LEGISLATIVE COUNCIL

Thursday 1 April 2004

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

QUESTION ON NOTICE

The PRESIDENT: I direct that the written answer to the following question on notice be distributed and printed in *Hansard*: No. 246.

BAXTER DETENTION CENTRE

246. **The Hon. KATE REYNOLDS:**

1. Is the minister aware that visiting health specialists are becoming concerned at the high usage of psychotropic medication, such as antidepressants and antipsychotic drugs, being dispensed to detainees at the Baxter Detention Centre?

2. Is the minister aware that much of this heavy duty medication is being prescribed by visiting general practitioners who are being advised by the mental health team based at Baxter?

3. How many individuals detained at Baxter have been recommended for assessment by psychiatrists?

4.What medications have been prescribed to detainees and in what doses?

5. Does the minister believe there should be an audit of all medication prescriptions issued for Baxter detainees?

The Hon. T.G. ROBERTS: The Minister for Health has advised:

1. The Minister for Health is aware of commentary in the press by visiting health specialists regarding the high use of psychotropic medication being dispensed to detainees at the Baxter Detention Centre, but as the Commonwealth Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) is responsible for the provision of health services, the information has not been validated. It has been reported that some detainees show behaviour that could place them or other people at extreme risk of physical harm and therefore require immediate targeted pharmacological intervention.

2. As the majority of GP services come within the jurisdiction of DIMIA, it is not possible to ascertain whether visiting general practitioners who are being advised by the mental health team based at Baxter are providing heavy-duty medication. The majority of GP services come within the jurisdiction of DIMIA.

3. The number of individuals detained at Baxter who have been recommended for assessments by Psychiatrists is not immediately available. This information would require a clinical audit of records and all released information would have to consider the confidentiality of the detainees involved.

4. The Department of Human Services (DHS) is unable to ascertain what medications have been prescribed to detainees and in what doses, however, there are established guidelines for the safe and effective use of medication, including the therapeutic dosage in relation to any given medication that may be involved in any treatment of mental illness.

5. DHS, in conjunction with DIMIA and other stakeholders, are convening a workshop in April 2004 in Port Augusta to:

- develop appropriate pathways of care, which will also address the medication requirements of detainees as part of individual packages of care
- ensure timely and predictable mental assessments and pathways of care for detained asylum seekers at the Baxter Detention Centre.

ECONOMIC DEVELOPMENT BOARD

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I lay on the table a ministerial statement on the implementation of the EDB recommendations made by the Minister for Urban Development and Planning.

LAND, ALDINGA AND SELLICKS BEACH

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I lay on the table a copy of a ministerial statement on land division on hold in the south made by the Minister for Urban Development and Planning.

SPEAKER'S REPLY

The PRESIDENT: Before calling on question time, I indicate to the council that I have answers to questions asked of me on 26 February by the Hon. Sandra Kanck and the Hon. Mr Lucas. On that day I was asked two questions by the Hon. Sandra Kanck, the first of which emanated from an inquiry from a constituent of hers about an invitation to a meeting. She asked me to ascertain whether the Speaker (Hon. Peter Lewis) was aware of the wording of this invitation and whether or not he supported its sentiments.

In response to the first question in which the honourable member asked me for a ruling on whether the authors of the content of that invitation were in contempt of parliament, I believe that, as President, that role is mine. So, I made that ruling, and I took on notice her second question. I took it from that question that the Hon. Sandra Kanck was asking me for my opinion as to whether it was in contempt or not and that she was also seeking the opinion of the other presiding officer of this parliament.

The Hon. Mr Lucas then asked me by way of a supplementary question to inquire of the Speaker as to whether he used his resources at Parliament House in any way or authorised the use of resources to assist the distribution of such material. In response to those two questions—there being no indication of any dissent from the council—I then undertook what I believed to be my duty as the presiding officer (when a question is asked of me) to answer that question. I wrote to the Speaker on behalf of this council on Thursday 26 February in the following terms:

> The Hon. Sandra Kanck asked me a question in the Legislative Council regarding an invitation to a meeting on citizens initiated referenda. Mrs Kanck asked in part: Mr President, will you ascertain whether the Speaker in another place (Hon. Peter Lewis) is aware of the wording of this invitation and whether or not he supports its sentiments.' The Hon. Rob Lucas then asked: 'Mr President, will you inquire of the Speaker whether he used the resources of Parliament House in any way or authorised the use of resources to assist in the distribution of such material?'

I then said, as directed by the Legislative Council:

> I would appreciate a response to these issues so that I may advise the house accordingly.

On reflection, I should have probably said 'as requested' but, when asked by this council as the presiding officer to undertake certain tasks, I take it as my duty to do that. I received the following correspondence from the Hon. Peter Lewis. In giving the answer in the manner in which I feel is appropriate, as I go through the letter I will make some comment to clarify the position as I see it as your presiding officer. The Hon. Peter Lewis states:

> Dear Mr President,
>
> I am more than a little astonished to receive your letter of 2 March 2004. It will please me if you read and circulate this response to Honourable Members of the Legislative Council [as I am doing now], as thereby they will come to know on what authority I make this humble reply.
>
> I wonder at the extent to which you have had the opportunity to either consult with other experienced Upper House Presidents and read Odgers and Erskine May about the disorderliness of such

practices as asking the President 'Question Without Notice': more especially, your ignorance of the disorderly (indeed reprehensible) practice of calling into question in the House of Lords (or any other Upper House in bi-cameral parliaments) the conduct of Mr Speaker.

I was unaware that anyone was calling into question the conduct of the Speaker. There were two questions about process that were being asked. It continues:

I also respectfully wonder about how you came to be 'directed by the Legislative Council'.

Well, the answer to that I think I have just covered. The letter continues:

Equally, I am amazed and dismayed (yet I suppose I should not be surprised) that such proceedings ever got on foot, given the willingness of many of the Honourable Members in your Honourable Chamber to tell lies, to engage in disorderly debate about me and to defame and slander me publicly, including those Honourable Members who indulged themselves in this disorderly inquiry, notwithstanding the assurance you have given me in conversations we have had following previous occasions upon which this has occurred that you would not again allow such disorderly conduct.

I have no memory of giving any of those assurances. On all occasions, if a matter is within standing orders and does not breach parliamentary protocol, I would allow the question. If it were not, it would be ruled out. It continues:

My conclusions are of course based upon the necessity to recognise the great benefits which each of the two Houses of a bi-cameral Parliament provide (in their separate and conjoint roles) for the constituent society which they have been constituted to serve. The relevant founding notions include

- that each shall be equal in standing to the other.
- that whilst the Lower House provide the authority for Government and Supply, the Upper House should provide the review of Government administrative processes and of legislation.

Honourable members would be well aware that we are two houses of equal powers; supply is obviously a matter for the lower house. Further:

- that legislation must pass both in the same form before the Act can be proclaimed in law.
- and (most important of all in this context) that neither House (nor any Honourable Member) can therefore presume to inquire into the motivation and the debates and the contents and proceedings in the debates of Honourable Members, or the conduct of Honourable Members in the other House.

The Hon. R.I. Lucas: That is untrue.

The PRESIDENT: Well, in relation to both those questions under scrutiny, no-one has talked about any of the debates in either house. There is no reference to the proceedings. It continues:

Such proceedings are and must remain in the domain of that House itself, within the framework of its standing orders as authorised by the Constitution; otherwise quarrels between the two Houses and the Members of which they are comprised will break out and distract each of them from their real purpose; always acknowledging that the proceedings in each of them is privileged and that such quarrels and personal injuries (damages) as may result cannot be resolved in any other court. Nor can they be resolved or determined by the Parliament itself!

May I, as always, make a frank and sincere attempt to be helpful and constructive in providing quotes from some of the background authorities upon which I have relied for support of my conclusions? Please note that the bold typeface is for my emphasis of the most relevant words in the quotations I make and do not form part of the quoted text.

First and foremost the Legislative Council Standing Order 107, pointing out that questions should only be put to other Members (which may include Mr President) relating to any Bill or other 'public matter connected with **the business of the Council in which such Member may be especially concerned**'

The emphasis clearly is that of the Speaker. His interpretation of the rules, I would contend, is not precisely correct. It continues:

An invitation to a meeting extended by a third party and your views about it (whether or not you have any) do not constitute 'a public matter'. The meaning of a 'public matter' does not embrace something which is simply 'known to the public', but rather refers to 'matters of **public** administration'—of Executive Government and the like.

Equally, an invitation to a meeting is not and cannot be seen to be 'connected with the business of the Legislative Council', as this expression means matters actually before the Council or one of its Committees—that is, on the agenda. Furthermore and, again, equally, for the President to be 'specially concerned' the President (that is the Honourable Member holding that Office for the time being as distinct from the separate entity yourself as an MLC, the Hon. Ron Roberts) has to have a particular responsibility. In the subject cases of your correspondence no such responsibility exists for the 'office holder' the President; indeed the opposite is expressly the case.

I say on my behalf in this case—on your behalf—that whatever directions are provided to me by this council I will comply with. It continues:

In Erskine May, where enquires (questions) are addressed to the Speaker (Presiding Officer) they should only be by **private notice** and then only on matters '**within the jurisdiction of the Speaker**' (Presiding Officer). Other respected texts refer to Questions addressed to Presiding Officers being very narrowly restricted to **administrative matters within their responsibility** (as Presiding Officers).

The Question from the Hon. Sandra Kanck asks for an **opinion** (about the contents of the invitation) which is against another basic rule covered by Standing Orders about Questions to the Presiding Officer, notwithstanding the fact that it is otherwise disorderly because no such formal verbal inquiry may be made (of Presiding Officers) in your honourable chamber.

The practices, procedures and protocols of this parliament have always provided, and should always provide, that this council is the master of its own destiny. By majority vote, this council is capable of mastering its own destiny. It goes on:

The Question from the Hon. Robert Lucas, even though about administrative matters, is still disorderly on two counts. It cannot be put to the Presiding Officer in the formal proceedings of the Chamber. Secondly, even if it could, the Presiding Officer in the Legislative Council is not responsible for the issue and nor is the Presiding Officer responsible for any enquires about it.

Odgers; Australian Senate Practice; 10th Edition on page 144 states: 'The Standing Orders do not provide for the President to be asked Questions, either without or on notice.' Even though this practice has fallen into disrepair in some measure—

I point out that the practices, procedures and protocols of this council have always, in my 16 years of service here, embraced questions which include the public interest about matters which are of economic value, and the conduct of members of parliament has always, in my view, been a question of public interest—

questions have only ever been admitted and answered where they relate to matters which deal particularly with parliamentary administration for which the President is responsible and answers to which can only be satisfactorily provided by the President.

As President, I see it as my responsibility, when asked questions, to transport those questions to another house, and I have done it. It goes on:

With the greatest respect, you are not responsible for the House of Assembly, nor are you responsible for the Speaker, nor the Member for Hammond. (God forbid, even if you won't. I would not want you to be held responsible for my actions—that would not be fair to you!)

I thank the Speaker for that. My reputation is not great, but I do not want it in absolute tatters.

The Hon. P. HOLLOWAY: Mr President, is it in order that you should reflect upon a member in another place?

The PRESIDENT: I dispute that I have reflected on anybody. I spoke about myself. If I reflected on anybody, I reflected on myself. It continues:

In Odgers et al on page 506:

'The basic requirements of question time were stated by President Laucke to be:

· Questions must relate to matters for which a minister (or President) is responsible. . . '

I think I have covered the matter of the responsibility of the council and, as always, my responsibility will be to this council. It goes on:

On the next page of Odgers et al standing order 73 is quoted:

'Questions shall not ask for an expression of opinion i.e. whether or not he supports its sentiments?' as per the Hon. Sandra Kanck.

I understand the Speaker's concern in that matter. My understanding was that I was asked a question as to whether I thought it was a contempt of parliament, and my interpretation was that the Hon. Sandra Kanck sought the opinion of the other presiding officer. It goes on:

In the event that your Honourable Chamber's Standing Orders were to countenance Questions to the President, then some helpful insight as to the limits of the subject which may be canvassed by those Questions can be obtained by reference to page 443 of the (unicameral) New Zealand House of Representatives 'Parliamentary Practice in New Zealand'.

That is, indeed, probably a fact, but Kiwi rules of debate are hardly going to get off the ground here in South Australia. It continues:

'In respect of the Speaker, they can relate to **any matter of administration for which the Speaker is responsible**'. A further remark about these matters is to be found on page 525 et al.

In Erskine May on page 381, remarks in one Chamber about the other Chamber (or Members of it) are dealt with. The explanation provided supports the contention I have made in that:

'The rule that references to debates of the current session in the other House are out of order prevents **fruitless arguments between Members of two distinct bodies who are unable to reply to each other, and guards against recrimination and offensive language in the absence of the other party**.' This principle applies to other actions and activities besides debates.

I make the point once again that there are no questions before this council on which I was asked to act and which referred to debates or any other practices in the other house. I would suggest that others are guilty of fruitless arguments and unparliamentary reflections on other members of another house. It goes on:

This should put the matter behind us without more fuss. We have other, more constructive things to do in the public interest than to engage in anything which might result in an internecine argument.

Yours most respectfully and sincerely

Hon. Peter Lewis.

I agree with the last sentence entirely. As I have oft said in this council, it is my role, my function and my duty to uphold the practices, principles and procedures of this council and maintain its dignity at all times. In respect of the last part of that commitment—to maintain the dignity of this council and the dignity of the parliament—it is my intention to not refer to this matter in reply to any more questions, either publicly or privately.

What I have just done today is give a report, as I am duty-bound to do in reply when I am asked a question. It is my role and my right, as it is for any minister answering a question, to answer it in the way that I see fit. I have endeavoured to do that. I have also endeavoured to give this answer before question time to allow honourable members a full hour for questions rather than it be taken up by this matter, which has been an unfortunate distraction and which has not been helpful to the dignity of either house of parliament.

QUESTION TIME

STATEMENT OF ACKNOWLEDGMENT

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about a statement of acknowledgment.

Leave granted.

The Hon. R.D. LAWSON: I am indebted to my colleague the Hon. John Dawkins for drawing to my attention a direction issued by the Chief Executive of the Department of Human Services at the end of December, which reads as follows:

The following is a statement to be used in the commencement of all Department of Human Services external forums, conferences, events and meetings in the Adelaide Metropolitan region. The statement acknowledges the Traditional Aboriginal ownership of the land on which the meeting is being held.

The statement will also appear on all agendas and minutes of departmental internal meetings. I am advised that that includes regional health boards, hospital boards and the like throughout the state. The form of acknowledgment to be used in the Adelaide Metropolitan area which can be appropriately adjusted for other areas is as follows:

We would like to acknowledge this land that we meet on today is the traditional lands of the Kaurna people and that we respect their spiritual relationship with their country. We also acknowledge the Kaurna people as the custodians of the greater Adelaide region and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

I am sure most members of this chamber would believe that public acknowledgment of the traditional association with the land of Aboriginal people is appropriate on certain occasions and at particular events. I certainly commend those Aboriginal people who do provide messages of welcome to events that occur around the state. My questions to the minister are:

1. Is he aware that some would regard the Department of Human Service directive, especially insofar as it relates to the minutes and agendas of all meetings, as tokenism?

2. Is he aware that the Premier and some ministers do make an acknowledgment on some occasions but not other public events? If so, what criteria applies in electing whether to make a statement and when not to do so?

3. Does a similar acknowledgment appear on all agendas and minutes of (a) Cabinet, (b) the Executive Council and (c) all Labor caucus agendas and minutes?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): The questions which the honourable member raises are important. As far as I know, no directives are given to any ministers and/or departments. They are purely the responsibility of individuals, individual departments and individual ministers as to how they handle acknowledgments of country. In my own circumstance I try at all times to make a statement of acknowledgment, particularly when I am holding meetings with the Aboriginal people on issues.

An honourable member interjecting:

The Hon. T.G. ROBERTS: It depends on the message that you want to give to a particular meeting. In terms of Aboriginal affairs and reconciliation, I try to do it on all public occasions. I was at an occasion in the Adelaide hills last Saturday. No Aboriginal people were present but, because it was to do with land management and questions of

land use, I made the acknowledgment that we were standing on traditional owners' lands. The traditional owners are difficult to recognise in some areas of the state, so you make a broad acknowledgment.

If you do know and acknowledge the land on which you are standing and you do know that there are living descendants of those Aboriginal language groups, then you make a specific acknowledgment to those groups. That is a personal approach that I have taken. I also acknowledge spiritual attachment to the land, and I acknowledge that I am learning myself in relation to the connection between spirit, land and their own lives. So, my understanding is that each department, each minister and each backbencher within government has an individual approach to acknowledgment. There are no directives that I am aware of in relation to the first question in respect of public events.

It is my understanding—and, again, without any directive—that ministers would make some acknowledgment to the traditional owners of the land on which they are holding any sort of public meeting. I have not seen any protocols set out that are in the form of a directive. Cabinet does not make, on each occasion, an acknowledgment of land at its meetings. I understand that the Adelaide City Council makes an acknowledgment. Caucus does not make any such acknowledgment each time it meets.

I know that there is some discussion and debate about what parliament could or should do in relation to acknowledgment. Those discussions are occurring in a bipartisan way through, I think, the Joint Parliamentary Services Committee. I understand that there is some discussion about the use of the Aboriginal flag. We are—

The Hon. R.I. Lucas: In the parliament?

The Hon. T.G. ROBERTS: My understanding is that there have been discussions within a parliamentary committee to try to work through some of the issues associated with acknowledgment. Flying the flag, for instance, is an issue for, I think, the Joint Parliamentary Services Committee. I think that, at the moment, that committee is discussing that issue. It is an issue that is being debated and, hopefully, departmental officers and members of parliament can agree on acknowledgment, in particular whether we fly the flag on special occasions or whether we fly the flag on Parliament House as a constant reminder that it has been built on Aboriginal land. Whether or not that becomes reality or is left where it is now—which is in limbo—is up to this parliament. I thank the honourable member for his questions. It might focus this government's—

The Hon. R.I. Lucas: We have to acknowledge them for the rest of time, do we? Is that your view?

The Hon. T.G. ROBERTS: Through my own portfolio of Aboriginal Affairs and Reconciliation, I would like to see the acknowledgments carried until the reconciled past becomes a featured part of our own culture; that we do not have to make acknowledgments but that it becomes a natural part of what we would see as our own protocols and our own being. In New Zealand the feeling for the Maori culture amongst the non-Maori population is far stronger than it is here in Australia in respect of our indigenous people.

New Zealanders pay far greater recognition to the Maori culture and to their original inhabitants than we pay to ours. I would like to see far more acknowledgments being made, but through negotiation, reconciliation, discussion and debate and not force it on any organisation that does not want to pick it up. I understand that that is exactly what is happening at the moment. The Adelaide City Council is discussing the issue. Some councils in remote and regional areas have different attitudes to acknowledgment than, say, councils in the South-East where the Boandik and other tribes no longer exist.

The Hon. R.I. Lucas: Departments are being forced to do this.

The Hon. T.G. ROBERTS: I certainly have not seen any letters or directives. It has not been discussed at any cabinet meetings that I have attended. No force has been applied to any departments to pick it up. I will refer the question to each minister to determine what protocols apply within each department and bring back a reply.

The Hon. R.D. LAWSON: As a supplementary question arising out of the minister's answer, how does the minister reconcile his answer that this is a matter of individual and personal choice when the statement of the Department of Human Services was developed 'across Government Reconciliation Implementation Reference Committee'? How does he reconcile that? Is his department represented on that committee and what is its function?

The Hon. T.G. ROBERTS: I am not aware of the correspondence as I was not at the meeting that drew up the protocols. I will endeavour to get the information required by the honourable member and bring back a reply.

