If it does so, the term will be void and not binding on the parties. The rest of the contract will continue to bind the parties to the extent it is capable of operating without the unfair term.

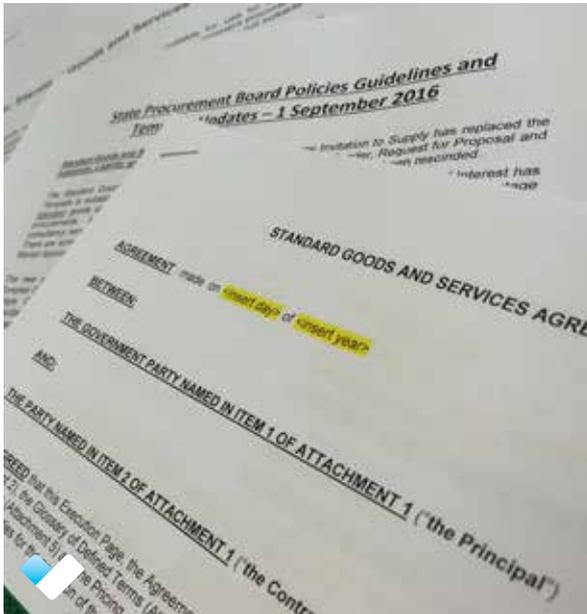
All Government bodies – whether carrying on a business or not – procure goods and services from small, medium and large businesses. The majority of these transactions are based on standard form contracts established by the Government as the purchaser.

The OSBC raised the need for the State Government to comply with the new law (despite it not necessarily being bound by the Commonwealth Act in all cases).

The State Procurement Board reviewed its standard form contracts and made a number of minor amendments to ensure compliance with the Commonwealth Act.

In addition, the Board introduced a new Standard Goods and Services Contract Template, suitable for low to medium risk, standard goods and/or services government procurements, including procurements of consultancy services and for panel contracts.

The new contract replaces 11 separate documents and includes substantial benefits for small businesses, particularly around liability and insurance requirements.



State Government contracts for goods and services have been simplified and adjusted to comply with the new Federal Government unfair contract legislation.

## PAYMENT TERMS AND TIMES INQUIRY

The Commissioner continues to deal with complaints from businesses, particularly in the building and construction industry, on the lack of payment of accounts and the unilateral extension of payment terms beyond 30 days. Some businesses have complained that payment terms can run to 120 days.

This not only severely affects cash flow, it creates a much greater problem for the businesses when there is corporate failure (eg Arrium/One Steel where standard terms were 62 days from date of invoice).

In November 2016, the Australian Small Business and Family Enterprise Ombudsman (ASBFEO) and the various State Small Business Commissioners jointly agreed that the issue of payment terms and practices, undertaken by big businesses in particular, warranted detailed examination.

As part of this inquiry, the Commissioner worked with the Minister for Small Business and encouraged the Department of Premier and Cabinet to make a submission to the inquiry.

In the past three years, the South Australian Government has undertaken significant reform of its payment processes. This has greatly improved its payment performance, putting tens of millions of dollars into the economy more quickly than historically has been the case and providing a significant multiplier effect. Of note, payments within 30 days rose from 91.62% to 96.03% over two years. There have been considerable improvements in particular from the health sector.

The ASBFEO made a series of recommendations in the final report, which set out challenges for business and the State Government to consider.

### Recommendation 1

The Australian Government to adopt a 15 business day payment time by July 2018. All levels of government to consider adopting.

### Recommendation 2

The Australian Government to require its head contractors to adopt the payment times and practices of the procurement through its supply chain. All levels of government to consider adopting.

### Recommendation 3

The Australian Government to extend its payment policies to all its agencies and entities. All levels of government to consider adopting.

### Recommendation 4

The Australian Government to publish its payment times and policies, and for all its agencies and entities, with performance against best practice benchmarks. All levels of government to consider adopting.

### Recommendation 5

The Australian Government to mandate the use of Project Bank Accounts in public works and construction projects. All levels of government to consider adopting.

### Recommendation 6

The Australian Government to procure from businesses which have supply chain payment times and practices equal to or better than its practices. All levels of government to consider adopting.

### Recommendation 7

Industry codes which regulate business to business transactions to include best payment practices including set payment times.

