LEGISLATIVE COUNCIL

Wednesday 3 June 2009

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:19 and read prayers.

LEGISLATIVE REVIEW COMMITTEE

The Hon. J.M. GAZZOLA (14:21): I bring up the 22nd report of the committee 2008-09.

Report received.

PAPERS

The following papers were laid on the table:

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

Death in Custody of Mr Charles Sweetland—Report of actions taken following the Coronial Inquiry dated 11 May 2009

Death in Custody of Mr Damien Dittmar—Report of actions taken following the Coronial Inquiry dated 12 May 2009

Legislative Council Select Committee Report on the Proposed Sale and Redevelopment of the Glenside Hospital Site—South Australian Government Response dated February 2009

SWINE FLU

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:22): I lay on the table a copy of a ministerial statement made today by the Hon. John Hill in another place on human swine influenza update.

QUESTION TIME

DESALINATION PLANT

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:22): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the location of the Port Stanvac desalination plant.

Leave granted.

The Hon. B.V. Finnigan interjecting:

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: The day has only just begun and he is already annoying me, Mr President. Last weekend I spent a couple of hours with the Liberal Party's very hard-working candidate Maria Kourtesis in the seat of Bright; in fact, I visited a number of constituents down there and, in particular, spent some time at a shopping centre with Ms Kourtesis. It was interesting to note that a significant proportion of the large number of people to whom we spoke raised concerns about the location of the desalination plant at the Port Stanvac refinery site, so I took the opportunity to drive down and inspect it from the roadway. My questions to the minister are:

1. Given that the area of the Mobil site is almost 1,000 hectares, why is the government building the desalination plant at the extreme northern end of the buffer zone?

2. Is the minister aware that the desalination plant is now closer to residents' houses than the refinery site proper?

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:24): The choice of the site at Port Stanvac for the desalination plant was, of course, made after significant consideration of the

matter by SA Water, which proposed it. Port Stanvac is an ideal site because it is adjacent to deep water; that is why it was a port. It was also zoned industrial.

The honourable member would be well aware of the history of the land at Port Stanvac. There is some contaminated land, and there has been an ongoing issue between Mobil—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: What would you do? The honourable member can say what he would do in relation—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: He would get tough with them, would he? He might consider how he would do that. I would be very interested to hear his treatise one day about how we get tough. The honourable member would be well aware that the land is owned by Mobil. I am sure that Mobil would have liked the state government to compulsorily acquire it because, presumably, that would then mean that the state would have to assume liability for what could be an extremely contaminated site. As the honourable member would be well aware, the land is the buffer zone around there, because those issues could be resolved without taking the length of time that it might otherwise have taken to resolve the ownership issues.

An honourable member interjecting:

The Hon. P. HOLLOWAY: That is rubbish; that is one of the myths. It is a Liberal myth.

The Hon. D.W. Ridgway: It was our idea.

The Hon. P. HOLLOWAY: They say we took their idea. Anyone can come in here and say, 'We will build a desalination plant; we will build a stadium.' It is easy enough to say that and to come up with an idea. I could come up with an idea and say that we will build $50 billion worth of transport infrastructure in the next 30 years. It is easy to say—it takes one word. However, whether it stacks up economically, environmentally or in any other respect is something else.

Governments do not spend $2 billion on a whim. Just because somebody says, 'Let's build a desal plant,' without any investigation, without even looking at it, really means nothing. Anyone can say that they will do that, just like anyone can say that they will build a sports stadium—

Honourable members: Hear, hear!

The Hon. P. HOLLOWAY: 'Hear, hear', they say. In other words, this opposition is going to be committed to spending hundreds of millions of dollars on a facility that not even the people who might benefit from it want—but that is another story.

In relation to the Port Stanvac desalination plant, it is just rubbish to suggest that the opposition could have built another plant earlier. In any case, why would you do it? This is one of the things the opposition is saying; that it would have had it two years earlier. We have not needed it yet. Sure, we are going to need it in the future but, if it had been built two years earlier, you would have spent all that money and for what benefit? The thing is that this government will build it when it is needed—

The Hon. S.G. Wade interjecting:

The Hon. P. HOLLOWAY: The Hon. Mr Wade clearly has an ability that the rest of us do not have, and he can predict droughts. He knows when a drought is coming. Obviously, the Hon. Mr Wade, unlike the rest of us, predicted that South Australia was going to have the worst drought in history, that it will be an unprecedented drought, that the rainfall will be deficient in an unprecedented way, and that it will continue for a period never seen in the history of this state. He might be gifted in that respect, in having a particular sense of forethought, but the fact is that this government has managed the water resources of this state so that we have been able to address all of the relevant needs. What is more, we are building a desal plant.

How can members opposite say that they would have done this? What location would you have used? Come on; you were interjecting before, so where would you have built it?

An honourable member interjecting:

The Hon. P. HOLLOWAY: Of course you are, because you do not have the answer, do you? You know that you would have had to do the work. You know there are very few sites that are

suitable. The opposition knows that it would have needed months and months of study—as this government has done—to find the appropriate site.

If members opposite do not want a desalination plant at Port Stanvac, where do they want it? They really are frauds. They dream up ideas like a new stadium and all these facilities. They do not bother about costing them. Every day they come in here calling for millions of dollars more expenditure. They are calling for tax cuts and extra expenditure. They have absolutely no economic credibility whatsoever.

The particular site at Port Stanvac was chosen for the desalination plant because it is a buffer area and the government was able to reach agreement with Mobil in relation to that site. There are clearly issues with the remainder of the site, because of contamination and the like that will have to be addressed at some stage in the future, but they are matters for my colleague.

An honourable member interjecting:

The Hon. P. HOLLOWAY: If the honourable member wants more details in relation to that, he can ask another question, and I will refer it to my colleague. In relation to the planning for this project, this site was readily available for the government to build the desal plant in time for when it is needed, which is the start of the summer season next year.

VISITORS

The PRESIDENT: I draw honourable members' attention to the presence of the Hon. Andrew Evans in the gallery, a past member who certainly did not interject as has happened in the past few minutes.

QUESTION TIME

POWER ASSISTED PEDAL BIKES

The Hon. J.M.A. LENSINK (14:31): I seek leave to make an explanation before asking the Minister for Consumer Affairs a question about power assisted pedal bikes.

Leave granted.

The Hon. J.M.A. LENSINK: Observant members may have seen a public warning notice in the paper at the weekend in relation to a Modena power assisted pedal bike, which is described as an electric scooter-type bike with pedals which cannot legally be ridden on the road or related area. Further, the warning states:

> ...[the] bike is too powerful to be classified a 'power assisted cycle', and cannot be registered.

The Office of Consumer and Business Affairs advises consumers that they 'may be entitled to some redress'. Arising from some of the lack of information in this public warning, my questions are:

1. Is this bike a push bike or not and, if not, what classification would it be described as?

2. Is the office intending to issue a recall?

3. Precisely what does the Office of Consumer and Business Affairs mean by 'redress'? Is it offering to assist people to get their money back?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:32): I thank the honourable member for her questions and the opportunity to raise again this important issue in the public arena. Indeed, a company has been selling Modena power assisted pedal bikes with a claim, associated in its advertising, that it is 'road legal' (I think that was the term used) and did not require a licence or registration.

We have asked that the retailer withdraw that advertising, given that it is misleading and quite inaccurate. With the assistance of DTEI, OCBA has had the bike independently assessed, and tests found that it failed to meet the requirements necessary for it to be classified as a pedal assisted bike that, if it fulfilled that classification, would not normally require a licence.

It failed to meet those requirements, but it also failed to meet the design standards necessary for it to be classified as a powered vehicle, such as a scooter, that could be licensed and made roadworthy. Because it failed those design standards, it was not able to be classified as a power assisted pedal bike nor to be licensed as a motor vehicle. We have required that that advertising be withdrawn. We do not require the bike to be recalled because it is still quite legal to ride it on private property; for example, a farmer could use it quite legitimately on private property. Therefore, it is not illegal to sell this bike. However, it is an offence to sell it in a way that is associated with misleading advertising, and that is the offence that we are pursuing at this point in time.

We are undergoing further investigations in terms of legal proceedings. We need to investigate the details of this particular case quite carefully in order to ascertain whether we have solid grounds to prosecute. For instance, the retailer could claim that their supplier provided them with certain assurances or guarantees that the bike was road legal and did not require licensing, and so on. We need to investigate those sorts of possibilities before pursuing legal action.

Nevertheless, we are pursuing further investigations. If this person is found to have blatantly misled the public, we will take all legal recourse available to us. In terms of redress, officers from the Office of Consumer and Business Affairs are providing advice and guidance to consumers who have bought the bike about what redress may be available. For instance, an offence will have occurred only if a person bought the bike for the purposes intended and outlined in the advertisement. If a person who bought the bike did not know of or was not aware or influenced by an advertisement that said the bike was road legal—they may have bought the bike with the intention of riding it on private property, or they may not have researched it adequately—it is unlikely they would have any form of redress.

However, if the person bought the bike, as I am told, for a disabled person in order to help them get around, with the expectation that was outlined in the advertisement that the bike was legal—they are about $1,200 each; it is quite an expensive piece of equipment—OCBA is saying, 'Ring us and tell us your details and we will inform you about the sorts of redress available to you.'

POWER ASSISTED PEDAL BIKES

The Hon. A. BRESSINGTON (14:38): I have a supplementary question. If someone is caught riding one of these bikes on the road, what offence are they committing? Does the minister believe that parliament should be legislating against these bikes?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:38): The honourable member makes a very good point. People are riding the bike around on roads and the vehicle is unroadworthy. They are exposing themselves to an offence of driving an unroadworthy vehicle and they would have to pay a fine for that.

We notified SAPOL as soon as we became aware of the circumstances around this particular case because we know that the police have discretionary powers. We attempted to make them aware of the problem so that they could be encouraged to use those discretionary powers. However, in our public warning we told people not to ride these vehicles on public roads and in public places because they could be found guilty of driving an unroadworthy vehicle.

We are not able to legislate against these vehicles because they are not of themselves illegal or unsafe. It is not like a particular product that is faulty and inherently unsafe. This vehicle is unsafe only if it is driven in certain circumstances. It is quite legal to sell one of these vehicles and it is quite legal to ride one of these vehicles, but just not in a public place. We cannot legislate against that: all we can do is ensure that the retailers selling these things are very clear with their customers about the limits around where this vehicle can be ridden.

STATUS OF WOMEN

The Hon. S.G. WADE (14:40): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the status of women.

Leave granted.

The Hon. S.G. WADE: Recently the South Australian Branch of the Australian Labor Party took control of the Colac Hotel at Port Adelaide, which I am informed provides weekly strip shows. Reportedly, the Australian Labor Party will be a landlord, and the State Secretary, Michael Brown,

has indicated that the party will review the arrangements at the hotel. On 30 April a report in *The Advertiser*, referring to a statement received from minister Gago, stated:

> She would prefer that there was no demand for these types of services. However, this activity is legal and adult women can make their own choices.

My questions to the minister are:

1. Does she consider that strip shows support the ongoing enhancement of the status of women?

2. Does she consider, as her statement implies, that the customers seeking services and the women providing sex-based services are the responsible parties in these relationships and that the business which brings the customer and the woman together bears no responsibility?

3. Does she concede that, until the Labor Party aligns its actions with its words on the status of women, the people of South Australia have every right to believe the actions and regard the words as hypocritical?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:41): I thank the honourable member for enabling me this opportunity to talk about these things publicly, because I think it is most important that we do engage in a public debate around these most important albeit quite sensitive issues. I enjoy the opportunity to do this.

As the honourable member quite rightly points out, the ALP is the landlord of this hotel. It does not manage the business of the hotel or have any input into that: it is merely the landlord of the property. We know that erotic dancing of this type is in fact a legal activity, although many people in this chamber might not like that. Lots of people might be offended by that, but it is a legal, legitimate activity. I would most dearly enjoy a world—and I am sure that many members here would share this view with me—where there was no such demand for this type of activity and that this activity did not necessarily occur.

However, that is not the world in which we live. It is a legal activity. Often we are looking at women who are supporting young families; we are often looking at women who are students and they use this income to assist them through their studies. Whatever the reason, that is a matter for their own conscience and their own personal choice and decision. It is not my job, as Minister for the Status of Women, to morally judge whether or not these decisions are necessarily good or bad. My obligation is to ensure that the laws are upheld, particularly the legislation for which I am responsible.

In relation to women and the potential for exploitation to which this issue relates, my job as a Labor woman is to ensure that they do have choices; that these women and other women have a choice about the jobs that are available to them and the careers they might want to pursue so that they have a range of options that might be available to them. My job as a Labor woman and as the Minister for the Status of Women is to ensure the sorts of training programs that encourage women to stay at school; and particularly in relation to teenage pregnancy, we encourage those women to return to school and we support them at school.

The issue that is important to me is to ensure that women do have a range of options and that they do have a choice in the sorts of decision they make and the sorts of occupations they pursue.

PETROLEUM EXPLORATION

The Hon. I.K. HUNTER (14:45): My question is to the Minister for Mineral Resources Development.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Thank you, sir, for your protection. Will the minister outline developments in the process of streamlining the regulatory approval process in South Australia for petroleum explorers and producers?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:45): South Australia

recently granted the first petroleum exploration licence since a milestone land access agreement was reached with native title claimants in the Cooper Basin. Petroleum exploration licence (PEL) 96 within the Cooper Basin has been granted to a consortium comprising Strike Oil Ltd and Australian GasFields Ltd after the licensees accepted the provisions of the conjunctive petroleum indigenous land use agreement. The conjunctive petroleum ILUA was a first for this state and was Australia's first such agreement covering a proven petroleum-producing region.

To provide a little bit of background to members of this process, the conjunctive ILUA means the agreement covers not just the exploration phase but also the production phase. That means companies that are successful in their exploration do not have to repeat the process of negotiating with the native title parties when they want to translate their exploration lease into production. Such a conjunctive agreement should reduce both the time and money involved in negotiating land access and provide greater certainty to explorers and producers as well as the relevant native title parties. That should translate in greater returns to the native title parties, who do not have to re-engage in the negotiation process every time an explorer applies to upgrade production. However, it also means that producers can dedicate their resources towards developing their wells.

The granting of petroleum exploration licence 96 to Strike Oil is the first in which the licensee has accepted the provisions of the indigenous land use agreement reached with the Yandruwandha and Yawarrawarrka people of the state's far north-east. The acceptance of the conjunctive ILUA by a licensee represents an evolutionary step in streamlining the process that will enable the grant of licences for petroleum exploration and production in South Australia, while also protecting rights that flow from the native title act. This acceptance is an excellent outcome that manifests trust in the processes that both protect native title but also enable upstream petroleum operations in South Australia.

The goodwill established since the implementation of native title land access arrangements in South Australia in 2001 has been continued through the acceptance of this agreement. Negotiations to reach further conjunctive ILUAs are continuing to make progress in South Australia. Five Cooper Basin exploration licences were recently offered to the market through a competitive bidding process, with bids due to close on 15 October 2009. This process provides for successful bidders to similarly accept the conditions of a conjunctive petroleum indigenous land use agreement where such an agreement has been formalised. I look forward to further positive outcomes through the conjunctive ILUA process in the very near future.

COMPULSORY THIRD PARTY PREMIUMS

The Hon. R.L. BROKENSHIRE (14:48): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Treasurer, a question about compulsory third party (CTP) motor vehicle insurance premiums.

Leave granted.

The Hon. R.L. BROKENSHIRE: On the last day of the last week of sitting, Thursday 14 May, the leader tabled a ministerial statement in this place on behalf of the Treasurer. The statement informed honourable members that CTP premiums will rise by 8.5 per cent in one financial year, far more than inflation. The Treasurer indicated in his statement that the measure was necessary due to the poor financial position of the compulsory third party fund. However, Tasmania (subject to the same global financial crisis as us) in December last year announced it was going into its fourth year of no CTP increases, and South Australia ranks as one of the states with the highest CTP premiums in the nation.

My estimate is that this measure will yield at least $49 million per annum for the government and increase premiums for families by at least $30, on average, per vehicle. Families in the outer suburbs largely require more than one vehicle, so this increase starts adding up. However, at the same time, law-abiding motorists (those who pay their CTP premiums) are being asked to cough up $49 million, while speeding motorists and others in the fines payment system in court, most of whom would be paying driving fines, have $174 million in outstanding fines.

Rather than collect $174 million owing to the government from motorists who have done the wrong thing, the government is slugging law-abiding motorists $49 million more per annum. My questions, therefore, to the minister are:

1. Where exactly is the fund failing financially and by how much?

2. Will every cent of this revenue raising measure go back into compensation for injured motorists and road safety initiatives?

3. How can the government in good conscience hit law-abiding motorists for $49 million when those who break the law are thumbing their nose at the courts, the parliament and the rest of us by not paying this outstanding $174 million?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:50): These are matters for the Treasurer, but I will make some comments in relation to my understanding of the Compulsory Third party Fund. That fund is, of course, operated by the Motor Accident Commission. The board of the Motor Accident Commission issues a report to government every year and recommends what is necessary to maintain the stability of the fund. Essentially, it is the board of the Motor Accident Commission that makes recommendations to the government to ensure that the fund is viable, and that has been the practice for a long time. So, in relation to some of the honourable member's questions, of course the money that is taken in premiums for compulsory third party insurance goes into the fund.

I also make the comment that to compare with other states is not necessarily a helpful exercise in the sense that the states have different degrees of coverage. I do not know what the Tasmanian system provides, but I know that in recent years this parliament has considered changes to the law in relation to what benefits are provided to those who can claim compulsory third party insurance. Clearly, there are differences between the states. Some states provide a level of benefit that is higher than other states. It may well be that in the case of Tasmania the benefits provided under the scheme are less than those provided in this state, and I will refer that matter to the Treasurer.

It would certainly not be correct that $49 million is going to the government. If that is what the increase will recoup, that is what will be necessary to maintain the financial stability of the fund, and of course that money will go to the Motor Accident Commission. Part of the reason why the Motor Accident Commission will be having funding problems in the current environment is that, like workers compensation schemes and other insurance schemes generally, the revenue that is received in premiums is of course invested in a range of ways, including equities, property and the like. Clearly, with what has happened in the stock market over the past 12 months, it is inevitable that the revenues would be down, and that would impact on the viability of that scheme, as it has on other similar schemes.

The honourable member raised the question of pursuing motorists who are not properly insured. It has been made clear in recent days that this government has policies in place to seek to address that particular issue, and clearly more needs to be done to pursue those who do not pay for insurance. In the past couple of days I received an insurance renewal for a vehicle that is in my name. I note that with that renewal was a notice warning people how the government will be using new cameras to photograph vehicles that may not be registered.

That is one of the things this government has in place to ensure that there is a much greater chance of catching those people who do not insure their vehicles. I noticed that only the other day when I received a renewal notice for my insurance. There are things the government has been doing, but if there is any other information the Treasurer wishes to provide I will refer the question and give him the opportunity to do so.

STATE ADMINISTRATION CENTRE

The Hon. R.I. LUCAS (14:55): I seek leave to make a brief explanation before asking the minister representing the Premier a question on the subject of government waste.

Leave granted.

The Hon. R.I. LUCAS: Members will be aware that for the past few days both the Premier and the Deputy Premier have been advising South Australians of a very tough budget to be brought down this week which will involve widespread cuts to government services and programs. Members will also be aware that the current Premier and Deputy Premier have access, as previous premiers and deputy premiers have had, to ministerial cars and to undercover car parking, both here in the Parliament House car park and also in the government car park near Gawler Place in the city. What might not be known is that for many decades premiers and treasurers, who are located in the State Administration Centre, also have had access to a private car park in a lane at

the back of the State Administration Centre. For many decades premiers and treasurers have had access to—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Perhaps the Hon. Mr Wortley can tell us about the Colac Hotel.

The Hon. R.P. Wortley: Never been there.

The Hon. R.I. LUCAS: Haven't you?

The PRESIDENT: Order!

The Hon. R.I. LUCAS: I will not be diverted by those inane interjections. Access to a private car park is not a new thing, and premiers and treasurers who have been housed in the State Administration Centre have had access to that car park. For many decades—

Members interjecting:

The Hon. J.S.L. Dawkins: We have spent a fair bit of time paying off your debt. You bankrupted the state!

The Hon. G.E. Gago interjecting:

The Hon. J.S.L. Dawkins: You were in Victoria then, Gail. Sorry, I forgot about that.

The PRESIDENT: Order! The Hon. Mr Lucas does not require any assistance from the Hon. Mr Dawkins, and the minister will stop interjecting.

The Hon. R.I. LUCAS: Thank you, Mr President. As I have said, for many years premiers and treasurers have used that car park. It is an uncovered car park and has been for many decades. Last week I was contacted by two public servants who were very angry at what they described as a gross waste of taxpayers' money and at an example of what they described as the wrong priorities of the Premier and the Treasurer at a time of budget difficulties. The Rann government has decided to build at the back of the State Administration Centre a new carport to cover and protect the Premier's and Deputy Premier's cars and to ensure that, when they get out of their cars, they do not get wet. My questions to the Premier and the Deputy Premier are as follows:

1. What was the total cost of building the new carport at the back of the State Administration Centre to provide extra cover for the Premier's and the Deputy Premier's cars and to ensure that they do not get wet when they hop out of their car at the back of that building?

2. Do the Premier and the Deputy Premier agree that this is an example of the warped priorities they have, that they would rather look after their own personal needs and spend taxpayers' money on a carport for their cars at the back of the State Administration Centre than provide funding for families with children with disabilities, for hospitals, for schools and for road maintenance in South Australia?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:00): I am sure that if the Hon. Rob Lucas had his way he would sooner have the leader of his party walking everywhere without a car. That is the sort of thing he would do. These sorts of issues are often raised by the opposition. I do not know whether or not that information is true, and I have no idea who would make a decision in relation to such a matter. However, I will refer the question on and bring back a reply.

Members interjecting:

The PRESIDENT: Order! I do not think an umbrella would cover a car.

RETAIL SHOPPING

The Hon. R.P. WORTLEY (15:00): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about retail shopping.

Leave granted.

The Hon. R.P. WORTLEY: Midyear sales provide consumers with the opportunity to grab a bargain. My question is: can the minister advise the council how we can ensure that consumers are actually getting what they pay for?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:00): I thank the honourable member for his most important question and for his ongoing interest in this very important policy area. Shopping is an issue that is very dear to many of our hearts; we all like a good bargain. Midyear sales are a very special time of the year for bargain hunters, and consumers looking for a bargain at the midyear sales can be assured that the state's consumer watchdog is closely monitoring the activities of retailers at this time.

The Office of Consumer and Business Affairs is stepping up its focus on advertising claims, refund policies and price scanning accuracy during this very busy retail sales time. Stores can be so busy promoting their midyear sales that it is easy for mistakes to creep into their dealings with customers, and we want to make sure that the stores are trading fairly and that consumers are not being misled about the bargains being offered.

OCBA is monitoring advertising and in-store promotions, particularly where traders are claiming significant price savings expressed either as a large percentage or as a large dollar saving. Retailers know that many consumers are more concerned with the amount saved rather than the actual amount spent (although I know that some of us struggle with that concept from time to time); however, any claims about price reductions must be genuine. If an advertisement or price tag suggests that an item has previously been offered for sale at a higher price, OCBA may require the trader to prove that.

OCBA will also be scrutinising stores that use electronic price scanners to make sure that consumers are being charged the correct price at the checkout. If consumers are buying one or two items they will usually notice if the scanned price is different to the shelf price; however, when buying multiple items a consumer may not realise that there has been an error in the price scanning until they get home, if at all. Price scanning errors tend to increase during sale periods because stores may not readily update their shelf tags or computer programs. However, errors are avoidable, and as long as stores have good processes in place to deal with price reductions during sales our officers will be satisfied.

Refund policies are also under the microscope as some consumers, and even some traders, mistakenly believe that refund rights do not apply to sale items. That is not correct, and OCBA will be reminding traders that consumers' rights to a refund do not change because the price has been reduced. Consumers are entitled to a refund or a replacement if the item does not match the description, if it does not do what it is supposed to, or if it is faulty. Alternatively, consumers may prefer to have the item repaired or replaced, as long as there is appropriate redress for them. Purchasers are not legally entitled to a refund in cases where they have simply changed their mind, although some retailers show a lot of consumer goodwill and do allow that on occasions. However, it is not a legal obligation.

Stores caught breaching fair trading laws will be issued with a formal warning, and any repeat offenders may be prosecuted. The maximum penalty for making misrepresentation to consumers is $100,000. Clearly, therefore, traders need to watch that they are operating within the law. We encourage any consumer who has concerns about unfair trading to contact OCBA.

GAWLER EAST DEVELOPMENT

The Hon. M. PARNELL (15:05): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about developments in Gawler.

Leave granted.

The Hon. M. PARNELL: Yesterday, in relation to a question I asked about the recently released Gawler East development plan amendment, the minister curiously started talking instead about the 30-year plan for Greater Adelaide. However, I do want to follow up on the minister's response and bring it back to the issue of Gawler.

My office has been contacted by residents of Gawler about the dual role that development advisers Connor Holmes appear to be playing in two developments in that town: the Gawler racecourse redevelopment and the Gawler East rezoning. I understand that Connor Holmes has been contracted by the Gawler and Barossa Jockey Club and Thoroughbred Racing SA to advise on and project manage commercial development at the Gawler racecourse. Meanwhile, Connor Holmes appears to be assisting in the preparation of the development plan amendment to further allow commercial development to occur, including rezoning of racecourse land.

At Gawler East, the ministerial DPA, which was released recently—and the minister spoke about that yesterday—relies on at least two reports prepared by Connor Holmes on behalf of Delfin Lend Lease, and I understand that Connor Holmes is providing Delfin Lend Lease with other commercial advice related to the proposed development, as well. At the same time, Connor Holmes appears to be assisting in the development plan amendment process on behalf of the minister. My questions are:

1. Has Connor Holmes been engaged by the Department of Planning and Local Government to help prepare the Gawler East ministerial development plan amendment and, if not, what role has it played?

2. Has Connor Holmes been engaged by the Department of Planning and Local Government to help prepare the Gawler racecourse development plan amendment and, if not, what role is it playing?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:07): It was my intention to make a ministerial statement in relation to all these matters, given the question asked by the honourable member yesterday and also his notification that he intends to move a motion. However, I can give the information now, at least in relation to part of it.

Yesterday, Mr Parnell asked whether Connor Holmes was engaged by the Department of Planning and Local Government to help prepare the Gawler East ministerial development plan amendment. He also asked whether this was a conflict of interest because Connor Holmes represents Delfin Lend Lease in its intention to develop the land.

My advice is that the department has not engaged Connor Holmes in relation to the Gawler East development plan amendment. Connor Holmes was engaged by Delfin Lend Lease to assist in the undertaking of investigations and in the preparation of draft policy. This material was then provided to the Department of Planning and Local Government, which then considered the material presented, undertook necessary amendments so as to satisfy itself that it was in a form suitable for public consultation, and then provided this material (in the form of a draft Gawler East development plan amendment) to me to formally consider its release for public consultation. Such a process, whereby consultants are utilised in the preparation of development plan amendments—and that applies to both council and ministerial DPAs—is not an uncommon one.

Draft work is prepared but it is the council or myself, in the case of the ministerial development plan amendment (as Gawler East was), following advice from my department, who decides the final form of the draft development plan amendment that is released for consultation. The consultation process is then managed by the independent Development Policy Advisory Committee (DPAC), which also convenes a public hearing and considers all submissions, including those issues raised in the hearing, and ultimately provides advice to me on the development plan amendment. Gawler East is at that stage at present.

Connor Holmes was engaged, as I said, by Delfin as one of the groups that had a significant part of the land being developed at Gawler East. As I say, and as is not uncommon, it provided advice in relation to the development plan amendment. Certainly, the government, through the Department of Planning and Local Government, oversees the process and is responsible for releasing the development plan amendment for consultation.

Connor Holmes was engaged by the Department of Planning and Local Government to undertake different work to identify land that has the potential for urban development during the next 30 years. That work is part of investigations being undertaken to prepare a 30-year plan for Greater Adelaide as part of the government's announced planning reforms arising from the 2008 Planning and Development Review.

Gawler East is not part of the area being investigated under that review as it is already within the current urban boundary. Gawler East was, in fact, as I indicated yesterday, brought within the urban growth boundary in December 2007. The plan for Greater Adelaide is intended to form part of the South Australian Planning Strategy. The review recognised the need to proactively plan for a growth in population and to ensure that the supply of land for housing and employment keeps pace with current trends and demand.

South Australia is currently projected to potentially reach 2 million people by 2027, which is 23 years ahead of South Australia's Strategic Plan target. Planning for this growth is essential to prevent ad hoc development and to ensure that South Australia has the best urban arrangements

possible to protect our standard of living, including housing affordability and our environment and natural assets. In line with the recommendations of the Planning and Development Review, the government adopted a policy that there should be 15 years' supply of land in residential zoning and an additional 10 years' supply of land identified for future urban development.

The planning review also recommended greater emphasis on monitoring housing demand and land supply. Further, it recommended that the vehicle to drive this should be a reinvigorated annual production of the Metropolitan Development Program to maintain a rolling land supply stock to foster timely urban development.

The Department of Planning and Local Government commissioned Connor Holmes from a shortlisted tender process in October 2008 to identify the preferred locations and extent of land required to accommodate future urban expansion in Greater Adelaide. The opportunity to tender was offered to five companies within South Australia considered by Planning SA to have the necessary extent of knowledge and depth of skill to successfully complete the project. Three companies submitted tenders and Connor Holmes was chosen as the successful tender.

The acquisition plan for the tender was endorsed by the accredited purchasing unit of PIRSA (Planning SA was then part of PIRSA) in late September 2008, and it was approved by the State Procurement Board on 13 October 2008.

The reason for commissioning this work was to allow the government to make informed decisions regarding the future growth of Greater Adelaide beyond the current urban growth boundary. The consultants were required to identify and assess a full range of urban development options to enable the government's policy objective for a rolling 25-year broadacre land supply to be established and maintained.

Under instructions from the Department of Planning and Local Government, Connor Holmes was requested to, at a minimum, investigate proposed expansions with the metropolitan fringe and townships, including, as examples, the areas of Mt Barker, Roseworthy, Two Wells, Playford North and Victor Harbor.

In its project proposal Connor Holmes disclosed in writing areas and projects where it had an interest either with private clients or in providing advice to the state government. I am advised that the contract for consulting services entered into between Connor Holmes and the government contains provisions that adequately protect the parties from any conflicts of interest and preserve confidentiality. Connor Holmes identified in its proposal that the firm's advantage was as follows:

> ...current involvement in nearly all of the growth areas identified in the preliminary list of target area, providing detailed knowledge of the opportunities and constraints impacting upon development capability and capacity in those areas and offering DPLG potential cost and/or time savings as a result of that knowledge base.

To ensure transparency, Connor Holmes has also provided DPLG with a letter identifying areas that are part of the investigations where the firm has advised clients. I am advised that Connor Holmes has also informed the department that none of the firm's directors have a personal interest in land in any of the areas identified by the consultants for potential urban development.

The Department of Planning and Local Government has critically examined the methodology used by Connor Holmes to evaluate and determine growth options and the respective opportunities and constraints of future urban development within Greater Adelaide, and it has advised me that the work is objective, independent and transparent.

DPLG has advised that the consultants have identified land and are providing the department with a comprehensive and legitimate base upon which the government can make decisions about priority areas to include in the 25 year land supply target, as well as the priority areas for rezoning in the short to medium term.

The department has assessed each land area identified by Connor Holmes and is providing me with advice regarding which areas of land should be considered for inclusion in the plan for Greater Adelaide. This independent vetting and assessment is based on consideration of wider government policy priorities, and I stress that the Department of Planning and Local Government, not the consultants, will provide me with final recommendations. In other words, the consultants provide information to the department and the department will provide advice to me.