The Hon. R.D. LAWSON: I have a supplementary question. How does the minister reconcile his answer that acknowledgments are a matter of individual and personal choice with the fact that a particular directive issued by the chief executive of the Department of Human Services is a directive which requires compliance?

The Hon. T.G. ROBERTS: I am not aware that a directive requires compliance. I would have thought that it required some discussion and acceptance of a position that is being developed. The acknowledgment process is new. It is being discussed within government and generally in the community through the reconciliation process. It is a new concept. If there are some departments which progress more than others, it will be because of the individuals driving it or the committees, having accepted a position of acknowledgment, driving it further into their own departments. As I said, I will seek out the relevant information about what is being proposed departmentally. If the health department is putting out material that is not in line with what other departments are discussing or implementing, that will be recognised in one of the replies that I get from each department.

STATE STRATEGIC PLAN

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Industry about the State Strategic Plan and monitoring.

Leave granted.

The Hon. R.I. LUCAS: As you, sir, and other members would be aware, there has been significant criticism from commentators about the woolly and long-term nature of some of the plans and targets—I am talking about independent commentators—in the State Strategic Plan. Without going through all the detail summarised yesterday in a number of public discussions, I point out that most of the targets are 10 year targets. This takes the state through to 2014. And in some cases they are, indeed, even 20 years targets. To be fair, there are some that have targets of 2008 or 2009, thus four or

five year targets. The average seems to be about a 10 year target.

As highlighted on a number of occasions by the Economic Development Board and the government, the key to the State Strategic Plan was to be the benchmarking and the monitoring of the performance against the benchmark. The model in Oregon was put by the Premier and the Economic Development Board as the best model to be adopted. Indeed, we are advised that in Oregon there is annual reporting against progress in achieving the targets for the strategic plan.

We noted yesterday in the strategic plan released by this Rann government that on page 4 it is recommended that these reviews take place every two years. If the government chooses that the first review is to be in exactly two years or more, that will be April 2006 or later, which is conveniently beyond the next state election. I seek from the Minister for Industry a commitment that the Rann government will ensure that the benchmarking performance review will be conducted and released publicly prior to the next state election in March 2006. If the minister will not do it, will he therefore concede that he and Premier Rann are too scared to have their performance against these targets measured publicly prior to the next election after their four years in government?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): How incredible. We have a leader of the opposition who was a failed treasurer in a failed government. The Lucas legacy gave our state the highest electricity prices in the country. He sold $8 billion worth of assets—he was 'red ink Rob'; he couldn't get even one accrual balance out of that. So, when a government comes in and sets strategic targets for the first time ever in this state's history, what does he do? He starts knocking! It is absolutely pathetic. This government has, in the words of the Premier, set some targets which will goad the government into action. The government will, I guess, not achieve all of those targets, but we have set them, and we will do our best to achieve them, something which the previous government never did.

The Hon. R.I. LUCAS: By way of a supplementary question, is the Leader of the Government refusing to answer the question as to whether or not he is prepared to have the government's review of its performance conducted and released publicly prior to the next state election, or does he want to hide it until after the election?

The Hon. P. HOLLOWAY: The government has said that we will have the review in two years. That is a promise by the government, and we will keep that promise.

GIANT CUTTLEFISH

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the minister representing the Minister for Agriculture, Food and Fisheries a question about giant cuttlefish.

Leave granted.

The Hon. CAROLINE SCHAEFER: The spawning of giant cuttlefish is unique in the world to a small area near Whyalla. A considerable tourist industry has grown up around viewing the spawning by divers from all over the world. A decision to close the area to fishing during spawning season to protect his rare marine species was taken by the previous government and extended to 2005 by minister Holloway in May last year. However, recently the government has been lobbied again by interested members of the public and those involved with the tourism industry in Whyalla to extend the area which is protected. It is agreed that the season is reasonable but not the actual area which is protected, because stocks of this rare marine species are continuing to decline.

I understand that the requests by these people have fallen on deaf ears. Those who have recently made inquiries have been told by PIRSA officials that they will not act on the anecdotal evidence of divers. However, when requested to conduct definitive research, they have said that they have no funding to do so. My question is simply: when will the minister act on this urgent matter?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I am sure that the honourable member would acknowledge that the work that this government has done (both in opposition and since coming to government) has protected the stock of cuttlefish thus far. I hope that protection remains. I will refer the question to the minister in another place and bring back a reply.

SMALL BUSINESS DEVELOPMENT COUNCIL

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Small Business a question about the Small Business Development Council.

Leave granted.

The Hon. CARMEL ZOLLO: I am aware that one of the roles of the minister, as Minister for Small Business, is to chair the Small Business Development Council. I understand that the council was established by the government to support the growth of small businesses in this state. My question is: will the minister advise the chamber how the Small Business Development Council provides support for small business in South Australia?

The Hon. P. HOLLOWAY (Minister for Small Business): As Minister for Small Business I am pleased to have taken on the role of Chair of the Small Business Development Council. The council, which was established in July 2003, plays a vital role in providing advice to the state government on issues of concern to the small business sector. It promotes information sharing and the exchange of ideas between the small business sector, government departments and many business associations and groups connected with small business. The activities of the council include:

- assisting in the development of strategies and programs to support the growth and profitability of the small business sector;
- identifying issues affecting the small business sector, in particular barriers to growth and success;
- providing feedback on the effectiveness and impact of government small business programs and services; and
- providing input on the development of new programs and services.

Membership of the council comprises both independent business owners and business owners who are representatives of industry and business associations. The council is made up of 12 small business representatives, plus the chair. Small business associations represented on the council include the State Retailers Association of SA, Business SA, Family Business SA, CPA Australia, Restaurant and Catering SA and the Master Builders Association.

The members also represent such diverse industry sectors as IT, accounting, health, food and wine, and manufacturing. The council is committed to meeting every two months to

consider current issues and to advise the government on policy development and strategic direction. With 80 000 small businesses in South Australia, small business continues to be a fundamentally important component of the state's economy. As Minister for Small Business, I am committed to working with key stakeholders to support the stability, prosperity and growth of small business in South Australia. The next meeting of the council is next week, and I look forward to working closely with the Small Business Development Council to provide a voice for small business in this state.

EDUCATION, SPECIAL NEEDS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Education and Children's Services, a question about special needs education.

Leave granted.

The Hon. KATE REYNOLDS: My office has been contacted by constituents who are concerned about the services provided to children with disabilities—often identified as being special needs students requiring negotiated education plans. Following the identification of some sort of special need, a student is assessed by an education department guidance officer, following consultation with their parent or guardian, teachers and the district office; and some students are then identified as requiring a certain number of special needs hours, usually delivered one on one with a school services officer each school week. The schools attended by these students then receive additional funding to provide one on one learning support, usually to improve literacy and numeracy or to address behavioural issues.

My office understands that in some cases this funding is not being spent to provide the required number of hours of learning support. Apparently, some students receive only a percentage of the allocated time and the remaining funding is diverted to other areas. In fact, in one instance we are aware that a child, identified as requiring seven hours each week of special needs learning support, was given only 2½ hours, that is, only one-third of the time in funding allocated. That child is no longer receiving assistance because the child's negotiated education plan was lost when he moved to a new school. My questions are:

1. Does the minister know of schools that are failing to provide allocated special needs time to the students for which they are funded?

2. Will the minister instruct that an audit be carried out this year to verify that the amount of special needs learning support provided matches the funding allocated to each school and each student?

3. Will the minister act to ensure that any students who have not received allocated time prior to the audit will receive the total number of hours to which they are entitled, plus the shortfall, this school year?

4. How can a negotiated education plan be lost; and what action will the minister take to ensure that this does not occur in the future?

5. What action will the minister take to ensure that in future all allocated learning support time is provided to the students for whom the hours are intended?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those important questions on notice, refer them to the minister in another place and bring back a reply.

PARACETAMOL

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about paracetamol overdoses in South Australia.

Leave granted.

The Hon. T.G. CAMERON: New Department of Human Services figures show that paracetamol overdoses have resulted in more than 4 500 South Australians seeking treatment in public hospitals in the past four years. Of the 4 500, more than three-quarters were related to deliberate overdose.

Paracetamol is an ingredient in common brand name cold and flu treatments and, despite being available in supermarkets, it can have serious effects on some people. While paracetamol is regarded by many people as a harmless medication because of its reputation of not causing ulcers, it can cause harm to the liver and therefore must be taken strictly according to product labels. According to Dr Jeremy Raftos, Director of the Women's and Children's Hospital Paediatric Emergency Department, some parents are confused about the strength of various paracetamol products. There were five deaths in South Australia between 1997 and 2001 as a result of paracetamol overdoses. My questions to the minister are:

1. Of the 4 500 overdoses reported, how many were the result of administration by an adult to a child and how many were the result of children administering to themselves?

2. Considering the number of people who have sought treatment as a result of paracetamol overdoses and the five unfortunate deaths, what action has the government taken, or what action is it taking, to combat this problem?

3. Will the government undertake a public awareness campaign to educate parents about the dangers of paracetamol overdose as well as the correct procedure in its usage?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his well researched question. I will take it to the minister in another place and bring back a reply. One of the things that I do know about the struggle that is taking place with respect to pharmacists is trying to get paracetamol put back behind the counters of pharmacies rather than products being on open display and being supplied within supermarkets without any guidance. I think that applies to a lot of medicines at the moment. That struggle is taking place between the manufacturers, suppliers, wholesalers, retailers and governments as we speak. I will take those important questions to the minister and bring back a reply.

BUSINESS ENTERPRISE CENTRES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about business enterprise centres.

Leave granted.

The Hon. J.S.L. DAWKINS: Members may be aware that there is a network of seven business enterprise centres (BECs) in metropolitan Adelaide. I understand that a review of the BEC network is being conducted by the Acting Chief Executive Officer of the Department of Business, Manufac-

turing and Trade (which I think is now known as the Department of Trade and Economic Development). While this review is ongoing, the network of BECs has apparently been funded only to 30 June 2004. This funding uncertainty, along with speculation about the results of the review, is placing undue pressure on the staff and voluntary boards of the BECs.

One of the concepts put forward, apparently by the Department of Trade and Economic Development, is that the number of BECs will be reduced from seven to five, one for the CBD of Adelaide and one for each of the northern, southern, eastern and western regions of the metropolitan area. With respect to this concept, apparently, amalgamating the northern Adelaide and Tea Tree Gully business enterprise centres with the Salisbury Business Export Centre was also suggested, which would mean that the entire net reduction of BECs would be filled in the northern and north-eastern suburbs. A later concept apparently emanated from the department suggesting that the Tea Tree Gully BEC would amalgamate with the East Side BEC (which includes the areas of Campbelltown, Burnside, Kensington, Norwood and St Peters), and that a merger of the Northern Adelaide BEC and the Salisbury Business Export Centre would continue. I am well aware of the excellent work done over a number of years by the Tea Tree Gully and Northern Adelaide BECs and the Salisbury Business Export Centre from accessible local offices. My questions are:

1. Will the minister indicate what purpose is proposed to be achieved by meddling with the successful local provision of business enterprise and export assistance that currently exists, particularly in the northern and north-eastern sector of Adelaide, and generally across the metropolitan area?

2. When will the uncertainty created by this review be brought to an end?

3. When will funding for the BEC network be guaranteed beyond 30 June this year?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): The honourable member is correct: there was a review into the effectiveness of the BEC operations that had been under way under the previous minister for industry, trade and regional development. I think the honourable member would be well aware of the context in which the restructure of the Department of Business, Manufacturing and Trade is being undertaken. There is a clear move, certainly as far as this government is concerned, away from the days of handing out large slabs of money to individual companies. The move is for government to provide the right framework for economic growth and also to provide the infrastructure that is necessary for economic development to proceed within the community. This government believes they are the main requirements as far as economic development is concerned.

So, the days of handing over large slabs of money to individual companies are gone. We saw tens of millions of dollars going to call centres earlier this decade, and a lot of that money was subsequently completely lost to the state with no value for it. This government does believe, however, in providing streamlined services to ensure that economic development takes place within the state. Obviously, I would hope that that process of review can be completed as soon as possible. As the honourable member said, the funding has been continued through to 1 July so, clearly, decisions will need to be made as soon as possible and well before the start of the next financial year.

HINDMARSH SOCCER STADIUM

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Recreation, Sport and Racing, questions about the Hindmarsh Soccer Stadium.

Leave granted.

The Hon. J.F. STEFANI: I refer to a deed of agreement dated 29 March 2001 signed by the Treasurer, the Minister for Recreation, Sport and Racing, the Minister for Government Enterprises and the South Australian Soccer Federation Incorporated. Clause 6 deals with the management of the stadium and, in particular, outlines the functions of the manager of the stadium, who was appointed by the government. Under clause 6.7 the manager, amongst other things, would manage and administer the operations of the stadium so that they are conducted in a proper and efficient manner. The manager was to prepare and review a business plan for the stadium. Under clause 6.8 of the deed, the government was entitled to receive the entire income and receipts from the operation of the stadium, including all catering, refreshments and supply of liquor to the whole of the stadium, including the corporate boxes. My questions are:

1. Will the minister table the business plan which was prepared by the stadium manager for the government, including any review of such plan since the Labor government took office?

2. Will the minister advise the total income received for the hire of the stadium from 1 July 2003 to 30 March 2004?

3. Will the minister also advise the entire income received by the government for all catering rights, refreshments and supply of liquor for the period 1 July 2003 to 30 March 2004?

4. Will the minister provide details of any other income received by the government during the above-mentioned operational period?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those important questions on notice and refer them to my colleague in another place and bring back a reply.

ABORIGINAL RECONCILIATION

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about reconciliation and the arts.

Leave granted.

The Hon. G.E. GAGO: Members would be aware how successful the Adelaide Bank 2004 Festival of Arts was this year. There were many indigenous performances throughout the festival program. Given this, my question to the minister is: will he inform the council of the benefits that the performers and performances brought to the community and reconciliation?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her question and her interest in both the arts and Aboriginal affairs. I am pleased to report, as all members in the council know, that the success of the last festival was due in large part to the contributions made by many of the indigenous performers and artists over not just the Fringe but the festival as well. Stephen Page certainly brought his own style and planning to the festival, and the performances that were

put on by indigenous performers were well attended and certainly added a spark to the festival.

The theme, I think, was accepted generally by most festival goers. Talking about 'goers', according to Peter Goers in *The Sunday Mail* of 14 March 2004, the 2004 festival was the best since 1982. I did not attend any of the events in 1982, but I did attend some of the functions in the last festival and thoroughly enjoyed them. I also attended the symphony orchestra's performance last Saturday evening and enjoyed that immensely.

The Hon. R.I. Lucas: I fell asleep.

The Hon. T.G. ROBERTS: If I had slept you would not have heard the orchestra. The programs and events were assisted by a contribution from DAARE. The opening welcoming ceremony involved many of the indigenous performers and the festival director. It was well attended. The Gulpilil performance was acclaimed by everyone who saw it. *Laugh Yourself Black!*, three nights of indigenous comedy, was well attended, and certainly I had reports of people seeing that more than once. The Pitjantjatjara Ladies Choir which took centre stage at the Town Hall and at other venues took a lot of time to get ready, and certainly the sight of Pitjantjatjara women singing was a sight to behold and to hear. There was also the Bangarra Dance Theatre.

The arts are one way of being able to bring about reconciliation through broad access to the general community, to try to get to understand a different culture. Many of the performers are professional or semi-professional, so it is a way of breaking the poverty cycle—particularly for many young people. Protecting and enhancing the culture and exposing it is one of those ways. Certainly, through this last festival, I think all of those aims were achieved in the weeks of the festival performances. I think Adelaide has a lot to be proud of, and certainly I think all of those performers' status has grown. It has given them a lot of confidence, and hopefully we will see more performers from the indigenous communities not only throughout the state of South Australia but also Australia taking their performances internationally.

PHOTOVOLTAIC EQUIPMENT

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Administrative Services, a question concerning the state government and Onkaparinga council across-government contract for the supply and installation of photovoltaic equipment.

Leave granted.

The Hon. SANDRA KANCK: Members would be aware of the laudable plan to install photovoltaic solar panels on this place, Parliament House, the Onkaparinga council chambers and up to 200 state schools in South Australia. The tender process has allowed the three projects to be tendered for individually or as a whole. My understanding is that the installation contract will be worth between $2 million and $4 million in total. Concerns have been raised with me that the tender document is tailor-made to favour large international and interstate companies at the expense of smaller local operators.

The tender documents call for respondents to demonstrate the value-added benefits it would bring to the project, what sponsorship it could offer to support the expansion of the installation program and what contribution to the marketing of the project the respondents would bring. I am also informed that this project has the potential to monopolise the available pool of funds from the commonwealth's Photovoltaic Rebate Program, which provides up to $8 000 of financial assistance for each system installed in a community building and up to $4 000 for installation in a domestic residence.

The commonwealth rebate is the lifeblood of the nascent photovoltaic installation business in South Australia. My questions to the minister are:

1. Will he confirm that no South Australian based company has been successful in reaching the second round of the tender process for the South Australian Solar Schools Program?

2. Is it standard practice to require respondents to state government tenders to detail what value adding they can bring to the project?

3. Is it standard practice to require respondents to state government tenders to detail what marketing and communications resources they can bring to the project?

4. How many South Australian based businesses will be at risk if the total contract is awarded to a company based outside South Australia?

5. How much of the South Australian allocation of the commonwealth's photovoltaic rebate program will be consumed by this project, and what advice will the government give to those who find they cannot access the rebate for household photovoltaic installations?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for her important questions, and I will refer them to the minister in another place and bring back a reply.

STATE POPULATION

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development, representing the Premier, a question about South Australia's population policy.

Leave granted.

The Hon. A.L. EVANS: The Hon. Kevin Foley MP issued a statement yesterday concerning the government's newly developed population policy. He stated that the Australian Bureau of Statistics estimated that South Australia will go into population decline within 25 years due to declining fertility rates, continuing net losses in interstate migration, an ageing population and a low share of overseas migrants. As part of the strategy to encourage people to have children, financial assistance will be given to women to assist in retraining them so that they can re-enter the work force. I note that the list of factors contributing to South Australia's low population rate did not state that thousands of abortions were carried out each year. In South Australia last year a total of 5 471 abortions were carried out; of that number 115 were performed because of congenital abnormalities. Under the population policy the government intends to increase the state's population to 2 million by 2050. It is my understanding that, if we applied the same figure given for the number of abortions carried out last year (with the exception of birth defects) to the year 2050, the population of South Australia would rise by 246 376.

It is my understanding that certain centres in the United States, such as a centre called A Woman's Concern in Massachusetts, provide extensive support, counselling and assistance, as well as accessing the use of technology such as ultrasound to allow the expectant mother to view her baby. The result is that many women make a choice not to proceed

with abortion. It is my understanding from a preliminary survey carried out from October 2000 to December 2001 at The Revere Centre (a centre that follows the above approach, that is, counselling and the use of ultrasound) that, of the abortion-minded women who contact the centre to have an abortion, a total of 74 per cent do not abort. My questions to the Premier are:

1. Will the government investigate programs in the United States that are reducing the number of abortions being carried out in centres such as A Woman's Concern and The Revere in Massachusetts which provide counselling and the use of technology such as ultrasound to inform women prior to an abortion being carried out; and will the government give consideration to a pilot project being undertaken in South Australia? If not, why not?

2. Given the government's new population policy aimed at increasing the population in South Australia to two million by the year 2050, will the government give consideration to introducing a bill to ensure that medical practitioners obtain a signed declaration from both abortion vulnerable and abortion minded women to confirm that full disclosure of all the risks associated with having an abortion has been presented so that these women are fully informed when consenting to a abortion? If not, why not?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): In relation to the latter part of the question, I am aware that, as far as the Labor Party is concerned, the question of abortion is a conscience vote for individual members. As for the first question, I will pass it on to the Premier and bring back a reply.