### Recommendation 8

The Australian Government to introduce legislation for larger businesses to publicly disclose all of their payment times and practices and performance against those terms. Larger businesses being the top 100 listed on the ASX and multinationals.

### Recommendation 9

Australian Government to introduce legislation which sets a maximum payment time for business to business transactions. Certain industries may need terms greater than the maximum which can be agreed providing they are not grossly unfair to one party. Where a longer term is called into dispute it will be considered an unfair contract term.

### Recommendation 10

Governments should encourage the adoption of technology solutions, such as e-invoicing, to assist business to streamline administrative tasks and facilitate payment practices.

## INQUIRY INTO INSET (OR EMBEDDED) ELECTRICITY NETWORKS

In October 2016, the Commissioner concluded the Inquiry into Inset (or Embedded) Electricity Networks that the then Minister for Small Business, the Hon Tom Koutsantonis MP, announced on 18 December 2012. The Minister said:

*“The objective of this Inquiry is to gain a clear understanding of the ways in which inset or embedded electricity networks operate in South Australia.*

*The review will look at arrangements and the different methods used to determine the power prices charged to business operators as well as any anti-competitive behaviour.*

*This Inquiry will consider whether there has been any inappropriate use of the imbalance of bargaining power to the detriment of small business tenants, and provide recommendations on how to prevent this occurring in future.”*

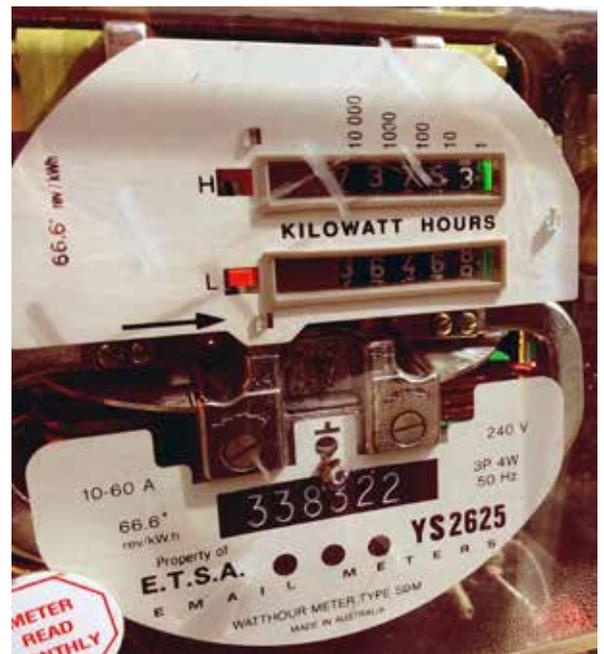
The inquiry was established to look into the operations of inset or embedded electricity networks in three areas: shopping centres, offices or commercial buildings, and industrial parks. The OSBC sought and received information from a range of parties, including retailers.

Shortly after the Inquiry was announced, regulatory responsibility for inset schemes was transferred from the Essential Services Commission of South Australia (ESCOSA) to the Federal Australian Energy Regulator (AER). The Commissioner noted in his Report that the embedded network regulatory regime continued to evolve during the course of his Inquiry.

A more recent development was the publication by the Australian Energy Market Commission (AEMC) of the final rule relating to embedded networks on 17 December 2015. The final rule specified that the new version of the National Electricity Rules is to commence on 1 December 2017.

Following his investigations and the publication of the final rule, the Commissioner made the following three recommendations in his final report to the Minister for Small Business.

- That the State Government request that the AER keep statistics in relation to embedded network enquiries and complaints, and that the information be made publicly available.
- That the State Government consult with the Federal Government on the development of an education program to ensure distributors, retailers, embedded network operators and embedded network customers have an understanding of the requirements set out in the AEMC’s final rule determination and the AER’s revised network exemption guideline (as published in December 2016).



# SUBMISSIONS

## ACCC – BENDIGO BANK/ NAB/WESTPAC/ COMMONWEALTH BANK V APPLE

The Commissioner lodged an objection to an application by a group of four banks – Bendigo Adelaide Bank, National Australia Bank, Westpac and Commonwealth bank – seeking permission to form a cartel to seek to negotiate with Apple for access for their apps to allow payment using Apple’s Near Field Contact system.

The application made no mention of benefits to the consumer or small business and, given the concerns which have been raised with the OSBC on many occasions relating to the behaviour of the banks, it was considered appropriate that this application be opposed, along with the interim authorisation that was being sought.