Once developed, the plan is intended as a long-term vision of where Greater Adelaide will develop during the next 30 years. The department has been working with local government and is endeavouring to accommodate feedback received from regional groupings of councils during the initial consultation process, as well as the future strategic planning and aspirations of government

agencies. It is intended to release the plan for public comment following consideration by cabinet. Submissions received on all aspects of the plan, including proposed new areas, will then be evaluated and considered against the government's policy objectives.

In relation to the 30 year plan, they are the protections the government took in relation to the Gawler East development plan amendment. The role of Connor Holmes is not uncommon in relation to the development plan; that is, providing background information, particularly to the main landowner, in this case Delfin.

The honourable member also asked about the racecourse DPA. I am not sure what role, if any, Connor Holmes played in relation to that. As I indicated yesterday, there is not a great number of planning consultants within this state. Connor Holmes and Hassell are probably the two largest. There are a few other companies that provide information, but it is not a large pool. When these companies are involved in consultancy—and members should bear in mind that they were part of a consortium; they were not the sole consultant because a number of other parties were involved in the work—appropriate protection is provided. In relation to the Gawler racecourse, I will provide that information to the honourable member.

GAWLER EAST DEVELOPMENT

The Hon. R.I. LUCAS (15:18): I have a supplementary question. Bearing in mind the sensitive and difficult issues that have been canvassed in this question, did the government and the minister appoint a probity adviser in relation to these issues? If so, who is the probity adviser and what advice was given by that person?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:18): The engagement of a consultant was handled by the department. It went through the accredited purchasing unit of PIRSA which deals with such matters, and it was also approved by the State Procurement Board. They were the steps—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The State Procurement Board has that function. It has gone through those two processes to ensure it was appropriate.

ABORIGINAL HOMELANDS

The Hon. R.D. LAWSON (15:19): I seek leave to make a brief explanation before asking the minister representing the Minister for Aboriginal Affairs and Reconciliation a question about Aboriginal homelands.

Leave granted.

The Hon. R.D. LAWSON: Members will have seen the announcement made earlier this week by the Northern Territory government that it no longer intends to provide financial support for so-called Aboriginal homelands—independent settlements which were fostered originally under the Whitlam government. The Northern Territory government intends to develop the infrastructure in townships in order to ensure better quality of life for Aboriginal people by enabling the establishment and maintenance of schools with sufficient enrolments, appropriate medical services and other community supports. This decision appears to have the support of the federal government. Incidentally, I do commend the federal government for continuing the Howard government's intervention in the Northern Territory—a vital and necessary strategy. My questions to the minister are:

1. What is the expenditure of South Australian government money in this state on the upkeep and support of any so-called 'homelands' that are located in this state, and how many such settlements are presently being supported?

2. Does the government intend to follow the example of the Northern Territory and focus expenditure on the development of larger communities and, if so, when will that strategy be implemented?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:20): I thank the honourable member for his important questions. I will refer them to the Minister for Aboriginal Affairs and Reconciliation in another place and bring back a response.

GEOLOGICAL EXPERTS

The Hon. B.V. FINNIGAN (15:21): My question is to the Leader of the Government, the Minister for Mineral Resources Development. Will the minister provide details of the government's success in attracting geological experts to work in South Australia?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:21): The long-run rise in commodity prices triggered a mining boom that has led to a massive increase in investment in minerals exploration. South Australia, thanks to the policies of this government, has played a significant role in attracting explorers and investment that is being translated into new mines within this state; 11 are now operating compared to four when we came to office, and our expectation is that this number will rise in the short term to 16. That is a four-fold increase, I should point out, on the number of operating mines in this state when we came to government.

This has dramatically lifted the share the mining sector contributes to the state's overall economic growth to the point where minerals now exceed wine to be South Australia's leading export commodity. All this investment has created hundreds of jobs, both at the mines and in the industries that support and rely on the minerals and resources sector. Of course, one of the consequences of this increase in vitality within the minerals sector is the increased competition, both locally and overseas, for qualified professionals in some very specialised fields. That is why it is quite a coup for South Australia and for Primary Industries and Resources SA that we are still able to attract professional expertise to the public sector despite the demand from private industry.

Recently, Dr Tim Baker was appointed to the position of Geological Survey Manager within the Minerals and Energy Resources Division of PIRSA. Dr Baker brings more than 15 years of experience in industry and academia to the Geological Survey. The distinguished South Australian Geological Survey only last year celebrated 125 years of government geoscience in South Australia and is well regarded around the world for its dynamic and innovative geoscience program. It is also recognised as the geoscience engine room for South Australia's highly successful plan for accelerating exploration, or PACE.

Dr Baker is an experienced exploration geologist who has also been actively involved in research and consulting on a wide range of base and precious metal mineral deposit types. He joins PIRSA from his most recent role in industry as an exploration manager for Sovereign Metals. Dr Baker has received international awards for his work, has been published in international journals and regularly presents industry short courses on mineral deposits. Dr Baker is one of four Australian recipients of the prestigious Lindgren Award from the International Society of Economic Geologists.

His most recent accolade was accepting the 2009 Canadian Institute of Mining Barlow Memorial Medal at the CIM conference in Toronto, Canada, in May this year. This prestigious award is given for the best paper on economic geology published by the Canadian Institute of Mining, Metallurgy and Petroleum in any given year. Dr Baker's achievements and reputation in mineral deposit geology ensures a very positive contribution to the government and to the resources sector in this state. I am very excited that a geologist of Dr Baker's calibre is joining the team at PIRSA and the South Australian Geological Survey, and I wish him all the best in his new role.

ANSWERS TO QUESTIONS

AUDITOR-GENERAL'S REPORT

In reply to the **Hon. S.G. WADE** (27 November 2008).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Correctional Services is advised that:

The overtime and callback costs for 2007-08 and 2006-07 are as follows—

	2007-08($'000)	2006-07($'000)
Overtime	2,168	1,208
Callbacks	5,421	3,506

These figures do not take into account associated oncosts (payroll tax approximately 5.6 per cent in 2006-07 and 5.2 per cent in 2007-08 and superannuation approximately 10 per cent on average in 2006-07 and 2007-08).

The increase was a direct result of additional staffing required to safely manage the increase in prisoner numbers, with a targeted recruitment campaign being implemented to employ additional officers.

AUDITOR-GENERAL'S REPORT

In reply to the **Hon. S.G. WADE** (27 November 2008).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Correctional Services is advised that:

The site values as at 30 June 2008 are as follows—

Yatala Labour Prison	$30,872,000
Adelaide Women's Prison	$24,774,000
Adelaide Pre-release Centre	$3,259,000

AUDITOR-GENERAL'S REPORT

In reply to the **Hon. S.G. WADE** (27 November 2008).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Correctional Services is advised that:

- Additional training schools, which have doubled from 2006-07 for Correctional Officers, as part of the departmental recruitment drive in 2007-08;
- Travel accommodation costs associated with the Remote Areas Program, which is funded by the Commonwealth; and
- Payments in arrears for meals for Trainee Correctional Officers.

REGIONAL LOCAL GOVERNMENT ASSOCIATIONS

In reply to the **Hon. J.S.L. DAWKINS** (7 April 2009).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): I am advised that:

1. Attendance by representatives of the Office for State/Local Government Relations at meetings of Regional Local Government Associations has not ceased. The Office has endeavoured to have a representative present at these meetings when possible.

2. The Office for State/Local Government Relations continues to be actively interested in the activities of Regional Local Government Associations and to keep informed of issues raised by the Associations. The Office recognises the important role of the Regional Associations in the local government sector. The Office will continue to communicate with the Regional Associations as appropriate on a range of matters.

MATTERS OF INTEREST

BROADBAND ACCESS

The Hon. R.P. WORTLEY (15:25): I rise today to offer some remarks on a matter recently raised by the Hon. David Winderlich. I remind the council that Mr Winderlich is the last remaining Democrat in any parliament in Australia, and we now know why. I refer to the Rudd government's commitment to the delivery of high speed broadband to Australia—to urban centres, and to regional and remote communities. Mr Winderlich has asserted that the Rudd government 'has failed to support regional communities when they need it most'. Before commenting on the ludicrous suggestion, let me reflect briefly on the record of the federal counterparts of those opposite with regard to 21st century telecommunication technologies.

The Howard government had 12 years (12 long and, indeed, interminable years) to improve broadband provisions and access in Australia. Despite 18 separate 'plans', they achieved next to nothing. I remind those opposite that on day one in his present position on the front bench the federal shadow treasurer noted that improving broadband would be 'a starting point'—a starting point, obviously, that he and his colleagues spectacularly failed to achieve. Now that Labor has proposed a plan, those opposite would rather play politics with it, would rather focus on cheap point-scoring, would rather block jobs, and would rather not grasp the nettle and recognise that it is the Rudd Labor government that is providing what our economy and our community so clearly need.

Labor's national broadband network is where Australia's future lies. This is nation building. This is acting in the national interest. This is investment in our future. Indeed, the world is talking about Labor's broadband scheme. An article in *The Australian* of 19 May 2009 described the annual Future in Review conference held that month in San Diego as a gathering of 'the biggest and brightest in technology and the internet', and quoted *The Economist* as describing the conference as 'the best technology gathering on the planet'. Whole panels at the conference were devoted entirely to Labor's plan. One of the founders of the internet, Professor Larry Smarr, is quoted in the article as follows:

> The vision, the boldness, the international leadership it puts Australia in...now everywhere I go people are saying Australia is number one, they are the leader now.

The Hon. C.V. Schaefer interjecting:

The Hon. R.P. WORTLEY: You don't like hearing this, I know that. That is what makes it so good. It is in the light of these comments that I now turn to Mr Winderlich's remarks. I am very proud to confirm that the new, super fast network will connect homes, businesses, schools, hospitals, farms, police and other emergency and security services, and an enormous range of other users, with optical fibre providing speeds of 100 megabits per second. This is 100 times faster than services currently available to most users. Contrary to Mr Winderlich's assertions, Labor has not failed to support regional communities. The new network will also employ wireless and/or satellite technologies to deliver 12 megabits per second—or more—to people living in remote areas.

Wireless technology is presently more than capable of providing broadband services, but lower speeds have resulted thus far on occasions when many users in the same area are accessing the service. Next-generation wireless technology will be entirely capable of delivering those 12 megabits per second to individual end users. Meanwhile, satellite broadband services, already available to remote and black spot areas incapable of receiving terrestrial broadband services, have had the capacity to deliver, thus far, up to 4 megabits per second to residential users on a shared basis. Again, the next-generation satellite technology with which the government will engage will be able to deliver those 12 megabits per second to individual end users. An implementation study is to be carried out to determine the best way to serve remote communities on a continent where the tyranny of distance has for so long set the terms of our communications abilities.

The Rudd government does not pay lip service to the crucial importance of telecommunications services to those Australians in rural, regional and remote areas. Rather than studiously ignoring those communities or, alternatively, rolling out the pork barrel now and again—the now notorious strategy used by the previous federal government—Labor has acted decisively. Labor will deliver access to world-leading fast broadband to every person and every business in Australia, no matter where they live. The Regional Telecommunications Independent Review Committee has carried out exhaustive consultations across Australia, and the government has already met a number of the review's recommendations with an initial $61.1 million response.

Time expired.

SESQUICENTENARY PUBLICATION

The Hon. R.D. LAWSON (15:30): I wish to comment on two recent happenings in the parliament which ought be noted. The first is the recent publication by the parliament as part of the sesquicentenary of a new book on the parliamentary history of this state. The new publication takes the form of two volumes. Combe's *Responsible Government in South Australia* was originally published in 1958, and it has been reformatted and published in a very fine form. The first volume entitled *From the Foundations to Playford* is by Gordon Combe, and Mr Robert Martin was commissioned to write a companion volume entitled *Playford to Rann 1957-2007*.

I commend the parliament for this fine production. I think these volumes are a worthy commemoration of an important event. I am delighted to see that members have been presented with copies. It is also intended to have copies distributed to all schools in South Australia after the education department's censorship office passes the books as suitable for children. I have not yet read Mr Martin's contribution, but I look forward to doing so. I think it would be a good thing if, into the future, the parliament would continue to commission scholarship and other academic non-partisan works to assist in the understanding of democracy in South Australia.

The second happening that I think ought be noted is the changes to the physical fabric and appearance of this chamber. Members will know that this Legislative Council chamber was completed in 1939, some 50 years after the construction of the first half of Parliament House. The design of this chamber is splendidly plain and unadorned and follows the art deco movement that was prominent at the time. The contrast between the high Victoriana and the ornateness of the House of Assembly chamber and this chamber is stark.

To remind us of the ancient traditions of Greek democracy, we have the columns with their Corinthian capitals, and there are other elements that are very important. There is the wonderful Queensland maple timber and the acoustic tiles which face the walls in the galleries. Members will note that the rail around the balcony has been raised to meet occupational health and safety issues. The previous rail was of insufficient height, but the manner in which that has been achieved is commendable without altering greatly the physical appearance of the building, although we note that now it is rather more difficult for those in the gallery to see what is happening in the chamber.

The other new adornment is the installation of paintings on the walls. Previously, there were no paintings or other forms of artistic decoration and for many, myself included, that was quite a significant and pleasant feature of this particular building. Apparently the view was taken (I gather by the President) that it would be appropriate to have some artistic adornment. The paintings selected include (opposite me) *The Proclamation of 1836*, a reproduction on canvas of work held by the Art Gallery of South Australia, as are the other works on display. They show important historical associations of South Australia. There will be a contest, I imagine, between members about the appropriateness of the particular selection and indeed the method by which they were selected, and whether or not members ought to have had greater input into that selection.

Time expired.

MALTESE SENIOR CITIZENS ASSOCIATION OF SOUTH AUSTRALIA

The Hon. CARMEL ZOLLO (15:35): It was my pleasure recently to represent the Minister for Multicultural Affairs, the Hon. Michael Atkinson, MP, on the occasion of the 26th anniversary of the Maltese Senior Citizens Association of South Australia. Mr Frank Scicluna, the Honorary Consul for Malta, along with Mr Frank Grima, President of the Maltese Senior Citizens Association, and his dedicated committee welcomed several hundred guests to the main fundraiser for the association.

Like many other groups that migrated in the post-war years, this community has been dedicated to sharing and celebrating their cultural heritage and ensuring that the ageing members of the community are well provided for. Last year was a significant anniversary when 25 years of the Maltese Senior Citizens Association was celebrated. As a parliament we need to congratulate the volunteers of the association for making sure the needs of the older members of this community are being met and that their lives are enhanced by coming together, whether to share a meal, engaging in shared cultural activities or venturing on bus trips to beautiful South Australian locations.

Volunteers provide regular lunches, deliver meals and organise many events, including social functions, such as bowls and bingo. We all appreciate the fact that, without the many volunteers who support associations such as this, none of these services would be possible. I know I speak on behalf of the government and all members of parliament when I extend my appreciation to all volunteers for the selfless work they perform. The happiness, joy and friendships that are made possible every week is of enormous benefit and satisfaction to the older members of our community.

The Maltese community continues to positively contribute to our wider South Australian community. Today almost 5,000 South Australians claim Maltese ancestry, and the Maltese culture has brought tremendous strengths and benefits to our multicultural society. It is a well documented fact that older South Australians of culturally and linguistically diverse communities constitute the fastest growing proportion of the ageing population. Caring for and responding to the needs of the

community in a way that is culturally appropriate and sensitive is something the South Australian government values and encourages.

Recently, at the instigation of the South Australian Multicultural and Ethnic Affairs Commission, Multicultural SA organised an aged care roundtable. The roundtable sought resolutions to concerns raised by ethnic communities about the availability and appropriateness of services for aged members of culturally and linguistically diverse communities in South Australia. It is important that aged care service providers and community groups are responsive to the needs of their elderly and that they are adequately funded to do so. It was pleasing to note that the Maltese community was represented at that roundtable meeting.

Ethnic communities have been the pioneers for culturally appropriate aged care services, with many clubs and associations now having established programs for their elderly community members. Ethnic community organisations play a critical role in providing much needed social and cultural support for migrants to help them deal with these challenges. The Maltese community certainly stands out for its commitment.

On a personal level, I was very pleased to be part of a delegation to Malta with the Attorney-General in December 2003. The hospitality demonstrated and shown to the delegation by the Maltese government and its people was exceptional. I particularly appreciated the opportunity to visit not only the world heritage listed city of Valetta but also other equally historical cities and sites, and to see what the Maltese are doing to try preserve its history and beauty.

Australia and Malta have a strong and cooperative relationship, underpinned by past migration and many shared international perspectives. The South Australian government is firmly committed to a vision of South Australia that values and supports cultural and linguistic diversity, and the Maltese community in South Australia is a fine example to all South Australian multicultural communities in our state. Their work is very much valued and appreciated.

AGRIBUSINESS

The Hon. C.V. SCHAEFER (15:39): An article on the *ABC News* today reminded me—and, hopefully, those in this chamber today—of the importance of agriculture not just to South Australia and Australia but to the world in general. In a report from the South Australian Centre for Economic Studies, Associate Professor Owen Covick says that he believes the government's forecast of our return to a bright economy is 'optimistic', and that the Centre for Economic Studies is not as optimistic as the commonwealth Treasury. However, he says, 'Our farming sector will help cushion our overall state economy.'

Similarly, an article in the *Stock Journal*, referring to the agricultural arm of the Commonwealth Bank, quotes the Commonwealth Bank Agri Indicators Report as saying that the 'agribusiness sector has swung back into positive territory during the past month to deliver gains of 12.8 per cent'. Brendan White, its manager, says:

> Of the 15 stocks in the Commonwealth Bank Agribusiness Indicator, 11 returned more than 10 per cent over the past month, with seven stocks experiencing returns greater than 20 per cent, and this shows a 'positive outlook for investors with exposure to stocks within the agribusiness sector.

Against this background, the Managing Director of Woolworths, Michael Luscombe, spoke at the Royal Show in Sydney. It was reported that Mr Luscombe 'added to rising fears that too many Australians are paying lip service to the role of farmers in maintaining the flow of high-quality food in the face of overwhelming adversity including drought and indifferent governments', and, 'That was why he had written to…Mr Rudd late last year, urging him and his government to do everything possible to nurture the farm sector.'

This is against the background of an article in the *Scientific American* of May this year entitled 'Could food shortages bring down civilisation?' This article raised an enormous number of fears for us all. It states:

> Our continuing failure to deal with the environmental declines that are undermining the world food economy—most important, falling water tables, eroding soils and rising temperatures—forces the writer to conclude that a collapse of civilisation as we know it could occur due to food shortages.

The article continues:

> In six of the past nine years world grain production has fallen short of consumption, forcing a steady drawdown in stocks. When the 2008 harvest began, world carry-over stocks of grain (the amount in the bin when the new harvest begins) were at 62 days of consumption; a near record low. In response, world grain prices in the spring and summer of last year climbed to the highest level ever. As demand for food rises faster than supplies are

growing, the resulting food-price inflation puts severe stress on the governments of countries already teetering on the edge of chaos.

It continues:

> States fail when national governments can no longer provide personal security, food security and basic social services…After a point, countries can become so dangerous that food relief workers are no longer safe and their programs are halted; in Somalia and Afghanistan deteriorating conditions have already put such programs in jeopardy.

I raise these issues at a time when I have just been told that, yet again, a number of agricultural offices will be closed, and the SARDI and agricultural budgets slashed tomorrow. I understand that the offices in Jamestown, Loxton, Kadina, Streaky Bay and Keith will be announced as closing in tomorrow's budget. My question to this chamber, to South Australia and to Australians, is: when are we going to wake up as to what is important in this state?

MESSENGER PRESS

The Hon. R.L. BROKENSHIRE (15:44): I rise today to congratulate the Messenger Press for some outstanding stories today in several editions. I will touch on a few briefly and one in more detail. I was very pleased to see the *Southern Times Messenger* (my own Fleurieu and McLaren Vale region Messenger) promoting Family First's move to petition the government to stop the shop fronting of the McLaren Vale police station, a move which will see the local officer relocated to Aldinga and a move which the present government would have condemned and fought me on when I was in government. It is a move that is bad for the people of the McLaren Vale and surrounding areas, no matter what spin is put on it and saying that they will get plenty of police cars patrolling.

In the same paper today the Messenger raises concerns about heritage issues and a district settler (John Reynell) as Pioneer Homes moves in to develop an historic parcel of land. My colleague (the Hon. David Winderlich) asked a question about that yesterday. I know that area; it was part of my electorate when I was in the House of Assembly for some years. Old Reynella is an incredibly historical part of the success of that wine region, as are Hardys and John Reynell. It is very unfortunate that these areas are being turned into intensive housing developments.

I also note the front page story in the *Standard Messenger* which has a headline that Family First likes to see. It states:

> Family friendly: local footy clubs are turning their backs on male dominated culture to embrace families.

This is a good and positive move. Any Saturday nights when I am not doing political work attending meetings and functions, etc., I go to the Mount Compass footy and netball club, and so do most of the families in the town. There are many young people there and it is vibrant and a lot of fun. It is family orientated, which is what we need to do with our sporting codes—make them family orientated.

The *Standard Messenger* article explains how Walkerville and other inner northern suburbs clubs are moving to a family-inclusive culture that shows more respect for women. The head trainer, Tammy Mason, explains:

> It was a lot more of a drinking culture when I first started. It probably stopped the girls coming down and you wouldn't bring your kids.

As a white ribbon ambassador taking a stand (with other colleagues and many other people) against violence towards women, I think embracing families is a positive step for families and encouraging for women. We have to be careful to work cooperatively with sporting clubs rather than isolating and persecuting them by lumping them all in the group sex scandal basket. As we see in this article, clubs like Walkerville are showing increasing respect for women and families, and this move is very reassuring for Family First because that is a big part of why our party is in politics. Government and the community need to put the focus on families first.

Football clubs have huge potential, as do netball, cricket, tennis and other sporting codes, not only for community cohesion and leadership but as mentoring grounds for young men. They can, in some cases, have a negative impact if there is poor leadership and negative role modelling for young men. I am concerned about the current scandals surrounding elite footballers (rugby included, of course) in that we risk ostracising these clubs and young men unless we talk up the positive efforts that football, netball and other sporting clubs are making. They are fundamental to the strength and fabric of communities in every respect around the metropolitan area and, indeed, in our rural areas.

I believe this parliament and the government can be a positive influence by talking up (as the *Standard Messenger* has done today) clubs like Walkerville that are being positive and family friendly. It will surely mean more families attending and more growth for those clubs and, surely, that will translate to on-field success which will start to make clubs realise that the way to viability, sustainability, premierships and a positive future is to clearly put families first.

I congratulate the local clubs for this and I say to the major codes, where all the big money is: if you are on hundreds of thousands of dollars a year and you are gifted with an incredibly elite talent in sport, you need to set an example. Young people 'suck it and see' and follow a mentor for these examples and, from a great height, the executives of the AFL, the SANFL, the rugby league codes, etc. need to ensure that the example is set right. That example should be coming from the top and not just from the grassroots clubs in our state.

Time expired.

DESERT SPIRIT CUP

The Hon. T.J. STEPHENS (15:50): Today I would like to use my time to congratulate the APY Thunder and the Yuendumu football teams. These two teams contested the Inaugural Desert Spirit Cup Grand Final, which was held on Sunday at the MCG before the Collingwood versus Port Power football match. Both teams put on a great display for a huge crowd, and South Australia's APY Thunder ran out eventual winners on the day. Incidentally, the APY players wore a modified Port Power away strip, so it was good to see at least one team wearing that guernsey show some fight last Sunday!

In all seriousness, Port is to be commended for supporting the Desert Spirit Cup. Both Port Power and Adelaide hosted APY and MT/Yalata players two weeks ago during the AFL's Indigenous Round, and I congratulate both South Australian AFL clubs for their involvement. I am sure that members saw TV footage of the young indigenous footballers spending time with role models such as Bunji McLeod, Graham Johncock and the Burgoyne brothers at both West Lakes and Alberton.

APY Thunder, a combined APY/Maralinga Tjarutja side, was selected following the annual Indigenous Lands Challenge Cup, played at AAMI Stadium during the Indigenous Round. Players chosen represented teams including Penong, Ceduna, Yalata and South Augusta. Their opponents, Yuendumu, hail from the Northern Territory. The Desert Spirit Cup is a joint project between the governments of the Northern Territory, South Australia and Victoria, the Port Adelaide and Collingwood football clubs, together with support from the Australian Football League and the Melbourne Cricket Club.

The teams have played each other annually in Adelaide for the past four years, but this was the first time they have faced each other at the spiritual home of football and in front of such a large crowd. I will share with members a match report which came from the *Northern Territory News* yesterday and which states:

> Yuendumu's moment in the spotlight will make up for whatever pain the APY Thunder inflicted on the Magpies at the MCG on Sunday. The South Australian side, made up of players from the APY lands and Maralinga Tjarutja, announced themselves to the football world, winning the inaugural Desert Spirit Cup 14.16...to 8.5...Brett Badger, one of the leading minds behind the game, said the experience would live on in the memory of all involved.
>
> 'The main part of the trip is about leadership, is about mentoring and having these guys come into contact with broader Australia and making partnerships and making friends,' he said. 'It is an absolute privilege to play at the MCG. And for those guys out there to be enjoying their football then turn around and see themselves on the big screen is just amazing.'
>
> In a topsy-turvy opening term Yuendumu appeared to fare the best in front of the Collingwood home crowd, interested in watching their remote northern cousins in full flight, kicking truly while the Thunder managed just five behinds early in proceedings. The Pies kicked five goals in the first 12 minutes of the quarter to establish a 14-point lead, and what appeared to be dominance of the match.
>
> Thunder, however, worked its way back into the contest kicking four of its own in the final six minutes to regain the lead and momentum at the half. The second half was tough going for the Magpies as Thunder's superior fitness began to shine through, kicking seven goals to one to win the first Desert Spirit Cup.

I must congratulate Aboriginal affairs minister Jay Weatherill and the government for helping to organise this match. In opposition we are here to hold the government to account and criticise things we do not agree with, but on this occasion I say, 'Well done'.

Initiatives such as these are of tremendous value to these young indigenous men. The chance to broaden their horizons, travel and have new positive experiences is a wonderful thing. I

know it also means a lot to their communities. There will be a real sense of pride in what these young men have achieved and, hopefully, we saw some future community leaders out there having a kick on Sunday. I enjoyed reading Thunder player Justin Shilling's comments, which show what a rare and great opportunity this was for players. He states:

> The ovals we play on are just dust bowls. We play on dirt, not grass.

I am certain that playing on the hallowed turf of the MCG in front of 60,000 people would have been an experience these young men like Justin will never forget.

Lastly, while I am making a football-related contribution, I congratulate the Adelaide Football Club on gaining its third NAB Rising Star nomination in the first 10 rounds of the 2009 season, with Taylor Walker's nomination this week. It is no secret that the club has had few nominations since the inception of this award, so, to see three in just 10 rounds is a terrific achievement and the club should be justly proud.

RENEWABLE ENERGY

The Hon. J.A. DARLEY (15:54): I rise today to speak about renewable energy and possible renewable energy projects for South Australia. In 2001 the federal government introduced a mandatory renewable energy target program, which outlined a target of 12,500 gigawatt hours by 2010, with a further target of increasing renewable energy to 45,000 gigawatt hours by 2020. This is in addition to any emissions trading scheme that may be introduced and implemented. In order to achieve these targets, approximately 10,000 megawatt hours of renewable wind energy installations are required by 2020 across Australia.

South Australia has some of the best sites in the world for renewable energy. Hot rocks exploration company Geodynamics is developing a geothermal site at Innamincka, which has the hottest geothermal rocks in the world at 250° Celsius. In addition, South Australia has some of the best potential sites in the country for wind farms. Already nine wind farms have been built across the state at sites such as Lake Bonney, Wattle Point and Snowtown.

Currently, South Australia has 56 per cent of Australia's wind power and 90 per cent of the country's geothermal investment. However, this amounts to less than 1,000 megawatt hours of renewable energy, which is less than 10 per cent of what is needed across the country to meet renewable energy targets. It is not inconceivable that South Australia could have the potential to supply a substantial amount, if not all, of the 10,000 megawatt hours that is needed to meet the 2020 renewable wind energy target.

In order to achieve this, any further developments will need to ensure the availability of infrastructure by way of electrical transmission lines between the source of the power generated and the existing network. For example, between Innamincka and Olympic Dam there is a requirement for approximately 400 to 500 kilometres of infrastructure. On the West Coast there is a requirement for approximately 300 kilometres of infrastructure. A side benefit of development of the infrastructure and wind generation capacity would increase the potential for further mining ventures in the area, as well as providing electricity for the West Coast.

I understand that the cost of transmission infrastructure could be approximately $1 million per kilometre. All existing wind farms in the state are currently located near existing transmission infrastructure which, I understand, is near capacity. Again, any further developments will need to consider the proximity of effective transmission networks and the feasibility of providing these links.

Under the national electricity rules, a proponent that is a developer of electrical capacity is required to pay all the connection costs to the electricity grid; that is, the transmission line that connects the generator to the network. If other proponents subsequently commit within three years, a rebate or refund to the original proponent may be payable.

Due to the high cost of providing transmission and infrastructure, there is a built-in disincentive to be the first proponent into the system. Proponents will initially wait until another proponent provides the initial basic infrastructure costs. It would appear that, in order to attract proponents of electricity generation, the government may need to give consideration to initially funding the transmission infrastructure and recovering these costs over the life of the project.

I am encouraged to see that the state government has tentatively proposed allocating $20 million towards the renewable energy industry in the upcoming budget and I hope that the issues raised today will be taken into account.

Time expired.

VEHICLE BY-LAWS

The Hon. J.M. GAZZOLA (15:59): I move:

That by-law No. 8 of the Corporation of the City of Mitcham concerning vehicles, made on 2 April 2009 and laid on the table of this council on 7 April 2009, be disallowed.

This by-law is for the management and regulation of the movement of vehicles on roads and access to and use of local government land by vehicles. The by-law outlines activities requiring permission, and it also requires drivers to obey signs on local government land and to comply with any reasonable direction from an authorised person.

Specifically, the Road Traffic Act and the Australian Road Rules regulate the manner of driving and the movement of vehicles through the use of traffic devices. Therefore, clause 3 of the by-law attempts to regulate matters already covered by road traffic legislation. This by-law also attempts to regulate the movement of animals being driven or ridden on roads. Under the Road Traffic Act, driving or riding an animal makes it a vehicle. Councils do not have the power to make by-laws regulating vehicles on roads.

Finally, the by-law also requires drivers to follow reasonable directions from an authorised person relating to the driver's use of a vehicle on local government land. Authorised persons under the Local Government Act 1999 do not have the power under that legislation or under road traffic legislation to give directions relating to the use of a vehicle. The Legislative Review Committee has considered the by-law and believes that the by-law should be disallowed in that it unduly trespasses on rights previously established by law as it is inconsistent with road traffic legislation.

Motion carried.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. M. PARNELL (16:01): I move:

That this council notes with concern the potential for conflict of interest in the development of the 30 Year Plan for Greater Adelaide.

We have had some discussion already today in question time and yesterday about planning issues on the periphery of Adelaide and, in particular, the 30 Year Plan for Greater Adelaide. For the benefit of members, this 30 Year Plan is described by the government as follows:

The plan for Greater Adelaide will detail where and how Adelaide and its surrounds will develop over the next three decades, providing certainty whilst also recognising regional differences, strengths, opportunities and constraints. It is expected a draft of the plan for Greater Adelaide will be released for community consultation in mid 2009.

Greater Adelaide includes metropolitan Adelaide and the surrounding near country arc, down to Victor Harbor and Goolwa in the south, up to the Barossa and Mallala in the north and east across to Mount Barker and through the Adelaide Hills. Murray Bridge is also included for investigation. This area covers 28 councils and seven state government planning regions. This is clearly a most important issue for the whole of South Australia. It is not just an issue that should concern planners and it is not just an issue for even the affected communities: it is an issue for us all in South Australia.