EAST END AND WEST END LEVY

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Tourism, a question about a proposed levy on business and residents in the East End and West End precincts of Adelaide.

Leave granted.

The Hon. J.M.A. LENSINK: The Adelaide City Council allocates $20 000 to each of its nine precincts, with Rundle Mall receiving additional funds via a separate levy. It has been reported in the *City Messenger* that the East End Coordination Group and the West End Traders Association have approached Adelaide City Council regarding imposing a new levy for their precincts to provide funds over and above what they receive from the council and through membership of their associations. It is envisaged that the funds will assist in marketing capital works and other means of increasing the level of retail trade in the areas. My questions to the minister are:

1. Has she been approached by either of these groups regarding this issue?

2. What strategies does she have in place to support the further growth of business and the arts in the East End and West End precincts?

3. Will the government take any action if the Adelaide City Council does not agree to the request of the East End and West End associations?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take these important questions to the minister in another place and bring back a reply.

PETROL DISCOUNTING

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Minister for Small Business a question about petrol discounting.

Leave granted.

The Hon. IAN GILFILLAN: The ACCC report for 2001 under the heading 'Reducing fuel variability' on page 32 states:

> Competition for market share. The level and extent of competition in the petroleum industry in Australia varies between locations and over time. It is influenced by supply and demand factors, barriers to entry, the presence of independents, the potential availability of imports and the extent of vertical integration. This may occur at the refinery, wholesale and retail levels.

On page 34 it states:

> Independents, branded or otherwise, who do not receive price support may experience extreme pressure when substantial discounting is occurring in the market. The Commission understands that in the past the oil majors provided price support to independents, however this was removed around two to three years ago. Price support schemes may also be a long-term strategy to maximise profit by controlling the prices of franchisees and also to remove or limit competition from independents.

Page 20 of the ACCC Report of February 2004 entitled 'Assessing shopper docket petrol discounts and acquisitions in the petrol and grocery sectors' states:

> It is likely that some of the smaller independents are likely to be affected more in the new environment and may exit the industry.

There has been a lot of publicity on the nexus between Woolworths and Caltex and, more lately, Coles and Shell and the signs of favoured treatment that customers who have bought a certain quantity of goods from either of those two mega-supermarket chains will get from buying petrol from the outlets provided by Caltex and Shell. As the Minister for Small Business, I ask him whether he has assessed the impact that the docket petrol discounting system is having on other service stations which do not enjoy this particular economic benefit. Does he believe that the proliferation of this practice will lead to the demise of many of the current independent and smaller service stations?

The Hon. P. HOLLOWAY (Minister for Small Business): I thank the honourable member for his question. I remember some 15 or 20 years ago when I was studying economics and doing one of my final papers, I investigated the petrol industry, and the conclusion I came to at the time was just how important the small independent petrol resellers were. Even though they were very few in number, they did have a significant impact on providing competition within the market. Of course, the market that I was looking at then is significantly different to what it is today. In fact, the market is changing daily. As my colleague the Hon. Terry Roberts just mentioned, as well as Coles and Woolworths with the discounting which has spread rapidly through the metropolitan area in recent days, we also have Foodland and some of the other smaller independents responding to the market pressure.

In the short time I have been in the portfolio I have not had the opportunity to closely consider the issue. In answer to the honourable member's second question, I think it is fairly obvious that, if we do get substantial discounting through our major supermarkets, it is likely to inevitably have some impact on those smaller independent service stations, unless they can find a niche in the market through either service provision in other areas or unless they can, like some of those smaller ones that are joining up with other smaller

supermarkets, find some niche. It is probably an issue that is worthy of some consideration. I indicated earlier that I will chair the Small Business Development Council next week, and it is perhaps a matter I will raise with it.

The Hon. IAN GILFILLAN: I have a supplementary question. I appreciate that the minister has not been long in the portfolio, so he may not be aware of what has been described to me as misleading advertising where these docket discount petrol outlets feature the discount price as the overwhelming price for unleaded petrol with the real price to those who are not getting the discount lower down and much less prominent. Will the minister make an effort to concentrate on analysing whether that is misleading advertising?

The Hon. P. HOLLOWAY: That is probably a matter for my colleague, the Attorney General, who I represent in this place through the Office of Consumer and Business Affairs, or perhaps it is a federal issue through the ACCC. Whoever is responsible, I will take up the matter raised by the honourable member.

GAMING MACHINES

The Hon. NICK XENOPHON: My questions to the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Gambling, are:

1. What processes and procedures does the Office of the Liquor and Gaming Commissioner have to vet the introduction of new poker machine games on the South Australian market pursuant to section 40 of the Gaming Machines Act and, in particular, subsection (3) of that act, as well as the equivalent provisions of section 37(a) of the Casino Act?

2. What factors does the Liquor and Gaming Commissioner use to determine whether a new game is likely to lead to an exacerbation of problem gambling pursuant to section 40 of the Gaming Machines Act and section 37(a) of the Casino Act?

3. What factors are used by the commissioner to determine whether a game should be advertised for public comment as part of a public hearing to determine whether it is likely to lead to the exacerbation of problem gambling?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take those important questions to the Minister for Gambling in another place and bring back a reply.

AGRICULTURE, FUNDING

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry, Trade and Regional Development a question about the Labor Party's position on possible funding of ABARE and BRS.

Leave granted.

The Hon. D.W. RIDGWAY: I have a copy of the Australian Labor Party policy document entitled 'Labor's baby care payment'. When I look down the list under the subsection entitled 'Savings', I note that the Bureau of Rural Sciences and the Australian Bureau of Agriculture and Resource Economics are to have $4.7 million cut from their budgets over the next four years. Cutting the money out of these two organisations will effectively throw them on the scrap heap and ignore ABARE's reputation as a leading economic analyst and commodity forecaster. This plan takes money out of rural regions and may hamper regional development in South Australia and other regions. My questions to the minister are:

1. Does he agree with his federal ALP colleague's plan to sacrifice ABARE and BRS to fund the ALP's baby bonus?

2. What does he see as ABARE's role in South Australia's regional development?

3. Does he agree that the retention of both ABARE and BRS is essential?

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I am pleased that the Labor Party's new federal leader, Mark Latham, is having such a big impact on members of the Liberal Party. We look forward with some enthusiasm to the federal election which will be held later this year. I am pleased that my federal colleagues have taken the initiative and appear, obviously, to have the current federal government on the run in relation to many issues. What my federal colleagues are proposing in relation to the baby bonus is to try to address the severe problem that we have in this country where fertility rates have dropped.

Over the last couple of days in this parliament we have been talking about population policy. One of the reasons for that now being on the agenda is because fertility rates have fallen so far that it is now extremely difficult for young couples, saddled as they are with ever increasing HECS debts (if they are fortunate enough to study in tertiary institutions), rising house prices, the GST and so on, to cope.

I think it is entirely appropriate that my federal colleagues should raise as an issue and propose as a new policy at the federal election the means by which they can address the declining fertility of the Australian population, because there is no doubt that young couples in this country are facing incredibly difficult conditions. So, I think it is completely appropriate that my colleagues should do this. As to how my colleagues should fund this policy, obviously that is a matter for them.

Members interjecting:

The Hon. P. HOLLOWAY: I am sure they are quite capable of defending their policy. As far as I am concerned, I am pleased to stand up here and defend my federal colleagues for putting forward this baby bonus policy which addresses this very serious social problem facing young Australians. Frankly, I am surprised that members opposite are making light of a serious situation (which their federal colleagues have created), which makes it almost impossible for young people to buy their own home. It is no wonder that women are deferring having children until later in life when all these imposts are being put on them.

The Hon. R.K. Sneath interjecting:

The Hon. P. HOLLOWAY: Of course. The GST began it all. The housing affordability index has deteriorated to the extent where it is very difficult for young couples to purchase their own home and have children. Again, I make the point that I am pleased that my federal colleagues are coming up with some new policies to address this very serious social problem that we face. It is not only in this area that my federal colleagues have come up with these new initiatives; clearly, they have the current federal government on the run in many other areas as well.

HOSPITALS, REPATRIATION GENERAL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a copy of a ministerial

statement made today by the Minister for Health (Hon. Lea Stevens) on the Repatriation General Hospital.

STATE OF THE ENVIRONMENT REPORT

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I table a copy of a ministerial statement made today by the Minister for Environment and Conservation (Hon. John Hill) on the State of the Environment Report for South Australia.

REPLIES TO QUESTIONS

DEFENSIVE DRIVING COURSES

In reply to **Hon. T.G. CAMERON** (4 December 2003).

The Hon. T.G. ROBERTS: The Minister for Transport has provided the following information.

I am advised that Transport SA has not itself undertaken any cost-benefit studies on introducing driver education and compulsory defensive driving courses in recent times. However, Transport SA does regularly monitor and consider studies conducted nationally and internationally.

The Competency-Based Training course (Logbook training) is a structured driver-training course consisting of 30 sequential driving tasks in which defensive driving principles are emphasised throughout. The steps in each of the tasks provide the safest and most efficient way to drive a motor vehicle and are consistent with international best practice.

SOUTHERN SUBURBS INFRASTRUCTURE

In reply to **Hon. T.J. STEPHENS** (27 November 2003).

The Hon. T.G. ROBERTS: The Minister for Urban Development and Planning has advised:

The then Minister for Urban Development and Planning, the Hon. Jay Weatherill MP, in his reply to the question on 25 September, stated inter alia:

> 'The Office for the Southern Suburbs is a small unit with only a small staff of three that aims to coordinate and facilitate Government effort at the local level within the southern region'.

This is quite consistent with the statement by the Minister for the Southern Suburbs, namely:

> 'My job is to try and coordinate a whole of government approach to issues in the southern suburbs. It is partly a coordinating role and is partly facilitating access to government.'

Working at the local level, the Office for the Southern Suburbs is able to coordinate and resolve many local issues involving government agencies also operating at the local or regional scale to achieve a whole of government approach. However, there may also be issues that arise locally that have implications for coordination or policy which extend beyond the southern suburbs. In these instances it is appropriate that the Department of Transport and Urban Planning (DTUP) take the primary role in coordinating the whole of government approach.

There also are some issues which may not be clearly defined as local or metropolitan or, because of complexity, require resources beyond those contained within the Office for the Southern Suburbs. In these instances the Office for the Southern Suburbs and DTUP work cooperatively to ensure coordination of government effort.

The recent appointment of the Hon Trish White MP as both the Minister for Transport and the Minister for Urban Development and Planning further enhances the coordination role that the Department can play.

DOG AND CAT MANAGEMENT (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 1202.)

The Hon. CAROLINE SCHAEFER: When speaking with one of my colleagues yesterday, she said that she felt unable to conduct this bill in the upper house because she does not like dogs. Therefore, she felt that she might be biased. When I reflected on that, I thought that I should declare my interest. I cannot remember a time in my life when I did not own a dog as either a working dog, a companion, a friend or, since my children have grown up and left home, as a spoilt member of my extended family, as are my two dogs.

In my view there are very few bad dogs, but there are a lot of bad owners, and much of the content of this bill would be better addressed to training owners: first, to purchase a suitable breed of dog for the role that they wish it to play in their life; and, secondly, to have some obligation to be educated on how to look after their dog. Dogs are pack animals. They need to know who their leader is and what the rules are. They need socialising. To lock them into a small yard or to have them continually on a lead will, in my view and that of my party, lead not to fewer injuries but in fact more.

I am puzzled as to why the dogs of Adelaide seem to be such treacherous beasts when most of the major cities of the world seem to be able to have dogs cohabiting quite happily with children and adults on sporting grounds and everywhere else without people being threatened, which seems to be the case as beaten up by the popular press in South Australia. I am always interested to see in Sydney, which is a city of almost 5 million, in the public parks very often 50 or 60 or so dogs all without a leash and all with their family. While children are kicking footballs and playing and parents are socialising, so are the dogs without any evidence of anyone being threatened by them. My view is that that is because they have been socialised from the puppy stage upwards.

In South Australia we seem to have had to take an extreme view on how to control our dogs. This is a difficult piece of legislation. I happen to be very fond of dogs—and, by the way, so do most South Australians given that we have a dog population of 318 000 (as at, I think, last year). I think that number were registered so, who knows, there are possibly 320 000 dogs in South Australia. So, I think this legislation needs to be carefully thought out, given that there are so many people in the state who own dogs. However, I recognise that a compromise needs to be reached between those of us who enjoy the companionship of dogs and those who do not. As an aside, I note that this is called the Dog and Cat Management (Miscellaneous) Amendment Bill, but we have yet to find a government of any description brave enough to tackle the management of cats.

The Hon. Ian Gilfillan interjecting:

The Hon. CAROLINE SCHAEFER: The old analogy is: 'It's as easy as hurting cats'—which means it is impossible. No-one has touched cats, even though they are possibly more a social menace in the city than dogs.

The Hon. Ian Gilfillan interjecting:

The Hon. CAROLINE SCHAEFER: And environmentally, as well, as the Hon. Mr Gilfillan interjects. However, we do need to reach a compromise that is mindful of those people who do not like dogs and feel threatened by their presence in public places. This bill originally was utterly draconian, due to some fairly vigorous lobbying by various groups prior to its introduction into the lower house. A large number of compromises were reached. However, I think it

still seeks to punish all dogs and all dog owners rather than those few who are irresponsible. It has been readily recognised that five breeds are responsible for some 75 per cent of all dog attacks in South Australia, yet all dogs are being treated exactly the same. Further, the definition, or the decision perhaps—because I do not know whether there is a definition—as to what is a dog attack takes in everything from an inadvertent nip (which might require a tetanus injection) to an unprovoked and vicious attack.

My experience of an injury from a dog was due to my own stupidity, when I tried to break up a fight between two dogs and was bitten on the hand. The dog did not attack me yet, under this legislation, and for the purpose of the figures that are used for dog attacks, that is considered to be a dog attack. My colleague in another place who is a veterinarian (Dr Duncan McFetridge) says that the only injury he has suffered from a dog, despite a lifetime of working with them as a veterinarian, was when he was playing with his own dog at home with a piece of knotted rope. Yet under this legislation that statistic is as bad as a dog which attacks a total stranger on the street.

Although my party, somewhat reluctantly, supports this legislation, I think inevitably it will be proven to be somewhat flawed. The Liberal Party's position prior to the last election was to have a review. I believe that the review took place, but no-one has seen the results or the details of the review. Indeed, the previous government had referred this issue to the Social Development Committee, where we could have heard witnesses and had public hearings so that all sides of the argument could be heard and a report delivered to the parliament. I think because of probably some mischievous publicity the government chose to disregard that reference to the Social Development Committee and to bring out its own legislation. The legislation was significantly altered before it came into the lower house, and therefore is probably not as draconian as it was previously and as it could have been. It does at least allow individual councils to make their own decision as to what are on-leash and off-leash areas. My understanding is that a small country town could declare its entire district to be an off-leash area, if it chose to do so.

There is a requirement—and I think it is fair enough—that all dogs be on leashes on footpaths and I think in public places, but there is no definition of what a footpath is. Therefore, we do not for instance know whether or not some of the walking trails or some of the areas along the River Torrens are designated as footpaths. I firmly believe that dogs, particularly larger dogs, need exercise and they need off-lead exercise. The idea of an enclosed—

The Hon. J.F. Stefani interjecting:

The Hon. CAROLINE SCHAEFER: The concern raised with me recently about these designated off-lead areas is that they could become an area as small as a fenced off basketball or tennis court, or something like that. A small area inevitably would become denuded of vegetation. Therefore, dogs would be exercising in a very enclosed area, and there would be the risk of the spread of disease such as kennel cough. I believe that would be bad for the dogs and for the people.

It is a method that is modelled on what happens in America. Since they have brought in this legislation, it appears that injuries from dog attacks have increased but the incidence of report has often decreased. I think that, to quote my own example, if I was mandatorily required to report what was my own fault to an animal management officer, or whoever, and perhaps have my dog registered as a vicious or dangerous animal, the temptation for me as for most families would be not to report that injury. If it becomes mandatory for doctors to report those injuries, the temptation will be not to have the injuries treated.

There are a number of issues I want to raise, but the one which is most pressing to me is the complete contempt with which this government has treated the upper house. I believe there is a pattern emerging from minister Hill's office, where he blithely and urbanely says, 'I will look at that between the houses.' We believe him; we think he will look at it between the houses and perhaps amendments will take place or, at least in the second reading speech which is submitted in this house, the questions that have been asked will be addressed. I took the trouble to compare the second reading explanation that was submitted in this house with the second reading explanation that was submitted in the lower house at the introduction of this bill—and they are exactly the same. At no time are any of the questions addressed, and there is absolutely no attempt by the minister to address any of the areas that he has said he will attend to between the two houses.

I think it is worth my going through those, at the risk of taking some time (because there are a number of them). In relation to clause 4(4), the opposition wished to amend the definition of 'attack trained dog' to provide: 'Attack trained dog means a dog trained or undergoing training to attack on command'. Mr Evans, who took the carriage of this bill in another place, suggested that the minister look at this between the houses because of a possible loophole in the definition. The minister agreed to have a closer look to see whether or not it ought to be broadened. Clause 12(2) relates to new section 21, which gives the board various functions, including the ability to accredit training programs. The opposition asked whether the board could run training programs for the general public. The response was that 'as an accredited body it could not also be a training provider to the public'.

Mr Evans pointed out that paragraph (c) states that the board has the power to carry out any other function relating to responsible dog and cat ownership or the effective management of dogs and cats, and he suggested that the minister may want to look at that. The minister agreed to look at it. Clause 13 relates to the 'accreditation of disability dogs, guide dogs etc.'. Proposed section 21A(5) provides:

> The board must maintain a register of dogs accredited under this section by the board. . . that is to be readily available for public inspection without fee.

The opposition questioned the need for a clause that says accreditation may remain in force on the initial grant or renewal period, which may not be less than two years. Mr Evans suggested that accreditation could easily be made for the period in which the dog is used for the purpose it is accredited. This is in order to keep costs down for the disabled. The minister agreed to have another look at the current arrangements.

Clause 23 relates to registering businesses that involve dogs, and licensing pet shops but not backyard breeders. The opposition asked the minister to look at the model of second-hand vehicle sellers (the principle being that you are selling something and the number you can sell should be limited), and also the anti-competitive element of licensing one section of an industry and not another. The minister agreed to have another look at this issue.

Clause 45 relates to transporting dogs in vehicles. The opposition moved to delete the clause and lost that amendment. Mr Evans indicated that, if the amendment was lost, he wanted an appropriate amendment drafted in the Legislative

Council to allow dogs to be tethered on the back of utilities. The minister decided to maintain the power and exercise it at a future date, after undertaking appropriate consultation. At the time, the chairman asked the minister to give an assurance that he would refine this clause between the houses. The minister agreed to do so but wanted to maintain the power to have tray top vehicles, trailers, and so on, subject to the provisions. He promised that he would look at how to soften the clause. That was before Christmas, and the minister has made absolutely no attempt to visit me, the shadow minister in another place, to table any amendments or to give any explanation in his second reading speech as to why he has treated this council with such contempt.

Therefore, the opposition will resubmit a number of its amendments from another place. I have most of them on file, but it is my intention to again move the amendment to delete the clause with regard to restraining dogs in vehicles. As an opposition, we have treated the minister with respect and we have asked for his consideration. He has given us his assurance on the record, but he has made absolutely no attempt to do anything about it.