On 19 August 2016 the ACCC rejected the application for interim authorisation.

It is interesting to note that only the Commissioner, Apple and one other party opposed the application.

On 31 March 2017 the ACCC formally denied authorisation for the banks to collectively bargain with Apple and collectively boycott Apple.

While the ACCC accepted that if the banks were successful in negotiating with Apple this was likely to result in a significant public benefit from increased competition, consumer choice, innovation and investment in mobile payment services, the ACCC was concerned that significant detriments would arise because the proposed conduct was likely to reduce or distort competition between mobile operating systems, in the emerging market for mobile payment devices, and between payment cards.



A story in The Advertiser on 16 August 2016 extensively quotes the Small Business Commissioner’s comments opposing plans by four of Australia’s largest banks to form a cartel to oppose Apple.

## COUNCIL SOLUTIONS

Work by the OSBC was instrumental in a decision by the ACCC to refuse to allow five Adelaide Councils to form a cartel to tender out more than a third of Adelaide’s waste management.

The decision by the ACCC highlighted that there was no net public benefit from the proposal.

From early 2016, the OSBC and many businesses in the waste management, collection and recycling sectors opposed the Councils’ anti-competitive plans to bulk up all the waste management services with a long-term contract.

Scouts SA is one organisation that would have been severely affected by such a move. Profits from its container recycling operation allow it to subsidise membership and charge a fee of just \$50, compared with \$200 interstate.

This proposal simply favoured a big multi-national coming in and taking a near monopoly position in the Adelaide waste management market for up to 14 years.

The initial application by Council Solutions representing the five councils – Adelaide City Council and the Cities of Charles Sturt, Marion, Tea Tree Gully and Port Adelaide Enfield – was short on detail and lacked a formal economic analysis. The Commissioner provided two submissions that were critical of the approach being adopted.

In its decision, the ACCC said it was not satisfied that a joint procurement process would produce a public benefit that would outweigh the effects of the reduction in competition.

The ACCC also stated that, given the size and scope of the proposed conduct and the uncertainty about the possible outcomes arising from the request for proposal process, the ACCC was not satisfied that net public benefits were likely.

Of concern to the Commissioner was that the Councils could not quantify in even the broadest terms the savings they expected to get from such a long-term contract.

The Commissioner criticised the long-term arrangement proposed as it would have removed competition and the ability to innovate.



John Fitzpatrick from Waste & Recycling Association of SA thanking the staff of the OSBC for their assistance with the Council Solutions matter.

The key concern about the proposal was that it would undoubtedly favour a large multi-national company because no local businesses would have the capital capacity to tender for such a large segment of Adelaide’s waste management services.

Time and time again these long-term arrangements turn into a burden, or even fail, because of poor specification and poor management.

### PARLIAMENTARY SELECT COMMITTEE INQUIRY INTO THE STATE-WIDE ELECTRICITY BLACKOUT AND SUBSEQUENT POWER OUTAGES

A Parliamentary Select Committee invited the Commissioner to provide his views regarding the State-wide electricity blackout of Wednesday 28 September 2016, as well as subsequent power outages.

The submissions were required by early February 2017 – prior to the release of the final report by the Australian Energy Market Operator (AEMO) in March – and thus the Commissioner could only consider information that was to hand at the time, including AEMO’s “Third Preliminary Report of December 2016”.



The Small Business Commissioner welcomed the ACCC’s decision to refuse a plan by 5 Adelaide Councils to tender out all their waste management needs for up to 14 years.

The Commissioner closely examined how the Black System transpired, concentrating on the role played by AEMO as the regulator of an essential national service. He also examined whether AEMO had properly and adequately fulfilled its role as a “reasonable regulator” of an essential service. Was AEMO adequately providing “energy security for all Australians”?

The Commissioner noted the seemingly obvious flaw arising out of AEMO investigating itself, suggesting to the Committee that AEMO would lack the ability to be able to objectively test itself against the requisite standard of a “reasonable regulator” of an essential supply.

Many of the factual circumstances of the Black System that were uncovered by the Commissioner subsequently came to light in AEMO’s final report. It remains to be seen whether there will be any external examination of AEMO’s performance in late 2016.

What has since become plain is the extreme vulnerability of the State’s power networks in certain circumstances, as well as the need for those vulnerabilities to be addressed by late 2017. In that regard, the Commissioner was pleased to see the State Government take urgent steps to address the State’s energy security.