It brings to the fore the important role of the planning system in shaping the future of our state. One of the most critical documents influencing the 30 Year Plan for Greater Adelaide is a document entitled the 'Growth Investigation Areas' project. I refer briefly to minister Holloway's media release of 6 November 2008 in which he describes the consortium of groups that have put together that document. The media release states:

Connor Holmes and consortium partners comprising KPMG, Fyfe Engineers and Surveyors, Environmental and Biodiversity Services, Kath Moore and Associates and Scholefield Robinson Horticultural Services are to undertake the investigative work to identify and evaluate broad-acre land.

The media release further states:

Mr Holloway says the Connor Holmes-led consortium will work in collaboration with the Department of Planning and Local Government, the government's key planning and development agency, which is currently working to implement the recommendations of the Planning Review.

Connor Holmes has had a bit of an airing in parliament in the last couple of days. For members who are not familiar with Connor Holmes, it describes itself on its own website as follows:

Connor Holmes is a specialist firm of development advisers based in Adelaide, South Australia, and operating in the local, national and international markets. The firm's directors have been responsible for the delivery of numerous large and complex projects, including residential, retail and commercial, industrial, educational, institutional and tourism/leisure developments. It has also been responsible for the management of large consultant teams and the resolution of major strategic consulting studies.

My motion before the council refers to the potential for conflict of interest, and the word 'potential', I think, is important. This motion has arisen from a number of communications I have received from people across the state who are concerned about the dual role that development advisers—particularly Connor Holmes—are playing, representing developers at the same time as being engaged by the Department of Planning and Local Government, and the potential for conflict of interest that arises from that.

To provide the first of a number of examples, I look to the recent section 30 review under the Development Act conducted by the Light Regional Council. As members would know, section 30 of the Development Act provides for a periodic overhaul of a council's planning scheme. On 18 February at the public meeting for that section 30 review at Light council, consultants from Connor Holmes made representations on behalf of no fewer than four separate development companies. The notes that were subsequently made by Light Regional Council in relation to that meeting include the following. In relation to Mr Stuart Moseley, who is associated with Connor Holmes, the notes read:

Mr Moseley outlined that Connor Holmes has a dual role, one to advise state government with respect to its 30-year growth strategies and a separate role to represent commercial clients. Connor Holmes is conscious of its dual role as an adviser to government and noted that any decisions on growth are ultimately left to the government to make.

I said there were four separate presentations by Connor Holmes on behalf of private developers. Mr Stuart Moseley represented the Hickinbotham Group and Mr Stephen Holmes represented the Platinum Property Group, and the notes of Mr Holmes' contribution include the following:

The South Australian Strategic Plan targets growth levels that cannot be wholly catered for within metropolitan Adelaide. Strategic initiatives are directing growth towards the Roseworthy locality, including the Barossa Regional Spatial Framework...the state government's 30 year plan (currently being prepared) and the council's strategic plan.

At the same meeting, Mr Stephen Holmes made representations on behalf of Regional Land Pty Ltd, and also Mr John Stimson from Connor Holmes made representations on behalf of KW Hahesy. In the notes in relation to Mr Stimson's contribution it reads:

Mr Stimson spoke to an extract from the Plan for Greater Adelaide provided as a handout to council and its staff...A residential and employment growth focus for Roseworthy is noted in that strategic document.

As I understand it, that document is not publicly available but was provided to the people at that meeting.

So, the firm itself acknowledges its dual role and, whenever there is a dual role, whenever everyone's loyalties or obligations lie in more than one quarter, there is clearly a conflict of interest. I will come later to some remarks on the role of disclosures in relation to conflict of interest, but my point is that disclosing a conflict of interest or a potential conflict of interest does not make it go away: it just discloses it.

I now want to refer to the Buckland Park development—another development which has had a reasonable airing in this place over the last little while. Again, the minister's media release of 6 November last year includes the following:

Mr Holloway says to achieve this aim—

and that is the aim that the minister referred to in question time today of providing a 25-year rolling supply of land—

the government has initiated a 'growth investigation areas' (GIA) project. Setting a target of 25 years rolling supply of broadacre land was one of the key recommendations of the wide-ranging Planning and Development Review published in June, he says.

This initiative will evaluate the full range of broadacre development options for the Greater Adelaide area and will encompass the review of township boundaries initiated by the government earlier this year. It will complement other investigations into development within transit corridors, including the location of potential sites for transit-oriented developments (TODs) and other possible redevelopment sites within existing areas of Adelaide.

The GIA initiative will feed into the development of the new 30-year Plan for Greater Adelaide, which is to be developed in collaboration with councils over the next nine months.

The GIA evaluation will assess land brought into the urban growth boundary in December 2007, as well as land in the vicinity of the proposed Buckland Park country township, Concordia, Gawler, Goolwa-Middleton-Port Elliott, Mount Barker-Littlehampton-Nairne, Murray Bridge, Nuriootpa, Dry Creek, Roseworthy, Strathalbyn, Two Wells and Victor Harbor.

The conflict that arises from that is that Connor Holmes is clearly involved with the Walker Corporation in proposing the Buckland Park development and, in fact, Connor Holmes is responsible for the environmental impact statement that is currently out on public exhibition.

It is worth noting that the government's preliminary document entitled 'Directions for creating a new plan for Greater Adelaide' sets out a vision for the future growth of our Greater Adelaide area, and it focuses on creating a number of things. I will just go through some of the things in that list and members can reflect on the extent to which the Buckland Park development meets these objectives. First it states:

A city which will undergo urban regeneration and revitalisation in many existing areas (while sensibly protecting valued heritage and character), with vibrant new higher-density neighbourhoods created in and near the CBD and along designated transit corridors to the west, north and south.

That is shorthand, if you like, for transit-oriented development and infill. It is certainly not in any sense relevant to urban development outside the growth boundary away from all existing services. The directions document also describes the need to focus on creating the following:

A city that embraces well-planned fringe growth with new population centres closely connected to transport infrastructure and employment opportunities.

Buckland Park could not be further from that objective. It is miles from the nearest services and there is no employment within any reasonable reach. The directions document also says that we should focus on creating the following:

A city that encourages the sustainable growth of near country towns and townships, while protecting our most valuable environmental, agricultural and tourism assets.

That is not Buckland Park. It also says:

A city that will see the provision of high speed mass transport linked to the growth in residential housing and jobs. The government will spend nearly $2 billion over the next 10 years to modernise our public transport system.

None of it will be anywhere within cooee of Buckland Park. Even at completion, the proponents acknowledge that only 5 per cent of trips will be by public transport, which is below even the government's very modest target for public transport growth. I will not go through the rest of that list, but I think that members get the idea.

Gawler was the subject of a question I asked today, and the minister provided a comprehensive answer which, as ministerial answers go, raised as many questions as it answered. I will come back to that later, but the point to make here is that we have the involvement of a firm representing private development interests and that firm is also either directly or indirectly assisting government in determining the appropriate future direction for planning in those areas. That, most people would accept, leads to a conflict of interest.

The planning system is designed to come up with rules and plans that guide our future urban development in the public interest. We should be developing our cities, towns and countryside in a manner that maximises public benefit, that protects the environment, and not in a way that overwhelmingly advantages private developers. So, where you have the same firm beholden to both the private developers and working with government to write the rules, that is clearly a conflict of interest.

I will focus now on Mount Barker, as clearly that is at the coal face in relation to future urban development. Again, the minister's press release of 6 November 2008 referred to Mount Barker. The release reads:

Mr Holloway says the initiative will begin this comprehensive study by evaluating land in the Adelaide Hills in the vicinity of Mount Barker, Littlehampton and Nairne. 'Mount Barker is one of the most rapidly growing areas in Australia', Mr Holloway says. Not surprisingly, there has been strong interest in further developing Mount Barker to the south and east, which requires a thorough evaluation of the township boundaries to enable appropriate rezoning and planning, such as the requirement for additional access to the South-East Freeway. The review of the township boundaries in this fast-growing part of the Adelaide Hills will include input from the District Council of Mount Barker as well as from relevant government agencies.

The involvement of Connor Holmes in that exercise has had a number of people writing to me concerned about conflict of interest and the propriety of the process. One email I received from a Mount Barker resident stated:

> I am trying to get answers from the state government (Paul Holloway) in relation to their proposed residential expansion for the Mount Barker area. To put it simply, they are not answering my concerns other than, 'Thank you for your email', and, 'We'll pass it on to the minister', and so on. I have tried to get answers to my main concerns since November last year. I have emailed the minister's office twice and phoned the Office of Planning and Local Government and received nothing.
>
> My main concern is that the planning consultants engaged by the state government (Connor Holmes) to investigate what areas are going from rural to residential last year put in a submission to the District Council of Mount Barker strategic plan. The consultants stated they were representing property developers in the Mount Barker area. Developers also own property in or near Mount Barker. The Connor Holmes submission supported and wanted more residential development in the district. My problem is: how can these consultants independently look at the issue of residential expansion with their strong connections to property developers who own land locally, and no doubt some of it vacant and rural?
>
> There is a strong conflict of interest and I have so many unanswered questions in my mind to why these consultants, Connor Holmes, were even selected in the first place. I am pulling my hair out here trying to get some sort of basic response from the ALP.

Those types of concerns are widespread in the community, and I have had more communications than just that one. Certainly I have seen correspondence directly from Connor Holmes in relation to rezoning of land and strategic planning in the Mount Barker area, and it is clearly public knowledge that they have a great interest there on behalf of commercial clients.

Part of the community's angst is the apparent contradiction with the minister's previous comments about development at Mount Barker. I read into the record a recent comment, but if we go back to 2007, according to the *Mount Barker Courier* newspaper, this is what the newspaper reported in relation to the minister:

> But it is unclear whether the government wants Mount Barker, the region's fastest growing centre, to continue its rapid growth into the future. Mr Holloway said that once newly rezoned land in Mount Barker and surrounding townships was developed, 'Mount Barker would probably be getting close to its growth boundary. We certainly wouldn't be contemplating increasing that growth boundary without at least discussing it with the council and undertaking a significant review', he said. 'Obviously there is an optimum size to Mount Barker and, if it goes beyond that, it is going to put added pressure on major infrastructure like the freeway. To go beyond that is something we are not contemplating.'

I think the community's concern is understandable when only two years ago the minister was talking about limits to growth yet attention is now focused on additional growth, especially in places such as Mount Barker and the urban fringe. I do not need to remind members of the importance of hanging onto our food production areas that are in close proximity to Adelaide.

The reason I have put all this on the record today is that I believe the community needs to have confidence in the planning system. I question whether it is appropriate for the chief consultants employed by the state government to prepare a major strategic report identifying and prioritising areas for commercial and residential development in metropolitan Adelaide for the next 30 years to, at the same time, be actively lobbying on behalf of commercial clients for greater development of those same areas of land. We need to ask ourselves the question: if Connor Holmes is representing commercial interests, who is representing the public's interest in the preparation of the 30 year plan for Greater Adelaide?

I do not accept the usual response from ministers, where they say that the buck stops with them and that they will make the final decision. I think we all know the incredible power that lies with consultants who prepare key documents and key reports. Even as Connor Holmes admits publicly that it is playing a dual role, I think that we as a parliament need to be told what mechanisms are in place to prevent a conflict of interest. Earlier today, in his answer to a question I asked in relation to development at Gawler, the minister outlined some of the mechanisms that he says are in place. He said, for example:

> In its project proposal Connor Holmes disclosed in writing areas and projects where it had an interest either with private clients or in providing advice to the state government. I am advised that the contract for consulting services entered into between Connor Holmes and the government contains provisions that adequately protect the parties from any conflicts of interest and preserve confidentiality.

The minister went on to say:

> To ensure transparency, Connor Holmes has also provided DPLG with a letter identifying areas that are part of the investigations where the firm has advised clients.

Two things flow from that. The first is that, if the objective is to ensure transparency, I believe the minister should show us the list; I think we should see which commercial clients Connor Holmes, or any other consultant to government, has identified as commercial interests that deal with the same areas of land that government rezoning exercises are dealing with.

I think probably the most important point to come out of that is that disclosing a list of commercial clients and then continuing to do government work, as well as working for the commercial clients, does not remove a conflict of interest. All it does is declare internally, on some document in a government file, that the declaration has been made so that when someone—like me, perhaps—talks about conflict of interest someone else can pull out this document and say that there is no conflict of interest because they declared it.

They are very different things. Declaring an actual or potential conflict of interest does not make it go away. I think the community needs to be satisfied that major planning exercises such as this, an exercise that will effectively direct the form and shape of the city of Adelaide and the greater metropolitan area for the next 30 years, are being driven by a process where the public interest is paramount. I do not believe that the public interest is necessarily seen to be paramount when key players are also lobbyists for vested interests who stand to make money out of decisions made through the planning process.

I am not suggesting illegality or anything like that, but it is clear from the correspondence that I am receiving that the potential for conflict of interest, the apparent conflict of interest, has clearly reached out into the community; it is not just the invention of a member of parliament with a planning degree. The community is clearly frustrated because members of the public do not know where to go with these sorts of concerns. We do not have an independent commission against corruption, an ICAC, or any similar body to which people can raise concerns; they need to do things such as come to members of parliament.

I think the minister needs to reassure the community, to a much greater extent than he has in his statement and in response to my question today, that the public interest in these matters is paramount. With those comments, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

STATUTES AMENDMENT (ASSAULTS ON POLICE) BILL

The Hon. R.L. BROKENSHIRE (16:29): Obtained leave and introduced a bill for an act to amend the Criminal Law Consolidation Act 1935 and the Criminal Law (Sentencing) Act 1988. Read a first time.

The Hon. R.L. BROKENSHIRE (16:29): I move:

That this bill be now read a second time.

The Hon. R.L. BROKENSHIRE: I rise today to introduce legislation that is close to my own heart and that of the police who, I know, are sick and tired of being assaulted in the course of their duties and then seeing offenders getting little or no penalty as a result. I know that some people in the community, and possibly even my own colleagues, would say, 'You were police minister for several years; why didn't you put this legislation forward then?' That is a reasonable question but, as all ministers will tell their colleagues, when you are a minister you never get to do everything that you would like to do; you are just simply not there long enough.

Referring to assaults on police (and assault generally), we are no orphans in this, as I will illustrate during the course of my remarks. In this state and, indeed, right across the nation and the world at the moment, no matter how hard police, parliaments, governments and the courts work, the fact is that, when it comes to assault and particularly serious assault, the trend is upwards. I have been concerned to see too many assaults and appalling attitudes displayed generally towards our men and women in the police force in South Australia.

First, I want to give some examples, and some of these examples are slightly different to the bill that I have just introduced, but I think they are important in painting a picture to help me gain support for this bill over the coming months. I want to give some examples and some background as to what is happening in other states. In New South Wales, proposals for minimum sentencing for police assaults began under their Labor government when, in September, the then police minister (the Hon. Michael Costa) responded with outrage to cases where a $50 fine was given to a drug dealer who assaulted a police officer executing a search warrant, and another man got a good

behaviour bond for swinging an axe at an officer's head. In the latter case, the axe missed the officer by only centimetres.

Reports have further indicated that 'police have been spat on, run down, king hit, threatened with knives, kicked, beaten and forced to fight off attempts to use their own firearms on them'. The New South Wales government moved for a mandatory minimum 25 years' gaol for killing a police officer and sought sentencing guidelines for mandatory minimum penalties for other assaults on police. That was under the current Labor government.

The Northern Territory situation is interesting. In 2006 the Northern Territory opposition moved for mandatory minimum sentences for assaulting police. The regime they proposed was for a minimum six-month gaol term for lesser assault offences, up to a minimum five years' gaol for an assault that resulted in permanent grievous harm, as defined by territory legislation. I should point out that this is tougher than the measures I have proposed in this bill. I think it is fair to say, considering all the proposals seen across the nation from coalition and Labor governments, that Family First's bill is a very reasonable approach.

In Queensland in 2007, in response to the police union there reporting there had been 3,000 assaults on police in the preceding 18 months, the mandatory minimum proposed there was three months' imprisonment. That was perhaps the 'toe in the water' for what Family First proposes today.

Now let us look at a more detailed case study from Western Australia. The Western Australian police union stated, in an advertisement supporting similar legislation in the west—which I will come back to shortly—'How can they'—that is, the police—'protect us, if we don't protect them?' It was a pretty fair question asked by the Western Australian police union. The Western Australian Barnett coalition government was elected with a strong mandate to bring in mandatory minimum sentencing for assaults on police officers, a policy which has been the coalition's policy (and the right policy, in my view) in opposition there since 2004.

They took it to the 2005 election and, although they were not elected, they pressed on, and it was a prominent issue in the recent election campaign. The mandatory minimum sentencing on police assault policy was also, I note, a policy of Family First in Western Australia at the same election. In March 2009 the debate about assaults on police became a lot clearer when a jury cleared three men involved in a Joondalup pub brawl which left police officer Matthew Butcher paralysed and with brain damage and visual impairment. He had been headbutted during the brawl, which took place in the course of his work.

There is video footage of this incident. It is only because I want colleagues to see the seriousness of what happened and the unfair consequences that I tell members that there is video footage purporting to be taken of the whole incident, and I will give the website to any colleagues who want to see it. Viewers will be shocked by what they see, and there can be little doubt that police were being assaulted in this video, yet not one of the three was convicted of any physical assault charges at all. The mind boggles at how the jury and our legal system failed the police officers involved.

As a consequence of this, there was a massive protest on the steps of the Western Australian parliament on 17 March this year, following the jury's decision. The comments of the Western Australian police union reporting on that rally are worth repeating here, as follows:

> It's time slippery lawyers stopped turning our courts into an expensive charade. Every police officer here today is well aware of the absurd legal holes in our system. These absurdities need to be plugged and plugged now. No more should we, as a society, put up with the free ride given to the drug and alcohol crazed offenders who nightly prowl our streets, and it's definitely time our very well paid magistrates and judges did their duty for a change.

Personally, I think those comments are equally applicable in South Australia as they are to Western Australia. I turn now to events that affect us here in this state. This state's Office of Crime Statistics and Reporting's most recent court data is from 2006. It is a little behind, frankly, in its reporting, and perhaps that is something our Attorney-General could look into. Perhaps it needs more resourcing but we should, as parliamentarians and a community generally, be able to get more recent data; nevertheless, I will talk about the data that is available. I will start with Supreme Court and District Court reporting data, because that is where you would expect to find charges as serious as assaulting a police officer.

There was just one case in that reporting year in the higher courts, with a person found guilty and given three months immediate gaol time. In the previous reporting year (2005) just one case in the superior courts resulted in a community service order. In 2004, there were just two

cases with two suspended sentences of a year or less. In 2003, there was just one case with a 10 month suspended sentence.

I took honourable members to the superior courts first because for serious assaults on police that is where I would expect to find these offences. Yet, over that four-year period, for serious police assaults, only one offender out of the five charged saw gaol time and then for only three months.

I turn now to the Magistrates Court. In the most recent reporting year (2006) there were 379 cases. Of those, 201 people were convicted of assaulting police and received a penalty—which I will come to in a minute—and a further 17 were convicted with no further penalty. A further 61 were found guilty but had no conviction recorded. So, already, for police assaults prosecuted in the Magistrates Court, almost a third of cases have seen no penalty at all for the offender—one in three received no penalty. Assault police, go to court, walk out—no penalty.

Only about 10 per cent of cases for assaulting police that year resulted in imprisonment, and the average penalty for assaulting our police officers was 14 weeks—roughly three months imprisonment. I find it staggering to think that no police officer sustained serious injuries from being assaulted that year or over that time period. I have not laboured the point with honourable members by going back to the previous Magistrates Court's reporting years. Serious assaults ought to have been dealt with in the supreme and district courts. As members can see, there were just five cases in the most recent four reporting years, with only one serving gaol time for three months.

I understand, from my sources, that some 20 assaults a week are committed upon police officers. Other honourable members may have been out, from time to time, with police on a patrol. I have had that privilege. I see that they are now running this stuff on television, and it is pretty close to what happens in reality.

I want to paint a picture of one incident that has stuck in my mind. Police officers were called to a domestic dispute and by the time they arrived the female partner of the offender involved was able to get to her mother's place. We went there first and saw the shocking state that she was in. We got back in the police car and went to the home where the offender was located. The offender was right off his tree, full of drugs or alcohol, and as soon as he saw the police he raced to the kitchen. The police had to make a decision to either back off, cordon off the house or call for help. The guy might try to take his own life, and they would have to break through the door and go after him. On this occasion, the police made the decision to go in. As a result, they were able to get to the kitchen drawer at about the same time as the offender, who wanted to get a large kitchen knife.

Fortunately, on that occasion, the officer involved was not assaulted, but he came very close to it. Imagine what could have happened if the offender had picked up a large kitchen knife. That is the sort of thing that the police have to confront daily and, sometimes, several times in a shift. I believe that we as legislators need to remember this. We are really the only way forward for protecting our police officers. If we do not get the laws correct here, if we do not send the right message to our community that we as a parliament and as a community will not tolerate this sort of serious assault and attitude to our police, not only do we fail our police but I believe we also send a message out there that we are happy to see a further break down of society.

When 20 assaults a week are committed upon police officers (and that that figure was around 600 a year in 2001-02), it is considered to be a totally unacceptable level by all of us—me included, the government of the day and the opposition. The *Police Journal* reported in February that there have been about 900 assaults a year on average over the past 10 years—900 a year.

An example of the injustice that arises is a recent case of one of our own South Australian police officers, who had a beer bottle thrown in his face, requiring 60 stitches after receiving lacerations to his lips, face and shoulder.

My opinion is that, by any measure, when there is a serious assault like that against one of our police officers—that is, an assault causing serious harm, not just spitting at the person or grabbing their shirt and tearing it, or giving them a smack across the face—it is a very serious incident. It is an assault causing serious harm. And, guess what? That offender saw less than two years' goal time.

Another recent serious assault on a police officer left him unconscious, only to awake with no feeling or movement in his legs, and that was only recently reported in the media. Luckily, he recovered, but only after four days in hospital. The Police Association president in South Australia

also noted in the February edition of the *Police Journal* that other dangers include offenders who drive stolen cars at police and ram police cars.

It is high time that a stop is put to the disregard for our police, which we are seeing amongst us. I admit that it is a select few, but that select few need a bit of select time behind bars to put a bit of select thought into what they are doing. It is only a select few in our community who would, frankly, be better behind bars than walking about with drugs or alcohol in their system, who think that they can down a police officer like Matthew Butcher, who was viciously attacked in Joondalup.

The bill that we have put up provides as follows in respect of the type of assault on a police officer: for a common assault, a minimum of six months and a maximum penalty of five years; recklessly causing harm, a minimum of six months and a maximum penalty of seven years; intentionally causing harm, nine months minimum and 13 years maximum; recklessly causing serious harm, one year minimum and 19 years maximum; and intentionally causing serious harm (where they actually clearly intend to hurt an officer in a serious way), two years minimum with a maximum of 25 years—if, and we hope it never happens, they do something like take the life of an officer. In most cases the maximum penalty is simply that which already applies for causing harm and common assault offences; it is already there. As the bill title suggests, it is the minima that are most important. More importantly, the minima cannot be suspended sentences but, rather, sentences that must be served in gaol.

I want to make it clear that the changes to section 20 of the Criminal Law Consolidation Act regarding assaults require harm to arise; that is, a mandatory minimum penalty does not apply to spitting at a police officer or pointing a gun at them—or anything like that—unless harm arises. In the old legal language the minimum penalty applies only to assault occasioning harm, not common assaults on police.

I am prepared for the arguments of civil libertarians and others about this bill. In fact, while I have had some good support in our office for this bill, civil libertarians have been contacting me, as well as some people who, whilst they did not leave their name, have probably already been incarcerated and have an unacceptable attitude towards our police officers, anyway. I am ready for all those people who do not like police officers to line up to oppose this bill.

Family First makes no apology for supporting our law enforcement officers with tough legislation. I say this legislation is tough and uncompromising, and it will get the message out there to the hundreds of people who think it is okay to go out, get stoned and then assault police officers. It is not okay, in our opinion, and a stint in gaol awaits them if they do so. I believe that is what the community expects and wants.

I believe that if this bill is passed by our parliament the mere fact that it becomes law will make a lot of these people think again before they potentially ruin the life—and I do not say that in a light-hearted way—of men and women at the front line who are protecting us on a daily basis and ensuring that the beautiful community in which we live—the sort of life we take for granted with safety, fun and enjoyment that people do not get in a lot of nations—continues to deliver that lifestyle. We have police officers who are prepared to put their life on the line in a worst case scenario to give us those opportunities.

We must remember that police officers, too, have families. We all know police officers, or we all have friends who are police officers or who know police officers and their families. Those officers suffer greatly when they are assaulted on the job, and I have seen how they suffer not only physical but also psychological harm. Unfortunately, in worst case scenarios I have seen marriages break up, and members should think about this. Police officers kiss their husband or wife goodbye in the morning and say goodbye to their kids and go out on patrol. A phone call is received or another officer drops around to say, 'Your husband (or wife) has been seriously assaulted and is in hospital and in a serious way.'

There are not many workplaces where that would happen. We do not want to see anyone injured, but the difference is that the risk is so much higher for these people. They may have had a good Sunday, gone to the local tavern with their family and enjoyed a meal, or watched sport at home with their kids, and on Monday, after a few hours on patrol, their life is a wreck. Their marriages break up, their income suffers and psychological problems set in. Sometimes they can never do the job again—all because some thug has no regard for the law and no regard for the officers whom we support with funding to ensure that we have a safe community.

This is the only point where I will get political, but it is something about which I am passionate and which I want to reinforce. If the government in the future would like to introduce this same bill or something similar in the House of Assembly, Family First will support it. Family First will let the government take the bill forward and we will give credit to the government for that. I would love to see that. I would love to see absolute bipartisanship on this matter; it is important that we get bipartisanship on it.

Civil libertarians and those with an attitude will say, 'The cops are doing all right. They have some laws at the moment. They sign up for this. They know that they might have a situation where something goes wrong, but we didn't force them into the job.' People will say all that, but I say to those people: get out in the real world and look at what is happening when the police are in an emergency situation, with a split second—and that is all they have—in which to make a decision that may keep us safe but possibly ruin their future.

I want to highlight the fact that the Rann government has cut injured workers' entitlements with changes to WorkCover. After 13 weeks off work due to injury, an officer's pay can be cut to 90 per cent. Another 13 weeks later, that officer's pay can be cut to 80 per cent. It is hard enough to heal quickly from a physical injury, let alone a mental injury. It is severe mental injury at times, and we do not know what it is doing to their brain the next time they get back into a police car or the next time they are called to a domestic violence incident, a pub brawl or a situation where people are coming at them. We do not know what this does to them. They may not be ready for work for a long period. Why should they have their salaries cut?

I have had to debate this in the justice system with people who are clinical politicians, as I call them, rather than practical politicians (including even colleagues in the same party at the time) and point out that judges and magistrates are human beings, just as we are. What is wrong with us as a parliament—as legislators on behalf of our community—setting tighter parameters for the courts in certain instances and giving better guidance to the magistrates and the judges?

By and large, I congratulate them on their difficult work, but there seems to be this message always coming from the hierarchy of the legal system: how dare members of parliament set minimum mandatory sentencing? That is our right, because we are here democratically to mirror the majority thought in the decision making process of our community, not to make a decision that gives the authorities so much autonomy. We do not see them capitalising.

We come in here with good intentions and say, 'We are going to increase the penalty.' We think, 'Gee, that's good,' and we go home that night and say, 'Well, we have made it safer today, haven't we.' Then an incident occurs and we pick up the paper and read about the judgment that has been handed down by a magistrate or judge and we think, 'How come that person got off so lightly?' Well, it is because we did not set enough parameters.

We already have minimum mandatory sentencing in a couple of instances—murder and driving with a blood alcohol level of over .08 per cent—so why should we not start to send a better message to the community and support the 4,000 plus men and women who are out there 24 hours a day, seven days a week, looking after us?

I will finish on this point, which I find interesting. I want to congratulate Labor in Western Australia, which is now in opposition. Whilst it would not take up the cause in government, once the coalition in Western Australia introduced its bill opposition members tried to have nurses, firefighters and teachers included in it. So, they supported its intent. The now Labor opposition, which was previously in government, had an opportunity when the coalition introduced the bill to get the law through. Labor members saw that they were right and wanted to add other provisions. They also wanted a judge to determine whether the harm was serious or not, and they wanted the prosecution guidelines included in the act. With respect to that point, I am pleased to see that they woke up.

I have not done that in this bill. I am open to the consideration of some other bill that supports other people in these kinds of situations, but I have specifically introduced this bill for assaults on police because, whatever vocation someone may have, that is the one with the biggest risk of injury, both physical and mental, or even loss of life, and none of us wants to see that with respect to the police.

I ask all my colleagues to have a close look at this bill. I look forward to their contributions and, on behalf of South Australian policemen and policewomen, I trust that we will see this bill pass in a bipartisan way through both chambers. I commend the bill to the council.

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

NATURAL RESOURCES COMMITTEE: WATER RESOURCE MANAGEMENT IN THE MURRAY-DARLING BASIN

Adjourned debate on motion of Hon. R.P. Wortley:

That the 27th report of the committee, on Water Resource Management in the Murray-Darling Basin, be noted.

(Continued from 13 May 2009. Page 2295.)

The Hon. C.V. SCHAEFER (16:55): I rise to support this interim second (or third even) interim report of the Natural Resources Committee. This report was released with some urgency following a visit by the committee to the Riverland on 22 and 23 April this year.

Mr President, you would be well aware (as are, I am sure, most of the people of South Australia) of the dire plight of the people in the Riverland, and particularly those who are dependent on irrigation, first, to supply our food and, secondly, for their income. The committee found that there is, indeed, a great deal of personal and economic suffering within that region. I spoke today in my five minute grieve about the world shortage of food and the economic and social collapse that that could cause.

It was put to us on our visit to the Riverland that, as we all know, there are two types of irrigated crops (in fact, I suppose there are many, but there are two major types): the annual crops, such as rice and melons, and so on, or what are called permanent plantings. The permanent plantings are those that are mainly grown in South Australia, in particular, citrus and almonds and, to a lesser degree, avocados, stone fruit and wine grapes. It was agreed by most of the people who spoke to us that wine grapes have a twofold problem. One is the lack of water and the other is that there is still a major glut of supply across the nation.

Last year, the government saw fit to provide irrigators with what was called a critical water allocation, which was an allocation which was sufficient purely to keep permanent plantings alive. It is certainly not enough for those people to continue to grow commercial crops: it is merely enough, as I said, to keep those plantings alive. In some cases, it is sufficient underpinning, if you like, to allow those people to buy in additional water. This year, they are entitled to only 18 per cent of their allocation. So, they need this critical water supply to ensure that they have plants into the future. The upshot of this is that, without this critical water, these people will have to lose all their crops.

For a commercial return it is a minimum turnaround on citrus of eight years; about the same on almonds; slightly less, I think, on avocados; and stone fruit is between five and seven years. The committee simply has recommended that the government again purchase sufficient water to keep those plants alive until such time as something happens. None of us is exactly sure what that will be because there continues to be a critical and tragic shortage of water up and down the Murray-Darling Basin. Without this supply these people cannot continue even to grow small acreages of what are vital foods.

It was reported to us up there that if they had sufficient water the citrus industry is actually in a shortage of supply. It is unable to supply its export market. Similarly, the stone fruit industry is booming at this time. We were informed up there that these industries, except for their lack of water, are in fact extremely viable. That raises for me an interesting conundrum, because we are currently told that the wine grape industry is in a state of collapse, yet about four to six years ago when I was still the shadow minister I had the citrus industry telling me that it must be bought out because it was no longer viable in the long term, that its industry had collapsed.

It now has a very viable—in fact, buoyant—export industry of citrus into America during its off season. Of course the other environmental concern is that if all these permanent plantings go out of production we are left with a desert—because that country has roughly, I think, 10 to 12 inch rainfall—and a huge problem with weeds and basic husbandry. Our recommendations as a committee were as follows:

(1) Subject to the availability of sufficient water, including transmission water, that the state government approve for the 2009-10 year an allocation of critical water on the same terms as was provided in the 2008-09 critical water allocations.