It is my melancholy duty in this place to take the bills that are presented by minister Hill—and this is a pattern that he has established over the past two years. As I said, he very charmingly and urbanely looks across the chamber and says, 'I will look at that between the houses.' The only looking he does is as he glances at the bill before he throws it in the bin when he goes back into his office. I think that, as legislators, we should do something about it. I also wish to raise some of the concerns that have been put to me by the Dogs: Friends for Life group and the animal management officers of the various councils. The animal management officers held a meeting, I understand, well after this bill was passed in another place. Of the 64 councils involved, some 58 attended, in order to express their concerns about this bill. An amalgam of those concerns, as I understand them (and I think they need to be put on the record), is that these two groups believe that the legislation is punitive, negative and fear based. They believe that it amounts to punishment rather than education and that it does not reward responsible ownership.

Their third point is that there is a lack of clear definition of the term 'attack' (I think I have outlined that), and there is no graduation of severity of 'dog incidences'. They believe that the methodology used to gather statistics was inadequate. It is always very difficult to say whether or not statistical evidence has been gathered accurately unless the method of gathering those statistics is transparent. Given that these people have not had access to the review that was conducted (and neither have we), it is very difficult to argue whether the statistics are inadequate or whether the methodology used to gather those statistics was or was not flawed.

They criticise the mandatory reporting clause, as follows. They say that it is inappropriate for the position of an animal management officer; that it undermines the relationship between the AMO and the public; that it is counterproductive to the aims of developing a positive, collaborative working relationship within the community; that the term 'attack' is open to abuse and ridiculous interpretation; and that the AMO faces a personal fine of a maximum of $1 250 for not complying. They criticise making it an offence to leave a dog with a child under the age of six. Heavy fines and gaol is possible if the child is injured. They claim that this is far too heavy-handed and is impossible to enforce.

They criticise the enforced division of recreational space within council areas. They seek a definition of a road and a footpath so that parks and beaches are still accessible. They criticise the restraint of dogs in cars and say that the clause should be removed (and, as I have said, I intend to place that amendment on file given that the minister did not honour his promise between the two houses). They believe that an AMO should not have access to registration details; that it is inconsistent with the government's stand on this issue in other areas. They also believe that this legislation creates friction rather than cooperation between AMOs and the public, and that it is an invasion of privacy. I think that outlines my concerns about this bill. As I said, I signal that the opposition will be reinstating a number of the amendments that were lost in another place.

There is one clause in this bill that has a far greater meaning, I think, than we would expect in a dog and cat management bill, and I believe that it is legislatively immoral. Clause 40 seeks to introduce the concept of a minimum penalty. There is nowhere within the law that I know of where a minimum penalty is set. To me, it is tantamount to saying that you are considered guilty until you are proved innocent, and we will vigorously argue that that clause should be deleted.

The Hon. IAN GILFILLAN: I congratulate the shadow minister on what, in the main, was an excellent contribution—certainly, the first part. Although there was not much sign of 'hear, hear' from this chamber, I could definitely hear off stage a sort of faint barking of approval from thousands of South Australian dogs. I want to make it plain before I give the Democrat contribution to the bill specifically that we express our profound sympathy to and concern for those victims who suffered as a result of illegal, unacceptable attacks by dogs which were not properly controlled and in circumstances where, in many cases, there is adequate legislation for prosecution as the law currently stands. But I feel that it is insensitive for us not to acknowledge that that is a cause of community concern.

However, the knee-jerk jump of this government came into play, fanned by sensational reporting from various sectors of the media, and it came to mind when I was thinking about this just a little while ago that Flinders Chase on Kangaroo Island has a rather remarkable phenomenon as far as the viewing of the wildlife is concerned. The public finds that the wildlife is so friendly, relaxed and intrusive on their normal pattern of viewing human beings that the human beings are confined in a little cage protected from the rampant wildlife—the attack kangaroos, the genial wallabies that hop about and the odd emu. It seems to me that this virtually characterises the mindset of the minister, and maybe others in the government, who have taken on this role of paranoia along with the people and journalists who have fanned it. They need to be in a protective enclosure, and those of us who care for, understand and love dogs can get on with our lives as we have for generations without the need for this draconian and foolish legislation. We very faint-heartedly support the second reading and allow it to go through because there may be, especially with some amendments, some useful adjuncts to the legislation. But, basically, I want to make it plain that this is a very low priority vegetative need, fanned by knee-jerk reaction.

I intend to outline some more specific analysis of the bill. We have amendments, many of which are similar to those indicated by the shadow minister, and we are wrestling with an attempt to make this bill a little more philosophically appropriate to the way legislation should be passed dealing

with this matter. The cat issue, which the shadow minister so clearly identified, does not feature—it is certainly not emphasised in the legislation. For many years we have regarded cats as a much bigger threat to the overall well-being of wildlife and its existence in the environment than the matter that has been focused on in such a draconian way in the bill.

So, we must express, as I have already, some disappointment that the bill has arrived in what we regard as such poor condition. There are in excess of 300 000 dog owners in South Australia and their experience and the experience of the general members of the public is that dogs are a welcome and natural part of our lives. People and dogs represent a partnership—an interspecies partnership—that dates from time immemorial, a partnership that has had and continues to have enormous benefits for all concerned. I will reflect for a moment on some of those benefits.

First, it is well recognised that people who own dogs enjoy a healthier, happier lifestyle. They tend to be fitter, live longer, are more active in their local communities and manage stress and hardship better than those who do not have this joyful experience. A dog lives to please its owner and likes nothing more than to spend time at its owner's side. No matter what your failings, your dog is a loyal companion. There is nothing quite so rewarding as the bond formed between a youngster and their puppy, both learning from each other as they grow and, of course, no matter how badly things go at school and no matter how friendships wax and wane in the schoolyard, your puppy is always waiting loyally at home, anxious for that after school romp.

Despite all this, we find this grubby bill (and my research officer has described this as a 'grubby' bill, and I think it is fair to say that one can probably detect that my research officer who helped compile this contribution loves dogs, which is a trait, I assume, that many of the other members of this place share with the Hon. Caroline Schaefer and myself) is predicated on the idea that dogs are somehow intrinsically dangerous and something to be leashed, restrained, enclosed and muzzled. These delightful creatures are to be reckoned as some kind of ticking time bomb waiting for that fateful moment when they unexpectedly explode. I think not.

The bill falls so far wide of the mark that we can only guess what the target really is. The vast majority of incidents between people and dogs occur within someone's home, but this bill attacks the one thing that is universally agreed to reduce the number of such incidents. There is nothing more likely to stress a dog beyond normal control and reason than to lock it up in a lonely place with nothing to do or see. Members of this place would have done well to come to some of the dog rallies in recent times to see how happy the dogs were—running about in groups, chasing frisbees and taking turns on the obstacle courses in the park. They were having much fun, and the people with them find that infectious and, if I am speaking to dog lovers, they will understand that there is an amazing transfer of the pleasure that dogs have in the simple things of life that flows to those who are handling them and are with them.

But this is not the future as imagined by the bill. The bill wants dogs to be locked up in compounds and packed into meagre pens, walking in circles like prisoners in an exercise yard. Therefore, it is no wonder that members of the dog-loving community (and there are many thousands who have expressed concern) have raised their voice in howls of protest. And, Mr Acting President, have you noticed what is missing? This bill completely misses the idea that some dog owners might need some education or training about the needs of their dogs. It completely misses the idea that the general public might be occasionally doing things that dogs can only interpret as an attack. It does not consider the idea that early training and socialisation of dogs is the best indicator for happy, well-adjusted animals. It is astonishingly silent on the idea that some homes may be so small that irresponsible dog owners should be required to take their pets out into the wider world for regular exercise.

Where there is astonishing laxity in some areas, there are matching astonishing inclusions in others. Dog management officers are expected to pursue and report people for travelling with unrestrained dogs in their vehicles. Where on earth does this come from? Has there been a sudden rise in the number of people who have been injured by their own animals in their cars? Has the government made any attempt to quantify the number of these injuries? Why this would be imposed on local government is well beyond me. Dog management officers are supposed to notice unrestrained dogs in vehicles, record the registration number of that vehicle and then take action post-hoc. Where is the sense in this provision? If there is a reason for this to be an offence (and I do not believe it has been shown), surely, the appropriate person to do this is a police officer. But, may I say categorically, Mr President, that I think this is a totally counter-productive provision. As I have argued publicly at rallies, there is far more likely to be a problem with a driver in a vehicle if a restrained dog suddenly finds itself in a condition of stress because it has entangled itself through a restraint. Those are the incidents which are likely to cause damage to the driver or have some effect on the safety of the driving.

In relation to management officers noticing unrestrained dogs, is the government foreshadowing moves to have bank clerks respond to burglary calls or postal workers report air safety violations? Why they would even consider imposing this requirement on dog management officers is beyond me. I can certainly support measures that increase an animal's safety in a vehicle and applaud existing measures that have been put into place to keep working dogs from being thrown off the back of flat-top utility vehicles. I also applaud efforts to protect the general public from excitable dogs, and this can be achieved in many ways.

The other area which I find baffling is the provision that the dog management officers are responsible for notifying dog incidents to police. Surely, the right person to notify an injury is the medical practitioner who treats that injury. How a dog management officer is expected to know about an event merely because it happens somewhere within a council's boundaries is not known. I have made disparaging remarks about this government's legislative agenda in the past and I am sure I will do so again in the future.

They are falling over themselves getting tough on this and tough on that, but they have clearly lost the scent on this one. Getting tough on dogs just shows that they are barking up the wrong tree! The Democrats will only just support the second reading of the Bill. I do not intend to repeat criticisms of the method that the minister has adopted in respect of the transmission of the legislation between the houses. I think the Hon Caroline Schaefer, who kept watch on that, has made observations which, if true, are relevant.

I do feel that we are at risk with this legislation causing, emphasising and exacerbating the very mischief that the legislation purportedly was crafted to address. I believe that, if we are concerned about people who suffer accidents, let us

look at the statistics. Most of them happen in the home, with a pet. Therefore, if we educate the people who are in that vicinity there is a chance that we will see a substantial reduction in the number of accidents.

In relation to people who do have dogs that are potentially savage and are not responsibly handled, I believe that there is already scope in legislation for them to be charged with an offence with quite severe penalties. So, I do not see that there is anything of substance which will be gained from this legislation, except I do hope—and this may be achieved by way of amendment—that we can end the farcical requirement that greyhounds have to wear muzzles. They are, as a species, probably one of the most gentle of the breeds of dogs, and to have them singled out as having legally to be muzzled at all times in public is just a farce. I hope that not only the opposition but the government will see that it is long overdue that we remove that requirement.

I hope that the committee stage, with our amendments and those of the opposition, through the shadow minister's wisdom in the area, will in fact improve the bill and that the lower house will see the wisdom of the amendments. If that occurs, at the end of the day we may have legislation that reduces the incidence of attack and does allow dogs and people to enjoy the compatible life that they have done for thousands of years.

The Hon. CARMEL ZOLLO: There would not be many members in this place who have not had to deal with constituency issues concerning dogs. We have heard some very strong words from members opposite, but I think they do need to remember that this legislation is in response to public demand that some serious identified issues are addressed. This bill is very much compromise legislation. The management of dogs in our society is one that has, in recent years, attracted a great deal of debate, whether it be barking dogs, dogs roaming unattended, or especially dog attacks.

People do relate to their pet in different ways. To some they are a means of companionship no different from human contact. Indeed, one often hears that some people prefer their pet's company to that of humans. I am certain there are times when we would all understand why. Their pets are pampered with the very best of food, clothing and animal care. To some, the dog is simply a guard dog. In between we would probably have the majority of people who own a pet that provides companionship, security for their home, and a good excuse for exercise, when they can fit it in. It is their pet that has grown up with the family and is much loved.

We would also have a certain number of people in our community who should probably never own a dog. They are not responsible dog owners, or at least they should not be owners of a particular breed of dog. The key to being a good dog owner would have to be about being a responsible owner, and ownership of a dog does mean responsibility. The social and economic benefits of dog ownership are enormous.

I am going to declare my interest here. After being with us for some 16 years, our dog Katie needed to be put down last year. It did bring enormous stress, tears and sadness in our family. Katie had a special and different relationship with each member of the family and she behaved accordingly. Research clearly shows that the elderly, in particular, benefit from the companionship of a devoted and gentle pet.

No doubt what has spurred this legislation, as has already been mentioned, is the frequent number of dog attacks, which I understand normally occur in homes—some 35 per cent Australia wide. As well, we do see some horrific attacks that can occur in public places, due to the irresponsible behaviour, normally, of the owners. The media attention that such attacks receive has focused attention on solutions. These attacks are unacceptable.

I know that there are many people who are scared of some dogs, and I admit to being one of them when I see a dog that many people would class as a dangerous breed that is not on a leash. The public should have the right to feel safe from harassment or attack from these dogs as they walk around in their community, whether it be in the street, a park or legally on someone else's private property.

The aim of this Bill is to provide a legislative framework that will minimise the social, environmental and economic costs of dog ownership. The legislation before us has arisen out of a series of reviews since this act became law in 1995. In response to community concern, and with the change in government in 2002, the opportunity arose to completely review the previous work undertaken. We have seen public consultation and many submissions, following the release of the Responsible Dog Ownership Strategy discussion paper. Whilst recognising that animal management can elicit a broad range of views, overall the discussion paper received very strong support from stakeholders, community groups, organisations and individuals.

The consultation process did tell us that dog attacks were unacceptably common. Some members have asked: why is that so in South Australia? I honestly do not know why. The public demanded that the issue be addressed. This legislation is about reducing the number of dog attacks by addressing the broader issue of dog control, so as to ensure that the attack does not happen in the first place. The changes in this bill provide the foundation to implement the government's 10 point plan for responsible dog ownership and focus on initiatives, which will reduce the frequency of dog attacks and improve the management of dogs both in public places and private property.

I recently assisted a constituent who clearly adored his dog, and equally the dog adored his master because, the moment he left the house, it spent its whole time barking, which made life miserable for one of his neighbours in particular, who had complained to the local municipality. I was able to negotiate on the constituent's behalf to see some sensible solutions to minimise the barking and, failing that, the council offered to provide further assistance on behaviour management. Animals usually have reasons for their behaviour, in the same way humans do. I did find the Tea Tree Gully council very helpful in assisting both the parties concerned.

This legislation before us provides mechanisms to improve public safety, reduce public nuisance and improve administrative processes relating to dogs, while recognising the importance of dog ownership to the community. The minister has already placed on record the details of the bill. As to be expected, measures to manage dangerous or menacing dogs and measures to control potentially dangerous dogs form part of these important changes, again in response to the public demand that the issue be addressed. Dogs play a very important role in our community. I place on record my support for this, I believe, compromise legislation which I hope will further enhance the role of dogs in our community.

The Hon. J.M.A. LENSINK: I do not intend to cover much of the ground that has been covered very ably by our opposition spokesperson, the Hon. Caroline Schaefer, but I

do have a couple of questions of the government that I want to place on the record prior to the passage of this bill. I also acknowledge that there have been some terrible incidents which have captured the public attention, but I would like to emphasise the fact that I believe that they arise from irresponsible dog owner behaviour, rather than simply because dogs exist in our community.

I have very grave concerns that this bill will punish the vast majority of responsible dog owners and, as the Hon. Caroline Schaefer remarked to me a moment ago, it is interesting that, while the government and all parties acknowledge that most incidents of dog attacks occur in the home, this bill is precisely aimed at dogs in public. I am also concerned that dogs will have less opportunity for exercise and will become more frustrated.

The Hon. Ian Gilfillan: Do you have a dog, Michelle?

The Hon. J.M.A. LENSINK: No. My parents have a dog.

The Hon. Caroline Schaefer: It can be arranged. We will find you a dog.

The Hon. J.M.A. LENSINK: Well, I have a cat, so it is not terribly compatible. The cat, I might add, does observe the law. It is interesting that I am asked about dog ownership. My parent's dog—rather interestingly named Puppy because they could not think of anything else—is very spoilt. She is quite jealous. When Puppy is present with the grandchildren in our homes we are always very careful never to leave the children alone with it. You just do not know what the dog might do, and I think that is the sort of behaviour that ought to be encouraged rather than punishing every dog that is in a public area.

My two questions relate to muzzles and whether any consideration has been given to the muzzling of dogs as a trade-off for having them on a leash. Clearly, if a dog has an appropriate muzzle it is not able to bite or present that sort of dangerous behaviour to people. The trade-off in that instance is that they can exercise—

The Hon. Ian Gilfillan: To their heart's content.

The Hon. J.M.A. LENSINK: Yes—they are exactly the words I am looking for, thank you—to their heart's content. Another issue relates to something raised with me by a constituent, namely, dogs which are on other people's private property and which exhibit menacing behaviour, such as rushing out onto the footpath growling, grizzling and those sorts of things which, generally, are quite frightening to people and also threatening to other dogs.

The Hon. Ian Gilfillan: You are talking about dogs on other people's property?

The Hon. J.M.A. LENSINK: Well, dogs which are on their owner's property but which menace people as they walk past. Is that matter addressed under the issue of dogs wandering at large? Perhaps once they are on the footpath they come within the law, or is it a matter of fencing? I would appreciate comments from the government on those two issues. I concur with the comments made by the Hon. Caroline Schaefer with regard to restraining dogs in cars. This issue has also been raised with me by a constituent.

I understand that the original rationale for restraining dogs in cars related to dogs that might menace people from the back of a utility, and the like, and not being appropriately restrained in the back of a ute. That issue was outlined in the government's discussion paper, which is entitled Responsible Dog Ownership Strategy. However, the minister's explanation to the parliament on 13 October indicated that dog's inside cabins would also be included, which I find highly ludicrous and just beyond comprehension.

As a new member in this place, I wonder at the priorities of this government, such as tying up dogs, being tough on dogs, not eating dogs and the other issue, which I will throw in for the record, the great menace to our community, teenagers piercing and tattooing themselves if they have had a couple of drinks. I would like to see more relevant legislation in this place in the next few sessions. I trust that we will get on with some real priorities for the sake of South Australia.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank all members for their contributions and anecdotal stories in relation to their own experiences with our canine friends. The government will consider the issues raised in the contributions that have been made, the questions asked and the amendments foreshadowed by members before the parliament resumes and this bill goes into committee. The government will favourably consider amendments that contribute to the bill's capacity to improve community safety and encourage responsible pet ownership.

When this bill is enacted, councils will be able to serve orders on the owners of dogs commensurate with the level of threat they pose. Guard and patrol dogs will be required to be identifiable and their owners traceable. Dogs on public roads will be required to be leashed, but in other public places councils will be able to determine whether dogs can run free, be exercised on a leash or whether they should be prohibited; so, there is some flexibility. Council management plans will be developed in consultation with the community to establish local arrangements, while penalties for allowing or encouraging a dog attack will be increased.

Importantly, this bill balances the need to guard against dog attacks, with opportunities for dogs to recreate. This bill is a significant step forward in dog management. The bill enjoys broad community and stakeholder support, including from the Local Government Association. I thank members for their contributions and commend the bill to the council.

Bill read a second time.

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE (PRESCRIBED FORMS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 March. Page 1290.)

The Hon. A.L. EVANS: I will make a very brief contribution to the bill. Family First supports the bill because it will improve the efficiency of the Consent to Medical Treatment and Palliative Care Act by removing the forms prescribed in schedules 1 and 2 of the act and prescribing them by regulation. First, the effect of removing the form from schedule 1 will assist medical professionals and make the process of obtaining consent less cumbersome. Secondly, removing the form from schedule 2 will assist a patient to determine the type of care they may or may not want in the future.

I believe that the bill will be welcomed by organisations in the community supporting individuals receiving palliative care, such as the Palliative Care Council of South Australia. I did have concerns that the bill may support the cause for euthanasia. As members well know, I am very strongly opposed to euthanasia. However, I find that this bill does not, in any way, support the cause for euthanasia. I am a strong supporter in the need for and the delivery of palliative care.

This bill seeks to make the act more effective both for the medical profession and those in receipt of palliative care.