## **CITY CONSTRUCTION IMPACTS UPON SMALL BUSINESSES WITHIN THE CBD**

In November 2016, the Commissioner wrote to the Minister for Planning, the Hon John Rau MP, seeking a meeting to discuss development planning within Adelaide's CBD – in particular, regarding complaints received from small businesses that have been adversely affected by commercial construction work on neighbouring CBD properties.

Throughout various major CBD developments, the OSBC liaised between impacted small business neighbours, the developers and the Adelaide City Council to try to deal with a myriad of "neighbour impact" issues as they arose.

In the early stages of one major development, the developer's attitude to the Commissioner's interest could best be described as "challenging". Over time, however, the OSBC was able to build a rapport with the company's management that enabled contentious matters to be debated in good faith.

However, other developers were happy to engage with the OSBC and went out of their way to be obliging regarding their impact upon their small business neighbours.

These and other upcoming developments served to highlight some of the difficulties that emerge through the Development Approval Commission's (DAC) approval of projects above \$10m – often with what might appear to be too little consideration of the impacts on small business neighbours. The Council has also expressed its concerns to the Commissioner about the current processes.

The Commissioner proposed that one step might be to cooperatively develop a suite of basic "good neighbour" principles that are appended to substantive DAC approvals for larger CBD projects, such that these "set the bar" regarding consultation with neighbours, the removal of demolition debris, the mitigation of noise/vibration during major trading hours for close by restaurants, and the like.

The Minister's office subsequently investigated the preparation of a set of guidelines concerning appropriate conduct between neighbours during significant construction projects.

The Minister noted that the Council has responsibility in overseeing compliance and enforcement matters in relation to development construction activities. This includes developments for which the DAC was the relevant authority to issue Planning Consent.

The Minister also noted that the Council has care and control over the road and footpath network and thus over the assessment and issuing of permits such as temporary road closures, re-routing, alterations to parking and the like, which may arise in relation to large-scale construction activities.

Within this context, the Department of Planning, Transport and Infrastructure (DPTI) consulted the Council regarding the various matters outlined.

Following this consultation with the Council, the Minister advised that DPTI considered that all the guidelines in the protocol are already covered by the Council's case management service, in conjunction with its City Construction Guidelines and permit documentation. All of these are issued to the builders of all large scale proposals.

Indeed, the Council service may actually be a more effective method of minimising construction impacts than the protocols in other jurisdictions, as it not only alerts builders to legislative and permit requirements up front, but also provides ongoing assistance and guidance to both builders and neighbouring landowners. This maximises the potential to ameliorate impacts as they may arise and ensure ongoing accordance with relevant legislative requirements and includes mediation procedures if required.

In any event, the Minister agreed that the Council's post-approval case management, which is made available to all large scale approved projects, might benefit from further enhancements and that these could be further explored with Council.

The Council had advised the Minister that they are willing to receive suggestions to identify any such potential enhancements. The Minister left it open to the Commissioner to further liaise with the Council as he saw necessary.

## **ECONOMIC AND FINANCE COMMITTEE OF THE SA PARLIAMENT INQUIRY INTO PRIMARY PRODUCERS.**

On 16 November 2016, Parliament's Economic and Finance Committee commenced an Inquiry into options for enhancing and supporting South Australian primary producers in competitively supplying to retailers, to ensure future local processing and manufacturing in the horticultural, viticultural and agricultural sectors.

The Commissioner responded to the request for information to assist in the preparation of an issues paper.

The Committee will report on issues currently faced by local primary producers relating to competitively supplying their products to retailers. The Committee sought submissions from interested parties and the Commissioner offered his written submissions on 8 March 2017.

The Commissioner emphasised that the food supply chain starts with primary producers, but that in his view they often seem to be at the mercy of the practices of large retailers and manufacturers who exercise an attitude of “take it or leave it”.

While the OSBC receives few cases in this field, the Commissioner’s ongoing contact with representatives of individual primary producers, industry groups and associations assists him in forming his views. He went on to identify a number of areas that he felt the Committee might benefit from looking into more closely, including the following.