(2) That any decision by the state government to allocate critical water for the next season, subject to availability and transmission water, is communicated as soon as possible to irrigators of permanent plantings in the Riverland so as to enable them to most effectively plan for the next 12 months.

Of course, they are waiting, holding their breath, to know whether they will get that critical water to enable them simply to hang on for another year. We believe that this amount of water is about natural resource management as much as it is about economics. I commend the report.

Motion carried.

LOCAL GOVERNMENT (WASTE COLLECTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 May 2009. Page 2297.)

The Hon. DAVID WINDERLICH (17:04): I can understand the intent behind this bill. The idea of fortnight-old nappies is not a very appealing one, but I do not think it is necessary. We do have public health regulations that control this sort of thing and there is a question about whether in fact they have been applied. There are also very clear political controls. Local councils have their own voting base and they can react politically; in fact, they already have on this matter. Local government is a separate level of government and we should not micromanage it just because we can. I think that is unnecessary and heavy-handed.

The other thing to keep in mind is that, although we often treat it as the object of criticism (and I am critical of local government at different times), it has also been a source of great policy innovation over the years. The best local councils were light years ahead of state and federal governments in their approach to matters of greenhouse gas reductions and so forth. The best local councils also held onto ideas of community capacity building when state governments had lost interest in them for a long time.

We should avoid trying to crush every initiative. As I said, there are controls; we have public health regulations, and we have political controls. I think that, rather than micromanaging local government, we should leave it at that and let those existing regulations and those existing political sanctions control such matters.

Debate adjourned on motion of Hon. R.P. Wortley.

NATIONAL PARKS AND WILDLIFE (BAN ON HUNTING PROTECTED ANIMALS) AMENDMENT BILL

The Hon. M. PARNELL (17:06): Obtained leave and introduced a bill for an act to amend the National Parks and Wildlife Act 1972. Read a first time.

The Hon. M. PARNELL (17:06): I move:

That this bill be now read a second time.

This is a simple bill which will end, if passed, the ability of the environment minister to declare open seasons for the hunting of our wildlife. Members would be aware that in March this year the Minister for Environment and Conservation announced the dates of what the minister described as a 'heavily restricted duck and quail hunting season for 2009'. In the minister's statement announcing the declaration of an open season, the minister said:

> Recent water fowl surveys have shown that there are sufficient numbers of duck and quail across southern and eastern Australia to support limited hunting seasons in South Australia this year, but heavy restrictions have been placed on the length of the season and the number and species of ducks and quail able to be taken to ensure that populations of the birds are not adversely affected. The duck hunting season will be open from 28 March to 31 May, with a bag limit of four ducks per day.

Interestingly, in the media just the other day, we had representatives of the environment department saying that very few ducks were, in fact, shot because very few ducks were, in fact, here in South Australia. Whilst that is a good thing for the ducks, it does go to the heart of the lack of quality information that led to the decision to declare this open season. My bill, quite simply, abolishes that part of the National Parks and Wildlife Act that enables the declaration of an open season. Let us look first at the basis of the decision to allow a duck shooting season this year. On 17 March, a press release stated:

> 'The decision to permit the season was based on a consultation process which considered evidence of the distribution and abundance of water fowl in various habitats,' Mr Weatherill said.
>
> 'Based on the recommendations of that consultation process, the government decided that restricted duck and quail hunting seasons this year were sustainable. However, we will continue to monitor the situation across South Australia and, should circumstances change, we will revert to a closed season in 2010.'

I would like to explore what the minister describes as his decision based on the consultation process, and let us look at some of the consultation that was undertaken. Perhaps the worst of the consultation was with conservation groups, which were not consulted until after a decision effectively had been made.

The submission from the Nature Conservation Society of South Australia provided four reasons why it believed that a duck shooting season should not be declared this year. The first was that there are dry conditions continuing in southern South Australia, and no-one could doubt that that is the situation we are facing. The second reason it said we should not have an open season is that there has been insufficient improvement in wetland condition. The Nature Conservation Society actually pointed the Department for Environment and Heritage back to the department's own comments in the previous year where, in its discussion paper for the 2008 duck and quail hunting proposals, the department said:

> Water supplies are severely stressed, and several years of above average rainfall are required to recharge substrates and restore conditions.

It would be clear to everyone that between 2008 and 2009 we have not had several years of above average rainfall. We have not had one year of above average rainfall, so the quality of our wetlands has not improved.

The third reason the Nature Conservation Society gave was that South Australian water bird numbers have not increased enough. The most recent survey in 2008 showed a 2.6 per cent increase from 2007, but that is still 53.6 per cent less than 2003 numbers. Fourthly, the NCS points to the fact that national water bird numbers have increased but they are still well below the long-term average. They point to the national water bird survey which shows that the statistics were skewed by large numbers of water birds in two locations—the Paroo wetlands in far north-western New South Wales, and Lake Galilee in Queensland. So, the summary from the NCS was:

> An increase in national water bird numbers cannot justify hunting in South Australia when numbers in South Australia are still low. The South Australian government is responsible for protecting wildlife in South Australia and the fact that there are reasonable numbers of these birds elsewhere is not justification to allow a hunting season which threatens the long-term sustainability of water bird populations. Allowing hunting in South Australia may be allowing our natural capital to be eroded beyond its long-term regenerative capacity.

Members might be thinking, 'Well, that is what you might expect from a non-government conservation group', but let us look at what the government's own hand-picked advisory committee recommended in relation to a duck hunting season this year. I refer to the statutory body, the South Australian National Parks and Wildlife Council, which considered the question of an open season at its meeting in February this year. I have been provided with a copy of the draft minutes for that meeting which conclude with the following:

> The National Parks and Wildlife Council considered the data collection and analysis and decision-making process undertaken by the department in developing recommendations for a duck and quail hunting season in 2009 and advised that it would not support the recommended season as presented to the meeting and advised the department that it would support an application for funding from the Wildlife Conservation Fund in relation to quail.

That is because there is very little information at all in relation to quail. The crux of its recommendation to the department is it did not support the department's recommendation to have an open season. This is the premier statutory advisory body on all matters to do with national parks and wildlife. The government ignored its recommendations.

One response to the duck shooting season has been condemnation on the ground of animal cruelty from groups such as the RSPCA. Last year, when the government decided not to declare an open season on ducks, the RSPCA put out a media statement saying the following:

> The South Australian branch of the RSPCA is extremely happy to hear that the barbaric sport of duck shooting has been banned for this season. While the government says the cancellation is due to the drought and low duck numbers, the RSPCA believes duck shooting should be banned because of the severe injuries it inflicts on ducks.

The release goes on with the RSPCA's spokesperson, Aimee McKay, saying:

> The fact that one in four are injured and not instantly killed from an animal welfare standpoint is completely unacceptable. From beak injuries, where ducks then die of starvation days later, to wing injuries where they're unable to fly away from predator, to the bird simply bleeding to death, they all lead to a horrible death for the bird. The RSPCA of South Australia acknowledges that while the temporary ban—

remember that this was last year—

is a positive step, a total ban needs to be brought in. In the ACT it has never been legal. It was banned in Western Australia in 1990.

So, that is 19 years ago. It continues:

> In New South Wales it was banned in 1995 and Queensland banned duck shooting in 2006.

The RSPCA goes on to say:

> South Australia is really lagging behind when it comes to duck shooting. The sheer cruelty of the so-called sport alone should see it banned, but we also have the added strain on duck numbers due to drought. It really makes no sense for this inhumane practice to still be legal.

People might say that you would expect that from the RSPCA, and one might doubt that those figures of one in four injured are credible figures. We need look no further than the Department for Environment's own documents to show that not only is that figure on the mark but it is probably conservative. I have a memo, which was prepared for the then minister for environment and natural resources in February 1996 by the director of natural resources, one Allan Holmes, who is now the CEO of the entire department. The memo relates to duck shooting and to the certainty of birds being injured as well as killed. The memo says:

> The Duck Defence Coalition, through Mr Geoff Russell, wish to draw your attention to their modelling of duck shooting, which indicates duck wounding rates of one bird wounded for every bird bagged. To put this in some context, if 100,000 birds are bagged in one season from a population of one to 10 million, the Duck Defence Coalition's modelling would suggest another 100,000 ducks are wounded. This example provides 'ball park' figures for duck hunting in South Australia. Mr Russell refers to collaborative Canadian research based on field studies of five to eight ducks crippled for every 10 bagged.
>
> A broad range of variables in the field will affect wounding rates. Hunting techniques, experience and shooting kills are important variables. Whilst hunters dispute the Duck Defence Coalition's modelling, significant wounding does occur, whether it is one bird wounded for every three bagged or one wounded for every one bagged is not the central issue, except that it provides a visible issue for debate.

The memo then goes on, with the only sentence in bold print:

> Mr Russell's figures are a reasonable estimation. The issue, however, is one of animal welfare not of wildlife conservation.

The rationale for my bill is both. I think we need to look at animal welfare in addition to simply looking at our fellow species as numbers we can exploit until they drop to unsustainable levels.

The bill I have presented is quite simple, and I have said that it ends the practice of declaring open seasons. However, I should outline what my bill does not do: it does not affect the permit system for the destruction of native animals; it does not interfere with the management under permit of wildlife for ecological purposes (that remains in the National Parks and Wildlife Act as it is); and it does not affect the rights of Aboriginal people to engage in traditional hunting (those rights also are enshrined in the National Parks and Wildlife Act).

However, my bill does abolish the declaration of open seasons where those seasons are declared simply for recreation or for fun. The season that has just finished this last weekend I think should be the last duck shooting season in South Australia. We know that it is an activity that has only marginal support in the community. The numbers of people engaged in duck shooting have dropped consistently for many years and it is inevitable that one day one parliament will have the courage to say that this inhumane activity has had its day. I want this season just closed to be our last and, if members support my bill, then we have every chance of South Australia entering the 21st century, catching up with Western Australia—we are only 19 years behind—and showing to the world that there is still some humanity left in South Australians and that we do not support blood sports such as duck hunting. I commend the bill to the council.

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

ENVIRONMENT PROTECTION (TESTING, MONITORING AND AUDITING) AMENDMENT BILL

The Hon. DAVID WINDERLICH (17:22): I seek leave to move Order of the Day: Private Business No. 6 standing in my name in an amended form.

Leave granted.

The Hon. DAVID WINDERLICH: Obtained leave and introduced a bill for an act to amend the Environment Protection Act 1993. Read a first time.

The Hon. DAVID WINDERLICH (17:22): I move:

That this bill be now read a second time.

Most of the conversations about pollution in our society concern things we cannot even see—carbon dioxide and greenhouse pollution or chlorofluorocarbons destroying the ozone layer. However, for many South Australians pollution is very immediate and invasive. It means fumes that make you sick or noise that penetrates your brain and disrupts your sleep, or dust that gives your kids nosebleeds, or even pieces of turkey carcass in your backyard. Pollution means that the price of your property plummets so that you cannot afford to sell up and escape.

This sort of pollution is often produced by the operation of large businesses which do not seem to care about their neighbours or the communities of which they are a part. Ordinary people, and often small businesses, are forced to fight an unequal battle against large businesses that can hire expensive lawyers, PR people and scientists to make sure that the debate about the problem is waged on their terms. So most people look to the government for help and, in particular, to the Environment Protection Authority (EPA); but too often it does not work out that way. Residents find that the people's watchdog is often the company's lapdog; they find that they cannot get action or information.

This simple bill is an attempt to make the EPA work better for people by bringing some transparency to its monitoring of pollution. It has two main provisions. Amendment No. 4 amends section 52 and requires that any audit and compliance program must include requirements for the making of reports and any evaluation processes undertaken as part of such a program. In other words, there have to be reports and evaluations as part of a program of environmental monitoring. Amendment No. 5 amends section 109 and would see the results of such tests and reports placed on the public register already maintained by the EPA. So, this amendment simply adds to the register of information already maintained under the act.

These amendments are extremely uncontroversial, or they would be to most people. All they do is ensure the right of the public to know about matters that are of concern to them. If you went out into the street and asked people whether they thought they should be able to find out the results of tests into pollution that might affect them, I believe you would get a resounding 'yes'. However, in this state people do not have that right; they can get access to information only if they make enough of a fuss to embarrass the Environment Protection Authority or the company in question. Even then, information to which they do get access is, in their view, often rigged in favour of the polluter.

I will give four examples from recent history. In Whyalla, the Red Dust Action Group lodged complaints about emissions from the OneSteel factory and logged many instances of national environment protection monitoring standards being exceeded on a regular basis. In 2007, the group was told by an EPA officer, 'We can't help you any more and we won't be answering any more of your emails.' They kept going, and eventually won some improvements. In Davoren Park, residents report that they were told by an EPA officer that if they did not like the pollution coming from the Entech factory they could sell up their homes.

In Port Adelaide, businesses near Smorgons hammer mill receive a shower of fine metal particles. When I visited the site in late 2006 you could run a magnet along the ground and come up with a head of clearly visible metal filings. The particles damage the paintwork on cars, and the finer particles are probably being breathed in by the workers. These businesses—in particular, the main business that has been lodging complaints on the matter—have been told by the EPA that it is too difficult for it to do anything. They have been constantly fighting to get information, and I know because I wrote some of the FOI requests. When they do get dust monitors put in place they argue that they are often put in at the wrong place or at the wrong time, when conditions are not so bad. In 2007 the Port Adelaide council passed a vote of no confidence in the EPA over its handling of pollution from Smorgons hammer mill.

Also, in 2007, residents of North West Adelaide Inc complained about breathing difficulties as a result of emissions from a nearby glass factory. They reported that when they contacted the EPA they were fobbed off and told to contact the council, and when they followed up earlier calls they were told that there was no record of that call. These are cases over the past four years. I have omitted more prominent examples such as the Bradken's foundry debate because I have not had direct contact with those cases.

There are more recent examples of discontent with the EPA, and I will outline these in more detail. In Angaston, residents surrounding the Penrice mine are also disillusioned with the EPA. The Penrice mine has coexisted apparently fairly happily with the community for decades, but

over the past two years it has undergone a rapid expansion. That included longer operating hours, so the noise of the mine can be heard late into the night, and from six in the morning there is heavy traffic. There is a visual scar on a very scenic area of the Barossa Valley, but, most concerning of all, there is silica dust resulting from the rock crushing.

Silica dust has been linked to silicosis, and asbestosis-like disease found among people who work closely with the dust. There is apparently no record of silicosis at a community level amongst people more distant from the source of the dust, but people around the mine experience the daily nuisance of fine white dust. It puffs up when their children run on the lawn, and it gets into the washing and into the houses. There are also health concerns. The children of one young family reported constant sneezing and nosebleeds. In fact, the mother and children have moved out of their home to escape the dust and their health has improved dramatically.

Like most parents, the mother and father are far more convinced by what they can see happening to their kids than by the abstract assurances of experts commissioned by the government or the company. Like almost all of us would, they have concluded that, even if it is not known for sure that silicosis is the issue, there is a problem that is affecting the health of their children and it is a problem that needs to be identified and resolved. Another resident reports that property valuers tell him that, because of the mine's operations, his property is worth only 60 per cent of what he paid for it—so he is trapped.

After residents ran their own tests—I might add that they commissioned a company recommended by the EPA to run those tests—and found high readings of fine silica dust, the EPA commenced testing. It has put a dust monitor, an air sampler, 1.2 kilometres away from the mine—three times the distance of some of the properties with the most exposure to the dust. This is apparently to gather readings of the background dust levels, but residents argue that monitoring should first occur on the boundary of the most affected properties. This makes sense; if there is a potential health problem, action could be taken to identify that and resolve it. Residents feel that the decision by the EPA to locate dust monitors in this way indicates that it is too close to the company.

The way in which the EPA and the company have reacted to the first month of tests has only reinforced this perception. On 21 May EPA spokespeople in the media were commenting on the fact that testing showed that dust was within normal levels. Guy Roberts of Penrice also made much of these claims to argue that the results vindicated his company's record on pollution, although he admitted that they were not yet fully conclusive.

However, these tests only related to four weeks, and none of them was conducted in the worst season for pollution, which is the summer months, when dry dust is carried by the wind, and one of the weeks of testing took place after rain had started falling. The EPA, to its credit, has itself made these points in its report. The best you could say is that the tests were inconclusive. However, closer examination shows that these tests probably support the residents' claims.

The results of the dust monitoring at Angaston from 1 April to 30 April are on the website and are publicly available. On page 9 there is a chart that measures the daily averages of dust below 10 microns in size. These are important because they can be inhaled into the lungs. The National Environmental Monitoring Standards require not more than 5 exceedences of 50 micrograms per cubic metres of air in a 12-month period.

As I said, these readings are from a dust monitor placed 1.2 kilometres away to measure background dust levels. The households most at risk are around 400 metres from the mine. These readings, more than three times the distance from the households most concerned, show three occasions when exceedences were 40 micrograms per cubic metres of air. That is close to the standard which any PM guidelines say should not be reached.

There were also two occasions of readings between 30 and 40 micrograms per cubic metres of air. I am not pretending for one minute to give an alternative scientific analysis, but a commonsense approach would put the following facts together. There is clearly a dust problem. Photographs of the mine showed clouds of dust originating from the mine. People living near the mine get dust all over their cars and their washing. Their kids kick up dust when they run on their lawn. Those kids have nose bleeds and sneezing but, when they move away, it stops. There clearly is some sort of dust problem there even if it is not necessarily related to silicosis.

As I said, they ran their own tests, and now the EPA runs it tests and finds levels that are only just below the levels of concern even though their tests are based on samples collected much further away and under climatic conditions that would suppress dust. Knowing all this, it is understandable that local residents feel very concerned. Knowing all this, it is also understandable

that they are not convinced that the EPA is acting in their interests. They are quite explicit about their sense of disillusionment. 'We thought because the EPA was from the government it would look after us,' one of them said. 'Boy, were we naive.' These are not stirrers or environmental activists: they are ordinary hard-working Barossa people. One of the leaders of the group has actually worked in the mining industry.

I should make one clarification to my statement about the Penrice mine pollution. I did say initially that the results of the tests should be open to the public and, in fact, they are, as was pointed out to me. I was confusing the general issue of the difficulty of getting information with a specific case where information was available although as the result of some agitation by residents.

The point behind these amendments is that this level of openness has not been the norm, at least not without a fight. The people of Whyalla had to campaign very hard to get monitoring and the results of monitoring made open to the public. Browntree Trading at Port Adelaide has never quite achieved this. In the case of Angaston, residents got some attention after they conducted their own tests and went to the media. This is a clear example of the importance of access to the methodology and the results of tests into pollution.

My next example is about the difficulties experienced in getting the EPA to take action. Two weeks ago I visited residents in McLaren Vale who are suffering the effects of the expansion of Aldinga Turkeys. Aldinga Turkeys has grown from a small backyard operation into a 6am to 6pm operation that also does maintenance and cleaning around the clock. Residents there have to put up with noise and pollution that includes effluent, the result of cleaning turkey debris from machinery, which is discharged onto their land. Turkey feathers appear on the roadside after they are apparently discharged through the stormwater. The residents informed me that previously, before a higher fence was put up, they would find bits of turkey carcass in their backyard—or one of them would.

During my visit the most obvious problem was the noise generated by the compressors in the factory which run constantly. Residents informed me that the EPA did assess noise levels and found them to be acceptable but, since that time, there has been additional machinery installed at the plant. During my visit the noise was not ear-shattering; it did not prevent conversation 30 metres away but it was penetrating and, presumably, would be much more discomforting at night. One resident informed me that a visitor on 22 April this year asked about the putrid smell and likened it to rotting flesh.

I will now read from several emails forwarded to me. I have deleted the names of individuals, especially those from the EPA: it may not be their fault; it is possible that they have been subjected to other pressures, so I do not think there is any need to name individuals at this stage. One email reads:

> More than three years ago the EPA approved the siting of a very large (we estimate about 30,000 litre) wastewater storage tank very close to our home without apparently requiring it to be bunded as per the July 2001 EPA Guide for Applicants, Abattoir, Slaughterhouse and Poultry Processing. When I pointed this out to your manager...he assured me that he would, and later did tell the company that they must bund the tank. This tank remained unbunded yet the EPA approved a further tank of similar size next to the first, also not bunded.
>
> I remind you that three years ago the current economic climate could not be used as a factor for an excuse but apparently for three years there have been other excuses used by this company to not install the required bunding, all apparently accepted by [your manager]. The bunding of wastewater storage tanks is not a project but a licence requirement, and while it appears that the EPA does not take this seriously, as residents in direct line of any spill—if the tanks were to rupture, for example—we do. How does the company [your manager] or the EPA know if the current economic climate and the resulting limited cash flow availability will have improved by 30 September 2009?
>
> You now tell me that the company requested a time extension on 20 March and the company has spoken to Mr D. [your manager] in relation to the matter and yet the EPA chose not to follow the proper procedure (Environment Protection Act 1993) to relax the licence. Why not? The act requires that the EPA must first cause public notice, not weeks after the licence has been relaxed. Can we presume that the first licence has already been relaxed by [your manager] without procedure being followed and without the public being afforded the opportunity to make submissions? Has [the EPA] during conversations with the company given them to understand that compliance with the condition is waived? If not, the company is in breach of their licence and has been since 31 March.
>
> You say that in the interim period the company has obligations under section 25 of the act...to prevent or minimise any resulting environmental harm resulting from their activities. This gives us no reassurance; if it was that simple why is bunding of the wastewater tanks an EPA requirement in the licence condition?

If these tanks spill what about us and our home? These tanks should have been bunded at the time of their installation not years, if ever, after. The bunding is an 'environment protection' which is what the EPA is supposed to be about. All the 'obligations under the act' will not be of any protection to us if these un-bunded tanks spill.

I think the striking thing for me about that email is that it is not from an hysterical person; this is very calmly and clearly argued and constantly references back to licence conditions and provisions of the act. The same person also sent me (and also the EPA) an email that states:

Dear N

At the moment there is a torrent of water running down Foggo Road, past our drive and onto the Kangarilla Road, from Aldinga Turkey's stormwater pipe. There has been no rain. There are turkey feathers strewn over the verge.

She includes the conditions of the licence which provide:

The licensee must not allow poultry processing effluent to enter the stormwater collection system at the premises, or drain onto surrounding land or waters.

The licensee must direct stormwater contaminated from any poultry processing operations to the effluent collection, treatment and disposal system.

My correspondent continues:

I have pointed out this activity to the EPA previously. Has this condition also been 'relaxed'?

Once again, it is very clear and logical and references back to licence conditions. This person knows what they are talking about.

Everywhere, from Whyalla to Port Adelaide, from the Barossa to Aldinga, all sorts of people are, without any reference to each other, telling a similar story: they have to fight to get action and information, and then the information often appears to be rigged in favour of the polluter. It is not necessarily the EPA's fault; I understand it is badly underresourced. No doubt there are dedicated staff who want to do their best to protect the environment and the community. The EPA is under new management: Helen Fulcher has replaced Paul Vogel. For whatever reason, it has not worked in the recent past and does not appear to be working just yet.

Ideally, I think quite radical changes are needed. I would like to see some sort of truly independent environment watchdog report to parliament rather than being subject to the control of a government minister. However, I cannot see that happening, so I have chosen something much more modest. These are very small, simple amendments that would simply bring openness and transparency. As we often hear in this chamber, sunlight is the best disinfectant, or, as the Attorney-General likes to say, if you have nothing to hide you have nothing to fear.

These amendments do not require the EPA to run additional or expensive monitoring every time someone complains. They simply require the EPA to make information about pollution that has already been collected available to the community. It is a basic matter of the right to know.

As I said earlier, the amendments are mild and extremely reasonable, the sorts of amendments to which every person in the street would be likely to agree with if you ask their opinion on the matter. If the government, the EPA or any of the polluters in question do not have something to hide, why would they oppose such amendments? I commend the bill to the council.

Debate adjourned on motion of Hon. B.V. Finnigan.

BUSHFIRES

Adjourned debate on motion of Hon. C.V. Schaefer:

That the Natural Resources Committee inquire into and report on any proposal, matter or issue concerned with bushfire.

(Continued from 8 April 2009. Page 1922.)

The Hon. DAVID WINDERLICH (17:42): I will make a few brief remarks. I support the Hon. Caroline Schaefer's motion that the Natural Resources Committee inquires into and reports on any proposal, matter or issue concerned with bushfire. I do not pretend to know a lot about bushfires. I missed the 1983 bushfire in Adelaide. I watched the 2005 Eyre Peninsula bushfire from the safety of Yorke Peninsula as a column of smoke. Therefore, I do not pretend to be any sort of an expert. However, a couple of things have become clear to me over the course of time and through recent debates on this matter.

First, bushfires at their worst constitute an absolute disaster not just economically and socially but also environmentally, which means that many of the debates about the protection of native vegetation become more complicated. If we do face very severe bushfires, they can create greater environmental threat and destruction than the measures taken to control them. It is not such a black-and-white battle, as is often thought, between bushfire control and the protection of native vegetation.

The second thing that has become very apparent to me is that this issue brings out very strong feelings and very strong opposing views. We have some people who are determined to defend native vegetation from controlled burning and so forth, and then we have people who see it as an opportunity to get rid of what they consider to be stupid restrictions imposed by unknowing and distant bureaucrats.

I think the advantage of referring this to the Natural Resources Committee is that we could have quite a dispassionate, objective look at the matter removed from this battleground by a committee that has a record of hard work and the production of good reports. I think that it is well worthwhile, and it would be good to get on with it and have some sort of recommendations well before the next bushfire season.

The Hon. C.V. SCHAEFER (17:44): I thank the Hon. Mr Winderlich for his contribution. Given that there has been no other contribution to this motion, I take it that it is agreed to by all in the council. I thank everyone for their support.

Motion carried.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (R 18+ FILMS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 April. Page 2110.)

The Hon. DAVID WINDERLICH (17:45): I am generally supportive of this bill. I just have some questions about amendment No. 5, which relates to height or size restrictions. I am not sure how workable they are. I am generally supportive of the intent of the bill. Too often we confuse censorship, which is not allowing adults to look at or view certain things, with an unlimited right to promote, advertise or display certain products. I think the two things are quite different.

I think it should be possible to go to Brumby's to get a loaf of bread without necessarily walking through a gallery of porn. I think that is particularly important for children. It does confuse children's ideas about the balance of a relationship. I do not see it as anything to do with censorship. I simply see it as a control or regulation of display and ensuring some appropriate controls about what sorts of items are displayed in what contexts and who can see them. Generally, I am supportive, but I will be interested to hear discussion about the particular requirements around the size of display materials, because I am not sure that they are workable.

The Hon. A. BRESSINGTON (17:47): I indicate my support for the second reading of this bill. In so doing, I congratulate the Hon. Dennis Hood for pursuing this most important issue. This bill seeks to prohibit video stores from mixing pornographic and violent adult videos with other materials (such as videos obviously targeted at children) by establishing separate marked areas or, in the case of a very small store, requiring blank covers for these videos. It also seeks to prohibit the advertising and screening of R18+ trailers within video stores, whether or not children are present in the store.

Young people these days face an unprecedented barrage of violent and sexually explicit material, and I am concerned about what this does to a young developing mind; and many other parents feel the same. Numerous studies have concluded that although every child exposed to pornography or violent movies does not necessarily become a serial killer, sexual deviant or sex addict, there are many ways in which pornography and violent movies can potentially harm our children.

According to a study in the *Journal of Sex Research*, early exposure to pornography is related to greater involvement in deviant sexual practice, particularly rape. Pornography has also been blamed for instilling the message that sex without responsibility is acceptable and desirable and, therefore, placing children's health at risk. The rate of sexually transmitted diseases, particularly chlamydia, continues to reach alarmingly high levels among teenagers in Australia.

In 2007 a study revealed that one in 10 sexually active Australian teenagers has a sexually transmitted infection, and the number of chlamydia notifications across Australia more than tripled between 1999 and 2006, with 15 to 24 year olds making up over 60 per cent of all notifications.

Another issue of great concern is the increased rate of pregnancy among teenagers in Australia, and a study by Patrick Carnes concluded that males who are exposed to a great deal of erotica before the age of 14 are more sexually active and engage in more varied sexual behaviour as adults than is true for males not so exposed.

Due to the extensive range of material easily available online these days, it is becoming increasingly difficult to preserve the innocence of our children, which becomes problematic health-wise when they become teenagers. As well as the physical component of this, we should not underestimate the negative and potentially dangerous attitudes that such material instils in many young people towards sex and violence.

While things such as the internet are somewhat outside our control, when it comes to material displayed in video stores this is a matter that we can do something about. I completely agree that parents should be able to take their children to a video store without their being exposed to pornographic or very violent video covers.

It is somewhat unfortunate that we need to legislate for such sensible, commonsense behaviour, but the personal experience that the Hon. Dennis Hood highlighted in his second reading explanation does not appear to be an isolated case, with the commonwealth classification board confirming that it receives fairly regular complaints about this issue.

In his second reading explanation, the Hon. Dennis Hood said that this bill, if passed, will have no significant impact on adults (who will still be able to rent these videos) or the businesses that rent and sell them. I believe this is important, so there is a scenario which somewhat troubles me.

Let us say a customer enters a video store and whilst browsing in the shop takes a sexually explicit or very violent DVD off the shelf with the intention of hiring it. However, before they reach the counter they change their mind but, rather than returning the DVD to its original place, they place it on a shelf right next to the children's section. Of course, if an employee were to walk past and see it, they most likely would remove it and return it to its original position. However, if the store was busy it is highly unlikely that they would notice it before the customer did.

I do not believe it is fair or reasonable for a video store to be prosecuted in such a scenario. Therefore, in summing up or in the committee stage, I ask the Hon. Dennis Hood to make clear his intention for defences that can be provided for such a scenario under clause 40(3). I also look forward to hearing other members' contributions on this bill.

Debate adjourned on motion of Hon. B.V. Finnigan.

AQUACULTURE ACT REGULATIONS

Order of the Day: Private Business, No. 20: Hon. J.M. Gazzola to move:

That the regulations under the Aquaculture Act 2001 concerning Environmental Monitoring and Reporting, made on 20 November 2008 and laid on the table of this council on 25 November 2008, be disallowed.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (17:52): I move:

That this order of the day be discharged.

Motion carried.

ELECTRICITY (COMPENSATION FOR BLACKOUTS) AMENDMENT BILL

Bill taken through committee without amendment.

The Hon. J.A. DARLEY (17:54): I move:

That this bill be now read a third time.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (17:54): I indicate that the government will oppose the third reading.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:54): As I said in my second reading contribution, while we had sympathy for what the Hon. Mr Darley was trying to achieve, at

that point it was unlikely that we would be supporting the bill at the third reading. I regret to inform the Hon. Mr Darley this evening that we will not be supporting his bill.

Third reading negatived.

FOREIGN AID

Order of the Day, Private Business, No. 27: Hon. J.M.A. Lensink to move:

That this council calls upon Australia's Foreign Minister, the Hon. Stephen Smith, MP, to lift the ban on Australian foreign aid being spent on abortion services and counselling following the lifting of the 'global gag' by the President of the United States of America, Barack Obama, on 23 January 2009.

The Hon. J.M.A. LENSINK (17:55): I move:

That this order of the day be discharged.

Motion carried.

VALUATION OF LAND (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 May 2009. Page 2327.)

The Hon. I.K. HUNTER (17:57): I rise to advise that the government will support two of the Hon. Mr Darley's six amendments. The Valuation of Land Act 1971 has been in operation for 37 years and has served this state well. However, the act is nearing four decades old and so the Valuer-General's State Valuation Office monitors, analyses and reports on valuations in an environment that has changed greatly since the early 1970s. The Valuer-General works with the state government on an ongoing reform agenda that does not seek to change the intent of the act but rather deliver further efficiency, transparency and clarity.

The pursuit of relativity, or the need for all similar properties to be valued at the same amount, is arguably the prime motivator in the Hon. Mr Darley's agenda, and it is his view that the issue of fairness and equity needs to be addressed. This is also a view that the government shares, but it is his proposed approach to the matter that we cannot support for reasons that I will discuss shortly. As I said, there are two amendments that government members will be supporting.