The Hon. SANDRA KANCK: This bill aims to remove impediments regarding the signing of forms. The Democrats agree that this is a sensible thing to do. However, the bill arrived in this chamber only last week. While it is an uncomplicated bill and I recognise that the government has indicated that it is a priority for it, I do not think that it hurts to have adequate consultation on a bill like this. In addition, there are other areas of this act which, I believe, require amendment.

I had correspondence about what I perceive to be a particular flaw with the Hon. Mr Dean Brown when he was health minister in the Olsen government; that correspondence bore no fruit. I am aware that at the time similar issues were raised with the then minister by the Social Development Committee of which I was a member. The issue I raise about the act, not the bill, is the definition of 'medical practitioner'. It is defined as 'a person who is registered on the general register under the Medical Practitioners Act 1983' and includes a dentist. Section 12 of the act, in regard to treating a child, that is, somebody under 16 years of age, allows for a medical practitioner to administer treatment in the absence of parental consent by having a second medical practitioner give their consent in writing. If you think back quickly to the definition that I read, that has some interesting implications.

In country regions, this can create a situation in which a doctor has to turn to a dentist to get that approval for a medical procedure. It seems that it would be much more relevant, for instance, to seek that opinion from a registered nurse. Presently, as far as this act is concerned, nurses do not even exist. It might be that the situation is much more complex than it appears to me, but the existence of this bill does present an opportunity for further consideration. So, I am indicating Democrats support for the second reading but requesting that the government delay the committee stage so that I can explore, with others, the possibility of an amendment to this bill so that we can deal with that particular issue.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank all honourable members for their contributions. The bill had general agreement in another place and was progressed quite quickly. I understand the situation about further clarification of the definition required by the member. We will move into the committee stage and try to clarify the definition with the advice of my support staff.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. SANDRA KANCK: We begin to deal with definitions under this clause. In particular, we are inserting a slightly new definition of 'dentist'. As I mentioned in my second reading speech—and this means cross-referencing to other parts of the act—we need to look at the definition of 'medical practitioner'; a dentist is included as a medical practitioner. I raise the issue of the appropriateness, under section 12 of the act, of a medical procedure being administered to a child with a dentist, as the medical practitioner, giving their approval to the doctor for that procedure.

The Hon. T.G. ROBERTS: Can you more clearly define what you require?

The Hon. SANDRA KANCK: In my second reading speech I suggested that, while there is a bill like this before us, there is an opportunity to further amend it beyond the issue of forms. We are tackling the definition of 'dentist'. There is a flaw in the act which allows a dentist to consent to medical procedures and not dental procedures. I think it has a lot of implications for country people. Therefore, my request is that we do not progress too far on this so that we can do a little bit more exploration before passing the bill. I suggest that we report progress.

Progress reported; committee to sit again.

PREVENTION OF CRUELTY TO ANIMALS (PROHIBITED SURGICAL AND MEDICAL PROCEDURES) AMENDMENT BILL

Second reading.

The Hon. CAROLINE SCHAEFER: I move:

That this bill be now read a second time.

It seems that on this last day prior to a month's break we have a fixation with the welfare of animals and medical procedures. I have been asked to present this bill in this place by the member for Morphett in another place who, as I mentioned previously, is a qualified veterinarian and certainly had a very large veterinary practice prior to coming into parliament. He is very much of the view—and I can only respect his opinion—that the docking of dogs tails is cruel and unnecessary.

This bill was presented in another place some time ago. Since then it has been superseded by the government's banning of the docking of dogs tails by way of regulation. There was a great deal of opposition to this bill originally by dog breeders and those who show dogs but not by a large section of the public. It was agreed by all states at the ministerial conference—I think it might have been a conference of agriculture ministers; perhaps minister Holloway would know—to ban the docking of dogs tails. As I said, this bill, to some degree, has been superseded by regulations. However, I have been asked to proceed with it, given that it will give it particular status as a separate piece of legislation.

The bill provides for the prohibition of the docking of dogs tails except where necessary for therapeutic reasons. The Australian Veterinary Association considers the amputation of dogs tails to be an unnecessary surgical procedure and contrary to the welfare of the dog, and it has held this position for a number of years. The AVA recommends that the docking of dogs tails be made illegal in Australia except for professionally diagnosed therapeutic reasons and only then by registered veterinary surgeons under conditions of anaesthesia to minimise pain and stress. The RSPCA's position is that cosmetic tail docking is a painful and totally unnecessary tradition that should not be permitted to continue. It is their view that tail docking is painful and unnecessary and that in some cases the shock induced can lead to the death of pups.

The practice of docking dog's tails has been around for hundreds of years and many theories have been expressed as to why it began, including the prevention of rabies and back injuries, increasing the speed of the dog, and the prevention of tail damage due to fighting. The vast majority of dogs today are backyard dogs. There is no evidence anywhere to show that dogs that have long tails and that are used for hunting and sport have more injuries than dogs that are kept

in backyards and are not used for sport or hunting. Dogs need their tails. Tails have many functions. They are important for the balance of the dog and they add significantly to its agility. They enable a dog to express its own body language. That is particularly important but, as I said earlier, I have two dogs both of which happen to have docked tails, but they have no difficulty expressing their own body language.

We have seen a number of dog attacks in recent times. A tail can signify the potential behaviour of such dogs. The ACT was the first region in Australia to introduce a ban on the docking of dogs tails. It is important to remember that in docking a puppy's tail one is cutting through bone, cartilage, blood vessels, muscles, ligaments and nerves; it is not just a quick snip of a little bit of skin that holds a piece of bone. It may seem a very superficial procedure and it does not take long to perform but it is certainly painful. The importance of prohibiting certain surgical and medical procedures on animals by having the parliament include those prohibitions in the general act and not allowing those matters to be prescribed by regulation should be emphasised. Of course, procedures in the future may need to be prohibited, but the bill allows for that to be done by regulation. This bill repeals section 15 of the act and inserts a new provision which provides:

> Prohibited surgical and medical procedures.
> (1) A person must not—
> (a) dock the tail of a dog; or
> (b) dock the tail of an animal of the genus bos or bubalus; [which is basically cattle and buffalo]
> (c) dock or nick a horse's tail; or
> (d) crop an animal's ear; or
> (e) surgically reduce the ability of an animal to produce a vocal sound, or
> (f) carry out any other surgical or medical procedure on an animal in contravention of the regulations.

The other clauses inserted in this bill are on the advice of parliamentary counsel. They are already in the regulations and change nothing that is not already in force. I therefore commend this private member's bill to the house, and I hope that it proceeds quickly and efficiently.

The Hon. SANDRA KANCK secured the adjournment of the debate.

GAS (TEMPORARY RATIONING) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 24 March. Page 1241.)

The Hon. R.I. LUCAS (Leader of the Opposition): On behalf of Liberal members I rise to support this bill in principle. The opposition has been advised that this piece of legislation has come about as a result of the explosions at the Moomba gas plant on 1 January this year. We are also advised that the amendments provide new enforcement and recovery measures in relation to compliance with ministerial directions to ensure the most efficient and appropriate use of the available gas. The measures support investigation into whether large customers who faced increased costs for top-up gas during the temporary gas rationing period have been unlawfully exploited.

By way of an aside, the events of New Year's Day and the subsequent weeks in South Australia demonstrated the great need for an alternative pipeline for gas from Victoria, which was, of course, a policy initiated by the former Liberal government and concluded during the term of this Labor administration. I note that, at various stages during the last two years, ministers and the Premier have claimed publicly that they banged together the heads of the commercial operators to bring the two rival bids together. In discussions with the private commercial operators, they strongly rejected that view. I was pleased that the Minister for Energy in an unguarded moment (if I can describe it in that way) at a public function confessed that the government had not banged together the heads of the commercial operators, that it was essentially a commercial decision which had been taken by the two competing commercial consortia. As I said, it was an unguarded confession by the Minister for Energy. If any member wants to know why it was unguarded, I would be happy to convey my reasons for that privately. I will not place them on the public record.

It was, nevertheless, the first public concession by the Minister for Energy, but the claims the Premier, other ministers and he had been making on this issue were indeed untrue—not to put too fine a point on it. Certainly, it was always going to be the case that the two commercial consortia claiming they were going to build two parallel and competing pipelines from Victoria was never going to become reality. In the end, at the very least one of those consortia was going to be successful. The most likely position always—after a bit of bluff—was going to be that the two consortia would come together.

From a commercial view point it was in their interests for that to occur and, from a commercial view point, it is also in South Australia's interest for that to occur. In coming together it was going to be clear that a bigger pipe would be able to deliver more gas to South Australia. We now have it on the record, so let no other minister of this government ever claim they banged the heads of the two commercial competing consortia; let no other minister of this government ever claim that it is a result of their actions that a bigger pipe is coming into South Australia. If they do, we can certainly reveal further details of the Minister for Energy's unguarded public moment, and place on the record exactly what he said in relation to this particular claim by the Premier and the Rann government.

The SEA Gas pipeline (as it is known) was critical in helping us get through the problems that potentially were caused by the Moomba accident. It was, indeed, fortuitous that SEA Gas was able to come online at the time that we had this significant problem from New Year's Day onwards. The government made a special regulation on 15 January (regulation 22 of the gas regulations) to support the continued supply of top-up gas via the SEA Gas transmission pipeline and to cover various other issues, as well.

As I said at the outset, the opposition at this stage is supporting in principle the second reading of the bill. The reason for so doing is that this bill was introduced into the parliament only in the middle or late last week. It is the normal course that the opposition is allowed a full week for consultation—unless something is pressingly urgent—so that the opposition is in a position to be able to satisfy itself that all affected parties are aware of the legislation and have had an opportunity to put a point of view to the parliament, should they have concerns with any aspect of the legislation. The fact that this was introduced in the middle to late last week, and the opposition joint party room met Tuesday morning, meant that the shadow minister (member for Bright) was not in a position to conduct extensive consultation (which is required) prior to the meeting on Tuesday.

The opposition's position is that it supports the second reading. Given that the parliament will not sit for the next three or four weeks, the member for Bright will be in a position to consult all potentially impacted parties before putting a point of view, which can be further explored, if need be, during the committee stage of the debate.

I do not intend to speak at length about the provisions of the bill, but I want to raise one or two issues in relation to the retrospective nature of the legislation that confronts us. On various occasions, members in this chamber have expressed their view—generally one of opposition—in relation to retrospective legislation. My position and that of my party is that, while we generally oppose retrospective legislation, nevertheless we have supported in the past, and will support in the future, retrospective legislation in certain circumstances. It is the opposition's understanding that this legislation, if passed some time in May or June, will be made retrospective to January this year. This is to enable some of the increased powers in this legislation to be able to operate from the time of the issuing of regulation 22 under the Gas Act on 15 January 2004. The explanation of clauses provides:

> This clause deems the regulation to have been made under new section 37AB for the purposes of Part 3 Division 5 of the Act. One result will be that it is clear that the powers of the minister and authorised officers to require information or documents are exercisable for the enforcement of that regulation.

We need to be clear that, if this legislation is passed in May or June, the parliament is being asked retrospectively (back to 15 January this year) to give increased powers for the minister and authorised officers to require information and documents from private sector parties in relation to the gas industry. After consultation it may well be the Liberal Party's position that it is appropriate use of retrospective legislation, but I foreshadow that it is possible that the opposition will come back with an amendment in some way to restrict the minister's request for increased powers retrospectively to 15 January.

From the opposition's view point we would like to know the reason for the minister's desire for these significant increased powers and for them to be made retrospective. What sort of documents and information might be demanded by the minister and public servants from private sector companies? Is there any limit at all on the nature of the information or documentation that retrospectively will be able to be demanded from private sector companies? Equally, we want to know whether the private sector companies have been consulted; and whether, indeed, they have been advised by the government that these powers are to be given retrospectively to the minister and public servants to demand information and documents from those companies.

I also note an amendment to section 70, which, again, is the power to require information or documents. The explanation of clauses makes it clear that, as with the amendment under clause 4, 'the information or document will not be able to be used for the prosecution of a director or other natural person, other than for an offence relating to the making of a false or misleading statement'. The explanation of clauses in relation to section 37A provides:

> A requirement must be complied with even though the information or document would tend to incriminate the person of an offence. However, the information or document will not be able to be used for the prosecution of a director or other natural person, other than for an offence relating to the making of a false or misleading statement.

It seems that in some circumstances information or documents which might tend to incriminate a person of an offence will be able to be required. There are circumstances where they cannot be used for prosecution, but, clearly, circumstances are envisaged where they can or could be used for a prosecution. Again, it may well be that after consultation and further consideration the opposition is prepared to support the legislation, and even the retrospective nature of it, in relation to those provisions. However, we would like the time to be able to consult prior to reaching a final position on the legislation. I again indicate that the opposition supports the second reading in principle but reserves its right either to move amendments or, indeed, to change its position on the legislation subject to the opportunity to conduct consultation with parties in the gas industry upon which this will potentially impact.

The Hon. A.L. EVANS: I support the bill, the purpose of which is to create increased information flow from the companies that supply gas so that all laws are adhered to, especially in times of emergency. It gives the minister, or those acting on behalf of the minister, all appropriate investigative, enforcement and recovery measures to ensure that companies have complied with the regulations initiated by the minister. The bill protects those who supply the information at the request of the minister for the purpose of the act. It ensures that those who supply the information do not incriminate themselves. The information supplied would not be able to be used for the prosecution of a director or other natural person, other than an offence relating to the making of a false or misleading statement. I support this measure, because it will ensure that the information supplied to the minister retains its integrity.

The bill also seeks to protect directors in the event that the body corporate is found guilty of an offence in proceedings in which the information or document given to the minister was admitted in evidence against the body corporate. I support this clause in the amendment as it is difficult for a director to participate in the day-to-day operations of large companies, especially in times of emergency, where temporary gas rationing is requested by the minister. However, I recognise that the companies must be fined if they are found guilty of breaching the act or the regulations that the department chooses to introduce.

The bill is retrospective. It has been backdated to 15 January 2004 (the day that regulation 22 was made), which allows the supply of gas to be on terms and conditions that are fair and reasonable, especially in times of emergency. This protects those who were taken advantage of during the Moomba crisis. I support this amendment as it also gives the minister the power to exercise the enforcement of that regulation.

The Hon. R.K. SNEATH secured the adjournment of the debate.

PREVENTION OF CRUELTY TO ANIMALS (PROHIBITED SURGICAL AND MEDICAL PROCEDURES) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1366.)

The Hon. IAN GILFILLAN: Thank you for that round of support from the opposition benches: it encourages me to

fight on with respect to this measure. I indicate Democrat support for this bill, which was introduced by Dr Duncan McFetridge MP in another place and which is the latest in a number of attempts by him to ban the practice of tail docking in South Australia. I am pleased to say that our impression is that this time he will succeed.

The Democrats are strongly opposed to cruelty to animals, particularly when it is for no reason other than human entertainment or vanity. Late last year, our state parliamentary leader (Hon. Sandra Kanck) called for the end to duck season, and challenged the Rann government to enter the 21st century and halt the practice. Our federal parliamentary leader (Senator Andrew Bartlett) has perhaps the strongest record on animal rights of all Australian parliamentarians, and has fought long and hard against the battery farming of chickens. Currently, the legislation gives power to the minister in regard to prohibiting surgical procedures on animals. In the past, these provisions have been used to allow the docking of a dog's tail where the dog is under 10 days old and to allow the docking of an older dog's tail if anaesthetic is used.

I note that the minister used his power late last year to expand these provisions and, effectively, ban tail docking. This means that the bill before us will, essentially, transfer the section banning tail docking from the regulations to have it entrenched in the act. The Democrats support this move. I think an observation could be made that it is unusual, and normally undesirable, that regulations are accepted outside the head powers that are authorised in the act. But at least now we are catching up.

Many veterinarians refuse to carry out the procedure of tail docking. The Australian Veterinary Association strongly advocates the banning of cosmetic tail docking. It stated:

> The fashion-driven modern procedure is usually performed without any anaesthetic, normally when a pup is between three and five days of age, using scissors or a very tight rubber band. The cut goes through many highly sensitive nerves.

The RSPCA agrees. It believes 'that cosmetic tail docking is a painful and totally unnecessary tradition', and it has long campaigned for a ban on this cruel practice. In a landmark decision by ministers from each state and territory government, the RSPCA's call has now been heeded. Tens of thousands of newborn puppies who would have had their tails cut off in the name of this pointless fashion will now be reprieved.

The practice is outlawed in Norway, Sweden, Switzerland, Cyprus, Greece, Luxembourg, Denmark, Austria and Finland. In England, the procedure can be carried out only by a registered veterinarian. I note that the proposed legislation will still allow tail docking for medical reasons relating to the health of the dog. This is a sensible exception. Earlier in this session we were dealing with legislation addressing the treatment of dogs, and I think it is germane to make the observation that not only does it cause unnecessary pain but also the lifelong deprivation of the pleasure that a dog has in expressing its feelings with tail movement. Therefore, this legislation has a lifelong benefit for the dogs that are spared that operation. We indicate support for the second reading and the passage of the bill.

The Hon. R.K. SNEATH secured the adjournment of the debate.

NATURAL RESOURCES MANAGEMENT BILL

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

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this bill be now read a second time.

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

Leave granted.

Integrated natural resources management – the Government's commitment

The *Natural Resources Management Bill 2004* is a measure of significant importance. As many Members well know and appreciate, the integration of natural resources management in South Australia has been a key objective of this Government over the past two years. It has taken an almost unprecedented amount of public consultation to bring together all stakeholders and agree on a final position. The Government would like to particularly acknowledge the co-operative efforts of both the Local Government Association and the SA Farmers Federation, along with the Chair of the NRM Council, Mr Dennis Mutton. We also thank the efforts of the many hundreds of people across the State who gave so much of their time to be part of this process.

Lack of integration in natural resources management inevitably has caused great frustration to communities, particularly farming communities. Over the years there has been a certain lack of coordination, and sometimes even outright inconsistency, in the projects and objectives of the different arms of Government in administering responsibilities for natural resources management. Community resources have been stretched amongst numerous different boards, committees and other bodies and programs operating under different legislation or none at all. While many of these bodies do collaborate, their strategies and priorities are not always well coordinated or aligned. National programs such as the National Landcare Program, the Natural Heritage Trust and the National Action Plan for Salinity and Water Quality, add a further layer of complexity.

This Government resolved at the last election to commit unequivocally to make the necessary administrative and legislative changes to reform both institutional arrangements and legislation for natural resources management. We promised to develop new arrangements that would support skills-based regional boards to coordinate regional programs for natural resources management. We promised that these new arrangements would bring together water management and allocation, soil conservation and management issues, and animal and plant control matters. We also promised that the new arrangements would incorporate the development and implementation of re-vegetation and biodiversity plans, and works to manage salinity as components of both the State and regional NRM plans.

Administrative changes to natural resources management were made almost immediately upon winning Government, with the creation of the Environment and Conservation Portfolio. The Portfolio includes the new Department of Water, Land and Biodiversity Conservation, responsible for administration of the main pieces of natural resources legislation.

We also created an interim Natural Resources Management Council, which is made up of representatives from the major natural resources management organisations to help steer the reform process. The Council comprises an independent Chair (Mr Dennis Mutton, well known and respected across natural resources management sectors both within and outside of Government), and representatives from the National Parks and Wildlife Council, the Landcare Association of SA, the Conservation Council, the Native Vegetation Council, the Water Resources Council, the Animal and Plant Control Commission, the Local Government Association, the Regional INRM Group Chairs, the Pastoral Board, the SA Farmers' Federation, the Soil Conservation Council and Aboriginal landholding bodies. The Chief Executives of the Department of Water, Land and Biodiversity Conservation, Department for Environment and Heritage, Primary Industries and Resources SA, the Executive Director of Planning SA, the Chief Executive of the Environment Protection Authority and SA Water work closely with the Council, but are not voting members.