- Input Costs – including labour (need for investment in future mechanisation), the reducing reliance on chemical inputs (need for pest and disease resistant crops) and, importantly, power costs.
- Fragmented or Incomplete Value Chains – the relationships in the value chain and options for moving from a price-taker model to one where the end retailer fairly shares in risks and returns.
- Transparency of Pricing – major concerns in the industry are the margin between what is paid for fresh food at the farm gate and what is charged to the consumer by the retailer, and the profit margins being made in the current fresh food market supply chain. The relationships between direct supply primary producers and the major supermarket retailers could also bear some scrutiny.
- Contractual Arrangements – an examination of “one-sided” contracts that do not share risk and returns, as well as the increasing number of cases where there are no written contracts, even for the supply of fruit, let alone any agreement about prices.

The Commissioner identified a lack of objective measures to assess fruit quality/traceability, the lack of any agreed process for independent assessment or dispute resolution and outdated payments systems that often mean growers are paid late.

The Commissioner noted that there is widespread frustration in the wine grape industry that risks and returns are not fairly shared. Late price signals mean there is little opportunity for growers to

decide to save costs by not harvesting. Growers have expressed their concern that price signals are only indicative and are only given after many costs have been incurred.

The Commissioner noted that the powers to set wine grape prices already exist under the *Wine Grapes Industry Act 1991* (SA).

The Commissioner also noted that while there are many wine grape growers, there are fewer buyers and that some of these buyers are large corporations whose obligations are to their shareholders, not to the growers in the production chain.

More broadly, the Commissioner alluded to allegations of significant commercial malpractice within the food and grocery sector, saying he believes this to be under-reported due to fear of being excluded from future contracts and/or sales.

Finally, the Commissioner noted the Independent Review of the Horticulture Code of Conduct that had been instigated by the Federal Government, as well as the Federal Government’s response to the Report that was released on 13 February 2017.

He expressed his concern that the Federal Government had not adopted the recommendation to regulate transactions between growers and retailers where the retailer is not a signatory to the *Competition and Consumer (Industry Codes – Food and Grocery) Regulation 2015*.

The Committee went on to publish an Issues Paper on 13 April 2017 and the Commissioner gave evidence to the Committee regarding his submissions on 24 May 2017.

## WHS STEVEDORING CODE OF PRACTICE (CODE)

In October 2016, the Commissioner provided feedback to the Minister for Industrial Relations, the Hon John Rau MP, regarding the proposed Stevedoring Code of Practice. He noted that it seems the main players in this arena are not small businesses and therefore the impacts on that sector will be minimal.

However, he agreed with the view that while workplace safety is paramount, the regulatory burden on businesses of any size should be the minimum required to achieve safe outcomes. On that basis, he accorded with others that the information in the draft Code not be formalised into a Code of Practice, but instead become guidance material. This would align with the State Government’s push to minimise regulatory red tape wherever possible.

## SUBMISSIONS TO THE REVIEW OF THE WORK HEALTH AND SAFETY ACT 2012 (SA) – DISCUSSION PAPER

In November 2016, the Commissioner offered submissions on SafeWork SA's Discussion Paper – Review of the *Work Health and Safety Act 2012* (SA) (WHS Act).

Section 277(3) of the WHS Act required a second review of the operation of it as soon as practicable after 1 January 2016. This Review however predominantly examined the operation of the South Australian provisions that differ from the model WHS laws.

The Commissioner advised that he continued to support the WHS Act in its current guise, including the South Australian variations. In adopting that view, he noted that no substantive reasons for change had been offered in the Discussion Paper, and that in his dealings with small business he had not been made aware of any reason that would underpin any change.

The Commissioner noted that he was pleased to see that “transformation in the delivery of SafeWork SA's compliance and education services” had been implemented and seemed to be operating smoothly – providing a clear delineation between inspector and educator functions and roles.

It is important that small businesses (which represent around 98% of all businesses in South Australia and employ 34% of the private sector workforce) are able to call on educators who are not inspectors to assist them with WHS issues.

The Commissioner also stated he had not seen the additional variations to the model WHS laws as being problematic, particularly given that, since the introduction of the WHS Act, “South Australia's WHS performance has continued to improve, with consistent reductions in work-related death, injury and illness”.

The Commissioner noted that the WHS Act seems to be operating smoothly, although the regulation associated with it continues to be too cumbersome (at around 1200 pages) and too complex for small business to cope with easily.