The Hon. Mr Darley's recommendation to delete subsection (2a) of section 22A creates the opportunity for a notional value to come into effect for the same year it was applied for. This would have no effect on the practices or procedures of the Valuer-General and we will support that amendment. Secondly, the government supports in principle the recommendation in relation to valuation of heritage properties subject to consultation with rating authorities and consideration of the timeliness of its introduction. Currently, a heritage listing is not a criteria for which a property can receive the benefit of a notional value. As the honourable member has stated, this amendment would help properties retain their original character by enabling a heritage-listed property the same type of concessional value as a residential property.

The government does not support the Hon. Mr Darley's other four amendments relating to the relativity of property valuations, reasons for valuation, removal of time limit for objections and multiple objections. The Valuer-General is required to undertake more than 845,000 assessments annually, which is done through mass appraisal techniques in accordance with widely adopted international best practice. This simultaneous valuation of multiple properties values an acceptable percentage of properties within an acceptable range of the correct value, but some properties do not fit this model. The current act recognises this and that is why property owners who feel their valuations are not accurate are given the opportunity to bring their concerns to the attention of the Valuer-General.

The proposed changes seek to place relativity as an issue to be addressed ahead of accuracy, which places state and local government revenue at immediate significant risk. Essentially, the Valuer-General need only make one under-valuation and that will be cause for all the other property owners around to seek a reduction. The risk would need to be mitigated by extensive and expensive new systems and resources at a level well in excess of the international standard and would require unprecedented access to information from property owners, and the costs, the invasion of privacy and the increased red tape just cannot be justified.

The government does not support the statement of reasons for valuation. The system that the honourable member proposes would add little benefit to a well-functioning system and would require significant system and resource investment. The current position, supported by legislation

and court precedent, is that the Valuer-General is entitled to his independent statutory opinion of value, with the property owner required to demonstrate that the value is incorrect if they believe it to be so. This change would require the Valuer-General to justify his opinion on a case-by-case basis, with the potential scope of this obligation requiring significant system and resource investment. It is an onerous obligation that would add little benefit to our already well-functioning system.

We also do not support the removal of the time limit for objections. It is standard practice for legislation that has provisions for appeal to impose a time limit and there is no sensible reason to remove the 60-day time limit as set out in the act currently. The time limit provides ample opportunity for owners to raise objections and also allows the Valuer-General to implement work practices, budget and allocate resources reasonably. The Hon. Mr Darley's final recommendation, the grounds of objection, is not supported. This recommendation would create an unnecessary burden for landowners.

In closing, I thank the Hon. Mr Darley for drawing attention to the work undertaken by the Valuer-General, and the two amendments that the government supports build on our already excellent system. The other four proposed amendments add complexity and cost to what is an efficient and effective working system of land and property valuation and will not be supported.

The Hon. J.A. DARLEY (18:00): I thank the opposition for its support, and also those on the crossbenches who have indicated their support for the bill, in particular, for supporting amendments to ensure a more open and transparent system whereby owners have the opportunity to more fully understand their valuation and how it is arrived at.

I am disappointed that the government does not support all the amendments, especially those to do with the provision of information to owners regarding their own valuations and those to do with ensuring relativity across valuations. This clearly shows that the government is not interested in fairness and equity for South Australian ratepayers, and will send the wrong message to the Valuer-General that he can disregard relativity in his valuations.

Bill read a second time.

[Sitting suspended from 18:02 to 19:48]

In committee.

Clause 1.

The Hon. I.K. HUNTER: Instead of making contributions as we go through the clauses, I reiterate what I said in my second reading speech; that is, the government supports clauses 4 and 5 and opposes the others.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. I.K. HUNTER: The government supports clauses 4 and 5.

Clause passed.

Remaining clauses (5 to 8) and title passed.

Bill reported without amendment.

Bill read a third time and passed.

SELECT COMMITTEE ON FAMILIES SA

Adjourned debate on motion of Hon. C. V. Schaefer:

That the interim report of the Select Committee on Families SA be noted.

(Continued from 3 March 2009. Page 1515.)

Motion carried.

WATER HEATERS

Adjourned debate on motion of Hon. R.D. Lawson:

That the regulations under the Development Act 1993 concerning heated water services, made on 26 June 2008 and laid on the table of this council on 22 July 2008, be disallowed.

(Continued from 29 October 2008. Page 460.)

The Hon. R.D. LAWSON (19:53): Previously I sought leave to conclude my remarks. These regulations will require that, where a hot water service is being replaced, the replacement unit must be either a gas system, a solar system or an electric heat pump system. This is an energy saving proposal, which the Liberal Party supports. However, as my colleague in another place (the member for Heysen) pointed out in her contribution on 8 April, these regulations can adversely affect residents in the Adelaide Hills where the options of gas, solar and electric heat pump system are not always practicable.

In some cases solar systems do not work adequately because of the location of the particular premises, which may not have north facing roofs to accommodate the necessary systems. Gas systems are inappropriate in many cases because, unlike the rest of metropolitan Adelaide, the Adelaide Hills does not have a reticulated gas system. In certain cases electric heat pump systems do not work adequately, even though it is claimed they should, and, even though they are guaranteed to work above altitude 800 metres (as the honourable member explained in another place), that is not always the case and many have found to be inadequate.

The member for Heysen pointed out in her contribution that when she had discussions with departmental officers it was explained to her that, notwithstanding the general terms of the regulations, it was the intention of the department that they apply to metropolitan Adelaide, and exemptions are already provided under the existing exemptions for areas and situations for which these three options are inappropriate.

In those cases, the honourable member who raised this issue was satisfied that it was inappropriate to disallow the regulations. She accepted the assurances of the minister's advisers and the public servants responsible for the administration of these regulations. Accordingly, I will not be proceeding with this motion for the disallowance of these regulations; or, indeed, for the same reasons, the next item on the *Notice Paper*. I move:

That this order of the day be discharged.

Motion carried.

WATER HEATERS

Adjourned debate on motion of Hon. R.D. Lawson:

That the regulations under the Waterworks Act 1932 concerning variation, made on 19 June 2008 and laid on the table of this council on 22 July 2008, be disallowed.

(Continued from 29 October 2008. Page 460.)

The Hon. R.D. LAWSON (19:53): I move:

That this order of the day be discharged.

Motion carried.

CORONERS (RECOMMENDATIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 October 2008. Page 462.)

The Hon. M. PARNELL (19:57): The Greens are pleased to be supporting this bill. At the outset I acknowledge the work of Chris Charles, the solicitor with the Aboriginal Legal Rights Movement, in preparing the case for this legislation. All members are familiar with dealing with community groups who know what is wrong with various aspects of the law, but it is rare for them to present us with a thorough, researched case for the precise law reform that is needed. In the case of Mr Charles and the Aboriginal Legal Rights Movement they have just done that.

This bill is soundly based in two documents. The first document, the South Australian Coroner's Act 2003 and the Consequences for Prison Reform of Partial Implementation of the Royal Commission into Aboriginal Deaths in Custody, is a report Mr Charles wrote; and the other document is the royal commission's own report into Aboriginal deaths in custody.

I first became aware of this issue last year at a brief ceremony on the steps of this parliament, when I, along with Mr Frank Lampard (Chairperson of the Aboriginal Legal Rights

Movement), Neil Gillespie (CEO) and solicitor Chris Charles were presented with a copy of the formal complaint against the commonwealth government and the state government of South Australia for the continued breach of the convention on the elimination of racial discrimination to which Australia is a signatory. That complaint was forwarded to the appropriate international authorities.

On the steps, as we were talking informally about law and law reform, it came to my attention that this was some unfinished business out of the royal commission and that they were looking for a member of parliament who would move these recommendations. I would like to acknowledge our former colleague, the Hon. Sandra Kanck, who took up the cudgels, and the Hon. David Winderlich is seeing it through to its conclusion.

I am pleased that the Hon. Sandra Kanck took that step. I said to the people from the Aboriginal Legal Rights Movement on the day that if for any reason she was not able to do so I would be happy to introduce the bill myself, but it is before us. I understand that the Hon. David Winderlich is in further discussions with the government about some of the detail in this bill, so perhaps we will not be voting on it today. However, I just wanted to take this opportunity to put on the record the Greens' support for these important amendments to the Coroners Act.

Debate adjourned on motion of Hon. Carmel Zollo.

PUBLIC SECTOR BILL

In committee.

(Continued from 2 June 2009. Page 2464.)

Clauses 21 to 23 passed.

Clause 24.

The Hon. R.I. LUCAS: Clause 24(2) states, 'The following persons are excluded from the Public Service', and paragraphs (d) and (e) make it clear that the Auditor-General and the Ombudsman are excluded from the Public Service. I asked a question earlier as to whether or not the Auditor-General and the Ombudsman were public sector agencies, and the answer was that they were public sector agencies. Can the minister explain, if they are public sector agencies, how it is that they are excluded from the Public Service?

The Hon. G.E. GAGO: I have been advised that, under the definition of 'public sector agency', paragraph (e) refers to 'any other agency or instrumentality of the Crown'. We are saying that the Ombudsman and the Auditor-General are instrumentalities of the Crown.

The Hon. R.I. LUCAS: I understand how the government answered the earlier question; that is, that under the various definitions in that subclause it indicated that the Ombudsman and the Auditor-General were public sector agencies. So, I accept that in that definition. But how is it that, if they are public sector agencies, under this clause in the bill they are excluded from the Public Service?

What the minister is saying to the committee is that they are public sector agencies, remembering, of course, that the chief executive of an administrative unit is also a public sector agency. So, the Auditor-General, himself or herself, and the Ombudsman, himself or herself, are public sector agencies, yet we are saying that they are excluded from the Public Service. Is that how we are to interpret this and is that what is intended?

The Hon. G.E. GAGO: I have been advised that, yes, that is what is intended. A number of public sector employees would be excluded from the Public Service, and some of them are listed in clause 24(g), namely, the Electoral Commissioner, the Deputy Electoral Commissioner, the Commissioner for Public Employment, the Police Complaints Authority and others. There is a list there.

The Hon. R.I. LUCAS: I understand that a list is there and the minister has referred to other elements of the list, but what I am seeking clarification on is how you can have a person who is a public sector agency yet is excluded from the Public Service. As we go through the various other provisions of the legislation there are things in relation to appointments, terms and a whole variety of things which apply to people governed by this act.

Let us take the employees under the Education Act. We were asking questions the other evening about contract executive appointments, the SAES, all those sorts of things. The minister's reply was, 'Well, that doesn't apply to those. They are employed under the Education Act and not

under the Public Sector Management Act.' This clause under the existing act and this bill, as I understand it, in essence say, 'Okay, the Public Sector Management Act', or now the Public Sector Bill, whatever it is going to be called, 'applies to these persons but it doesn't apply to people in education, it doesn't apply to the judiciary, and it doesn't apply to TAFE employees and all these others.' It is also saying that it does not apply to the Auditor-General and the Ombudsman and, I presume therefore, his or her officers.

Yet in response to an earlier question when I asked, 'Is it a public sector agency?', the minister's advice was, 'Well, it is a public sector agency.' When I have been going through all the other questions about public sector agencies and asking questions, the answer has been, 'Well, it does apply to the Auditor-General's office and it does apply to the Ombudsman's office.' If it is a public sector agency, dozens of other clauses refer to public sector agencies, which means that all these provisions in the bill apply to the Auditor-General and his or her staff and the same with the Ombudsman, yet this provision actually excludes them from the Public Service.

On the surface of it in drafting terms it appears to me to be inconsistent, and nothing the minister has yet indicated clarifies this question.

The Hon. G.E. GAGO: The advice I have received is that people, such as the Ombudsman, the Auditor-General, etc., are appointed under other acts, and it is that legislation or those acts that determine their conditions of employment and such like. Their staff, however, are public servants and governed by the Public Service Act. The Ombudsman needs to be referred to as an agency because he is the head of that entity and needs particular powers to manage and run that entity. It does not mean, however, that they have become public servants themselves. Clause 24 to which I referred excludes them from the Public Service.

The Hon. R.I. LUCAS: I will not pursue any further that issue. I think that there is an inherent conflict when one looks at other provisions in the legislation. I will go through some of those later on. It is best to draw attention to those when we come to them.

The Hon. J.A. DARLEY: Can the minister tell me where the Valuer-General fits into this arrangement? Is he a public servant?

The Hon. G.E. GAGO: The advice is that he is not included, and that is dealt with also in clause 24(q), dealing with a person whose terms and conditions of appointment or employment are under another act to be determined by the Governor, and that includes the Agent-General.

The Hon. R.I. LUCAS: Is the minister saying on her advice that all the staff within the Auditor-General's office, other than the Auditor-General himself or herself—and the same with the Ombudsman—are all public servants governed by the provisions of the Public Service Act? I presume that it is the same with the Valuer-General. The second issue is that last night through various clauses we asked the minister to make available through her officers copies of a number of documents like the public sector code and a list of the public sector agencies that have been exempted. If her officers have that information available, might interested members be provided with copies this evening?

The Hon. G.E. GAGO: The answer is yes, the staff members remain public servants. With regard to the information we took on notice, it is unlikely to be available this evening, but it is on notice and we will provide it.

Clause passed.

Clause 25 passed.

Clause 26.

The Hon. R.I. LUCAS: One of the new innovations in the legislation is the notion of an attached office. Will the minister give one or two examples to the committee of an attached office, units or whatever that exist that are likely to come under this provision of an attached office?

The Hon. G.E. GAGO: Currently under the Public Sector Management Act the Public Service is to consist of administrative units. The Public Sector Bill provides that administrative units may take the form of departments or attached offices. The department is essentially the same as a current administrative unit and an attached office is assigned a title and attached to a department or departments and will have its own chief executive. It is equivalent to the administrative offices under the Public Administration Act 2004 in Victoria. Some examples in Victoria include the Office of the Child Safety Commissioner and the newly created Bushfire Reconstruction and Recovery Authority.

The Hon. R.I. LUCAS: Is the minister indicating that at this stage the government is not aware of an existing unit or office that might be an attached office under this provision if the legislation is to be passed?

The Hon. G.E. GAGO: No decisions have been made, is the advice I have received.

Clause passed.

Clauses 27 to 33 passed.

Clause 34.

The Hon. R.I. LUCAS: In relation to the conditions of chief executives' employment, is there a current government policy that chief executives who have been appointed on a five-year term are only to be reappointed for a three-year extension?

The Hon. G.E. GAGO: The advice I have received is that we are not aware that it is a policy. However, it is common practice.

The Hon. R.I. LUCAS: I take it, therefore, that there is no legislative provision in relation to the issue of reappointment of chief executives, and the minister has indicated that her advisers are not aware that it is a policy. As I understand it, it was in an existing chief executive's position, that is, a person who might have been a chief executive of a department could be reappointed for a period of up to three years, but could be appointed to another department as a chief executive for a five-year period. I take it from what the minister is saying that she is not aware of such a policy but that it is common practice. Will the minister clarify that?

The Hon. G.E. GAGO: The advice I have received is that there is no legislative basis for the practice. I am advised that such conditions stipulating the extra three years are not contained in contracts; in fact, under section 34(2)(a) the standard provision in a contract is that the chief executive is employed for a term not exceeding five years as specified in the contract. However, I understand that it is common practice.

Clause passed.

Clause 35.

The Hon. R.I. LUCAS: My question on clause 35 relates also to clause 37. First, and in relation to clause 35, is this provision exactly the same as the provisions currently in the Public Sector Management Act? Secondly, I take it that the transfer of chief executives can occur on any grounds at all. If one looks at clause 37, for example, the Premier can, by notice in writing, terminate the employment of a chief executive without specifying any ground; so, if the Premier just does not like you, you can be terminated without any grounds at all under that clause. I think that is probably also under the existing Public Sector Management Act (I have not checked that myself). I understand that it is as broad as that; it is clear that it is without specifying any grounds.

I also seek clarification in relation to transfer. A new premier can walk through the door one day and say, 'I don't like you in Industry and Trade. You're off, and I'll reassign you somewhere else. I can give you another chief executive's job or I can sit you in the redeployment lounge, as long as I pay you the same remuneration.' The premier of the day has absolute flexibility in relation to any chief executive in the public sector.

The Hon. G.E. GAGO: In relation to the first part of the question regarding whether it is the same provisions as in the PSM act, the advice I have received is that it is not. However, I have been informed that it has generally been put into contracts. In relation to the second part of the question and the transfer of chief executives on any grounds at all, yes, it is. That is in section 35(1); however, such a decision has the potential to be subject to a review under the administrative law principles.

The Hon. R.I. LUCAS: I thank the minister for clarifying that we are looking at a new power in the law under clause 37. That is, the premier of the day can walk through the door and say, 'I don't like you as a chief executive' and terminate that chief executive's employment without specifying any grounds.

In relation to the transfer of a chief executive, when the minister says that she is advised that it could be subject to review under administrative law, the bill that we are being asked to support is quite clear. That is, that the premier has the power to transfer as long as the conditions are maintained in terms of the remuneration of the chief executive. For example, subclause (2) provides that a transfer under this provision does not constitute a breach of the person's contract of

employment or termination, or affect the continuity of the person's employment for any purpose. Is it not drafted so as to prevent any review? If the minister's advice is that there is a review, can she advise on what grounds there would be such a review?

The Hon. G.E. GAGO: In relation to the first part of the question regarding the transfer of chief executives, it is exactly the same principle that applied when the former Liberal government was in power, the same principle that the former Liberal government did not consider it necessary to change. I would like to draw that to the committee's attention.

In relation to administrative law principles, an example could be that a person is denied natural justice. It is a provision that relates to general common law.

Clause passed.

Clauses 36 to 44 passed.

Clause 45.

The Hon. D.W. RIDGWAY: I assume that the government will withdraw its amendment if I move mine. I move:

Page 24, line 40 [clause 45(2)(b)]—Delete 'in accordance with the regulations'

This subclause reads, 'to the promotion of an employee by way of reclassification of the employee's remuneration level in accordance with the regulations'. This amendment, by removing the words 'in accordance with the regulations', ensures that provisions within section 32 of the act are available in order to allow for the review tribunal to reconsider reclassification appeals.

The Hon. G.E. GAGO: Yes, we support the opposition's amendment; it is identical to our own and we will not proceed with the government amendment.

Amendment carried; clause as amended passed.

Clauses 46 and 47 passed.

Clause 48.

The ACTING CHAIRMAN (Hon. I.K. Hunter): We have two amendments to clause 48, one standing in the name of the Hon. Mr Ridgway and another standing in the name of the minister; they appear to me to be identical.

The Hon. D.W. RIDGWAY: In the spirit of bipartisanship, I will withdraw mine and we can support the government's amendment when the minister moves it.

The ACTING CHAIRMAN: The wisdom of Solomon.

The Hon. G.E. GAGO: I move:

Page 25, after line 29—after subclause (2) insert:

(3) The remuneration level of an employee of a public sector agency may be reclassified by the agency on the initiative of the agency or on application to the agency by the employee.

(4) The regulations may not exclude the right of an employee to apply under Part 7 Division 4 to the Public Sector Grievance Review Commission for review of a decision on an application by the employee under subsection (3).

It is the government's intention to allow appeals in relation to decisions regarding reclassifications to be considered by the Public Sector Grievance Review Commission. These review rights will not be excluded by regulation. In reviewing this provision and in response to concerns raised by the other place, the government agrees, for reasons of certainty and clarity, that the bill be amended in this way.

Amendment carried; clause as amended passed.

Clauses 49 to 52 passed.

Clause 53.

The Hon. D.W. RIDGWAY: I move:

Page 27, line 5 [clause 53(1)]—Delete 'A public sector agency may' and substitute:

The Commissioner may, at the request of a public sector agency,

This amendment maintains the power of the Commissioner for Public Employment to terminate rather than giving it to the agency, and I think it is self-explanatory. This amendment maintains the power for the Commissioner for Public Employment to terminate rather than, as I said, giving it to the agency. We understand that the government will be opposing this but we think it is an important amendment and I urge members to support it.

The Hon. G.E. GAGO: The government opposes the proposal that the responsibility for terminating the employment of employees be withheld from the chief executives and given to the Commissioner for Public Sector Employment. The government believes that the chief executives should be accountable for the work of their agencies but, if we do not make the chief executives responsible for decisions regarding termination of staff for things like misconduct or serial non-performance, they can justifiably say that they should not be held accountable for the performance of that staff.

As I outlined in my second reading speech on this issue, the government believes that failure to provide to chief executives the power to terminate has been a disincentive for agencies to take responsibility for properly managing their employees. I outlined some of the consequences for morale of staff around that. In all other mainland Australian jurisdictions, the power to terminate public servants' employment has been given to chief executives. After all, we are content to allow that to happen for most of our broader public sector employees, those outside the Public Service—teachers and health workers, etc. Of course, there are some agencies, such as health, where there are both public servants and public sector workers. The chief executive will have the authority to terminate one group but not another.

What point of principle is it that justifies that sort of result? The role of the Commissioner for Public Sector Employment is to lead good practice by setting the appropriate standards across government and to encourage the achievement of those standards and monitor performance against them. By relieving the commissioner of the function of individual transactions or matters, he or she will be better able to perform that role. It is by the commissioner performing this role that a consistent application of standards across government can best be achieved.

The Hon. R.I. LUCAS: I will offer some commentary in support of the amendment moved by the Hon. Mr Ridgway. I raised this issue in the second reading contribution; that is, by and large, this is essentially an academic debate. The minister proclaims lofty principles in relation to the need for chief executives, and so on, to have the power to terminate. However, the reality is that this government and former governments have in essence overridden the particular provisions of the current Public Sector Management Act and will continue to do so should this amendment pass.

The amendment provides that a public sector agency can terminate an employee if the employee is excess to the requirements of the agency. The logic that minister Weatherill and various business leaders have been proclaiming publicly is that this is an essential provision, which has essentially existed albeit in a more cumbersome form, that, if you are excess to the requirements of the agency, you can be terminated, as I said, with some cumbersome requirements, but you can still be terminated.

Agencies have for many years declared people to be surplus. At every meeting the Budget and Finance Committee gets some indication from chief executives of the number of surplus or excess employees that they have, but they are not terminated. The only way that they can be exited from the Public Service under the current industrial arrangements is if they are offered a targeted separation package and encouraged to retire, or if they choose to go of their own volition. Under the enterprise bargaining arrangements, which this government and previous governments have entered into with the Public Service Association and other representatives of the workforce, they have said that, in essence, they will not use these particular provisions and they will not terminate even if people are excess to requirements.

The Hon. M. PARNELL: I have decided to not move my amendment No. 4. There are three amendments on file that relate to clause 53. I will be supporting the Hon. David Ridgway's amendment to clause 53.

The committee divided on the amendment:

AYES (12)

Bressington, A.	Brokenshire, R.L.	Hood, D.G.E.
Lawson, R.D.	Lensink, J.M.A.	Lucas, R.I.
Parnell, M.	Ridgway, D.W. (teller)	Schaefer, C.V.

AYES (12)

Stephens, T.J.	Wade, S.G.	Winderlich, D.N.

NOES (7)

Darley, J.A.	Finnigan, B.V.	Gago, G.E. (teller)
Gazzola, J.M.	Holloway, P.	Hunter, I.K.
Zollo, C.		

PAIRS (2)

Dawkins, J.S.L.	Wortley, R.P.

Majority of 5 for the ayes.

Amendment thus carried.

The Hon. D.W. RIDGWAY: I move:

Page 27, lines 14 and 15 [clause 53(2)]—Delete 'A public sector agency may not terminate the employment of an employee under subsection (1)(a) or (b) unless the agency' and substitute:

The employment of an employee may not be terminated under subsection (1)(a) or (b) unless the public sector agency

This is just a basic rewording of clause 53(2) and will make it a little easier to interpret.

The Hon. G.E. GAGO: I have already put on record our view on this. The government opposes this amendment also.

Amendment carried.

The Hon. A. BRESSINGTON: I move:

Page 27, after line 18—After subclause (2) insert:

(3) A public sector agency may not terminate the employment of an employee of the agency unless the employee has been given written notice advising the employee that he or she has 14 days within which to raise with the Commissioner any allegations of maladministration or misconduct on the part of the agency or an employee of the agency and that period has expired.

This amendment seeks to give reasonable time and notice to any whistleblower and agency that matters of public interest may be raised in the process of termination which may have a bearing on the reasonableness and/or lawfulness of the termination. I would like to briefly explain my concern around the termination process where it may lie with the CEO and, of course, it would involve government agencies that I have had quite a bit to do with in my office, such as Families SA. It would not be an unreasonable assumption that, if an employee in that agency was not satisfied with the performance of their supervisor or the decisions of their supervisor, and raised those matters, and the CEO had the authority (as was proposed by the government) to terminate, the employment of that mindful employee who was trying to bring some sort of ethical practice into the agency could very well have been terminated without any opportunity to present any kind of case to the commissioner for unlawful or unreasonable termination.

So, this requires that 14 days' notice would be given and in that time, if an employee does not lodge any sort of statement to the commissioner, the termination will continue. If, in fact, within that 14 days they raise allegations of maladministration or misconduct with the commissioner, those claims or allegations must be investigated before the termination can be made official.

The Hon. G.E. GAGO: The government opposes this amendment most strongly. In fact, we believe it has serious potential consequences that are no doubt unintended by the mover. I am sympathetic for the intentions of the mover but potentially it has most serious consequences, and I would urge all honourable members to think very carefully about this amendment before supporting it.

Regardless of whether an employee is in the process of being terminated, a right exists, including post termination, for disclosure to be made under the Whistleblowers Protection Act 1993.

If the premise of this amendment is to ensure that a whistleblower disclosure cannot be forestalled by the termination of the employee, then it proceeds from a mistaken premise. More importantly, it cannot be a good idea that an employee facing termination be given an invitation to make any allegation he or she wishes.

There will be every incentive and no disincentive to fabricate or exaggerate issues of concern. It is possible that perfectly innocent employees will be the subject of investigations based on false allegations. Where there is a question of termination being used as revenge for a disclosure under the Whistleblowers Protection Act, there is already a remedy under the act. Alternatively, if real reason for termination is the fact of making disclosure or threatened disclosure, it is likely any such termination would be overturned by the Industrial Relations Commission. I urge members not to support this amendment.

The Hon. DAVID WINDERLICH: I support the amendment. In response to the minister's comments, I do not think we have much evidence that there is a gross over-utilisation of FOI in the whistleblower provisions. The much stronger feeling is that these provisions are under-utilised, partly because they are not strong enough. In fact, I recently read some US research which stated that one-third of public sector employees believe they have witnessed illegal or unethical conduct in the workplace. Unless we are vastly different here—and I suspect we are not vastly different—we probably have a similar problem.

The greatest problem we face in relation to whistleblowing is its under-utilisation, not its over-utilisation. We do not have a zillion disgruntled public servants trying to make mischief with it. We have a lot of public servants keeping quiet because they know that they are not safe if they do blow the whistle.

I support the amendment but, consequential to the amendments we have just passed about the commissioner terminating employment, we probably need to replace 'the public sector agency' with 'the commissioner may not terminate employment'.

The Hon. D.W. RIDGWAY: The advice the opposition has received is that my amendment No. 10 covers the provisions that the Hon. Ann Bressington is trying to introduce with this amendment. Therefore, I indicate that we will not be supporting the Hon. Ann Bressington's amendment.

Amendment negatived; clause as amended passed.

Clause 54.

The Hon. D.W. RIDGWAY: I move:

Page 27, lines 22 and 23 [clause 54(1(b)]—delete paragraph (b) and substitute:

(b) suspend an employee of the agency from duty for a specified period (which may be or include an antecedent period) with or without remuneration or accrual of leave rights.

While it is unusual for disciplinary action with a pay option to exist, it is necessary to retain the ability for some form of natural justice to occur. We think that this amendment provides an opportunity for some form of natural justice to occur. Having said that, we also believe that the government has an amendment which is similar to, if not the same as, this amendment. We hope that the government sees fit to support our amendment and withdraw its amendment.

The Hon. G.E. GAGO: The clause relating to disciplinary action provides that if a public sector agency is satisfied that an employee is guilty of misconduct the agency may, among other things, suspend the employee from duty without remuneration or accrual of leave rights for a specified period. The suggestion that suspension as a disciplinary action may be with pay seems anomalous. Persons found of guilty of misconduct will effectively be given a paid holiday. If the opposition can provide examples or grounds where an employee should be suspended with pay for a disciplinary action, we will consider supporting this amendment.

The Hon. D.W. RIDGWAY: This will be a little confusing, but I seek leave to withdraw my amendment. We will support the government's amendment to clause 56.

Leave granted; amendment withdrawn.

The Hon. R.I. LUCAS: I want to raise a general issue in relation to disciplinary action—and we return to this in clause 56. I want to make two general points in relation to disciplinary action. First, a number of examples have come to my attention and, to be fair, over a good period

of time but, certainly, in recent times under this government, although I am sure they occurred under previous governments as well.

Sometimes the management practices within the Public Service in relation to disciplinary action leave a lot to be desired. I gave an example, I think, two or three years ago when I asked a series of questions (all of which the ministers have refused to answer) in relation to an employee within the department of arts, who had said something that her superior believed was rude and, ultimately, that person was suspended with pay (and I am working on memory now) for, I think, 12 or maybe 18 months.

The practices there were just so appalling that this issue was not resolved one way or another for that lengthy period—and that is a criticism of the personnel and human relations practices within some government departments and agencies. I do not intend to revisit that issue on this occasion, but I highlight it as a particular problem under the current act and I believe that it will continue, obviously, under the proposed legislation as well.

The second point that I would make generally in relation to disciplinary action is that, certainly, in recent years we have seen a quite arbitrary imposition of disciplinary action for virtually the same actions or breaches; that is, the examples in relation to breaches of Treasurer's Instructions when they related to what has become commonly referred to as the 'stashed cash affair'. There were various public servants at levels below the chief executive who attracted most of the focus at that time (and I think there is still potentially legal action taking place, so I will not refer to that case) and who, because they were deemed to have breached Treasurer's Instructions, were subject to disciplinary action.

The Budget and Finance Committee over the past 18 months has taken evidence in cases where a number of agencies and officers have similarly breached Treasurer's Instructions, and it has been acknowledged by their superiors in the evidence to the Budget and Finance Committee. However, those particular officers having breached Treasurer's Instructions, no action was taken against them.

The point that I make in relation to disciplinary action and personnel practices is that, if someone wants to get you, they can use the provisions of the existing legislation—or, indeed, this proposed legislation—to impose discipline in a particular way. Yet there have been cases, as I said, where officers have similarly breached Treasurer's Instructions and no similar action has been taken. I am not arguing in that case as to whether all of them or none of them should have been subject to disciplinary action but, at the very least, there should appear to be some consistency in terms of the use of these sorts of provisions against public servants for what are, in this case, breaches of Treasurer's Instructions.

Clause passed.

Clause 55 passed.

Clause 56.

The Hon. G.E. GAGO: I move:

Page 28, after line 21—After subclause (1) insert:

(1a) Subject to subsection (2), a suspension will be with remuneration.

The provision relating to suspension is designed to make clear arrangements for suspension during investigation. The intention of clause 56 is to make suspension with pay other than in the specific circumstances set out in clause 56(2), where there is a discretion to suspend without pay. The government seeks to insert a new clause 56(1a) to make it clearer that, outside those specific circumstances, suspension pending investigation is with pay.

The Hon. D.W. RIDGWAY: As I indicated earlier when I was seeking leave to withdraw my previous amendment, the opposition's view is that the government's amendment more adequately deals with the provisions we were trying to insert previously. So, we have much pleasure in supporting the government's amendment.

Amendment carried; clause as amended passed.

Clauses 57 to 60 passed.

Clause 61.

The Hon. R.L. BROKENSHIRE: I move:

Page 31, after line 7 [clause 61(8)]—After paragraph (c) insert:

(d) a decision to transfer an employee, or to assign an employee to a different place, that reasonably requires the employee to change his or her place of residence.