The Council has played a key role in coordinating and overseeing a comprehensive program to develop the new legislation. The

Council has worked with existing catchment, regional and local bodies to develop appropriate arrangements to suit the unique circumstances of each region, and has provided advice on developing and implementing the new arrangements. A Natural Resources Management Council is to be formally established by the Bill.

Development of the new legislative framework

Preparation of the Bill commenced in mid 2002. By November 2002, the Government had released a comprehensive discussion paper, outlining the need for the reforms and seeking feedback from stakeholders. A full community engagement process followed release of the paper, and a consultation draft Natural Resources Management Bill was subsequently released in July 2003.

Peak bodies under current natural resources management legislation were engaged very early in this process, and have remained closely involved, both through membership on the Council, and on an individual basis. The Water Resources Council, Soil Conservation Council, and the Animal and Plant Control Commission, together with soil conservation, catchment water management and animal and plant control boards across the State, have made many valuable contributions.

Other consultation included:

- ongoing participation by relevant State and Commonwealth Government agencies;
- meetings with key stakeholder groups including the South Australian Farmers' Federation, the Local Government Association of South Australia and representatives of individual councils;
- a series of regional and State agency information forums and workshops;
- use of existing natural resources management networks for information distribution and communication;
- establishment of a natural resources management reform website;
- the opportunity for stakeholder and community submissions; and
- discussions with relevant unions including the Australian Services Union and the Public Service Association, specifically relating to transitional arrangements.

The interim Natural Resources Management Council provided expert guidance, support and assistance throughout.

What is integrated natural resources management, and why is it important?

Natural resources do not occur in isolation of each other – water and land form the basis of every ecosystem and the health of ecosystems is inextricably linked to the management of those resources. Complementary management of natural resources is the only way to ensure ecological sustainability. And ecological sustainability is the most basic necessity to safeguard the communities that rely on the productive capacity of our land and water resources – that means all South Australians; our society and economy.

An integrated approach to natural resources management is therefore vital to achieving sustainable development - healthy ecosystems and the current and future prosperity of all South Australians.

Despite the efforts of many South Australians to date, and the sometime successes that have resulted, the condition of many of the State's natural resources continues to decline. Many river systems are in fair to poor condition, affected by water extraction, declining water quality and loss of riparian vegetation. Groundwater use in some areas is either at or above resource capacity. Less than half the pre-European settlement wetlands remain. Large areas of near-shore seagrass meadows have been lost along the metropolitan coast. Soil erosion, salinity and acidification persist across the State with consequent losses in productivity and impacts on water quality and biodiversity. Despite efforts to halt the decline in biodiversity, many species are rated as endangered or vulnerable. Primary production and conservation values continue to be negatively affected by existing pests and diseases, and threatened by the incursion of new exotic species. These problems pose considerable challenges.

Past approaches to managing natural resources in South Australia have involved a significant level of specialisation to deal with particular elements such as soil, water, vegetation, wildlife, pests, pastoral land and public lands. Unfortunately, experience has taught us that the advantages of concentrating specialist effort on individual areas are countered by the disassociation resulting from resource management decisions being made in isolation.

We need a legal and institutional framework that will take a whole-of-landscape approach that draws together organisations and individuals across a diversity of sectors, taking into account the links within and between natural systems, and the interaction of economic, social and environmental factors that influence decision making. We need a framework that will alleviate land use conflicts, maintain the ecological sustainability of each of our State's bioregions, and provide certainty of access to all resource users. We need a framework that will make more efficient use of community resources – including membership on regional bodies, and more efficient channelling of funds into regions for planning and on-ground works. We need to be able to coordinate and integrate the activities of the wide range of groups involved in natural resources management across the State, and that will facilitate the development of collaborative partnerships between land managers, natural resource users, all levels of Government and the community.

The *Natural Resources Management Bill 2004* establishes the institutional arrangements we need to deliver all these things: to deliver a strategic, integrated approach to natural resources management. This new legislation will create a transparent, consultative, robust and effective structure to manage and protect the environmental, economic and social values of the State's natural resources.

What is contained in the Bill?

The Bill is built fundamentally on the concept of ecologically sustainable development ('ESD'). It prescribes as its principal object, that the State's natural resources must be managed according to the principles of ESD. These principles require decision-making processes to integrate both long-term and short-term economic, environmental, social and equity considerations, to treat the conservation of biological diversity and ecological integrity as fundamental to environmental, social and economic welfare. It establishes a duty for all persons to act responsibly in the management of the State's natural resources for the present and future generations. It recognises that an important use of our natural resources is for primary production and also recognises the importance of incorporating biodiversity objectives into decision-making.

The institutional framework

The Bill repeals the *Water Resources Act 1997*, *Soil Conservation and Land Care Act 1989* and the *Animal and Plant Control (Agricultural and Other Purposes) Act 1986*. The Bill takes what is useful from each Act, and presents it within a single institutional framework. A Natural Resources Management Council (NRMC), regional NRM boards, NRM groups, a Chief Officer (the Chief Executive of relevant Department) and authorised officers, all of which have a range of specified powers and functions, replace the existing institutional arrangements.

Overall responsibility for the direction of natural resources management rests with the Minister administering the Act. The Minister is responsible for the strategic frameworks and arrangements necessary to effectively oversee the management and protection of the State's natural resources. The Minister may delegate his or her functions under the Act.

The Natural Resources Management Council replaces the Animal and Plant Control Commission, the Soil Conservation Council and the Water Resources Council and provides strategic advice to the Government about natural resources policy, the State Natural Resources Management Plan and consistency with the State Planning Strategy, regional activities and administrative arrangements. The Council will also provide advice in relation to federal NRM funding programs in accordance with relevant bilateral agreements.

Regional boards and local groups will assume many roles and responsibilities of the current animal and plant control boards, soil conservation boards and catchment water management boards under the legislation to be repealed.

NRM regions and boards will be established by the Minister by notice in the Gazette.

Membership of the NRM Council, regional NRM boards and NRM groups is skills based and expressions of interest for membership will be sought through general public advertisement. Appointment of members of the NRM Council and regional NRM boards is to be by the Governor.

The Local Government Association, the Conservation Council, the SA Farmers Federation and Aboriginal bodies will be asked to nominate persons with any of the required skills for four of the nine positions on the NRM Council. In the case of board membership, there is a requirement for the Minister to consult with the LGA and with bodies representative of primary producers and conservation and Aboriginal interests before recommending membership. One member of each regional board is required to be active in local

government affairs and it also is stipulated that a majority should reside, and practice land management, in the region.

The Bill also provides for the Minister to authorise persons to attend the NRM Council and regional NRM board meetings, in a non-voting capacity to represent the interests of Commonwealth, State and Local Government. This arrangement will allow government representatives to participate in regional meetings without detracting from the autonomy of regional NRM boards.

NRM areas are parts of NRM regions and are established by gazettal by the Minister on the recommendation of regional NRM boards. NRM group membership is recommended by regional NRM boards and appointed by the Minister through a membership selection process, which again provides for consultation with local government.

Boards will be accountable to the Minister and responsible for regional natural resources planning and investment, delivery and decision-making. Boards may propose the establishment of local natural resources management groups to meet the specific requirements of each region. Local groups will deliver integrated natural resources management activities, undertake local compliance activities and provide local advice. Advisory committees with a regional perspective may also be established to advise the board on specific natural resource issues or matters (such as water allocation).

Regulations may be made to require advisory committees to be established to provide advice to the NRM Council or regional boards. The Government has given a specific undertaking to use these regulation making powers to require the establishment of an Aboriginal Lands Advisory Committee to the NRM Council and Aboriginal Advisory Committees to regional NRM boards as required. We have made this commitment to ensure that aboriginal interests and issues and indigenous knowledge of natural resource management will be considered and accommodated in the new NRM structure at peak and regional levels. Local government will continue to be an important partner in ensuring sound outcomes. The Bill involves local government in each tier of the framework (State, regional and local). Local government also plays a vital role in integrating natural resources management goals with land-use and development planning and decision making, and delivery of on-ground programs. Expertise in matters of local government is a required skill for the NRM Council and regional boards and a person active in local government affairs will be included in the membership of each regional board. In addition to this local government have expressed a desire to attend meetings of the regional bodies and of the Council. Their participation will be welcomed and the Minister will authorise local government representatives to attend meetings of the NRM Council and regional boards in a non-voting capacity along with representatives of the State and Federal governments.

State Government support for natural resources management activities will continue to be provided through the resources of a number of key agencies, notably the Department of Water, Land and Biodiversity Conservation, the Department for Environment and Heritage, Primary Industries and Resources SA and Planning SA.

The Commonwealth Government is also a major stakeholder in natural resources management in the State. Strong partnerships will be maintained with the Commonwealth so that national priorities can be incorporated and delivered through the new arrangements and we will ensure that the Council membership will be able to provide independent advice to the Commonwealth on its investment in natural resource management in South Australia.

Another aspect of ensuring the proper integration of activities is demonstrated by the amendments made by this Bill to the *Mining Act 1971* and the *Petroleum Act 2000*, which are designed to promote and enhance the regulatory controls under those Acts and to ensure appropriate linkages between the relevant systems.

Integrated planning as a natural resources management tool

The Bill establishes a hierarchy of natural resources management plans—the State NRM Plan and regional NRM plans incorporating water allocation plans. These plans allow for the appropriate level of input and management at a regional and local level while ensuring consistency of regional policy and plans with State-wide policy. Regional plans will incorporate existing catchment water management plans, district soil plans and water allocation plans. Integrated Natural Resource Management Plans, Animal and Plant Control policies and programs and Biodiversity Plans will be included in regional NRM plans through the process of preparing an initial NRM plan and budget. These initial NRM plans will detail how each regional NRM board will continue to deliver existing regional NRM programs and projects. A regional process of consultation and revision then will enable regional communities to develop more comprehensive regional NRM plans and provide for more efficient and effective regional delivery in collaboration with regional partners. Plans will cover NRM regions right to the State boundary, including the marine and inner coastal area to ensure an ecosystem-based approach. This will ensure that regional NRM plans consider the effect of terrestrial based activities on the marine environment and the natural resource management requirements of the marine area. The Government will restrict the regulatory capacity of regional NRM plans and NRM authorities so that their role in compliance and enforcement will only extend to the low water mark by making a regulation to exclude areas between the low water mark and the State boundary from the Bill's regulatory provisions.

Work on stormwater management is being progressed by a Chief Executive's Group established by the Minister's Local Government Forum. The group comprises State and Local Government officers and is chaired by the CEO, of the Department of Water, Land and Biodiversity Conservation. Once the policy position of the State Government on stormwater management is established, any necessary amendments to the NRM legislation will be prepared in consultation with the Local Government Association.

The Bill (and proposed consequential amendments to the Schedule of the *Development Regulations 1993*) maintain the links between natural resource management and the development planning system, which exists in the current water resources legislation. The NRM Bill also enables regional NRM boards as well as councils and the Minister responsible for the *Development Act 1993* to prepare amendments to development plans. However, the Government has agreed to make consequential amendments to the NRM legislation in due course as part of the proposed amendments to the *Development Act 1993*, which will introduce improvements to development plan amendment provisions. These consequential amendments to the NRM legislation will replace the capacity of regional NRM boards to prepare plan amendment reports in isolation with the capacity of the boards to participate with councils in preparing amendments to development plans. In addition, regional NRM boards will be designated as bodies that must be consulted on council or Ministerial amendments to development plans.

The regulatory framework

The Bill incorporates the regulatory components of the current *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*, *Soil Conservation and Land Care Act 1989* and *Water Resources Act 1997*. The provisions have been rationalised where possible and streamlined into the new arrangements.

Funding natural resources management activities

Reaching an acceptable framework for funding of regional natural resources management has been a challenging issue.

Under current legislative arrangements, constituent councils within a catchment water management area under the Water Resources Act collect a levy component based on land ownership. The Government's water licensing mechanisms collect a levy component based on ownership of water licences. All councils make a contribution to their respective animal and plant control boards under the Animal and Plant Control Act.

At the initiation of the Local Government Association, a joint state and local government group was established to advise whether it was appropriate to continue these arrangements, and to develop a proposal for an efficient and transparent levy mechanism.

The levy collection mechanism now included in the Bill is simple and transparent, and provides a process to regularise reimbursement of reasonable levy collection costs and minimise collection costs to the community.

The Bill provides for regional boards to identify funding needs and sources in their regional plans. The Bill provides for a natural resources management levy to provide one source of necessary funds. The levy will replace both the existing catchment levy under the Water Resources Act and local government contributions to animal and plant control boards under the Animal and Plant Control Act. A regional NRM levy will be approved by the Governor on the basis of the budget included in each regional plan. New levy proposals will be referred to the NRM Committee of Parliament for consideration and hence will be subject to scrutiny and disallowance in Parliament. Levies will be collected by councils within the area of each regional board as if they were separate rates under the Local Government Act and will be recognised for the purposes of State government council rates concessions under the Rates and Land Tax Remission Act. Should it be found in the future that there is conflict between Chapter 10 of the Local Government Act and the collection of the levy, regulations may be made modifying that Chapter to the extent necessary. Councils will be given a specific power to recover

an amount on account of costs incurred in the collection of the levy. The amount to be recovered will be determined under the regulations. Work on the scheme to be established by the regulations is being undertaken by a joint State and Local Government working party. This remains the subject of further negotiation with the LGA. The objective is to provide an easy to administer process by which councils are able to recover the costs they incur in collecting the NRM levy.

Existing State Government funding for natural resources management purposes will continue, subject to standard Government budget processes. Allocations will be consolidated into a single natural resources management appropriation to assist transparency and accountability. Regional boards established in areas that will not have the capacity to fully fund themselves via natural resources management levies will be assisted through the Environment and Conservation Portfolio, as is presently the case with some existing boards. Funding sources such as Commonwealth grants and corporate sponsorship will continue to supplement this core funding and allow boards to progress priority initiatives. Both the Natural Resources Management Council and regional boards will have a significant role in determining the appropriate use of Commonwealth-State NRM funding programs. This role already forms part of the Commonwealth/State Bilateral Agreement. Levies will not be increased as a direct result of this reform but appropriate levy amounts will be considered by each regional NRM board and the regional community through the regional planning process.

The transitional arrangements

Developing appropriate transitional arrangements has also been a significant challenge. Planning a move from the numerous boards created under the Water Resources Act, Soil Conservation and Land Care Act and Animal and Plant Control Act, with their different functions, boundaries, staff, programs and property, has required a great deal of trust, commitment and patience from all involved.

Following passage of this Bill, we intend establishing the NRM Council and NRM regional boards before bringing the Act into operation to allow preparation for transition to the new arrangements to occur. The Bill's transitional provisions also allow the membership, powers and functions of existing boards to continue during the period when the new NRM boards are being established. This period of duplication will ensure that existing NRM programs and projects can continue to be delivered by existing bodies until the new NRM boards are ready to take on full responsibility. It will also allow sufficient time for the complex process of negotiating the winding up the existing boards and assigning assets and liabilities with regional bodies, including local government, and to explore partnership arrangements for future delivery.

Transitional arrangements have been provided to ensure continuity in relation to the existing plans and processes and the transfer of levies and contributions, assets, staff and contracts.

The Bill also makes consequential amendments to related legislation, predominantly to update references to the new institutional arrangements.

Staff employed by existing boards under the repealed Acts will be offered employment by the regional boards and will not be disadvantaged by the new arrangements. Existing staff will have the opportunity to remain employees of legal entities, which represent their existing employers, or to transfer to employment by the new regional boards. Consultation with the industrial representatives of existing employees has been an ongoing element in development of the new arrangements, and will continue through the implementation period, so that employment issues are understood and appropriately accommodated in the transition.

Within State Government, staff currently administering the repealed Acts will administer the new legislation.

The transitional provisions contained in Schedule 4 of the Bill also provide for the carry-over of relevant rights and liabilities into the new arrangements.

The recently passed *River Murray Act 2003* made a number of changes to each of the *Water Resources Act 1997*, *Soil Conservation and Land Care Act 1989* and *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*. All of those changes are either retained verbatim in the Bill, or their intent reflected in wording appropriate to the new legislation.

Review

A legislative review is required by this Bill by 2006/07. A number of stakeholders have sought the inclusion of other related NRM legislation into this reform. Closer coordination, better linkages and/or incorporation into this legislation are all options for achieving greater integration. The required review will provide an opportunity to assess early experience with the current reform and appropriate means of achieving better integration with other NRM legislation including native vegetation, coast and marine, South-East drainage, pastoral land management and dog fence. The review date will ensure that such assessment occurs in a timely manner. In addition to this the Minister will continue to work to fine tune this legislation, if necessary, through subsequent legislation amendment, on an ongoing basis from commencement of the Act.

Key changes arising from the consultation process

Consultation on the draft Bill resulted in 158 written submissions being received. These were in addition to the valuable input received during stakeholder workshops and public meetings, which more than 600 people attended throughout the 8 proposed regions. Numerous amendments were made to the consultation draft Bill as a result of comments received. Most were not of major policy significance, but contributed to the overall sense and accessibility of the legislation, and filled in some gaps or loopholes.

Officers of the department and the Minister have continued to work closely with representatives of key stakeholders including the South Australian Farmer's Federation and the Local Government Association to achieve mutually acceptable arrangements. We are grateful for the contributions of all stakeholders and believe that this Bill will provide a stable, robust and secure legislative framework for NRM for the whole South Australian community. It is a Bill that provides regional decision making, community input and support for land managers and also recognises the need for balanced approach to conservation and development to achieve sound economic, social and environmental outcomes now and for future generations.

The period since the Bill was tabled has provided further opportunity for consideration of the proposed legislation by stakeholders and agency staff, and some suggested changes were forwarded to the NRM reform team during December 2003 and January 2004. Where the changes proposed have fallen within the scope of NRM reform they have been incorporated into the Bill. A number of amendments moved by the Opposition in the House of Assembly were also accepted by the Government. We have undertaken to consider a range of issues in connection with the passage of this Bill through this Chamber and we look forward to constructive discussions and debate so that this important measure can be passed by the Parliament.

Conclusion

It has no doubt been due to the long and very thorough consultation process, and to the good will, manifest commitment and willingness to compromise that has been shown by all involved, that the Bill represents a significant step in this continuing process for better management of our natural resources.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Chapter 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used in the Bill.

4—Interaction with other Acts

This clause provides that the Bill is in addition to, and does not limit or derogate from the provisions of any other Act. The clause also provides that the Bill is subject to certain other Acts and agreements described in the clause. Further, subclause (3) provides that Chapter 2 Part 2 and Chapter 6 do not apply in relation to certain substances and activities associated with mining Acts.

5—Territorial and extra-territorial operation of Act

This clause provides that the Bill applies to the whole of the State, however the Governor may, by regulation, exclude parts of the State. The Bill also applies outside of the State if an activity or circumstance undertaken or existing outside the State may affect the natural resources of the State.

6—Act binds Crown

This clause provides that the Bill binds the Crown, and that agencies and instrumentalities of the Crown must endeavour to act consistently with the State Natural Resources Management Plan, along with all other relevant natural resources management plans under the Bill.

Chapter 2—Objects of Act and general statutory duties

Part 1—Objects

7—Objects

This clause sets out the objects of the Bill.

8—Administration of Act to achieve objectives

This clause provides that, in administering the Bill, or performing, exercising or discharging a function, power or duty under the Bill, the Minister, the Court and a person must have regard to, and seek to further, the objects of the Bill.