## EPA REVIEW OF THE ENVIRONMENT PROTECTION WASTE REFORM AMENDMENT BILL

In November 2016, the Commissioner wrote to the Environmental Protection Agency (EPA) regarding its Explanatory Paper – the Environment Protection Waste Reform Amendment Bill.

He noted the issues that have been put forward by the EPA, as well as the drivers behind those issues, especially as they pertain to illegal dumping and commented that illegal dumping is being driven to an extent by the ever increasing solid waste levy that for many years has been accumulating in a hypothecated fund.

Subject to various specific submissions below, the Commissioner advised that he was broadly supportive of the Bill, which should provide the EPA with more effective tools to manage the waste and resource recovery sector. It should also work towards the important goal of preventing illegal disposal, dumping and stockpiling in the waste sector.

The Commissioner noted that in all regards his interest was focused upon any new or extended impost or regulatory burden on businesses, particularly small businesses. His view is that these burdens need to be kept to a minimum, unless there are sound reasons to do otherwise.

The Commissioner noted proposals to clarify the definition of “waste” and he submitted that the EPA consider developing a dual “simple/ complex” assessment regime, with two assessment fees that are proportionate to the work involved. This will enable smaller businesses to participate at a more affordable rate, instead of effectively cross-subsidising the extremely costly assessments for larger and more complex proposals.

The Commissioner took no issue with the proposals around illegal dumping, including the tracking device requirements (with appropriate oversight and safeguards) and Authorised Officer entry powers.

The Commissioner looks forward to continuing engagement in further consultation on many of these measures as they continue to be developed, including:

- the EPA's setting of stockpiling limits;
- the quantum of any financial assurances;
- the quantum(s) of any Application Fee(s) for any assessment process regarding an approved recovered resource; and
- the vehicles that will be subjected to GPS tracking devices.



I MUST SAY, IT IS SO NICE TO DEAL WITH  
SOMEBODY AT A LARGE ORGANISATION WHO  
WORKS EFFICIENTLY, PROMPTLY AND WITHOUT ANY  
KIND OF FUSS. IT HAS BEEN A LONG TIME SINCE I  
HAVE RECEIVED SUCH FANTASTIC SERVICE! AT THE  
RISK OF MAKING TOO MUCH WORK FOR YOU, I HAVE  
ALREADY SPREAD THE NEWS OF YOU AND YOUR  
WORK TO MY SMALL BUSINESS OWNER ASSOCIATES  
OF WHOM I AM SURE WILL HAVE NEED FOR YOUR  
SERVICES AT SOME STAGE.

ONCE AGAIN, A BIG THANKYOU!!!!!!”

**DARRIN FIELD, WALK ON WHEELS**

# STAKEHOLDER ENGAGEMENT

## SMALL BUSINESS COMMISSIONERS' MEETINGS

State Commissioners meet regularly with the Australian Small Business and Family Enterprise Ombudsman, Ms Kate Carnell AO, to discuss issues of common concern or interest.

In 2016-17, Commissioners from South Australia, Western Australia, Victoria and New South Wales were joined by Queensland's Small Business Champion, Ms Maree Adshead, who was appointed in 2016 by the Queensland Government.

The meeting resulted in a joint plan to tackle the issue of late payments and terms for small business. Other topics covered included:

- Late payments and subsequent formal inquiry;
- Mental health and small business;
- Motor vehicle industry, including collision repair;
- Banking and Small Business;
- Building and Construction Industry Security of Payment Acts National Review;
- Unfair contract laws;
- Electricity onselling;
- Retail and Commercial lease legislation;
- Government procurement.



(L-R) Victorian Small Business Commissioner Geoff Brown, WA Small Business Commissioner David Eaton, NSW Small Business Commissioner Robyn Hobbs OAM, Federal Minister for Small Business Hon. Michael McCormack, Australian Small Business And Family Enterprise Ombudsman Kate Carnell AO, Deputy Chair of the ACCC, Dr Michael Schaper and SA Small Business Commissioner John Chapman

**MEDIA APPEARANCES**

The Commissioner advocates for small business by speaking to the media and publishing articles in The Advertiser, among other publications.

**Commentary Articles by the Small Business Commissioner**

- Black economy – a blight on our honest operators  
*Published: The Advertiser, Monday 5 June 2017*
- MTA Strongly Represents Its Small Business Members  
*Published: Motor Trade Official Magazine of the Motor Trade Association of SA, May 2017*
- Time to take lead on mental health  
*Published: The Advertiser, Saturday 15 April 2017*
- Sold short on late payments  
*Published: The Advertiser, Monday 23 January 2017*



Small Business Commissioner John Chapman being interviewed by ABC TV in relation to Apple Pay.