This is quite a simple amendment. It adds, as a ground for external review of a departmental decision by the Industrial Relations Commission, the right to appeal against a transfer that reasonably requires the employee to change their place of residence. 'Reasonably requires', as discussed with parliamentary counsel, is wording to rule out, for instance, where an employee is reassigned, say, from DTEI in Walkerville to DTEI head office in the city. That is not a decision that reasonably requires them to relocate, so it is not reviewable. However, by contrast, a transfer from Northfield to Murray Bridge, as is advocated with the new prison to be built at Mobilong reasonably requires the employee to change their place of residence.

The other benefit is that it strengthens decentralisation, because the department will know that, if it seeks to shut down a branch of, for example, Service SA (as members will be aware has been happening), it will face potential external review if it tries to shift those staff to Adelaide.

On the last page of the memo I have extracted the whole clause of the bill with the element added at the end to show members where it fits in, but describing relocation decisions as a prescribed decision also shifts these decisions away from the oversight of the quasi tribunal—arguably, the kangaroo court—of the Public Sector Grievance Review Commission and instead sends it straight to the Industrial Relations Commission.

The final point that I would like to make to colleagues, and particularly to the government, is where they might try to argue against negative connotations, one might say. The government might argue that this would allow any employee to challenge any reassignment and let people stay entrenched in one location. The provisions are robust enough, with the words requiring the complainant to show that the required move was 'harsh, unjust or unreasonable'. In addition, regulations can be drawn up prescribing how these matters are treated should that develop into a problem for the government. The other argument may be that the government might turn around and say, 'Well, we don't want to support this because it will put paid to the new Mobilong prison', which I expect the government might try to say. We say, no.

Again, the IRC will consider whether the terms are harsh, unjust or unreasonable. The government will need to make an appropriate incentive package offer to existing staff regarding relocation, not just shift them all to Mobilong. This amendment ensures that the matter is handled properly. We think that this is about fairness, equity and being reasonable. We ask colleagues to support the amendment.

The Hon. G.E. GAGO: The government opposes the amendment. The amendment effectively seeks to add another category to a prescribed decision as the bill requires that any review of a prescribed decision is heard by the Industrial Relations Commission (IRC) of South Australia. Under the bill a review of a decision, such as transfer of place of residence, would be heard by the Public Sector Grievance Review Commission. The government does not see any benefit in substituting the review mechanism to the IRC as suggested by this amendment.

This arrangement would cloud review processes, making this type of appeal more legalistic and formal. For less serious matters it is the government's policy position intention to retain an internal process to government and a streamlined review mechanism for dealing with grievances of this nature.

The Hon. D.W. RIDGWAY: I indicate that the opposition will be supporting the Hon. Mr Brokenshire's amendment. As I mentioned last night, one of the dot points in the Hon. Mr Winderlich's amendment covered what the Hon. Mr Brokenshire is trying to deal with but, unfortunately, we could not support the Hon. Mr Winderlich's amendment.

This amendment in relation to location, where people live and the pressure put on families to relocate to maintain jobs or relocate to keep the job as the position shifts, is certainly something the opposition holds dear. We have seen a number of positions terminated in regional South Australia at the expense of regional communities. I do not think the government realises that, when you take a position out of a regional community, it is not just the person who loses their job but there are the flow-on effects of having that family and those children in that community.

There is a benefit not only to the local economy but also to all the community groups, including the footy club, the netball club, the church—

The Hon. Carmel Zollo interjecting:

The Hon. D.W. RIDGWAY: —the Apex and Rotary clubs, whatever it happens to be. I think that members will see that the Hon. Mrs Zollo indicates by her interjection that the government simply does not understand the value of these positions in country areas. With those few words, the opposition is happy to support the Hon. Mr Brokenshire's amendment.

Amendment carried; clause as amended passed.

Clauses 62 to 70 passed.

Clause 71.

The Hon. R.I. LUCAS: I raised this in the second reading. I did not speak at length, but I did not get a reply from the minister so I will pursue this again. I seek clarification as to the intention of this provision. Does it cover the set of circumstances which relate to the appointment of staff of, for example, Independent members of the Legislative Council and the Leader of the Opposition in the Legislative Council?

The Hon. G.E. GAGO: I am advised that if the appropriate regulation was made it could cover those staff members.

The Hon. R.I. LUCAS: I guess that, if I cut straight to the bottom line, the question is: what is the intention of this provision? The minister is saying that it could apply if appropriate regulations were made. It has been drafted for a particular purpose. I am seeking from the minister: what is the purpose? The Independent members can speak for themselves but, as I understand it, staff have contracts with the Treasurer and extraordinarily onerous processes must be gone through when you are reappointing staff, changing staff, or whatever it is. It has to go through the Treasurer and through cabinet, and inevitably there are delays in relation to appointments, payments and those sorts of things for staff.

This has been a bone of contention for some time, and in the past the explanation has been that the Public Sector Management Act was the problem because the members could not employ the staff themselves. They had to be appointed by the Treasurer. Is this clause intended for this purpose, and is the government intending to use it for this purpose?

The Hon. G.E. GAGO: The intention of this provision is to allow for the appointment of staff to bodies such as royal commissions—that is what I have been advised the government had in mind—for example, the Mullighan Inquiry into Child Sexual Abuse, the Royal Commission into Aboriginal Deaths in Custody and the Kapunda Road Royal Commission. Under the PSM Act employees undertaking work for the royal commissions have been employed as public servants and as such they are notionally responsible to a public sector agency chief executive. This provision ensures both perceived and actual independence of employees of royal commissions and/or persons employed in equivalent bodies.

The Hon. R.I. LUCAS: Is that (1)(b) you are talking about? I am asking about (1)(a). The minister referred to (1)(b), referring to a person in employment of a class prescribed by the regulations, royal commissions and so on; I understand that. The provision I am asking about is:

(1) The minister may engage—

(a) A person as a member of the staff of a Member of Parliament;

That is an unusual set of circumstances and it is sensitive for members of parliament who like to be independent. This is saying that the minister will appoint a member of a person's staff. I understand the position of the Independents, and it is for them to confirm that or otherwise as I am not in their position. However, I know in my former position as Leader of the Opposition that in the case of one of the staff members there—the research-based position, I think, which is similar to the positions Independents have—whenever you wanted to do anything, it is a contract with the Treasurer and not with you as the person responsible, everything has to be done through Treasury and the Treasurer and, if there is a change, you are always advised that it has to go through cabinet and it is four weeks to wait before you can get onto the cabinet agenda, and so on.

The advice given to me previously—and the Independents can speak for themselves—is that this has been a restriction from the Public Sector Management Act and various other legislative provisions. I am not fussed about (1)(b) relating to royal commissions, but is this provision in essence reinforcing the current arrangements or will it do something to assist the appointment processes for Independent members of the Legislative Council and the position in the Leader of the Opposition's office also?

The Hon. G.E. GAGO: My advice is that this provision reflects the similar arrangement that currently exists, except that it aims to simplify the process, removing the need for cabinet intervention and that of the Governor. It is simplification of a process.

The Hon. R.I. LUCAS: If that is the case, I welcome that change. I assume under this that the minister is not the Treasurer but it will be minister Weatherill. The arrangements the government is moving to is to take away part of the cumbersome nature of having to go to cabinet and the Governor, but it is still cumbersome from members' viewpoints in that a minister, rather than they themselves, is employing the staff, but it is a step in the right direction. I clarify that the minister that Independent members will be working with will no longer be the Treasurer but minister Weatherill, whatever is his title.

The Hon. G.E. GAGO: That is the correct assumption, I am advised.

The Hon. M. PARNELL: I thank the Hon. Rob Lucas for commencing this line of inquiry. My question of the minister refers to where it says in the clause that 'the minister may engage a person as a member of the staff of a member of parliament' on conditions determined by the minister. What process will the minister go through to determine those conditions, and will current restrictions, such as the inability to replace a research officer on sick leave with a temporary officer, or such conditions be removed? As members would know, if personal assistants are ill and take time off, or if they are undertaking necessary training, we can get in a temporary replacement, but Treasury-employed staff have no capacity to be replaced. What is the process the minister will go through to determine these conditions and the consultation with members of parliament that will be undertaken, and are casual replacements part of the government's proposal?

The Hon. G.E. GAGO: The honourable member's questions are at a very operational level. They would be matters for the minister to determine. I am happy to take the questions on notice and, if there is further information, I am happy to bring it back. I am not sure whether that level of detail has been dealt with presently.

The Hon. M. PARNELL: I thank the minister for that response and it need not stand in the way of our progressing the bill, but I would like the minister to get back to us with information on the matters I have raised.

Clause passed.

Remaining clauses (72 to 80) and schedule 1 passed.

Schedule 2.

The Hon. D.W. RIDGWAY: I move:

Clause 1, page 41, lines 26 and 27 [Schedule 2, clause 1(2)]—Delete subclause (2) and substitute:

(2) The Governor may appoint a presiding commissioner and assistant commissioners to the Commission.

(2a) Before the Governor makes an appointment under subclause (2), the Minister must invite representations from public sector representative organisations on the proposed appointment.

(2b) A person appointed as a commissioner must have, in the opinion of the Governor, appropriate knowledge and experience of principles and practices of personnel management in the public sector.

Note—

The heading to clause 1 will be altered to 'Establishment of Commission and appointment of commissioners'.

My amendment simply deletes subclause (2) and substitutes a number of subsequent subclauses. I think those subclauses are quite self-explanatory. They establish the commission and then detail the provisions by which the commissioners are appointed to the commission and the qualifications they need. I believe this amendment strengthens the bill, and I commend it to the committee.

The Hon. G.E. GAGO: The government opposes the amendment in favour of its own amendment, which has similarities with the amendment moved by the Hon. Mr Ridgway. The government has accepted the proposals regarding the appointment processes for commissioners and agrees that unions should be given the opportunity to make representations regarding appointment and that the bill should refer broadly to the skill set required by commissioners. The

government therefore proposes to amend schedule 2, clause 1, relating to the appointment of public sector grievance review commissioners. I move:

Clause 1, page 41, after line 27—After subclause (2) insert:

(2a) Before the Governor makes an appointment under the subclause (2), the Minister must invite representations from the public sector representative organisations on the proposed appointment.

(2b) A person appointed as a commissioner must have, in the opinion of the Governor, appropriate knowledge and experience of principles and practices of public sector employment.

The Hon. D.W. RIDGWAY: The opposition is advised that the minister's amendment is not in conflict with our amendment, other than the numbering of the subclauses may need to be altered. We are advised that the government's amendment adds extra strength to our amendment, so I indicate that while the opposition will certainly insist on its amendment it will also support the government's amendment.

The Hon. M. PARNELL: I move:

Clause 1, page 41, after line 27—After subclause (2) insert:

(2a) A person appointed as a commissioner must have, in the opinion of the Governor, appropriate knowledge and experience of principles and practices of public sector employment.

My amendment is identical in wording to one of the subclauses in the Hon. Mr Ridgway's amendment as well as being identical to one of the subclauses in the minister's amendment. In the pecking order, the position of the Greens is that we will support the Hon. Mr Ridgway's amendment; if that is unsuccessful, we will support the minister's amendment; and, if that is unsuccessful, we will, of course, support our own amendment.

I want to say that a difficulty I have always found with positions such as these is the concept of unfettered ministerial discretion in the selection of people to important jobs. These amendments more or less attach some criteria that the minister must take into account when appointing someone, and the starting point has to be that they know a bit about the topic. Members may be surprised to know how many ministerial appointments are made to statutory authorities and statutory positions where that simplest of criteria is ignored; it is the idea of jobs for the boys, jobs for mates, in statutory positions. I believe we need to fetter the discretion and we need to ensure that appropriate people are appointed.

The subclause that relates to the person having appropriate knowledge and experience of the principles and practices of public sector employment is important. The other provision that is common to both the minister's and the Leader of the Opposition's amendments is to make sure that the unions are consulted. I believe they are two important improvements to the unfettered discretion that exists in the bill.

The Hon. G.E. GAGO: I have just been advised that it would be in everyone's interest if the government withdrew its amendment and supported the opposition's amendment. Therefore, I seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. M. PARNELL: I also seek leave to withdraw my amendment.

Leave granted; amendment withdrawn.

The Hon. D.W. Ridgway's amendment carried.

The Hon. D.W. RIDGWAY: I move:

Clause 2, page 42, lines 5 to 12—Delete clause 2 and substitute:

2—Panels of nominees

(1) For the purposes of proceedings before the Commission there is to be—

(a) a panel of public sector employees nominated by the Commissioner for Public Sector Employment; and

(b) a panel of public sector employees nominated by public sector representative organisations.

(2) The Minister may, from time to time, invite the public sector representative organisations to nominate employees to constitute a panel.

(3) If a public sector representative organisation fails to make a nomination in response to an invitation within the time allowed in the invitation, the Minister may choose public sector employees instead of nominees of the organisation and any employees so chosen are to be taken to have been nominated to the relevant panel.

(4) A person ceases to be a member of a panel if the person—

(a) ceases to be a public sector employee; or

(b) resigns by notice in writing to the Minister; or

(c) is removed from the panel by the Minister on the ground of misconduct, neglect of duty, incompetence or mental or physical incapacity to carry out duties of the member satisfactorily; or

(d) has completed a period of 2 years as a member of the panel since being nominated, or last renominated, as a member of the panel, and is not renominated to the panel.

2A—Proceedings—constitution of Commission and other matters

(1) The Commission will, for the purposes of hearing and determining proceedings, be constituted of—

(a) the presiding commissioner or, at the direction of the presiding commissioner, an assistant commissioner; and

(b) a member of the panel of nominees of the Commissioner for Public Sector Employment selected by the presiding commissioner for the purpose of the proceedings; and

(c) a member of the panel of nominees of public sector representative organisations selected for the purpose of the proceedings—

(i) by the applicant for review; or

(ii) if there are 2 or more applicants and they do not agree on the selection of a nominee—by the presiding commissioner.

(2) The Commission may sit contemporaneously to hear separate proceedings.

(3) If proceedings are part-heard when a person ceases to hold office as a commissioner, or ceases to hold office as a member of a panel on retirement or resignation from public sector employment, on resignation, or on completion of a period of 2 years as a member of the panel, the person may continue to act in the office for the purpose of completing the hearing and determination of the proceedings.

(4) The presiding commissioner or assistant commissioner is to preside at the hearing of any proceedings of the Commission.

(5) A decision in which any 2 or more members of the Commission concur is a decision of the Commission.

(6) A member of the Commission who is a public sector employee is not subject to direction as an employee in respect of the performance of duties as a member of the Commission.

(7) The Commission must endeavour to complete any review within 3 months and must, in any event, proceed as quickly as a proper consideration of the matter allows.

This is a quite lengthy amendment that deals with the commission being constituted of three people: a presiding commissioner and two panel members, one from a panel nominated by the Commissioner for Public Sector Employment, and one from a panel nominated by the public sector representative organisations. I think it is relatively self-explanatory and I commend it to the committee.

The Hon. G.E. GAGO: The government opposes this amendment. The bill provides for reviews by a single commissioner rather than a continuation of a panel of representatives. This change has been made on the basis that in reviewing the PSM act there was a desire to streamline processes and increase efficiencies. Current arrangements are considered unwieldy and complex. Participation on panels is time-consuming for panel members and places an administrative burden on the appeals bodies.

In addition, the value of employer and employee representatives has been questioned in terms of decision-making processes. It is perceived that in some instances decisions by panel

members are made in a partisan manner. Also, in contemplating the notion of a whole of government employment framework, the government wanted to increase consistency in review provisions across the public sector. Other public sector agency legislation provides an appeal for termination and/or disciplinary action to the Industrial Relations Commission, with appeals heard by a single commissioner: the Education Act 1972, Children's Services Act 1984, TAFE Act 1975; Health Care Act 2008.

The opposition also proposes that the commission must endeavour to complete any review within three months and must, in any event, proceed as quickly as a proper consideration of the matter allows. The intent of this provision—that is, the expeditious handling of reviews by the commissioner—is supported. However, consistent with the treatment throughout the bill, it is proposed that matters of detail such as this be detailed in the Public Sector Regulations as provided by clause 61(6)(b).

The regulations may make provision relating to the conduct of the reviews under this section. The use of regulations, rather than the act, allows for greater detail to be provided in relation to the operation of the commission including commencement, conduct and timeliness of completion. The government gives an undertaking that regulations will be drafted to ensure that any review is completed within a clear time frame and that, in any event, it will proceed as quickly as a proper consideration of the matter allows.

The Hon. M. PARNELL: The Greens will be supporting this amendment.

The Hon. DAVID WINDERLICH: We will be supporting the amendment.

The Hon. A. BRESSINGTON: We will be supporting the amendment.

Amendment carried; schedule as amended passed.

Schedule 3 and title passed.

Bill reported with amendments.

Progress reported; committee to sit again.

WATERWORKS (RATES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 June 2009. Page 2422.)

The Hon. J.A. DARLEY (21:34): This bill was introduced partly to overcome the problem involving water rates experienced last year with new rates, which were gazetted in December but did not come into effect until 1 July, being applied to those who had their meters read before 30 June. This problem could have been overcome by a simple change to the software calculating the rates, rather than introducing a whole new scheme of quarterly meter readings which will not really rectify the problem of having to apply the new rate to those accounts whose billing period straddles 30 June.

Now that the government has decided to implement a quarterly meter reading system at a cost of $1 million per annum, it will provide an opportunity for an alternative system for calculating sewerage rates based on valuation to one based on a 'pay for use' system, just like water rates. Professor Mike Young has suggested that, with the advent of quarterly meter readings, sewerage rates could also be determined based on an average household water usage.

It could be argued that water meters need to be read only three times a year instead of four, which would save $500,000 per annum. The minister indicated that the new rating notices sent out under the new scheme will contain the meter reading and the date on which the reading was taken. This is a positive step and goes a long way to being a replacement for the pink or yellow slip system which the person reading the meter used to put in the letterbox to notify the ratepayer of the reading.

Professor Mike Young, who has been at the front line of advocating smarter water policy in South Australia, has raised this issue of introducing a water trading system based on average household water usage. Those who use less than their allocated amount could presumably offer their excess entitlement to others who would like to use more than their entitlement. The calculation of an average household water use could be determined with a meter reading three times a year instead of four and, as I indicated earlier, at a cost saving of some $500,000. With those remarks, I support the second reading of the bill.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (21:36): I thank honourable members for their contribution to the second reading of the bill. In closing the second reading stage, I would like to reiterate that the fundamental purpose of this bill is to enable customers to have greater information and, hence, better control over their water use and its cost. By enabling a quarterly billing of water use, customers will receive more timely information about the amount of water they have used and its cost.

Honourable members have raised a number of questions and issues which I will deal with briefly now and, if further questions arise, we can deal with those during the committee stage. First, I will deal with issues raised by the Hon. Stephen Wade. The opposition and the Hon. Mark Parnell have moved amendments relating to the date for setting future water prices. The government will debate the merits of the amendments further during the committee stage. In the meantime, I point out that the only reason water prices must be gazetted by 7 December each year is that, under the current act, customers have a consumption year that may commence as early as mid-December in the year before prices come into effect. A check of the records shows that the 7 December date was inserted in 1991 at a time when, I understand, there was some public concern about the then government's right to set a water rate for water that had already been consumed.

One of the key elements of this bill is to remove the consumption year provisions so that customers pay a financial year's price only for water used in that financial year. Consequently, the requirement to gazette prices seven months before they come into effect will no longer exist. The 1 June date still provides the community with a month's notice of the new prices. In addition, this is close to when the new prices will apply, making the information more relevant and useful to the community.

In arguing for the retention of the current December date, the Hon. Stephen Wade has suggested that, by December, the Treasurer and the government would have already decided how much they were intending to draw down from SA Water revenue. The honourable member's comments imply a flexibility in the determination of water prices, which does not exist under the current government. Since 2003, the government has operated under a process for setting water prices which ensures that prices are set consistent with national pricing principles. That process is documented for public scrutiny in the annual transparency statement and is open to independent review by the Essential Services Commission of South Australia.

In his contribution, the Hon. Mark Parnell canvassed his views on a number of aspects of setting water and sewerage prices. I do not intend to respond to all of the points raised, but I will make a couple of points. In relation to fixed water charges, I note that the government is obligated, under national pricing principles, to apply a fixed service charge. The COAG strategic framework requires the adoption of prices 'comprising of an access or connection component together with an additional component or components to reflect usage where this is cost-effective.' The national obligation to adopt a two-part tariff structure is a key element of pricing principles designed to promote efficient resource allocation.

Mr Parnell also raised the matter of basing sewerage rates on a volumetric charge. While not the subject of this bill, I will say that the concept of usage charges for sewerage has been debated at various levels, but it is flawed, given a range of issues including the fact that a high proportion of costs are fixed and are not influenced by the volume of discharge; difficulties and inaccuracy in estimating discharge; the inability to measure pollutant load as distinct to volumetric load; the risk of penalising large families, whose discharges tend to be higher, by applying usage charges that exceed the cost that those discharges actually impose on the system; the reliance of the sewerage system on adequate flushing flows to function effectively; and the distortion of the pricing signal, promoting efficient use of water. Notably, the National Competition Council has acknowledged the following:

> Charging on a consumption basis for waste water services provided to households and small commercial consumers is generally not efficient because most of the cost of providing waste water services to these consumers is fixed. A fixed charge for the waste water service may therefore be appropriate.

Also, in its report into the 2004-05 waste water pricing process in South Australia, ESCOSA recognised the impracticality of metering direct usage for small customers and the minor benefit that price signals of this type would generate. It stated that 'such an approach would not satisfy the cost effectiveness as a requirement'.

Even with a robust estimate of water supply during the winter period, the accuracy of the estimate of discharge would be undermined by use of rainwater, greywater disposal, gaps in

occupancy (e.g. grey nomads), and variations in household size over the year. All of these issues would be sources of complaint, bringing the need for increased administrative complexity and cost.

I will now address some of the issues raised by the Hon. Mr Brokenshire. In his contribution, Mr Brokenshire raised a question about customers being billed for five quarters of water use rather than four. I can clarify for the honourable member that, as a once only consequence of transitioning into quarterly billing, customers will receive accounts for 15 months of water used during a 12-month period. This is unavoidable, as all customers will receive a bill for six months of water use (their last six-month bill) followed by their next water use bill (three months) one quarter later, and subsequently bills at three-month intervals thereafter.

For example, a customer receives their next normal six-month water consumption account in August 2009. As the system transitions to quarterly water use billing, the next water use account will be their first quarterly bill in November 2009, followed by quarterly accounts in February 2010 and May 2010. Together, these bills cover 15 months of water consumption billed within the 2009-10 financial year.

I emphasise that customers will be billed only for water that they have actually used. In addition, in accordance with the government's intentions, arrangements are in place to ensure that customers are charged the relevant financial year's prices for water deemed to have been used in that financial year. Customers who find this once only transition creates cash flow problems will be able to contact SA Water to arrange appropriate payment terms. The community was advised of this transition matter in the minister's media statement of 28 April and is covered in 'frequently asked questions' on SA Water's website.

Mr Brokenshire has also filed amendments relating to water metering. Again, I will deal with the merits of the amendments during the committee stage. However, I note that, while the honourable member's comments imply his attention to seek separate water meters for Housing SA residents, it is not entirely clear whether it is understood that the proposed amendment will have implications for all unmetered premises, including those under private ownership.

Mr Brokenshire commented on the matter of leakage from the public water system. I can advise that Adelaide's performance over recent years has been in the excellent range. Despite this excellent performance, SA Water has in place a leakage detection and repair program. During 2008 the Minister for Water Security announced an $8 million three-year project to locate and repair leaks throughout the metropolitan area.

Mr Brokenshire sought information about what component of water bills relate to maintenance works by SA Water. I am advised that the expenditure incurred to repair burst mains represents only around 3 per cent of the cost base which underpins the level of prices, and hence the bills for water supply.

Mr Brokenshire also sought an update on residential water use. I can advise that water consumption to 1 June 2009 is on track and compares favourably with the past few years. Consumption from SA Water's system has been 65,951 megalitres compared to the five-year average for this time of the year of 76,264 megalitres and the 10-year average for this time of year of 84,478 megalitres. Information on how water consumption is tracking is available on SA Water's website should the honourable member be interested, and I can provide him with the address if he wishes.

Mr Brokenshire referred to Point Sturt and Hindmarsh Island. I can advise that discussions have been ongoing with the commonwealth over the need to address water security issues for residents at Point Sturt and Hindmarsh Island. These discussions resulted in a business case for these pipeline projects being submitted to the commonwealth for consideration as an extension to the Murray Futures integrated pipelines project on 16 April 2009. Negotiations regarding funding options are continuing with the commonwealth. I understand that letters were sent to the residents of Point Sturt and Hindmarsh Island in April and May 2009 to keep them informed.

Finally, Mr Brokenshire was concerned to know that there will not be any problems with billing for water. I again reiterate that the purpose of this bill is to enable customers to have greater information and, hence, better control over their water use and its cost. By enabling quarterly billing of water use, customers will receive more timely information about the amount of water they have used and its cost. Members will be aware that water prices for 2009-10 include a reduction in the fixed annual water supply charge to enable customers to reduce their water bills by being more water wise. The more timely information provided by quarterly water use bills complements that

measure. Quarterly water use billing will also aid family budgeting by smoothing out water charges over the year, subject to any seasonal pattern in customers' water use.

Importantly, the bill makes explicit the government's intention that prices for a financial year apply to water used in that financial year. Transitional provisions will also ensure that policy applies during the process of transitioning customers to the new quarterly billing system during the coming year.

Finally, I note the bill gives effect to the government's commitment to introduce quarterly billing of water use charges for water supplied by SA Water. I commend the bill to the council.

Bill read a second time.

In committee.

Clause 1.

The Hon. S.G. WADE: I refer to the Minister for Water Security's press release of 28 April in relation to this bill. She states:

> From July 1, SA Water customers will receive new-look water accounts that more clearly display water use as well as comparisons to previous use and other typical households.

I just inquire about progress on that and, in particular, whether that will include an indication of consumption over each of the past three quarters.

The Hon. P. HOLLOWAY: When the honourable member was speaking, unfortunately, I was distracted and I ask him to repeat the question.

The Hon. S.G. WADE: I was seeking an update as to progress, because the minister at the briefing was kind enough to show us a draft at that stage. I was interested in an update as to progress and, in particular, whether the accounts will carry some indication of consumption for each of the past three quarters for that account.

The Hon. P. HOLLOWAY: Obviously the work on this is still in progress, and one would also presume that until the final form of the bill is known, given there are amendments, there always has to be that caveat over any final work that is done. Clearly, any amendments may change the information. The question was whether each of the past three quarters would be shown. I guess you need to get to three quarters: that will be one issue.

The idea is that the comparison will quite specifically compare the equivalent quarter of the previous year, so the summer quarter, for example, would compare with the previous summer quarter. For example, I have an account which goes back for some years but, since SA Water has been reading meters on a quarterly basis only since July last year, obviously at least initially it presents a time limitation on how far back that information can be provided.

The Hon. S.G. WADE: My recollection is that the net cost of the proposal will be $8 million. Will the minister give a breakdown of that? How much is for the actual cost of the metering service, which I understand is a privatised service under this government? Is there any cash flow impact, if you like, in the component parts of the $8 million? I am happy to receive that information during the committee stage, if it is more convenient.

The Hon. P. HOLLOWAY: Quarterly reading of metres was introduced from mid 2008 at a cost of approximately $1 million per annum; that is the estimated cost of quarterly reading. I will put in context the $8 million to which the minister referred. It relates to revenues forgone. Water use prices in the period up to 1 July will reflect the application of annual thresholds, while from 1 July it will be based on quarterly thresholds. In explaining this transitional impact in the House of Assembly, minister Maywald indicated that through the transition some customers will receive a benefit and they will get more water on the lower tiered rate.

The lower tiered rate will apply on their six-month bill and then potentially on their first quarterly bill, so they may get more water supplied at the lower tier levels. It has been estimated that it will result in revenue forgone for SA Water of about $8 million. We have decided not to go through the process of putting in place a transitional arrangement to enable all customers to have the same 120 kilolitres for that particular year because it is very complicated and SA Water has forgone the amount of funds associated with that. That is the $8 million to which the minister was referring.

The Hon. S.G. WADE: I take it that it is a first year impact only and that the impact was taken into account in the pricing decision that was made in December last year.

The Hon. P. HOLLOWAY: My advice is that the $8 million was forgone in the financial year 2008-09 whereas the pricing decision is from 2009-10 onwards.

The Hon. S.G. WADE: Will the minister confirm whether it is the government's intention in the 2010-11 financial year process to maintain a statewide uniform price?

The Hon. P. HOLLOWAY: There is no proposal before government at this time to change that level of pricing.

The Hon. S.G. WADE: Will the minister explain where that policy exists? Is it just a practice of the former E&WS which SA Water has inherited and it is just known that that is what cabinet expects? Is it a formal policy of government? What is the policy? Is the policy that the long-run marginal cost of producing water in Adelaide shall be the statewide price for the whole of South Australia? How is it expressed?

The Hon. P. HOLLOWAY: My advice is that it is not formally written down, but it has been a longstanding policy over a number of governments that the price that applies to provide water in Adelaide would apply in other areas. As I indicated, I think there are some minor exceptions in certain of the more remote areas, where special factors apply.

The Hon. S.G. WADE: I appreciate that it is not universal. I understood the minister to say that the Adelaide price becomes the state wide price. I would like to explore the implications for country water supplies. As I understand it, the Minister for Water Security has indicated that, over a five year time frame, the water price will double. It is conceivable that there would be country water supplies which are not viable at the current water price but which may well be viable at the new water price. Is it the government's intention that those country water supplies will be established, considering that Adelaide customers paying the state wide price have been given a desalination plant? Why should not country people be offered that augmentation when their water supply becomes viable at the new state wide price?

The Hon. P. HOLLOWAY: When the honourable member talks about country prices not being viable, is he talking about areas in the country which currently do not get the water supply which may get it if it became viable?

The Hon. S.G. Wade: Yes.

The Hon. P. HOLLOWAY: My advice is that we believe about 95 per cent (I do not want that to be taken to be a specific figure, but something of that order) of the state, in terms of customers, is serviced by SA Water, even though many of those schemes will not be viable, in the sense that they will not pay their way. I suppose that is the definition of 'viability'; they will not meet their costs. There are a few water supplies outside that area—in places such as Coober Pedy, for example—where the council supplies it. However, given their remoteness and distance from the grid, I am not sure that that would really affect anything, in terms of SA Water supply. So, I am struggling to understand—

The Hon. S.G. Wade: Could I come at it in a different way?

The Hon. P. HOLLOWAY: Yes, that might help.

The Hon. S.G. WADE: My understanding is that it costs SA Water less to produce water for Mount Gambier than the state wide price.

The Hon. P. Holloway: They pull it out of the Blue Lake.

The Hon. S.G. WADE: Yes. If that understanding is correct, SA Water, in applying the state wide uniform price to Mount Gambier customers, is making a better profit than it is on Adelaide customers. I am not complaining about that; that is state wide pricing and some country customers of SA Water benefit and some do not. If I am correct in that understanding, are there any other supplies in the country that, if you like, are not benefiting from state wide pricing—they are already at a cost disadvantage compared with Adelaide pricing?

The Hon. P. HOLLOWAY: My advice in relation to Mount Gambier is, okay, water is taken out of an obvious source, but I am not in a position to confirm that that is necessarily cheaper than Adelaide. Other treatment in relation to that water is still required, so it may be on a par or even cheaper than Adelaide, but we cannot really confirm that. It lacks the economies of scale that you get with a larger thing, so that is something that would have to be investigated. In relation to other

areas, our information is that some railway towns located on the Barrier Highway, for example, do not come under the statewide system. Marla is another place where water is not supplied.

In terms of cost, if I have understood him correctly, the honourable member was asking whether there would be any other areas of the country that may have a lower cost of providing water than Adelaide. I do not think that we are aware of any. My advice is that it is most likely that Mount Gambier is probably the lowest for obvious reasons, but my advice also is that there will be a range of prices which will depend on a number of factors. While Mount Gambier might be the lowest, we would expect that most of them would be a higher cost than Adelaide because of scale and a number of other factors.