Part 2—General statutory duties

9—General statutory duties

This clause requires a person to act reasonably in relation to natural resources management within the State, and to take into account the objects of the Bill. The clause also sets out factors to be taken into account in determining what is reasonable for the purposes of the section. The clause provides that a person acting in pursuance of a requirement under this or any other Act, in a manner consistent with the regional NRM plan, or in circumstances prescribed by the regulations, will be taken not to be in breach of the section. A person who breaches subclause (1) is not, on account of the breach alone, liable to civil or criminal action, but the person may be required to do certain things, or certain orders may be made, as set out in subclause (4). The clause also provides that a person is not to be held responsible for any condition or circumstance existing before the commencement of the clause.

Chapter 3—Administration

Part 1—The Minister

10—Functions of Minister

This clause sets out the functions of the Minister.

11—Powers of delegation

This clause provides that the Minister may delegate a power of the Minister under the Bill, or any other Act, to a body or person, and sets out requirements for such delegations. However, the Minister may not delegate the function of making recommendations to the Governor, nor the functions or powers of the Minister under Chapter 5. The clause also provides for an offence where a delegatee fails to disclose an interest in certain matters.

Part 2—The NRM Council

Division 1—Establishment of Council

12—Establishment of Council

This clause establishes the Natural Resources Management Council, and provides that the Council is subject to the general direction and control of the Minister.

Division 2—The Council's membership

13—Composition of Council

This clause sets out the requirements relating to the composition of the Natural Resources Management Council.

14—Conditions of membership

This clause sets out the conditions relating to membership of the Natural Resources Management Council, including procedures for removal of members, and casual vacancies.

15—Allowances and expenses

This clause provides that a member of the Natural Resources Management Council is entitled to fees, allowances and expenses approved by the Governor.

16—Validity of acts

This clause provides that an act or proceeding of the Natural Resources Management Council is not invalid simply because there is a vacancy in its membership or a defect in the appointment of a member.

Division 3—Functions of Council

17—Functions of Council

This clause sets out the functions of the Natural Resources Management Council.

18—Committees

This clause provides for the setting up of committees by the Natural Resources Management Council, and for the procedures of those committees.

19—Power of delegation

This clause provides that the Natural Resources Management Council may delegate a function or power of the Council under this Bill, or any other Act, and sets out requirements for such delegations.

Division 4—Related matters

20—Annual report

This clause requires the Natural Resources Management Council to provide an annual report to the Minister, and sets out requirements for those reports.

21—Use of facilities

This clause provides that the Natural Resources Management Council may use staff, facilities and equipment of an administrative unit of the Public Service, or of a public authority.

Part 3—NRM Regions and boards

Division 1—Establishment of regions

22—Establishment of regions

This clause provides that the Minister may, by notice in the Gazette, divide the State into Natural Resources Management regions, and sets out the procedure and requirements for doing so, including the requirement for consultation with the Local Government Association.

Division 2—Establishment of regional NRM boards

23—Establishment of boards

This clause requires the Minister, by notice in the Gazette, to establish a regional Natural Resources Management board for each Natural Resources Management region, and sets out related procedures and requirements.

24—Corporate nature

This clause provides that a regional NRM board is a body corporate, sets out the corporate nature of the boards and provides that a board is subject to the direction and control of the Minister.

Division 3—Membership

25—Composition of boards

This clause sets out requirements relating to the composition of regional NRM boards.

26—Conditions of membership

This clause sets out the conditions relating to membership of a regional NRM board, including procedures for removal of members, and casual vacancies

27—Allowances and expenses

This clause provides that a member of a regional NRM board is entitled to fees, allowances and expenses approved by the Governor.

28—Validity of acts

This clause provides that an act or proceeding of a regional NRM board is not invalid simply because there is a vacancy in its membership, a defect in the appointment of a member or a situation where a majority of its members do not reside within the relevant region.

Division 4—Functions of boards

29—Functions of boards

This clause sets out the functions of a regional NRM board.

Division 5—Powers of boards

30—General powers

This clause sets out the general powers of a regional NRM board in relation to the Bill.

31—Special powers to carry out works

This clause sets out special powers that a regional NRM board has to carry out the works specified in the clause.

32—Entry and occupation of land

This clause provides that a regional NRM board may enter and occupy land for the purpose of carrying out a function or exercising a power under the Bill. The clause also sets out the procedures required in the exercise of the power conferred by this clause. A person must not use the power conferred by the clause except with a warrant issued by a magistrate, or in circumstances requiring immediate entry upon the land.

33—Special vesting of infrastructure

This clause enables the Governor by proclamation to vest certain things in regional NRM boards, and sets out procedures for such vesting.

Division 6—Staff

34—Staff

This clause sets out the staffing arrangements for regional NRM boards.

Division 7—Committees and delegations

35—Committees

This clause provides for the setting up of committees by regional NRM boards.

36—Power of delegation

This clause provides that a regional NRM board may delegate its powers or functions.

Division 8—Accounts, audit and reports

37—Accounts and audit

A regional NRM board must cause proper accounts to be kept and prepare financial statements for each financial year. The Auditor-General is to audit those accounts and statements.

38—Reports

This clause requires a regional NRM board to provide an annual report to the NRM Council.

39—Specific reports

The Minister or the NRM Council may require a regional NRM board to report in any aspect of its operations.

Division 9—Appointment of administrator

40—Appointment of administrator

This clause enables the Minister, in specified circumstances, to appoint an administrator of a regional NRM board.

Division 10—Related matters

41—Use of facilities

This clause allows a regional NRM board to make use of the services, staff, equipment or facilities of an administrative unit of the Public Service, or a public authority.

42—Board's power to provide financial assistance etc

This clause allows a regional NRM board to provide financial (or any other) assistance to specified persons or bodies.

43—Assignment of responsibility for infrastructure to another person or body

This clause allows a regional NRM board to assign responsibility for the care, control or management of infrastructure to specified bodies. An assignment to a owner or occupier, or to a third party, is effected by agreement. The clause also provides for the assignment to be noted against (and a note of rescission or amendment entered if requested) the instrument of title by the Registrar-General.

44—Appointment of body to act as a board

This clause provides that the Governor may, by regulations made on the recommendation of the Minister, appoint a body specified in the regulations to be a regional NRM board, and sets out requirements attaching to such an appointment.

Part 4—NRM groups

Division 1—Establishment of areas

45—Establishment of areas

This clause provides that the Minister may, after consultation with or on the recommendation of the relevant NRM board, designate an area as the area in which an NRM group will operate, and also provides for the variation or abolition of such an area. The area may, if the Minister considers the circumstances justify such an approach, include parts of the areas of 2 or more regional NRM boards.

Division 2—Establishment of NRM groups

46—Establishment of groups

This clause requires the Minister to establish, on the recommendation of or after consultation with the relevant NRM board or boards, a Natural Resources Management group for each area established under Division 1, and also provides for the variation of a notice under this clause or the abolition of an NRM group.

47—Corporate nature and responsibility at regional level

This clause sets out the corporate nature of an NRM group, and provides that an NRM group is, if the area of the NRM group lies wholly within the region of 1 regional NRM board, subject to the direction of the regional NRM board, and also sets out procedures to be adopted when an area of an NRM group includes parts of the regions of 2 or more regional NRM boards.

Division 3—Membership

48—Composition of NRM groups

This clause provides for the composition of NRM groups, and sets out the certain requirements for appointment and membership of the group.

49—Conditions of membership

This is a standard clause relating to the conditions on which a member of an NRM group holds office.

50—Allowances and expenses

This clause provides that a member of an NRM group is entitled to certain fees, allowances and expenses.

51—Validity of acts

This is a standard clause.

Division 4—Functions of NRM groups

52—Functions of groups

This clause sets out the functions of an NRM group.

Division 5—Powers of NRM groups

53—General powers

This clause sets out the general powers of an NRM group, and also sets out certain limits on the activities of an NRM group.

Division 6—Committees and delegations

54—Committees

This clause enables an NRM group to establish committees in certain circumstances.

55—Power of delegation

This clause provides that an NRM group may make certain delegations of its functions or powers under this measure.

Division 7—Accounts, audit and reports

56—Accounts and audit

An NRM group must cause proper accounts to be kept and prepare financial statements for each financial year. The Auditor-General is to audit those accounts and statements.

57—Reports

This clause requires an NRM group to provide an annual report to the relevant NRM board or boards.

58—Specific reports

The Minister or a regional NRM board may require an NRM group to report in any aspect of its operations.

Division 8—Related matters

59—Staff

This clause provides that the Minister or a regional NRM board may provide staff to assist an NRM group.

60—Use of facilities

This clause allows an NRM group to make use of the services, staff, equipment or facilities of an administrative unit of the Public Service, or a public authority.

61—Appointment of body established by or under another Act

This clause allows the Governor, by regulation, to appoint a body specified in the regulations to be an NRM group, and sets out certain requirements in relation to the making of a regulation under this clause.

62—Regional NRM board may act as an NRM group

This clause allows a regional NRM board to perform any function and exercise any power of an NRM group.

Part 5—The Chief Officer

63—Chief Officer

This clause provides that the Chief Executive of the Department will be the Chief Officer for the purposes of this Bill.

64—Functions of Chief Officer

This clause sets out the functions of the Chief Officer.

65—Power of delegation

This clause provides that the Chief Officer may make certain delegations of his or functions or powers under the measure.

Part 6—Authorised officers

66—State authorised officers

This clause provides for the appointment of State authorised officers.

67—Regional authorised officers

This clause provides for the appointment of regional authorised officers.

68—Identity cards

This clause requires authorised officers be issued with identity cards.

69—Powers of authorised officers

This clause sets out the powers of authorised officers under the Bill.

70—Provisions relating to seizure

This clause sets out provisions applying when a thing has been seized under clause 71.

71—Hindering etc persons engaged in the administration of this Act

This clause creates certain offences relating to persons engaged in the administration of the measure.

72—Self-incrimination

This clause provides that a person may refuse to provide information under the provisions relating to investigations set out in this Part on the grounds of self-incrimination.

73—Offences by authorised officers

This clause creates certain offences in relation to authorised officers.

Chapter 4—NRM plans

Part 1—State NRM Plan

74—State NRM Plan

The NRM Council will prepare and maintain a plan to be called the State Natural Resources Plan. The plan will set out principles and policies for achieving the objects of the measure throughout the State. The plan will be reviewed at least once in every five years.

Part 2—Regional plans

Division 1—Regional NRM plans
75—Regional NRM plans
Each regional NRM board will prepare and maintain a regional NRM plan. The plan will need to address a number of specified matters and to be consistent with a variety of other plans and policies.
Division 2—Water allocation plans
76—Preparation of water allocation plans
Each regional NRM board will also prepare a water allocation plan for each of the prescribed water resources in its region. A water allocation plan will be taken to form part of the relevant regional NRM plan.
Division 3—Preparation and maintenance of plans
77—Application of Division
This clause is an application provision.
78—Concept statement
A regional NRM board will, in relation to a proposal to complete a plan, prepare a concept statement. A board must consult on the concept statement.
79—Preparation of plans and consultation
The board will then prepare a draft plan based on the concept statement and result of the board's investigations. The board must then consult on the draft plan.
80—Submission of plan to Minister
A draft plan will be referred to the Minister, who may adopt the plan with or without amendment, or refer the plan back to the board for further consultation. A plan that proposes raising the amounts under Chapter 5 must be referred to the Natural Resources Committee of the Parliament. A disallowance mechanism is included.
81—Review and amendment of plans
This clause provides for the periodic review and amendment of plans.
82—Time for implementation of plans
A plan cannot be implemented unless or until it has been adopted by the Minister.
83—Availability of copies of plans etc
This clause provides for the public availability of plans and submissions.
84—Time for preparation and review of plans
The initial regional NRM plan prepared by a board need not satisfy all the requirements of this Act but the board must seek to have a comprehensive plan as soon as practicable.
Division 4—Related matters
85—Application of Division
This clause is an application provision.
86—Validity of plans
A regional NRM plan will not be invalid because it is inconsistent with the State NRM plan.
87—Promotion of River Murray legislation
A plan that applies to the Murray-Darling Basin or in relation to the River Murray must seek to further the objects of the *River Murray Act 2003* and the objectives under that Act, and must be consistent with the Agreement under the *Murray-Darling Basin Act 1993*.
88—Associated Ministerial consents
The Minister will be required to seek the consent of other Ministers in certain circumstances. Any disagreement between the Ministers will be referred to the Governor in Executive Council.
89—Amendment of plans without formal procedures
This clause sets out the cases where a plan may be amended without following the formal procedures set out in Division 3.
90—Plans may confer discretionary powers
This clause makes it clear that a plan may confer discretionary powers.
91—Effect of declaration of invalidity
This clause is a severance provision.
Chapter 5—Financial provisions
Part 1—NRM levies
Division 1—Levies in respect of land
92—Contributions by constituent councils
This clause establishes a scheme under which councils may be required to contribute an amount determined by a regional NRM board in its plan towards the costs of the regional NRM board in their areas and, following consultation with the relevant councils, provides for the shares in which the councils will pay that contribution.
93—Payment of contributions by councils
This clause sets out the time for payment by a council of its share.
94—Funds may be expended in subsequent years
This clause makes it clear that money paid by a council under this Division in one financial year may be spent by a regional NRM board in a subsequent financial year.
95—Imposition of levy by councils
This clause enables a council to impose a levy on ratepayers to recover the amount of the share paid by the council. The levy will be recoverable as if it were a separate rate under Chapter 10 of the *Local Government Act 1999*.
96—Costs of councils
This clause provides that a regional NRM board must pay an amount on account of the costs of councils in complying with the requirements under this Part, subject to any provision made by the regulations. The Minister will consult with the LGA before a regulation is made under this provision.
97—Outside council areas
This clause will allow a levy relating to the costs of a regional NRM board to be imposed with respect to land outside council areas. The levy will be declared by the Minister with the approval of the Governor. The Minister will be able to arrange for assessment notices to be served by another authority or person, and for another authority or person to collect the levy on behalf of the Minister.
98—Contributions towards work of NRM groups
This clause makes it clear that the costs of NRM groups will be taken to form part of the costs of regional NRM boards for the purposes of this Division.
99—Application of levy
This clause makes it clear that nothing in this Division prevents a levy raised in one part of the State being applied in another part of the State by the relevant board, or a group.
Division 2—Levies in respect of taking water
100—Interpretation
This clause defines terms used in Chapter 5 Part 1 Division 2.
101—Declaration of levies
This clause will allow the Minister to declare a levy or levies to be paid by persons who are the holders of water licences, are the holders of imported water permits, or are authorised to take water under clause 130. The scheme is based on the current provisions of the *Water Resources Act 1997*.
102—Provisions applying to water (holding) allocations in declared water resources
This clause will allow special provision to be made with respect to water (holding) allocations for water resources specified by the Minister.
103—Special purpose water levy
This clause will allow the Minister to declare a special purpose water levy. The Minister will only be entitled to declare a special purpose water levy under this clause if a majority of people named in the relevant declaration have given their consent to it.
104—Liability for levy
This clause sets out provisions relating to liability for levies.
105—Notice of liability for levy
The Minister will serve a notice of the amount payable by way of a levy under this Division.
106—Determination of quantity of water taken
This clause sets out provisions as to the determination of the quantity of water taken for the purposes of determining the amount payable by way of levy.
107—Cancellation etc of licence or permit for non-payment of levy
The Minister will be able to cancel, suspend or vary a licence or permit if a levy is not paid.
108—Costs associated with collection
A regional NRM board may be required to pay to the Minister and amount relating to the costs incurred by the Minister in collecting a levy under this Division. However, an amount payable by a board cannot exceed an amount to be determined in accordance with the regulations.
Division 3—Special provisions
109—Application of Division
This Division is to apply to an out-of-council NRM levy or to an NRM water levy.
110—Interest

Interest will accrue on unpaid levy, and on unpaid interest, in accordance with the regulations.

111—Discounting levies

The Minister will be able to discount a levy to encourage early payment of a levy, in accordance with a scheme to be prescribed by the regulations.

112—Levy first charge on land

A levy will be a first charge on the relevant land.

113—Sale of land for non-payment of a levy

This clause sets out a scheme for the sale of land if a levy is not paid. The Minister will be able to assume title to the land if it cannot be sold.

Division 4—Related matters

114—Refund of levies

A regional NRM plan, or the regulations will be able to set out schemes that may form the basis of an application for a refund of the whole or a part of a levy.

115—Declaration of penalty in relation to the unauthorised or unlawful taking or use of water

This clause provides for the declaration of a penalty in relation to the unauthorised taking of water. The other provisions of this Chapter may be applied to a penalty under this provision as though it were a levy.

116—Appropriation of levies, penalties and interest

This clause provides for the application of levies and other amounts declared under this Part.

Part 2—Statutory funds

Division 1—The Natural Resources Management Fund

117—The Natural Resources Management Fund

There is to be a Natural Resources Management Fund in connection with the operation of this measure.

118—Accounts

The Minister must cause proper accounts to be kept of money paid into and out of the fund.

119—Audit

The fund will be audited by the Auditor-General.

Division 2—Regional NRM board funds

120—Regional NRM board funds

Each regional NRM board will be required to establish and maintain a fund for the purposes of this measure.

Chapter 6—Management and protection of land

121—Interpretation

This clause defines terms used in Chapter 6.

122—Special provisions relating to land

This clause will enable a relevant authority to require the owner of land to prepare an action plan if the relevant authority considers that the owner has been (or is likely to be) in breach of the general statutory duty with respect to land and there has been (or is likely to be) unreasonable degradation of the land. The relevant authority will be required to attempt to resolve the matter by voluntary action on the part of the owner before resorting to the requirement to prepare an action plan.

123—Requirement to implement action plan

An action plan will be imposed by notice. An owner of land must be given a reasonable period to prepare the action plan. A requirement to prepare an action plan will be subject to review by the Chief Officer.

Chapter 7—Management and protection of water resources

Part 1—General rights in relation to water

124—Right to take water subject to certain requirements

This clause sets out rights in relation to the taking of water. It is important to note the broad definition of "to take" water under this Bill.

125—Declaration of prescribed water resources

This clause provides for the declaration of water resources by the Governor on the recommendation of the Minister. The Minister must undertake a process of public consultation before making a recommendation.

Part 2—Control of activities affecting water

Division 1—Determination of relevant authority

126—Determination of relevant authority

This clause defines the relevant authority for the purposes of granting a water licence or a permit.

Division 2—Control of activities

127—Water affecting activities

This clause controls activities that affect water by requiring a water licence or an authorisation under clause 128 for the taking of water or a permit for other activities specified in the clause.

128—Certain uses of water authorised

This clause enables the Minister, by notice in the Gazette, to authorise the taking of water from a prescribed water resource.

129—Activities not requiring a permit

This clause sets out activities for which a permit is not required.

130—Notice to rectify unauthorised activity

This clause enables a relevant authority to direct a person who has undertaken an activity without authority to rectify the effects of that activity.

131—Notice to maintain watercourse or lake

This clause enables a relevant authority to direct the owner of land to maintain a watercourse or lake that is on or adjoins the land.

132—Restrictions in case of inadequate supply or overuse of water

This clause enables the Minister to prohibit or restrict the use of water in certain cases.

133—Specific duty with respect to damage to a watercourse or lake

This clause places a specific duty on the owner of land to take reasonable measures to prevent damage to a watercourse or lake on or adjoining the land.

134—Minister may direct removal of dam etc

This clause will enable the Minister to take action if a dam or other obstruction is affecting water. Compensation will be payable if a dam or other obstruction must be removed.

Division 3—Permits

135—Permits

This clause provides for the granting of permits. The granting of a permit must not be inconsistent with the State NRM plan.

136—Requirement for notice of certain applications

This clause requires public notice of applications if an NRM plan provides for such notice. The clause then allows interested persons to make representations to the relevant authority before a decision is made on the application.

137—Refusal of permit to drill well

This clause allows an authority to refuse a permit to drill a well if the water is so contaminated as to create a risk to health.

138—Availability of copies of permits etc

The relevant authority must make permits, and written representations received with respect to permits, publicly available.