Small Business Commissioner John Chapman and Radio Host Mario Lucci on Italian Radio, Tuesday 23 August 2016

**Radio Interviews**

- ABC Regional radio Whyalla, Wednesday 20 July 2016
- ABC Radio Port Pirie, Tuesday 26 July 2016
- ABC North and West, Tuesday 1 November 2016, Tuesday 8 November 2016, Tuesday 15 November 2016, Tuesday 22 November 2016, Tuesday 29 November 2016, Tuesday 6 December 2016, Tuesday 13 December 2016
- Italian Radio, Tuesday 23 August 2016
- ABC Radio, Thursday 30 March
- Hills Radio Interview, Friday 19 May 2017
- 5AA, Friday 10 March 2017, Monday 10 April 2017, Thursday 20 April 2017 and Tuesday 23 May
- Barossa Community Radio Interview
- ABC South East

**PRESENTATIONS: 1 JULY 2016 - 30 JUNE 2017**

BDO State Business Survey Event	Adelaide
Brand SA Event	Adelaide
Chamber Event - Business SA	Adelaide
Crane Industry Council of Australia SA Branch	West Lakes
Gawler Small Business Expo	Gawler
Hair and Beauty Awards	Adelaide
Healthy Workplaces: Where people and Businesses Thrive - CEDA Event	Adelaide
Master Electricians Breakfast	Adelaide
Mawson Lakes Traders Group	Mawson Lakes
National Electrical Contractors Association Awards	Adelaide
Regional Voice	Whyalla Port Pirie Barossa Victor Harbor Walleroo Port Lincoln
Regions in Focus Roadshow	Port Pirie Port Augusta Kangaroo Island Strathalbyn Mount Gambier Cleve
Small Business Disrupting (Bizruption) Industry Event	Adelaide
Unley Road Traders Assoc. Awards	Unley

## WHYALLA SUPPORT FOR SMALL BUSINESSES

As the financial year closed, there was still uncertainty around the sale process for the Arrium group of companies, including the Whyalla Steelworks.

During the year, the Commissioner travelled regularly to Whyalla to meet with businesses, the community and local government representatives, and the OSBC provided ongoing support and advice to small business operators. Considerable work was undertaken to encourage businesses to identify new markets outside the city for products and services.

The Commissioner worked closely with Arrium's Administrators, KordaMentha, to resolve payment issues and work through other areas of concern.

KordaMentha's open approach and the willingness to find ways to resolve issues was greatly appreciated. The OSBC thanks partners Mark Mentha, Sebastian Hams and Scott Langdon and their team for their support in a very difficult time.

There is no doubt the State Government's prompt action in implementing the \$9.6 million Whyalla Small Business Loan Scheme in May 2016 was instrumental in the survival of a number of businesses and the maintenance of hundreds of jobs.

The Commissioner worked with many of the businesses seeking loans to ensure a smooth and timely passage through the Government's assessment system. As at June 2017, 19 loans had been approved to a total value of \$5.6m.

One of the early recipients of the loan scheme, Delmac Power Equipment, showed resilience typical of Whyalla businesses. It's their strong commitment to customer service that saw the business named the 2016 Whyalla Business of the Year by the Whyalla Chamber of Commerce.

The work undertaken by the Chamber throughout the Arrium administration was outstanding and showed genuine leadership.

The Whyalla Chamber Committee led by President Ron Hay and supported by Executive Committee members Soto Stuppos, Heidi Freeman, Peter Klobucar, Peter Fulton and Darren Goodwin was instrumental in maintaining a positive and forward looking approach. It provided great support to the OSBC and Whyalla as a whole.

Regional Development Australia, Whyalla and Eyre Peninsula also played a lead role in supporting various initiatives and providing on-the-ground assistance to the Commissioner.

The Commissioner worked closely with the Whyalla City Council and appreciated the support of Acting Mayor, Tom Antonio and the new Mayor, Lyn Breuer. Acting CEO Migelle Hiscock and later, new CEO Chris Cowley were instrumental in working with the Commissioner to deliver two grants to assist the Whyalla community.