The Hon. S.G. WADE: I certainly appreciate that there will be that scale, and some of them will, if you like, become more viable through the doubling of the water price. In fact, that is clearly shown by the transparency statement documents which show that the CSA payments will, I think, be halved in the price period. The minister seemed to be thinking of new communities, if you like, beyond the current distribution network as possible new supplies, implying that my question was related to that.

I was also thinking of augmentation within the current network. It is not an uncommon complaint that I receive as a legislative councillor. In fact, I had a call this morning from an SA Water customer from Yorke Peninsula very concerned about her frustrations at SA Water's lack of willingness to augment the network. It might well be that augmentation opportunities are not viable at the current water price, but, when the statewide pricing is introduced at the enhanced water or the doubled water price, new towns might be supplied adjacent to current water supplies or even augmentation of, say, subdivisions off an established supply.

If the minister and his advisers are not able to give advice on whether there are any next cabs off the rank, if you like, I indicate to the government that that is something the opposition would be interested to explore, because it is our view that country customers of SA Water should be entitled to benefit from the enhanced water supply that an enhanced water price can provide.

The Hon. P. HOLLOWAY: I will make a comment on that. In the future, SA Water will consider (as it does now) the opportunities for providing that need. If the pricing structure clearly changes the viability of augmentation in some areas, then obviously it would look at it. That is something that will become more apparent as we move to the new pricing structures.

The Hon. M. PARNELL: I ask a question now in the expectation that the minister may need to bring back an answer later. It relates to two of the amendments that we will eventually consider in relation to metering all properties separately. From the minister's second reading speech and my understanding of the government's position, it is uneconomic, in that the cost of the meters exceeds the relatively small return that would be made from the water passing through those meters.

First, how much does a meter cost? Secondly, what would the average cost of installing a meter in a dwelling be? Thirdly, what statistics does the government have in relation to average water use for different types of dwellings, say, one-bedroom flats or units without a garden, the type of small dwellings which might currently not be metered but which, if some of these amendments were to pass to this bill, would be required to be metered, so that we could have some understanding of the cost benefit analysis of metering every separately occupied property?

The Hon. P. HOLLOWAY: I suppose the answer to that question is that it is very difficult to provide an answer, because there is such a huge variety of the sort of places where a single meter might now apply. For example, if one had a high-rise block of flats, clearly you are talking about the cost of re-plumbing. I imagine it would be much more significant perhaps than if it was just a small block of units. Whereas one can probably get the cost of a meter, clearly most of the cost that will be involved (if one brings this in) will be to the householder, and that might take place in a number of ways. If it is a block of flats that someone rents out, presumably, in the first instance, the owner of the flats will be responsible for it and will seek to pass on at least some part of it to the tenants of that flat.

Now the cost, of course, could be considerable. It would be almost impossible, I would imagine, to estimate a figure. It would depend on the types of arrangements. As I said, for high-rise units, obviously it would be prohibitive, perhaps less so for a single-storey block of units, but it would depend on how far away it was from the meter and all those sorts of issues. I am not sure that we can really assist in that.

I should point out that SA Water's responsibility traditionally has been to put a meter at the boundary and then what happens beyond that is up to the property owner. I think there were some provisional figures. I think we would say that the cost to SA Water would be of the order of $25 million for providing meters. The $25 million estimate is for the easy cases; it does not include ones which would be totally unfeasible. So, $25 million is the estimate. In addition, the cost to the property owner in relation to then taking the water from those meters was estimated at $100 million. It is obviously difficult to make that figure too precise.

The other point we need to place on record is that normally the $25 million, which would be the cost of the work that would have to be done for SA Water, would be passed on to the property owner in any case, as traditionally happens. It is not entirely clear who would pay that component if that were to come in. There are a number of issues with the metering measure which make it very complex and, if this measure were to be introduced, it would have to be given some thought. From the viewpoint of those contemplating supporting it, they may like to reflect on the implications out in the electorate for those who would ultimately bear the cost. There would be significant cost to property owners in relation to the work they would have to undertake.

The Hon. M. PARNELL: I thank the minister for his answer. My question was designed to assist the government because my understanding, from talking to colleagues, is that people are generally sympathetic to the idea that one should not have to pay for something unless exactly what one used can be determined. Overnight the minister might be able to find more firm data, leaving aside the very hard cases (I understand the minister cannot give an absolute figure because of the range of housing types—single and multi-storey, low occupancy, high occupancy, some with gardens and some without).

If at least two members of this place have amendments on file to provide for separate metering, it would be useful to the Legislative Council if the government could provide something stronger than ball park figures as to a cost benefit analysis of metering versus the amount of water that would pass through those meters, and that analysis could be done at current water prices but should be done when water prices inevitably rise. That was the purpose of my question; I am happy to get further information tomorrow.

The Hon. P. HOLLOWAY: Seriously, how does one determine the cost of plumbing and retrofitting? You may have a single-storey block of units: what would be the average cost of plumbing in meters? It would depend on a whole host of factors. It may depend on the age of the system, what the soil was like, whether the driveway had been cemented over the water pipes, and so on. It would be difficult for similar properties: if you had a block of four single-storey units, the cost of retrofitting the plumbing may vary by three or four to one, depending on the circumstances of the individual case. It would be difficult to get too much accuracy.

On my information there are about 60,000 strata or community title units and about 7,000 meters on them. That information is known and the information SA Water can provide, but we then have to go to the cost of fitting, which is not the responsibility of SA Water but rather just to get the meters to the edge of the property. What happens beyond that is clearly something that is unfair to expect of SA Water, other than the estimates it has given. Clearly there is a lot of variability in that calculation.

The Hon. S.G. WADE: I continue on the line of questioning of the Hon. Mr Parnell, who used the phrase 'cost benefit analysis' in terms of the questions that he was asking. I wonder if the minister might, in considering the issues raised in the context of the benefits, give any advice as to what the industry experience has been at the impact of introducing metering on the average water consumption of households.

The Hon. P. HOLLOWAY: My advice is that metering in South Australia has been pretty comprehensive before the 1960s, so it has been around a long time and so there is not much historical information here. Elsewhere it is believed that when metering applies where it has not previously applied consumption does go down. However, it needs to be considered that those places where you do not have individual metering tend to be those which have relatively low consumption anyway, such as flats. So, that needs to be borne in mind as well.

Clause passed.

Clauses 2 to 7 passed.

Progress reported; committee to sit again.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

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

STATUTES AMENDMENT (AUSTRALIAN ENERGY MARKET OPERATOR) BILL

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

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (22:24): 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.

The Government is delivering on a key Council of Australian Government's (COAG) energy commitment through new legislation to improve the governance arrangements for the Australian energy sector, for the benefit of South Australians and all Australians.

In April 2007, COAG agreed to establish a single, industry-funded national energy market operator, to be called the Australian Energy Market Operator (AEMO), for both electricity and gas to strengthen the national character of energy market governance. This Bill supports the amendments to the *National Electricity (South Australia) Act 1996* and *National Gas (South Australia) Act 1997*.

The *Statutes Amendment (Australian Energy Market Operator) Bill 2009* allows minor consequential changes to the *Australian Energy Market Commission Establishment Act 2004*, *Electricity Act 1996* and *Gas Act 1997* so they are consistent with the new arrangements relating to AEMO and its functions.

Changes to the *Australian Energy Market Commission Establishment Act 2004* also include enabling the appointment term of the Australian Energy Market Commission Commissioners for up to 5 years to allow staggered terms to achieve smooth transitions.

Transitional provisions associated with changes to the *Electricity Act 1996* include a scheme to provide for the transfer of the Electricity Supply Industry Planning Council non-jurisdictional specific functions, assets and liabilities to AEMO.

Transitional provisions associated with changes to the *Gas Act 1997* include a scheme to provide for the transfer of the Retail Energy Market Company various functions, assets and liabilities to AEMO.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause provides for the short title of the measure.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Australian Energy Market Commission Establishment Act 2004*

4—Amendment of section 3—Interpretation

This clause inserts a definition required in connection with the amendments to the relevant Act.

5—Amendment of section 13—Terms and conditions of appointment

It is proposed that the term of office of a member of the Australian Energy Market Commission will now be for a term not exceeding 5 years, rather than a set term of 5 years. This will allow the terms of members to be 'staggered'.

6—Amendment of section 14—Acting Chairperson or Commissioner

It will now be possible to appoint an Acting Commissioner as an Acting Chairperson of the Commission.

7—Amendment of section 32—Membership of Panel

The processes to be followed before a person is recommended for appointment to the Consumer Advocacy Panel will now be determined by policy rather than prescribed by the legislation.

8—Amendment of section 36—Acting appointments as Chairperson or Panel member

The period for which a person may act in an office of a member of the Panel is to be changed from 6 months to 8 months.

9—Amendment of section 41—Budgets

Section 41 of the principal Act currently provides for the preparation of annual budgets by the Panel. It will now be possible for the Minister to require the Panel to prepare and submit other budgets for any period or with respect to any matter determined by the Minister. All budgets will be submitted to the Ministerial Council and furnished to the Australian Energy Market Commission.

10—Amendment of section 42—Funding for administrative costs associated with Panel

11—Amendment of section 43—Grant funding

These amendments are consequential on the change of name of NEMMCO to AEMO.

12—Amendment of section 44—Provision of funding

This amendment reflects the fact that AEMO is now to assume functions in relation to the provision of gas in some participating jurisdictions.

13—Amendment of section 46—Implementation of determinations of Panel

This amendment is consequential on the change of name of NEMMCO to AEMO.

14—Repeal of Schedule 1

Schedule 1 may be deleted as it is no longer required.

Part 3—Amendment of *Electricity Act 1996*

15—Amendment of section 4—Interpretation

This clause inserts a definition required in connection with the amendments to the principal Act.

16—Repeal of Part 2 Division 2

The Electricity Supply Industry Planning Council is to be dissolved.

17—Amendment of section 8—Functions of Technical Regulator

The Technical Regulator is to assume the function of monitoring and investigating major interruptions to the electricity supply in the State.

18—Amendment of section 15—Requirement for licence

This amendment continues the current statutory policy under which NEMMCO—now to be called AEMO—does not require a licence for the purposes of its activities associated with the electricity supply industry.

19—Amendment of section 20—Licence fees and returns

Certain costs of AEMO will be capable of being recovered under the annual licence fee payable under the Act.

20—Amendment of section 22—Licences authorising generation of electricity

21—Amendment of section 23—Licences authorising operation of transmission or distribution network

22—Amendment of section 91—Statutory declarations

These amendments are consequential on the transfer of certain functions from the Planning Council to AEMO.

23—Amendment of section 98—Regulations

This amendment will facilitate the continuation of various functions associated with the operation of the electricity market.

Part 4—Amendment of *Gas Act 1997*

24—Amendment of section 4—Interpretation

These amendments are consequential.

25—Amendment of section 19—Requirement for licence

26—Amendment of section 21—Consideration of application

AEMO, as the retail market administrator for gas, will not require a licence under the *Gas Act 1997*.

27—Amendment of section 26—Licence authorising operation of distribution system

28—Amendment of section 26A—Licences authorising retailing

These amendments are consequential on proposed amendments to the *National Gas Law*.

29—Repeal of section 26B

30—Amendment of section 33—Price regulation by determination of Commission

These amendments are consequential on the decision to discontinue the licence requirement for a retail market administrator.

31—Repeal of section 33A

This clause is no longer appropriate.

32—Amendment of section 93—Evidence

This is a consequential amendment.

Schedule 1—Transitional provisions

The Schedule sets out various provisions consequential on the new arrangements for the management of the electricity market and the management of the gas market. In particular, a number of amendments relate to the arrangements that are to be put in place on the dissolution of the Electricity Supply Industry Planning Council, including so as to provide for the transfer of functions, assets and liabilities to AEMO (or any other relevant entity). Similar arrangements are to be put in place for the transfer of functions relating to the management of the gas market from REMCo to AEMO. These provisions are consistent with arrangements and reforms to be implemented by amendments to the *National Electricity Law* and the *National Gas Law*.

Debate adjourned on motion of Hon. S.G. Wade.

NATIONAL GAS (SOUTH AUSTRALIA) (NATIONAL GAS LAW—AUSTRALIAN ENERGY MARKET OPERATOR) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (22:25): 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.

The Government is again delivering on a key energy commitment through new legislation to improve the governance arrangements for the Australian energy sector, for the benefit of South Australians and all Australians.

In April 2007, the Council of Australian Governments (COAG) agreed to establish a single, industry-funded national energy market operator, to be called the Australian Energy Market Operator (AEMO), for both electricity and gas to strengthen the national character of energy market governance. This Bill and the accompanying amendments to the *National Electricity (South Australia) Act 1996* implement this commitment.

These amendments seek to realise these gains with minimal changes to the existing regulatory frameworks. AEMO will perform a range of new functions which include the publication of the Gas Statement of Opportunities (GSOO).

These amendments deal with the functions currently performed by the Gas Market Company (GMC), Queensland Gas Retail Market Operator (GRMO), the South Australian operations of the Retail Energy Market Company (REMCo) and Victorian Energy Networks Corporation's (VENCorp) gas specific functions along with the new GSOO function. The remaining new functions, common to both electricity and gas, such as Fees and Cost Recovery; Information Gathering; Protected Information; and Immunities are dealt with in the second reading speech on amendments to the *National Electricity (South Australia) Act 1996*.

Gas Statement of Opportunities

A major new AEMO function will be the preparation of the GSOO. The GSOO proposal has been developed by the gas industry through the Ministerial Council on Energy's Gas Market Leaders Group (GMLG). It is intended to perform a similar role for the gas market as the electricity Statement of Opportunities (SOO) performs for the National Electricity Market.

The content of the GSOO is defined in s91D of the National Gas Law (NGL). It is intended that it will provide a 10 year outlook, consistent with the electricity SOO, and a longer term view to a 20 year horizon of the gas sector with a focus on the ability of the sector to meet anticipated demand. It is proposed that AEMO will publish this statement from January 2010.

AEMO will be empowered to use new market information powers to support the preparation of the GSOO. In this regard the information gathering regime for the production of the GSOO will restrict the use of Market Information Orders and Market Information Notices to the classes of people currently required to provide information to the gas Bulletin Board. This will ensure all key market participants are captured and that the GSOO can be produced in a timely manner.

Wholesale and Retail Market Rules and Procedures

Jurisdictional market operators are currently responsible for operating retail gas markets in Queensland, New South Wales, the Australian Capital Territory, Victoria and South Australia. The retail markets are each supported by jurisdictional retail market rules. Additionally VENCorp operates a wholesale gas market in Victoria, supported by the Market System and Operation Rules (MSOR).

The amendments to the NGL transfer these retail market operator functions to AEMO and include broad empowering provisions for the National Gas Rules (NGR) to accommodate the current jurisdictional retail market

rules into the new national governance structure by establishing Retail Market Procedures. The current jurisdictional retail market rules provide detailed technical processes to manage the transfer of retail gas customers. They will be transferred to the national framework essentially unchanged, except where necessary to apply the national governance framework, and will be administered by AEMO. The Victorian MSOR will largely be incorporated into the NGR to support the Declared System Function. Existing Western Australian retail gas market operations are not affected by these amendments.

These changes include a national process for amending Procedures, including the Wholesale and Retail Market Procedures, as well as a common dispute resolution mechanism. The new process for amending the gas Procedures will be included in the NGR. It is based on current processes for amending the Bulletin Board Procedures in Part 18, Division 4 of the NGR which will be removed in favour of the common Procedure change provisions. The provisions will require AEMO to conduct appropriate consultation on proposed changes to the Procedures, although to provide flexibility it is not proposed to prescribe the mechanism by which this would occur. Additionally a new provision in the NGR will allow AEMO to make urgent amendments to the Procedures, where failure to make the amendment in a timely manner would prejudice or threaten the operation of the gas markets, the supply of natural gas or the response to a gas emergency. The common Procedure change process recognises the expertise of the market operator at the technical and operational level and is designed to allow the procedures to be amended efficiently by the market operator and to retain industry engagement in the process. Operationally, it is intended that industry advisory bodies, similar to those in jurisdictions, will continue to be an important part of the change processes.

The proposed amendments to the NGR include the new common dispute resolution framework to apply to disputes between gas market participants and AEMO about the application and interpretation of the former MSOR and the Retail Market Procedures and any other matters that are currently subject to dispute processes under existing jurisdictional retail market rules. The proposed framework is based on Chapter 7 of the MSOR, incorporating a number of revisions to that chapter proposed following consultation by VENCorp in the Victorian market. The dispute resolution framework adopts a two stage approach intended to allow parties to resolve disputes informally in the first instance, with the help of the Adviser on mutual agreement of the parties, prior to assembling an expert dispute resolution panel. It should be noted that a new provision has been inserted into the NGR which requires the Australian Energy Regulator to appoint the Adviser as is currently done under Chapter 8 of the NER.

Declared System Functions

AEMO will take over the functions currently performed by VENCorp, which is a state owned entity within Victoria.

VENCorp's principal gas functions are the operation of the Victorian Wholesale Gas Market and related gas transmission system for the principal gas transmission system in Victoria.

The VENCorp gas functions are described generically in the Law in a manner that facilitates their application by a jurisdiction through its application legislation.

The VENCorp gas transmission system functions are described as 'declared system functions' that will apply only where the jurisdiction has invoked the relevant part of the NGL. Currently it is intended that only Victoria will apply these provisions in its application legislation.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause provides for the short title of the measure.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *National Gas (South Australia) Act 2008*

4—Amendment of section 12—Specific regulation-making power

The regulation-making power under the Act is to be amended so that the regulations may deal with matters of a transitional nature on account of any amendments made from time to time to the *National Gas Law*. A comparable provision may be found in the *National Electricity (South Australia) Act 1996*. Consequential changes must also be made on account of the new functions to be conferred on AEMO.

5—Insertion of sections 20, 21 and 22

Proposed new section 20 is consistent with section 14 of the *National Electricity (South Australia) Act 1996*. Proposed new section 21 is necessary to ensure the smooth transmission of functions between REMCo and AEMO, especially in the period between 2 relevant changeover dates that are to apply for the purposes of the law in South Australia. Proposed new section 22 is necessary in view of the fact that AEMO is not due to assume all of REMCo's functions in South Australia on the day on which the NGL amendments come into operation.

Part 3—Amendment of *National Gas Law*

6—Amendment of section 2—Definitions

This clause provides new definitions for the definition section (section 2) of the National Gas Law.

7—Amendment of section 3—Meaning of civil penalty provision

This clause amends section 3 of the National Gas Law to add to the meaning of civil penalty provision.

8—Amendment of section 4—Meaning of conduct provision

This clause amends section 4 of the National Gas Law to add to the meaning of conduct provision.

9—Amendment of section 8—Meaning of service provider

This clause provides that AEMO is not taken to be a service provider merely because AEMO is controlling or operating all, or part, of a pipeline or scheme pipeline.

10—Amendment of section 22—Ministers of participating jurisdictions

This clause changes the reference to the name of the *National Gas Access (WA) Act 2009*.

11—Amendment of section 27—Functions and powers of the AER

This clause provides AER with additional powers in relation to compliance programs and breaches referred by AEMO.

12—Amendment of section 55—Further provision about manner in which information must be provided to AER or kept

This clause makes technical amendments to the AER's information gathering powers.

13—Amendment of section 74—Subject matter for National Gas Rules

This clause amends section 74, outlining the subject matter for National Gas Rules and including AEMO as a relevant body.

14—Insertion of Chapter 2, Parts 6 and 7

This clause inserts a Chapter into the National Gas Law, relating to the role of AEMO under the National Gas Law.

Part 6—Role of AEMO under National Gas Law

Division 1—General

91A—AEMO's statutory functions

This clause outlines AEMO's functions and provides that AEMO must have regard to the national gas objective in carrying them out.

91AB—AEMO's power to carry out statutory functions

This section gives AEMO the power to do all things necessary or convenient for or in connection with its statutory functions.

91AC—Delegation

This clause allows the delegation powers given to AEMO.

Division 2—AEMO's declared system functions

Subdivision 1—Preliminary

91B—Application of this Division

This clause outlines the application of Division 2 of Part 6.

91BA—AEMO's declared system functions

This clause outlines AEMO's declared system functions, the circumstances under which AEMO may trade in natural gas and enables AEMO to suspend a declared wholesale gas market (subject to the Rules).

91BB—AEMO to account to relevant Minister for performance of declared system functions

This clause requires AEMO to provide information about the performance of its declared system functions with respect to a jurisdiction if the Minister of that jurisdiction requests so in writing.

Subdivision 2—Power of direction

91BC—AEMO's power of direction

This clause provides AEMO with the power to make certain directions to participants in relation to reliability of supply, security or public safety, and provides for penalties for non-compliance with a direction.

91BD—Protection from liability

This clause prevents civil liability flowing from good faith compliance or purported compliance with a direction.

Subdivision 3—AEMO's relationship with transmission system service providers and facility owners

91BE—Service envelope agreement between AEMO and transmission pipeline service provider

This clause outlines the need for, and requirements of, transmission pipeline service providers to make a service envelope agreement with AEMO for the control, operation, safety, security and reliability of the declared transmission system, and provides the conditions under which a determination may be made by AER in relation to a dispute over a service envelope agreement.

91BF—Interconnection with facilities

This clause prohibits the connection, to the declared transmission system, of a facility, including; pipelines, gas storage facilities, gas fired electricity generators or other plant or equipment.

91BG—Operating agreement between AEMO and facility owner

This clause enables AEMO to require that an operating agreement be made with an owner of a facility before permitting that facility to be connected to a declared transmission system, and provides the conditions under which a determination may be made by AER in relation to a dispute over an operating agreement.

91BH—General principles governing determinations

This clause provides the general principles governing the nature of a determination by AER under this Division.

Subdivision 4—Declared wholesale gas market

91BI—Market participation

This clause lists the classes of person who participate in a declared wholesale gas market in a registrable capacity.

91BJ—Registration required for market participation

This clause outlines the requirement that, and conditions under which, market participants are to be registered.

91BK—Certificates of registration etc

This clause provides for certificates in relation to the registration or exemption from registration of market participants.

Subdivision 5—Wholesale Market Procedures

91BL—Wholesale Market Procedures

This clause enables AEMO to, in accordance with the Rules, make Wholesale Market Procedures.

91BM—Nature of Wholesale Market Procedures

This clause outlines the requirements around making the Wholesale Market Procedures.

91BN—Compliance with Wholesale Market Procedures

This clause outlines the need for AEMO and applicable parties to comply with a Wholesale Market Procedure.

Subdivision 6—Ownership of gas in declared transmission system

91BO—Ownership of gas

This clause requires AEMO to make rules, as part of the Wholesale Market Procedures, for determining the ownership of gas in the declared transmission system and for resolving disputes about ownership.

91BP—Title to gas

This clause requires anyone injecting, or tendering to inject, gas into the transmission system to have title to that gas and for the gas to be free of encumbrance at the point of injection.

Subdivision 7—Immunity

91BQ—Immunity

This clause grants immunity from civil liability for failures by protected persons to allow or make available injections in, or withdrawals out of, the declared transmission system where as a result of accident or cause beyond the protected person's control. Protected persons are AEMO and service providers for the whole or a part of the declared transmission system.

91BR—Immunity in dealing with an emergency

This clause excludes civil monetary liability from attaching to AEMO or AEMO officers in dealing with an emergency in good faith.

Division 3—Information etc to be provided to Ministers

91C—Ministerial request

This clause enables MCE or Ministers of participating jurisdictions to ask AEMO for information.

91CA—Compliance with request

This clause requires AEMO to comply with a request under this Division, and mandates that protected information may only be disclosed under such a request if authorised under this Law or the Rules.

91CB—Quarterly report

This clause requires AEMO to report quarterly to MCE on requests made under this Division, summarising each request and by whom it was made.

Division 4—Gas statement of opportunities

91D—Object and content of gas statement of opportunities

This clause outlines the object and content of the gas statement of opportunities.

91DA—AEMO's obligation in regard to gas statement of opportunities

This clause provides that AEMO must prepare, periodically review, revise, and publish the gas statement of opportunities in accordance with the Rules.

Division 5—Fees and charges

91E—AEMO fees and charges

This clause enables AEMO to determine and levy fees and charges, on a non-profit basis to enable costs over time to approximate revenue.

Division 6—Information gathering

91F—Information gathering powers

This clause enables AEMO to make orders, either to persons or a class of persons, requiring the provision of certain information in relation to specified functions.

91FA—Making and publication of general market information order

This clause provides the conditions for making a general market information order, including consultation and publication requirements.

91FB—Service of market information notice

This clause provides the conditions for making a market information order to a person, including consultation and publication requirements.

91FC—Compliance with market information instrument

This clause outlines the need for, and conditions surrounding, compliance with a market information order and protects a person for civil liability for compliance.

91FD—Use of information

This clause enables AEMO to use any information obtained for any purpose connected with the exercise of AEMO's statutory functions, subject to this Law, and the Rules, Regulations and Procedures.

91FE—Providing false or misleading information

This clause provides penalties for knowingly providing false or misleading information in response to a market information order.

Division 7—Protected information

Subdivision 1—AEMO's obligation to protect information

91G—Protected information

This clause requires AEMO to prevent information given to it in confidence or in connection with its statutory duties from being used or disclosed in a way contrary to this Law, the Rules, Procedures or Regulations.

Subdivision 2—Disclosure of protected information held by AEMO

91GA—Authorised disclosure of protected information

This clause authorises AEMO to disclose protected information in accordance with this Subdivision.

91GB—Disclosure with prior written consent

This clause authorises AEMO to disclose protected information if it has the written consent of the person from whom the information was obtained.

91GC—Disclosure required or permitted by law etc

This clause authorises AEMO to disclose protected information under certain laws or to certain bodies and the use of that information in connection with the performance of functions or exercise of powers of that body.

91GD—Disclosure for purposes of court and tribunal proceedings

This clause authorises AEMO to disclose protected information for the purposes of court or tribunal proceedings.

91GE—Disclosure of document with omission of protected information

This clause enables AEMO to disclose documentation with both protected and unprotected information by omitting the protected information.

91GF—Disclosure of non-identifying information

This clause enables AEMO to disclose protected information provided the information and its disclosure cannot lead to the identification of the person to whom that information relates.

91GG—Disclosure of protected information for safety, proper operation of the market etc

This clause enables AEMO to disclose protected information when necessary for the safety, reliability, security and supply of gas or a pipeline, for the proper operation of a regulated gas market or where the information is in the public domain.

91GH—Disclosure of protected information authorised if detriment does not outweigh public benefit

This clause enables, and outlines the conditions under which, AEMO to disclose protected information if disclosure would not detriment the person who has given it or a person from whom that person received it, or where the public benefit of disclosure outweighs that detriment.

Division 8—Obligation to make payments

91H—Obligations under Rules or Procedures to make payments

This clause outlines the obligation and timeframes under which a registered participant, or AEMO, must make payments owed under the Rules or Procedures.

Division 9—AEMO's statutory funds

91J—Definitions

This clause defines Rule fund in this Division.

91JA—AEMO's Rule funds

This clause vests existing Rule funds in AEMO and makes AEMO responsible for the administration of Rule funds.

91JB—Payments into and out of Rule funds

This clause requires certain payments under the Rules and Procedures, including income from investment of money in a Rule fund, to be paid into that Rule fund, and requires payments out of a Rule fund to only be made in accordance with the Rules and Procedures or to pay liabilities or expenses of the Rule fund.

91JC—Investment

This clause enables AEMO to invest money held in a Rule fund subject to the exercise of care, diligence and skill.

Division 10—Immunity

91K—Immunity from liability

This clause grants immunity from civil monetary liability to AEMO and its officers and employees for any act or omission in the course of their duties, unless in bad faith or through negligence, and provides for a monetary limit to be set for liability in the event of negligence.

91KA—Supply interruption or disconnection in compliance with AEMO's direction

This clause grants immunity from civil monetary liability to a distributor who interrupts or disconnects the supply of natural gas to an end user in compliance with an AEMO direction, unless in bad faith or through negligence, and provides for a monetary limit to be set for liability in the event of negligence.

91KB—Immunity in relation to use of computer software

This clause grants immunity to AEMO, former gas market operators and their officers, employees and agents for loss suffered as a consequence of the use of computer software to operate a gas market.

91KC—Immunity from liability—dispute resolution

This clause grants immunity from civil monetary liability to arbitrators, mediators, managers and facilitators of dispute resolution processes, unless done in bad faith.

Part 7—Regulation of retail gas markets

Division 1—Registration

91L—Retail gas markets

This clause defines retail gas market and regulated retail gas market.

91LA—Retail market participation

This clause outlines who is a registrable market participant.

91LB—Registration required for market participation

This clause requires, unless exempt, market participants to be registered and exempts AEMO from registration for performing statutory functions.

91LC—Certificates of registration etc

This clause provides for certificates of registration or exemption to be made.

Division 2—Retail Market Procedures

91M—Retail Market Procedures

This clause allows AEMO to make Retail Market Procedures in accordance with the Rules.

91MA—Nature of Retail Market Procedures

This clause outlines the nature of a Retail Market Procedure, directed at the regulation of a retail gas market, and prevents Retail Market Procedures from creating an offence or providing for criminal or civil liability.

91MB—Compliance with Retail Market Procedures

This clause requires, and outlines the conditions for, compliance with Retail Market Procedures.

15—Amendment of section 98—Initial classification decision to be made as part of recommendation

This clause replaces pipeline classification criterion with jurisdictional determination criteria.

16—Substitution of heading to Chapter 7, Part 1

This clause makes consequential amendments as a result of AEMO becoming the Bulletin Board operator.

17—Substitution of sections 217 and 218

217—AEMO to be Bulletin Board operator

This clause gives AEMO responsibility for the operation of the Natural Gas Services Bulletin Board.

218—AEMO's obligation to maintain Bulletin Board

This clause outlines AEMO's obligations in relation to maintaining the Bulletin Board.

18—Amendment of section 219—AEMO's other functions as operator of Natural Gas Services Bulletin Board

This clause makes consequential amendments to section 219 as a result of AEMO becoming the Bulletin Board operator.

19—Repeal of section 220

This clause repeals section 220. It is no longer necessary due to proposed new section 91AB.

20—Repeal of section 221

This clause repeals section 221. It is no longer necessary due to the new arrangements that are to apply by virtue of AEMO assuming responsibility for the operation of the Bulletin Board.

21—Amendment of section 222—Fees for services provided

This clause makes consequential amendments to section 222 as a result of AEMO becoming the Bulletin Board operator.

22—Amendment of section 223—Obligation to give information to AEMO

This clause makes consequential amendments to section 223 as a result of AEMO becoming the Bulletin Board operator.

23—Amendment of section 225—Giving AEMO false or misleading information

This clause makes consequential amendments to section 225 as a result of AEMO becoming the Bulletin Board operator.

24—Amendment of section 226—Immunity of persons giving information to AEMO

This clause makes consequential amendments to section 226 as a result of AEMO becoming the Bulletin Board operator.

25—Substitution of Chapter 7, Part 3

Part 3—BB Procedures

227—BB Procedures

This clause enables AEMO to make BB Procedures.

228—Nature of BB Procedures

This clause outlines the nature of a BB Procedure, directed at the regulation of the Natural Gas Services Bulletin Board, and prevents BB Procedures from creating an offence or providing for criminal or civil liability.

228A—Compliance with BB Procedures

This clause mandates compliance with BB Procedures, provides that an applicable access agreement overrules a BB Procedure and allows AEMO to direct in writing compliance with a BB Procedure.

26—Amendment of section 229—Instituting civil proceedings under this Law

This clause makes consequential amendments to section 229 to include the Procedures.

27—Amendment of section 230—Time limits within which proceedings may be instituted

This clause makes consequential amendments to section 230 to include the Procedures.

28—Amendment of heading to Chapter 8, Part 2

This clause makes consequential amendments to the heading of Chapter 8, Part 2, to include the Procedures.

29—Amendment of section 231—AER proceedings for breaches of this Law, Regulations or the Rules that are not offences

This clause makes consequential amendments to section 231 to include the Procedures.