Division 4—Provisions relating to wells

139—Well drillers' licences

This clause provides for the granting of well driller's licences.

140—The Water Well Drilling Committee

The Water Well Drilling Committee is to continue.

141—Renewal of licence

This clause provides for the renewal of well driller's licences.

142—Non-application of certain provisions

This clause enables wells of a class prescribed by proclamation to be excluded from provisions of this Division.

143—Defences

This clause provides a series of defences relating to drilling, plugging, backfilling or other activities with respect to wells.

144—Obligation to maintain well

This clause imposes an obligation to maintain wells.

145—Requirement for remedial or other work

This clause enables the Chief Officer to direct that certain action be taken with respect to wells.

Part 3—Licensing and allocation of water

Division 1—Licensing

146—Licences

This clause provides for the granting of a water licence. Subclause (3) sets out the grounds on which the Minister can refuse to grant a licence. A licence may be granted subject to conditions.

147—Variation of water licences

This clause provides for the variation of water licences.

148—Surrender of licence

This clause enables a licensee to surrender his or her licence, subject to obtaining the consent of any person with an interest in the licence noted on the register.

149—Availability of copies of licences etc

Copies of licences will be available for public inspection.

Division 2—Allocation of water

150—Method of fixing water (taking) allocations

This clause provides that a water (taking) allocation may be fixed by reference to the volume of water that may be taken, the purpose for which the water may be taken and used, or in any other manner.

151—Allocation of water

This clause sets out the methods by which water may be allocated under a licence. An allocation may be obtained from the Minister, from the holder of another licence, by conversion of a water (holding) allocation, or under an Interstate Water Entitlements Transfer Scheme. An allocation by the Minister may be subject to conditions. The Minister may refuse to allocate water to a person who has acted in contravention of the Bill.

152—Basis of decisions as to allocation

This clause makes specific provision in relation to the Minister's decisions to allocate water or set conditions. In particular, an allocation of water must be consistent with the relevant water allocation plan and the conditions attached to a licence must not be seriously at variance with the relevant water allocation plan.

153—Water (holding) allocations

This clause continues the scheme for the endorsement of water (holding) allocations on water licences.

154—Conversion of water (taking) licence

It will be possible to apply to convert a water (taking) allocation to a water (holding) allocation.

155—Allocation on declaration of prescribed water resource

This clause provides for the allocation of water on the declaration of a water resource. The main purpose of this provision is to preserve the rights to water of existing users.

156—Reduction of water allocations

This clause relates to the ability of the Minister to reduce water allocations in specified circumstances.

Division 3—Transfer of licences and water allocations

157—Transfer

158—Application for transfer of licence or allocation

159—Requirement for notice of application for certain transfers

160—Basis of decision as to transfer

161—Endorsement and record of dealings

These clauses set out a scheme for the transfer of water licences and for the transfer of part of the water allocation of a licence separately from the licence.

Division 4—Breach of licence

162—Consequences of breach of licence etc

This clause sets out the consequences of a breach of a licence, or of certain other requirements under this Chapter. The Minister will be able to cancel, suspend or vary a licence in certain circumstances. A right of appeal will lie to the ERD Court.

163—Effect of cancellation of licence on water allocation

A water allocation endorsed on a licence that has been cancelled will be forfeited to the Minister. The Minister must endeavour to sell the allocation and, on a sale, the proceeds will be applied in the manner specified by this clause.

Division 5—Schemes to promote the transfer or surrender of allocations

164—Schemes to promote the transfer or surrender of allocations

This clause preserves the ability of the Minister to establish certain schemes to promote the transfer or surrender of allocations, or the surrender of water licences, that relate to a specified area within the Murray-Darling Basin. There will be no obligation to accept an offer under a scheme.

Part 4—Reservation of excess water by Minister

165—Interpretation

166—Reservation of excess water in a water resource

167—Allocation of reserved water

168—Public notice of allocation of reserved water

These clauses continue the specific scheme under which the Minister may reserve excess water.

Part 5—Water conservation measures

169—Water conservation measures

This clause continues the scheme under which the Governor can introduce specific water conservation measures by regulation under this measure.

Part 6—Related matters

170—Law governing decisions under this Chapter

This clause makes specific provision with respect to the law to be applied, and the provisions of the relevant regional NRM plan to be applied, when a matter falls to be determined under this Chapter.

171—Effect of water use on ecosystems

An assessment of the quantity of water available during a particular period must take into account the needs of ecosystems that depend on the relevant resource for water.

172—By-laws

This clause continues the scheme under which a board may make by-laws for the purposes of these provisions. However, the matters with respect to which by-laws may be made will be prescribed by regulation.

173—Representations by SA Water

This clause allows SA Water to make representations in respect of water discharged into a watercourse or lake.

174—Water recovery and other rights subject to board's functions and powers

Certain rights will be subject to the performance or exercise of the functions and powers of boards under this Bill.

Chapter 8—Control of animals and plants

Part 1—Preliminary

175—Preliminary

This clause will enable the Minister to declare that specific provisions of the Chapter apply to specified classes of animals or plants, and also to declare control areas and prohibitions for those classes of animals or plants. Such a declaration cannot, except in specified circumstances, be made in respect of a class of native animals. The clause further provides for the establishment of three different categories of animals or plants subject to a declaration under this clause.

Part 2—Control provisions

Division 1—Specific controls

176—Movement of animals or plants

This clause creates offences relating to the movement of certain animals or plants into or within control areas. There is a defence available where the movement was carried out in accordance with a written approval given by an authorised officer, or the circumstances constituting the offence were not the result of a wilful or negligent act on the part of the defendant.

177—Possession of animals or plants

This clause creates offences relating to the possession of certain animals and plants within a control area, with the penalties gradated according to the category of animal or plant.

178—Sale of animals or plants, or produce or goods carrying plants

This clause creates offences relating to the sale of certain animals and plants (and other things carrying certain plants), with the penalties gradated according to the category of animal or plant. There is a defence available where the movement was carried out in accordance with a written approval given by an authorised officer, or the circumstances constituting the offence were not the result of a wilful or negligent act on the part of the defendant.

179—Sale of contaminated items

This clause creates offences relating to the sale of certain animals and plants (and other things carrying certain plants), with the penalties gradated according to the category of animal or plant.

180—Offence to release animals or plants

This clause creates offences relating to the release of certain animals and plants within a control area. There is a defence available where the movement was carried out in accordance with a written approval given by an authorised officer, or the circumstances constituting the offence were not the result of a wilful or negligent act on the part of the defendant, however the defence does not apply where an authorised officer furnished the defendant with a notice warning the defendant of specified matters. The clause also provides that the certain costs incurred as a result of a contravention of the clause can be recovered.

181—Notification of presence of animals or plants
This clause requires an owner of land within a control area to notify within a specified period the NRM group, or the regional NRM board if no such group exists, of the presence of certain animals and plants. The clause further requires an NRM authority to notify the chief officer, and the chief officer to notify the NRM group, in the event that the NRM authority becomes aware of the presence of certain animals and plants other than by notification under subclause (1).
182—Requirement to control certain animals or plants
This clause requires the owner of land within a control area to comply with the instructions of an authorised officer in relation to keeping certain animals and plants, with the penalties linked to the category of animal or plant.
183—Owner of land to take action to destroy or control animals or plants
This clause requires the owner of land within a control area to destroy certain animals and plants. The clause also requires the owner to control and keep controlled certain animals and plants. A relevant authority may, however, exempt a person from those requirements. Whilst breaching a requirement under this clause does not, in itself, make the person liable to civil or criminal action, a person may be liable if they fail to comply with the relevant requirements under clause 186. The clause also requires NRM groups to carry out proper measures for the destruction of certain animals and plants on road reserves within a control area.
184—Requirement to implement action plan
This clause enables an authorised officer to require an owner to prepare an action plan to address a breach of clause 183(1), (2) or (3), and sets out requirements for such a plan. It is an offence for an owner to fail to comply with an action plan. The Chief Officer, or an NRM authority may carry out appropriate measures in view of the failure of the owner. The clause confers certain powers on the Chief Officer and NRM authority, and reasonable costs and expenses may be recovered from the owner.
185—Native animals
Only a State authorised officer can issue a protection order or notice to prepare an action plan in relation to a native animal.
186—NRM authorities may recover certain costs from owners of land adjoining road reserves
This clause allows an NRM authority, under certain circumstances, to recover costs for the destruction or control of certain animals or plants on road reserves within a control area from owners of land adjoining the road reserve. An unpaid amount may be recovered (with interest) as a debt against the owner, and may also be remitted in whole or in part by the NRM authority.
187—Destruction or control of animals outside the dog fence by poison and traps
This clause allows an owner of land bounded by and inside the dog fence to lay poison or set traps in accordance with approved proposals on adjoining land immediately outside the dog fence for the purposes of destroying or controlling animals pursuant to this Part, and sets out the process for the approval of a proposal.
188—Ability of Minister to control or quarantine any animal or plant
This clause allows the Minister, for the purpose of controlling, or preventing the spread, of certain animals or plants, to declare a portion of the State to be a quarantine area. The clause sets out what requirements and prohibitions a notice under this clause can contain. It is an offence to contravene or fail to comply with a notice under this clause.
Division 2—Permits
189—Permits
This clause allows the relevant authority to issue a permit to a person authorising the movement, keeping or possession or sale of certain animals and plants. A permit may be subject to conditions, but may not be issued if a provision of Division 1 acts as an absolute prohibition of the conduct for which a permit is sought. In issuing a permit, a relevant authority must take into account and seek to further the objects of the *River Murray Act 2003* and the *Objectives for a Healthy River Murray* under that Act. The clause also sets out consultation requirements for certain circumstances. It is an offence to contravene or fail to comply with a provision or condition of a permit.
Division 3—Related matters
190—Animal-proof fences
This clause provides that a certificate of the Minister is admissible as proof of certain matters in relation to the *Fences Act 1975*.
191—Offence to damage certain fences
This clause creates an offence for a person to interfere with an animal-proof fence except with the permission of the owner of the land on which the fence is situated. The court may order a person convicted of an offence under this clause to compensate the owner.
192—Offence to leave gates open
This clause creates an offence for a person to leave open a gate in an animal-proof fence except with the permission of the owner of the land on which the fence is situated.
193—Protection of certain vegetation and habitats
This clause creates an offence in relation to the clearance of native vegetation. A person must take all reasonable steps to ensure that clearance is not done except in accordance with the guidelines under the *Native Vegetation Act 1991*, and that damage or destruction to other vegetation is kept to a minimum. The clause also requires compliance with certain requirements set out in the regional NRM plan or prescribed by the regulations relating to the protection of native animals and their habitats.
Chapter 9—Civil remedies
Part 1—Orders issued by NRM authorities
Division 1—Orders
194—Protection orders
This clause enables an NRM authority or a State authorised officer to issue a protection order to secure compliance with the requirements of Chapter 2 Part 2, clause 133 or 183, a management agreement or any other prescribed requirement. The clause sets out the requirements and procedures in relation to making such an order. A protection order may be appealed to the Court within 14 days. An authorised officer may issue an emergency protection order orally in certain circumstances, but must then confirm the order in writing. It is an offence to refuse or fail to comply with an order.
195—Action on non-compliance with a protection order
This clause allows an relevant authority to take the action required by a protection order in the event that the requirements of the order are not complied with. The authority may recover as a debt from the person who failed to comply with the order the reasonable costs and expenses incurred in taking action under this clause.
196—Reparation orders
This clause enables an NRM authority or State authorised officer to issue a reparation order, if satisfied that a person has caused harm to a natural resource by contravention of the requirements of Chapter 2 Part 2, clause 133 or 183, a management agreement or any other requirement prescribed by the regulations for the purposes of this clause. A reparation order may require specific action be taken, or certain payments to be made, or both. The clause sets out requirements and procedures in relation to making such an order. A reparation order may be appealed to the Court within 21 days. An authorised officer may issue an emergency reparation order orally in certain circumstances, but must then confirm the order in writing. It is an offence to refuse or fail to comply with an order.
197—Action on non-compliance with a reparation order
This clause allows a relevant authority to take the action required by a reparation order in the event that the requirements of the order are not complied with. The authority may recover as a debt from the person who failed to comply with the order the reasonable costs and expenses incurred in taking action under this clause.
198—Reparation authorisations
If satisfied that a person has caused harm to any natural resource by contravention of Chapter 2 Part 2, clause 133 or 183, a management agreement or any other requirement prescribed by the regulations for the purposes of this clause, a relevant authority may issue a reparation authority, under which authorised officers or other authorised persons may take specified action on the authority's behalf to make good damage to the natural resource. The clause also sets out

procedures and requirements in relation to making such an authorisation.

199—Related matter

This clause provides that a person cannot claim compensation from the Crown, an NRM authority, the Chief Officer, an authorised officer or other authorised person in respect of a requirement imposed by or under this Division, or an act or omission undertaken or made in good faith in the exercise of a power under this Division.

Division 2—Registration of orders and effect of charges

200—Registration

This clause allows the relevant authority to have the Registrar-General register an order or authorisation issued under Division 1 relating to an activity carried out on land, or requiring a person to take action on or in relation to land. Such an order or authorisation is binding on each owner and occupier from time to time of the land. The Registrar-General must, on application by the relevant authority, cancel the registration of such an order or authorisation and make appropriate endorsements to that effect.

201—Effect of charge

This clause sets out the priority of a charge imposed on land under Division 1.

Part 2—Orders made by ERD Court

202—Orders made by ERD Court

This clause sets out the orders that the ERD Court can make in relation to this measure, and requirements and procedures in relation to such orders.

Chapter 10—Appeals

203—Right of appeal

This clause sets out specific rights of appeal to the ERD Court. An appeal will, in the first instance, be referred to a conference under section 16 of the *Environment, Resources and Development Court Act 1993*.

204—Operation and implementation of decisions or orders subject to appeal

The making of an appeal will not, in itself, affect the operation of any decision or other action to which the appeal relates. However, the Court, or the relevant authority, may suspend the operation of the decision or other action if it thinks fit. A suspension may be granted subject to conditions.

205—Powers of Court on determination of appeals

The Court will have a range of powers on the hearing of an appeal, including to confirm, vary or reverse any decision, or substitute any decision, to order or direct a person or body to take such action as the Court thinks fit, and to make consequential or ancillary orders or directions.

Chapter 11—Management agreements

206—Management agreements

The Minister will be able to enter into a management agreement relating to the protection, conservation, management, enhancement, restoration or rehabilitation of any natural resources, or any other matter associated with furthering the objects of the Bill. The management agreement will be entered into with the owner of the land. The agreement will not have any force or effect under the Bill until a note relating to the agreement is entered on the relevant instrument of title or against the land.

Chapter 12—Miscellaneous

Part 1—Avoidance of duplication of procedures etc

207—Avoidance of duplication of procedures etc

This clause will allow an authority to accept a document or recognise a procedure under the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth for the purposes of this measure.

Part 2—Other matters

208—Native title

Nothing done under this measure will be taken to affect native title in any land or water, unless the effect is valid under a law of the State or the *Native Title Act 1993* of the Commonwealth.

209—Service of notices or other documents

This clause provides for the service of notices or documents.

210—Money due to Minister

Money that is due to the Minister or another authority may be recovered as if it were unpaid levy.

211—Compulsory acquisition of land

This clause confers on the Minister a specific power to acquire land under the *Land Acquisition Act 1969* for the purposes of the measure.

212—Compensation

This clause provides for the payment of compensation in certain circumstances.

213—Immunity from liability

This clause provides specific protection in relation to an owner of land, the Minister, a person engaged in the administration of the Bill, or another authority or person who destroys an animal or plant, captures or removes an animal, or takes other action in relation to the control of animals or plants.

214—Vicarious liability

For the purposes of this measure, an act or omission of an employee or agent will be taken to be an act or omission of the employer or principal unless it is proved that the person was acting otherwise than in the course of the employment or agency.

215—False or misleading information

It will be an offence to provide false or misleading information under the measure.

216—Interference with works or other property

This clause sets out offences relating to interference with infrastructure, works and other property.

217—Criminal jurisdiction of Court

Certain offences will lie within the criminal jurisdiction of the ERD Court.

218—Proceedings for offences

This clause provides for the commencement of offences against the measure.

219—General defence

220—Offences by bodies corporate

These clauses are standard clauses.

221—Additional orders on conviction

This clause will allow a court on recording a conviction under the measure to require a person to take specified action to rectify the consequences of any contravention of the measure or to ensure that a further contravention does not occur, or to pay to the Crown an amount assessed by the court to be equal to any financial benefit that has been gained, or can reasonably be expected to be gained, as a result of the commission of the relevant offence.

222—Continuing offence

A person convicted of an offence will be liable to a penalty with respect to any continuing act or omission.

223—Constitution of Environment, Resources and Development Court

This clause deals with the constitution of the ERD Court when it is exercising jurisdiction under the measure.

224—Evidentiary

This clause provides for the proof of certain matters and the application of various presumptions.

225—Determination of costs and expenses

This clause makes it clear that the costs of an authority under the measure are the full costs that could be charged by an independent contractor.

226—Minister may apply assumptions and other information

The Minister will be able to apply various assumptions for the purposes of the measure.

227—NRM Register

This clause requires the Minister to keep a register of licences, permits, action plans and other prescribed matters.

228—Confidentiality

A person engaged in the administration of the measure will be required to keep certain information confidential unless he or she is acting in the performance of official duties or as required by law or authorised by the Minister.

229—Annual report

The Department will be required to provide specific information on the operation of this measure on an annual basis. This information will be included in the annual report of the NRM Council.

230—Damage caused by non-compliance with a notice etc

A person who suffers loss as a result of a failure on the part of another person to comply with a requirement relating to an action plan, or an order under Chapter 9 Part 1, may recover damages from that other person.

231—Recovery of technical costs associated with contraventions

This clause will allow a specified authority to recover costs and expenses in taking samples or conducting tests, examinations or analyses, in the course of investigating a contravention of the measure.

232—Incorporation of codes and standards

A notice, regulation or by-law under the measure may apply, adopt or incorporate, with or without modification, any code, standard or other appropriate document.

233—Exemption from Act

The Governor will be able to make regulations with respect to exemptions from the operation of the measure.

234—Regulations

This is a general regulation-making clause.

235—Review of Act by Minister

The Minister will be required to initiate a review of the operation of the measure. The review, and the report on the outcome of the review, must be completed by the end of the 2006/2007 financial year.

Schedule 1—Provisions relating to NRM Council, regional NRM boards and NRM groups

This Schedule sets out common provisions for the NRM Council, regional NRM boards and NRM groups.

Schedule 2—Classes of wells in relation to which a permit is not required

This Schedule sets out classes of wells that are exempt from the requirement for a permit.

Schedule 3—Regulations

This Schedule sets out various matters for which regulations may be specifically made.

Schedule 4—Related amendments, repeals and transitional provisions

This Schedule sets out related amendments to other Acts. The *Animal and Plant Control (Agricultural Protection and Other Purposes) Act 1986*, *Soil Conservation and Land Care Act 1989* and *Water Resources Act 1997* are to be repealed. Part 18 of the Schedule sets out various provisions addressing a number of transitional issues associated with the enactment of this new legislation.

The Hon. R.I. LUCAS secured the adjournment of the debate.

SITTINGS AND BUSINESS

The Hon. P. HOLLOWAY (Minister for Industry, Trade and Regional Development): I move:

That the council at its rising adjourn until Monday 3 May 2004.

Motion carried.

STATUTES AMENDMENT (COURTS) BILL

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

PROBLEM GAMBLING FAMILY PROTECTION ORDERS BILL

The House of Assembly agreed to the bill without any amendment.

ADJOURNMENT

At 5.37 p.m. the council adjourned until Monday 3 May at 2.15 p.m.