Bedford, which works with people with disabilities to find employment and live independently, approached the Commissioner in July 2016 expressing concern that it may not be able to keep its supported staff fully employed due to a downturn in business. This would have had a significant impact, with family members possibly having to quit their jobs to move to full-time carer responsibilities.

The Commissioner approached the administrators of Arrium who promised to review their cleaning and garden maintenance work to minimise any impact on Bedford, which had supplied these services for many years.

At the same time, an approach was made by the Whyalla North Football Club concerning the financial difficulties it would be facing in the future due to a falloff in club trade and support. In particular there was concern that one of the key costs for the club was the fees charged by the Whyalla Council for ground maintenance and lighting.

Following discussions with the Council, the Commissioner prepared a submission to the Treasurer, the Hon Tom Koutsantonis MP, recommending the State Government provide two grants to the Council.

The first was for \$100 000 to allow the Council to engage Bedford to undertake extra hard waste collection following a significant increase in illegal dumping in and around the city. The second was for \$25 000 to allow the Council to waive ground fees for the sporting clubs for the 2016-17 financial year.

The Government announced these grants during a Community Cabinet visit to Whyalla in November 2016.

## ON THE GROUND IN WHYALLA



Dawn over Whyalla Steelworks.



(L-R) Paul Pracillo, KordaMentha Manager and John Chapman Small Business Commissioner inspect some finished steel product at the Whyalla Steelworks during the Arrium Administration.



The happy crew at Bedford's Whyalla operation.



(L-R) Ron Hay, President, Whyalla Chamber of Commerce, John Chapman, Small Business Commissioner, Ian Nightingale, Industry Participation Advocate and Paul Case, Whyalla Regional Co-Ordinator at BizLink Seminar in Whyalla, August 2016.



(L-R) Hon Leesa Vlahos MP, Minister for Disabilities, Mr Eddie Hughes MP, Member for Giles, Hon Tom Koutsantonis MP, Treasurer and John Chapman, Small Business Commissioner at the announcement of the State Government \$100 000 grant to support Bedford's waste collection activities.



(L-R) Soto Stuppos Hood Sweeney Partner and Whyalla Chamber of Commerce Executive Member, Lyn Breuer, Mayor of Whyalla and John Chapman, Small Business Commissioner at the Community Cabinet in November 2016.



Billboard Whyalla 'We Stand with the Australian Steel Industry'



Whyalla Steelworks from the Hummocks



(L-R) John Chapman, Small Business Commissioner Tim Breuer, Bedford General Manager and James Babidge, Bedford employee who is one of the key operators of the embroidery machinery. The Commissioner visited Bedford's Whyalla operations a number of times during the year.

## Bedford receives timely boost

THE State Government announced today it will provide a grant of \$100,000 to ensure the Bedford Group can continue to provide meaningful work to its supported employees in the Whyalla area.

The grant will be made available to the Whyalla City Council so that the council can engage with Bedford to carry out essential collection of illegally-dumped rubbish.

Like many suppliers in the Whyalla area, Bedford has been adversely affected by the Arrium administration, with the value of contracts to supply the company in 2015-16 significantly reduced.

Member for Giles Eddie Hughes said the funding injection came at a time when Bedford needed it most.

"Bedford Industries has been an incredibly important part of the fabric of our community, the services that they provide are just essential," he said.

"Some of the most vulnerable people in our community that need employment, that need somewhere to go a during the day to be productive and engage socially, we knew that they needed some assistance.

"With the help of our Ministers and the fantastic

work of our Small Business Commissioner John Chapman, the discussions were entered into based around how we could help Bedford Industries.

Treasurer Tom Koutsantonis said it was an 'easy decision' to approve the grant.

"Bedford are part of a substantial, skilled supply chain that exists to supply and support the Whyalla Steelworks," Mr Koutsantonis said.



BEDFORD SUPPORT: State Disability Minister Loeza Vlahos, Member for Giles Eddie Hughes, Treasurer Tom Koutsantonis and John Chapman.

Article from Whyalla News 24 November 2016



Delmac Power Equipment Owners, Steve and Denise Savaidis with Hon Geoff Brock MP, Minister for Regional Development and John Chapman, Small Business Commissioner.



**Small Business  
Commissioner**  
SOUTH AUSTRALIA  
INFORM | MEDIATE | ADVOCATE

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# YEAR IN REVIEW

## 2016-17