30—Substitution of section 243

243—Applications for judicial review of AEMO's decisions

This clause allows judicial review of AEMO decisions or determinations under this Law, the Rules or Procedures.

31—Amendment of section 244—Definitions

This clause alters the definitions for this Part to include AEMO's ability to make a decision to disclose information under section 91GH.

32—Amendment of heading to Chapter 8, Part 5, Division 3

This clause makes consequential amendments as a result of AEMO's ability to make a decision to disclose information under section 91GH.

33—Amendment of section 263—Application for review

This clause makes consequential amendments as a result of AEMO's ability to make a decision to disclose information under section 91GH.

34—Amendment of section 265—Determination in the review

This clause makes consequential amendments as a result of AEMO's ability to make a decision to disclose information under section 91GH.

35—Amendment of section 266—Tribunal must be taken to have affirmed decision if decision not made within time

This clause makes consequential amendments as a result of AEMO's ability to make a decision to disclose information under section 91GH.

36—Substitution of section 267

267—Assistance from AER or AEMO

This clause makes consequential amendments as a result of AEMO's ability to make a decision to disclose information under section 91GH.

37—Insertion of Chapter 8, Part 5A

Part 5A—Dispute resolution under the Rules

270A—Interpretation

This clause defines references to procedural Parts or review provisions of jurisdictional commercial arbitration acts according to the jurisdiction in which the Law is applied and a rule dispute is heard and determined.

270B—Commercial Arbitration Acts to apply to proceedings before Dispute resolution panels

This clause provides the manner in which the jurisdictional commercial arbitration acts are to apply to proceedings before dispute resolution panels.

270C—Appeals on questions of law from decisions or determinations of Dispute resolution panels

This clause enables appeals on questions of law from decisions or determinations of dispute resolution panels and decisions that are classified under the Rules as an appealable decision.

38—Amendment of section 290—Definitions

This clause makes consequential amendments as a result of AEMO taking over the role of certain other bodies.

39—Insertion of section 294A

294A—South Australian Minister to make initial Rules and Procedures related to AEMO's functions under this Law

This clause enables, and outlines the conditions on which, the South Australian Minister to make initial Rules and Procedures, upon recommendation by MCE.

40—Amendment of section 295—Initiation of making of a Rule

This clause limits the persons who may initiate the making of a new Rule by the AEMC and outlines limits to the AEMC's rule-making power.

41—Amendment of section 308—Draft Rule determination

This rule specifies that the draft of the Rule to be made need not be the same as the draft of the proposed Rule to which the notice under section 303 relates.

42—Amendment of section 310—Pre-final Rule determination hearing may be held

This clause makes technical amendments to section 310.

43—Substitution of section 312

312—Proposal to make more preferable Rule

This clause enables the AEMC to make a draft or final Rule determination with respect to what it considers to be a more preferable Rule, in view of the response to a draft Rule determination.

44—Insertion of section 328A

328A—Disclosure of information that has entered the public domain

This clause authorises the AER to disclose information given to it in confidence, in compliance with this Law or the Rules or voluntarily, if the information is already in the public domain.

45—Amendment of section 329—Disclosure of confidential information authorised if detriment does not outweigh public benefit

This clause makes consequential amendments as a result of the insertion of section 328A.

46—Amendment of section 332—Failure to make a decision under this Law or the Rules within time does not invalidate the decision

This clause alters the definition of regulatory scheme decision maker to include AEMO.

47—Amendment of Schedule 1—Subject matter for the National Gas Rules

This clause amends the subject matter for the National Gas Rules to include AEMO's new role and powers and dispute resolution processes.

48—Amendment of Schedule 2—Miscellaneous provisions relating to interpretation

This clause makes consequential amendments as a result of AEMO's role as the Bulletin Board operator and ability to issue evidentiary certificates.

49—Amendment of Schedule 3—Savings and transitionals

Part 11—Transitional provisions related to AEMO's new functions and its assumption of role of former gas market operators

Division 1—Preliminary

54—Definitions

This clause provides definitions for Part 11.

Division 2—General provisions

55—Saving operation of superseded jurisdictional rules

This clause provides that, subject to this Schedule, the new rules do not act retrospectively by affecting the previous proper operation of, or penalties or proceedings and acquisition of rights, privileges or liabilities in relation to, the superseded jurisdictional rules.

56—Transitional provisions governing accrued and accruing rights, liabilities etc

This clause provides that references to or actions taken under the superseded rules are to be taken to be a reference to the corresponding current rules, and that rights or liabilities accruing, or liabilities, penalties or obligations incurred, under the superseded rules continue under the corresponding provisions of the current rules.

57—Investigations

This clause enables the AER to commence and continue an investigation into a possible breach of the superseded rules as if it were a breach of this Law and exercise all its corresponding powers.

58—Proceedings for breach of superseded jurisdictional rules

This clause enables the AER to commence and continue proceedings with respect to a breach of the superseded rules, with those proceedings being subject to any conditions provided by the superseded rules.

59—Dispute resolution

This clause provides that disputes arising from circumstances occurring before the changeover date are to be dealt with as a rule dispute, except for disputes arising from circumstances occurring in Queensland or Victoria, which are to be dealt with in accordance with the superseded jurisdictional rules.

60—Registered participants

This clause provides for the automatic registration of certain persons, or persons of a class, specified in the Regulations.

61—Instruments made by former gas market operators

This clause provides for instruments made by former gas market operators in force at the changeover date to continue in force subject to amendment by AEMO and provided the instruments could have been made under the current rules.

62—Rule change proposals

This clause provides for a rule change proposal under the superseded rules to be treated as a request for the making of a Rule or Procedure (as the case requires), and enables AEMO to dispense with particular steps in the process if no equivalent step existed, or has already been taken, under the superseded rules.

63—Incompatibility between request for the making of Rule or Procedure and Minister-initiated Rule or Procedure

This clause enables AEMC or AEMO (as the case requires) to reject a request to make a Rule or Procedure where it is to be revoked under a Minister-initiated Rule or Procedure that has been made but is not yet in operation. This clause also enables AEMC or AEMO to treat a request for an amendment of a Rule or Procedure, that is to be amended by a Minster-initiated Rule or Procedure, as a request relating to that Rule as amended.

64—Natural Gas Services Bulletin Board

This clause provides for the continuation of the Natural Gas Services Bulletin Board, under AEMO, in the same form.

65—Publication of notices etc

This clause provides that notices published by AEMO on the website of a former gas market operator fulfil publication of notice requirements.

66—Rights under change of law provisions not to be triggered by amendments to this Law etc

This clause provides that rights under change of law provisions are not to be triggered by amendments to this Law.

Division 3—Transfer of assets and liabilities of GMC and AEMO T

67—Transfer of assets and liabilities

This clause provides for the transfer, by instrument in writing from the NSW Minister, of any of GMC's assets to AEMO and the ability, where done in error, for the NSW Minister to 'claw back' such assets.

68—Transfer of AEMO T's assets and liabilities

This clause enables the South Australian Minister to transfer the entirety of AEMO T's assets and liabilities to AEMO by Ministerial Gazette notice.

69—Effect of relevant transfer order

This clause outlines the effect of a transfer or claw-back order under section 67 and a Ministerial Gazette notice under section 68.

70—Continued effect of certain acts by GMC or AEMO T

This clause provides that any acts or omissions by GMC or AEMO T in relation to assets or liabilities transferred to AEMO, and still in effect at the time of transfer, are taken to be done by AEMO.

71—Continuation of proceedings

This clause provides for proceedings by or against GMC or AEMO T, which are commenced before 1 July 2009, to be continued and completed by or against AEMO.

72—Validity and effect of things done under this Division

This clause outlines the limits to the validity and effect of things done under this Division, and requires AEMO to keep GMC and AEMO T's books for 7 years and allow access to them by GMC and AEMO T.

73—Evidence of transfer

This clause provides for written notice, by the NSW Minister or South Australian Minister (as the case requires), of the transfer of assets or liabilities to GMC or AEMO T to be conclusive evidence of that transfer.

74—Obsolete references

This clause provides for a reference in a document to GMC or to AEMO T, in connection with an asset or liability transferred to AEMO, to taken to be a reference to AEMO.

Division 4—Acceptance of transfer from former gas market operators and AEMO T

75—Parties to transfer must do anything necessary to perfect transfer

This clause requires AEMO to accept any assets or liabilities to be transferred to it from GMC or AEMO T, and requires AEMO, AEMO T and GMC to take any steps necessary to perfect that transfer.

76—Corporations Act displacement

This clause provides for any provision in this Part that is inconsistent with the Corporations Act 2001 (Cth) to be a Corporations legislation displacement provision, resulting in the Corporations Act 2001 not applying to the extent of any inconsistency.

Division 5—Fees and charges

77—AEMO's fees and charges

This clause requires AEMO, for 2 years, to continue recovering fees and charges on the same bases as was done by the former gas market operator whose functions have been assumed, and for the third year to continue in the same manner subject to a review by AEMO.

78—Establishment expenditure

This clause enables AEMO to recover its establishment costs, over a period of 4 years from the changeover date, as a component of the participant fees payable by users and non-scheme pipeline users.

79—Expenditure on gas statement of opportunities

This clause provides for expenditure on the gas statement of opportunities made before, or within 3 years after, the commencement date to be treated as expenditure on a major gas project, and for costs to be recovered on the same bases as under section 78 of this Schedule.

Division 6—Information

80—Transferred information

This clause provides that AEMO must deal with information acquired from AEMC T and GMC on the same bases as was required by AEMO T or GMC, and must allow AEMO T and GMC representatives access to that information.

81—Calculations

This clause requires calculations made by AEMO T or GMC still in effect at the changeover date to be taken to have made by AEMO.

Division 7—Deferral of relevant legislative innovations in Queensland

82—Queensland Minister's power to defer commencement of relevant legislative innovations

This clause provides for the Queensland Minister to defer the commencement in Queensland of specified parts or provisions of the relevant legislative innovations.

Division 8—Special transitional provisions for South Australia

83—Definitions

This clause provides definitions for this Division of this Schedule.

84—Transitional contracts

This clause provides for contracts prescribed in the appendices to the South Australian Retail Market Rules in force at the changeover date to continue in force under the corresponding provisions of the Retail Market Procedures, with references to REMCo taken as references to AEMO.

85—Contractual provisions for dispute resolution

This clause provides for contractual provisions for dispute resolutions to take precedence over any provisions in this Law or the Rules.

86—Risk allocation

This clause provides for certain clauses of the Retail Market Procedures to take precedence over certain provisions of this Law and the Rules to the extent of any inconsistency.

Debate adjourned on motion of Hon. S.G. Wade.

MENTAL HEALTH BILL

The House of Assembly agreed not to insist on its disagreement to amendment No. 24.

NATIONAL ELECTRICITY (SOUTH AUSTRALIA) (NATIONAL ELECTRICITY LAW—AUSTRALIAN ENERGY MARKET OPERATOR) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (22:26): 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.

The Government is again delivering on a key energy commitment through new legislation to improve the governance arrangements of the Australian energy sector, for the benefit of South Australians and all Australians.

In April 2007, the Council of Australian Governments (COAG) agreed to establish a single, industry-funded national energy market operator, to be called the Australian Energy Market Operator (AEMO), for both electricity and gas to strengthen the national character of energy market governance. This Bill and the accompanying amendments to the *National Gas (South Australia) Act 2008* implement this commitment.

In its report to COAG recommending the establishment of AEMO, the Energy Reform Implementation Group considered that the main benefits of establishing AEMO were:

(a) More efficient outcomes for the energy market arising from information sharing leading to an improved understanding of market operations and interactions between the gas and electricity sectors;

(b) Improved emergency management coordination;

(c) Economies of scale arising from common information technology systems for gas and electricity (for market operation, system monitoring and information gathering);

(d) The provision of a single interface for energy market participants reducing red tape and duplication of interactions, thereby lowering costs;

(e) Administrative cost savings in corporate support structures; and

(f) A more substantive organisation able to attract and retain a core mass of appropriate expertise.

In accepting this recommendation, COAG noted that in conjunction with other governance initiatives, the creation of AEMO will provide a solid foundation for the long term development of Australia's energy market.

These amendments seek to realise these gains with minimal changes to the existing regulatory frameworks. While these amendments are only minimal changes to the framework, it is intended that AEMO will serve as a platform for future energy market reforms such as the anticipated gas short term trading market.

AEMO will perform a range of new functions. These amendments confer the new electricity National Transmission Planner (NTP) function on AEMO and amendments to the *National Gas (South Australia) Act 2008* will empower AEMO to prepare the Gas Statement of Opportunities (GSOO).

As well as the new functions AEMO will take over the functions currently performed by the Gas Market Company (GMC) in New South Wales, the National Electricity Market Management Company (NEMMCO), the Victorian Energy Networks Corporation (VENCorp), the Queensland Gas Retail Market Operator (GRMO), the Retail Energy Market Company's (REMCo) South Australian functions and the planning functions currently performed by this State's Electricity Supply Industry Planning Council (ESIPC).

As is currently the case with NEMMCO, AEMO will be a not for profit company limited by guarantee. An important component of the current reform is to provide energy industry participants the opportunity to become members of the company, thereby providing industry stakeholders with a direct role in oversight of the market company in partnership with government members to provide efficient and effective energy markets. Importantly, government members will retain 60 percent of the voting rights while industry members will have the remaining 40 percent of voting rights, with these arrangements subject to review after three years. The initial members of AEMO will include all jurisdictions other than Western Australia and the Northern Territory as well as energy supply side entities.

NEMMCO

These amendments allow AEMO to take over all of the functions currently performed by NEMMCO under the National Electricity Law (NEL) and National Electricity Rules (NER). These functions are principally to operate the wholesale electricity exchange, to manage retail customer transfers and to promote the development of the national electricity market. NEMMCO's market operator functions are not being substantially altered as a result of the establishment of AEMO. This Bill makes minor technical amendments to the Law and Rules to allow AEMO to take over these functions. These principally involve changing references in the legislation from NEMMCO to AEMO.

National Transmission Planner

A major new electricity function of AEMO will be its role as the National Transmission Planner.

On 13 April 2007, COAG agreed to the establishment of an enhanced planning process for the national transmission network to ensure a more strategic and nationally coordinated approach to transmission network development. COAG noted that this would provide guidance to private and public investors to help optimise investment between transmission and generation across the power system and inform transmission companies' investment decisions as well as the Australian Energy Regulator's (AER) regulatory reset processes associated with the economic regulation of transmission assets.

In July 2007, MCE requested the Australian Energy Market Commission (AEMC) to undertake a review to develop the framework for the establishment of the NTP, including developing a detailed implementation plan for a NTP function. The AEMC's final report that included proposed changes to the NEL and the NER was provided to the MCE on 30 June 2008. In November 2008 the MCE published its response to the Report's recommendations, with that policy framework being the basis of these amendments.

The principal task of the NTP will be to ensure the strategic, nationally focussed and efficient development of the grid. Section 49(2) of the amendments to the NEL defines the core elements of AEMO's NTP function, including to:

- prepare, maintain and publish a plan for the development of the national transmission grid (the National Transmission Network Development Plan or NTNDP);
- establish and maintain a public database of information relevant to planning the development of the national transmission grid;
- keep the national transmission grid under review and provide advice on the development of the grid or projects that could affect the grid; and
- provide a national strategic perspective for transmission planning and co-ordination.

As was highlighted in the MCE response, the NTP's independent, strategic view of the network will add value to the regulatory test assessments and the AER's revenue resets for Transmission Network Service Providers (TNSPs). This is because AEMO's ability to make submissions will assist in ensuring that local network investments complement the broader strategic direction of the network. This recognises that even small investments in one section of the network could potentially have significant impacts on the wider grid. It is intended that AEMO will adopt disciplines in this role to ensure submissions are only made on relevant proposals.

The response also recognised that national transmission flow paths is flexible enough to consider both primary and secondary elements of the transmission network and enables it to adapt over time with changing flows on the network and the development of new technologies and usage patterns. Importantly, the response noted that the definition of national transmission flow paths for the purposes of AEMO's national transmission planning function is not constrained by the current interpretation of national transmission flow paths.

Further detail regarding the performance of these functions will be contained in the NER.

The NTNDP must be published no later than 31 December each year (for the coming year), with the requirement for the first publication to be no later than 31 December 2010. The NTNDP will present a broad and deep analysis of different future supply and demand scenarios for National Transmission Flow Paths, taking into account various policy, technology and economic assumptions and forecasting out at least 20 years from the beginning of the year in which the NTNDP applies. Information within the NTNDP, such as current and future congestion and transmission development strategies under a range of scenarios, will enhance the ability of the market to identify and respond to investment issues in an economically efficient and timely fashion.

There will be strong inter-linkages between AEMO's NTP function and TNSP planning. The NTNDP will include a consolidated summary of each TNSP's Annual Planning Report (APR) and additionally have regard to these reports. In preparing the NTNDP that is to be published, AEMO must also have regard to:

(a) the most recent electricity Statement of Opportunities (SOO) that has been published;

(b) the most recent GSOO that has been published; and

(c) the current revenue determination for each TNSP.

This is complemented by amendments to the NER which will require TNSPs to explain in their APRs how their proposals relate to the current NTNDP and current or future development strategies for national transmission flow paths.

The NTNDP provisions define an annual stakeholder consultation process that AEMO will be required to undertake in the production of the NTNDP. This consultation will allow market participants to make written submissions on the proposed NTNDP inputs, the content of the NTNDP as it applies for the current year and on issues raised in a statement of material issues for the NTNDP to be published by AEMO. Further, AEMO will be required to establish and maintain a publicly available database of key inputs into the NTNDP. To support these functions AEMO will be empowered to issue Market Information Orders (MIO) and Market Information Notices (MIN) to gather information from relevant participants as discussed further under Information Gathering.

Included in the NER draft are a number of amendments to the NER which allow for the transfer of the functions of the Inter-Regional Planning Committee (IRPC) to AEMO. The 13 April 2007 COAG decision required the role of the IRPC to be subsumed by the NTP function. The functions of the IRPC are largely technical in nature and cover a wide range of operational and planning activities. To the extent they are not made redundant by the new NTP arrangements, the functions will be retained and transferred to AEMO.

AEMO's Additional Advisory Functions

The enhanced strategic planning function of the NTP will necessitate the establishment of regional offices of AEMO to ensure there is a comprehensive understanding of regional issues while also providing a critical mass of independent technical expertise in network planning, AEMO will also take responsibility for the planning functions currently performed by the South Australian Electricity Supply Industry Planning Council (ESIPC) under the *Electricity Act 1996*. These functions are included in Subdivision 2 of Division 2 of Part 5 of the NEL and are described as 'Additional Advisory Functions.'

These amendments will allow AEMO to provide the planning services currently provided by ESIPC in South Australia. These provisions allow AEMO to conduct more detailed electricity network planning in South Australia in addition to the work it will undertake nationally as the NTP. AEMO will also have a specific role in providing information to the South Australian Government to assist in the management of the energy sector. ESIPC's functions with regard to emergency management will be retained within the South Australian jurisdiction.

AEMO will be empowered to use its new information gathering powers to collect information to assist it to perform its additional advisory functions.

The additional advisory functions are described generically in the NEL and NER in a manner that allows them to be operational only when applied by the jurisdiction through application legislation. They are applied in South Australia by a provision of the principal Act to be inserted by this Bill.

Declared Network Functions

AEMO will take over the functions currently performed by VENCorp. VENCorp is a State owned entity within Victoria.

VENCorp's principal electricity functions are the provision of electricity transmission services, electricity transmission planning and direction of augmentations for the privately owned transmission system in Victoria.

The VENCorp electricity functions are described generically in the Law in a manner that facilitates their application by a jurisdiction through its application legislation. They are described as part of AEMO's 'adoptive jurisdiction' functions.

The VENCorp electricity transmission functions are described as 'declared network functions' that will apply only where the jurisdiction has invoked the relevant part of the NEL. Currently it is intended that only Victoria will apply these provisions in its application legislation.

Fees and Cost Recovery

The legislative amendments seek to establish an effective cost recovery regime across electricity and gas that allows AEMO to fund the delivery of the services it is statutorily required to provide. The key features of this regime are that the costs borne by participants should reflect the costs incurred by AEMO in providing services to the participant, and that there should be no cross subsidisation between AEMO's different functions.

To achieve these aims the amendments retain NEMMCO's cost recovery model for electricity and expand it to AEMO's new gas functions. As such, amendments to the NGL will include requirements for AEMO to:

(a) prepare and publish, before the beginning of each financial year, a budget of AEMO revenue requirements for that financial year. The budgeted revenue must take into account and separately identify projected revenue requirements to support forecast expenditure for AEMO's identified lines of business; and

(b) develop and consult on the participant fee structure for its various functions in accordance with various cost recovery principles. There will also be an ability to dispute the participant fee structure.

These amendments also clarify AEMO's capacity to recover costs that are common between the two industries and permits AEMO to spread costs over multiple years to smooth their impact on participants.

These NEL amendments include the ability for AEMO to recover the costs associated with its new NTP function, new GSOO function, as well as the additional advisory function. The mechanism for recovery of the costs of AEMO's declared network functions will continue to be regulated through Chapter 6A of the NER, with relevant modifications to reflect the broader AEMO cost recovery model and the respective roles of AEMO and a relevant TNSP. Those modifications will apply in place of the current Victorian derogations in Chapter 9 of the NER.

Relevant amendments to Chapter 6A of the NER will ensure that AEMO's revenue for its Victorian TNSP function is not subject to approval by the AER. However, AEMO will be required to prepare a revenue methodology which will be subject to public consultation.

To minimise disruption, under the amendments to the NGL, the cost recovery frameworks of the existing market operators will be retained for a minimum of two years with a review no later than three years after AEMO's establishment. The result of this is that for the first two years of operation AEMO's fees and charges will be determined on the same basis as they were by the former market operators.

Information Gathering

The MCE supports broad and clear information gathering powers for AEMO's national transmission planning function. This will allow AEMO to undertake its function effectively, and ensure cooperative working relationships are formed between AEMO and market participants. These amendments introduce a new information gathering framework for AEMO which will be common across its new electricity and gas functions. The common framework will provide AEMO with a flexible, effective and transparent mechanism to gather information required to undertake its new functions.

The MCE notes the stakeholder comments regarding the broader information gathering arrangements the legislation includes to support the development of the NTNDP and a comprehensive gas Statement of Opportunities. MCE is confident that the combination of AEMO's governance arrangements and the protections in the law will ensure the appropriate use of these instruments. The key protections built into the framework are:

(a) the restriction of the use of the instruments to specific functions listed in the Law;

(b) an obligation on AEMO to consult prior to issuing an instrument;

(c) the requirement that the issuing of the instrument is reasonably necessary for the performance of AEMO's functions; and

(d) the requirement to have regard to the reasonable costs of efficient compliance in considering whether to issue a MIO or MIN.

MCE expects that AEMO will use these powers prudently. In this regard, MCE appreciates the cooperative approach between market participants and NEMMCO with respect to information provision for the Statement of Opportunities and the Annual National Transmission Statement to date, and hopes that cooperation will continue to be the basis of the relationship between market participants and AEMO. MCE does not consider that the powers should replace the existing cooperative approach to information gathering.

The amendments to the NEL will allow AEMO to issue MIOs and MINs to support its functions as NTP, operator of the Victorian declared network and planning functions and in its role in providing additional advisory service in South Australia. The corresponding gas amendment allows AEMO to use MIOs and MINs to assist it to prepare the GSOO and to perform its role under the Victorian declared system functions.

The provisions for MIOs and MINs are based upon the regulatory information order and notice provisions that are currently in both the NEL and the National Gas Law (NGL) and apply to the AER. This model was recommended by the AEMC in its NTP Final Report and was supported by the MCE in its response to this report.

The proposed amendments to the NEL allow a MIO or MIN to be issued to any person, including TNSPs, generators and others to support AEMO's planning and advisory functions. This is necessary in view of the type of information that will need to be gathered to support the intention for a broad and deep analysis of future supply/demand scenarios. The accuracy of these scenarios will be dependent on gathering data from existing generators and new entrant generators as well as TNSPs.

As noted, MCE expects that the legislative checks and balances in the information gathering arrangements will continue to facilitate a co-operative approach between industry and AEMO. Governments will, through the MCE, maintain an interest in the implementation of the information gathering arrangements and will take into account industry and regulator feedback on their appropriateness, effectiveness and efficiency over time.

An important benefit of establishing AEMO is that it can improve the exercise of all of its various functions by sharing information gathered in the performance of individual functions. The NEL (and the NGL) allows AEMO to use all information gathered under any of its information gathering powers, including MINs and MIOs for any purpose connected with the performance of its statutory functions.

These amendments also allow AEMO to disclose information to specified energy market institutions. This is because one of the benefits of establishing the national regime is the opportunity to maximise the efficiencies and synergies that may be achieved. It should be noted that passing information to third parties will be subject to judicial review.

To ensure that these information gathering powers are effective these amendments contain provisions that require the recipient of a MIO or MIN to comply with it and failure to do so will be prescribed by regulation as a civil penalty. AEMO may, however, grant persons a general or specific exemption from compliance with a MIO and the issuing of MIOs and MINs will be subject to judicial review.

Consistent with other similar provisions regarding the provision of information to bodies performing statutory functions, providing information that is known to be false or misleading in response to a MIO or MIN will be a criminal offence.

Protected Information

These amendments strengthen confidentiality obligations by elevating these obligations from the Rules into the Law. The proposed Division 6 of Part 5 of the NEL (and included in the NGL) sets out obligations on AEMO in respect of protected information. Under the proposed legislation, AEMO will have an obligation to take all reasonable measures to protect from unauthorised use or disclose information:

(a) given to it in confidence; or

(b) given to it in connection with the performance of its statutory functions and classified under the Rules as confidential information.

This is consistent with the approach adopted for similar confidentiality obligations imposed on the AER and the AEMC by s44AAF of the *Trade Practices Act 1974* (Cth) and s24 of the *Australian Energy Market Commission Establishment Act 2004 (SA)* respectively. The relevant provisions substantially replicate the current rule 8.6 of the NER.

Consequential amendments to rule 8.6 are being made to remove the obligations imposed by that rule on NEMMCO, while preserving the obligations set out in the rule on Registered Participants. The remaining provisions dealing with confidential information in the NER continue to operate essentially unamended.

An identical regime for the treatment of protected information is proposed for the NGL and National Gas Rules (NGR) and underpinning Procedures. This is intended to replace the principal substantive obligations in relation to confidential information currently operating under the jurisdictional retail market rules and the Victorian wholesale gas Market System Operation Rules (MSOR). Certain variations are proposed to the equivalent of rule 8.6 in the NGR to adapt the rule for the purposes of the gas framework. These are based substantially on VENCorp's retail market rules.

As mentioned, section 54C of the NEL amendments will allow AEMO to share information with energy industry regulatory bodies, including the AER. This provision replicates similar arrangements for the AER and AEMC. The purpose of these provisions is to ensure efficient information transfer between different energy market bodies to ensure the effective operation of the regulatory framework.

Immunities

These amendments retain the existing NEMMCO immunities in Part 9 of the NEL for AEMO, and a new set of provisions in the NGL, so that these provisions will now apply to AEMO when performing any of its functions under the NEL and NGL.

The amendments also elevate two key immunities from the NER into the NEL, these provisions have been moved as it was considered more appropriate to deal with limitation on liability in the NEL than the NER.

The new section 120A replicates the existing rule 3.17.2 (which will be consequentially omitted) and provides immunity for contractors providing software to AEMO. While the existing immunity for arbitrators and mediators has been moved from rule 8.2.12 to the new section 120B for electricity (and replicated for gas).

The NGL amendments also contain additional immunities for specific to AEMO's role in gas. A new provision in the NGL is designed to protect service providers when disconnecting customers in compliance with the NSW user exit rules. The current immunities that apply to VENCorp when operating the Victorian wholesale market have also been replicated. Additionally the transitional provisions preserve existing immunities under the current South Australian retail market rules until the expiry of certain existing contracts.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *National Electricity (South Australia) Act 1996*

4—Amendment of section 12—Specific regulation-making power

5—Amendment of section 14—Freedom of information

These amendments make consequential changes on account of the arrangements around AEMO (previously known as NEMMCO).

6—Insertion of Part 7

This provision is necessary in order for AEMO's advisory functions set out in Part 5 Division 2 Subdivision 2 of the NEL (as enacted by this Act) to apply in South Australia.

Part 3—Amendment of *National Electricity Law*

7—Amendment of section 2—Definitions

This clause provides new definitions for the definition section (section 2) of the National Electricity Law.

8—Amendment of section 11—Electricity market activities in this jurisdiction

This clause makes consequential amendments as a result of NEMMCO's name being changed to AEMO.

9—Amendment of section 12—Registration or exemption of persons participating in national electricity market

This clause makes consequential amendments as a result of NEMMCO's name being changed to AEMO.

10—Substitution of section 14

14—Evidence of registration or exemption

This clause provides that a certificate certifying that a person is a registered participant is conclusive evidence, where signed by an authorised officer (from AEMO or AER, as circumstances require).

11—Amendment of section 15—Functions and powers of AER

This clause places certain restrictions on AER's powers with respect to AEMO.

12—Amendment of section 16—Manner in which AER performs AER economic regulatory functions or powers

This clause makes consequential amendments as a result of the possibility of AEMO being affected by a determination by AER.

13—Amendment of section 28M—Further provision about manner in which information must be provided to AER or kept

This clause makes minor changes to section 28M.

14—Insertion of section 28ZAB

28ZAB—Disclosure of information that has entered the public domain

This clause permits AER to disclose information that is already in the public domain.

15—Amendment of section 28ZB—Disclosure of confidential information authorised if detriment does not outweigh public benefit

This clause makes consequential amendments as a result of the addition of section 28ZAB.

16—Amendment of section 34—Rule making powers

This clause makes consequential amendments as a result of NEMMCO's name being changed to AEMO.

17—Substitution of Part 5

Part 5—Role of AEMO under National Electricity Law

Division 1—General

49—AEMO's statutory functions

This clause outlines AEMO's statutory functions, including as the National Transmission Planner.

49A—AEMO's power to carry out statutory functions

This clause provides that AEMO has the power to do all things necessary or convenient for or in connection with its statutory functions.

49B—Delegation

This clause provides the conditions on which AEMO may delegate its powers or functions to its officers and committees.

Division 2—AEMO's adoptive jurisdiction functions

Subdivision 1—Preliminary

50—Application of this Division

This clause describes the application of this Division.

50A—AEMO to account to relevant Minister for performance of adoptive functions

This clause requires AEMO to provide information about the performance of its adopted functions with respect to a jurisdiction if the Minister of that jurisdiction requests so in writing, it requires AEMO to identify any protected information and prohibits a fee for being charged for this service.

Subdivision 2—AEMO's additional advisory functions

50B—Additional advisory functions

This clause describes AEMO's additional advisory functions to include providing reports on an adoptive jurisdiction's power system or matters relevant to the future capacity and reliability of the declared power system.

Subdivision 3—AEMO's declared network functions

50C—AEMO's declared network functions

This clause outlines AEMO's declared network functions.

50D—Network agreement

This clause outlines the need for, and requirements of, declared transmission system operators to make a network agreement with AEMO for the provision of electricity network services, and provides that a transmission determination prevails to the extent of any inconsistency.

50E—Connection agreements

This clause provides the need for certain agreements to be in place where certain network service providers or users want to connect to a declared shared network but the fault levels would be likely to exceed those fixed under the Rules, and allows AEMO to require the applicant to make a contribution to the cost of network augmentation necessary to reduce the fault levels.

50F—Augmentation

This clause prohibits augmentation of a declared shared network without authorisation from AEMO or the Rules, outlines the conditions on which AEMO may authorise augmentation and requires a declared transmission system operator to do anything necessary to facilitate this.

50G—AEMO to have qualified exemption for performing statutory functions

This clause provides that AEMO need not be a Registered Participant and is not subject to those Rules applying to network service providers, unless they are specifically expressed to apply to AEMO.

50H—Resolution of dispute arising from attempt to negotiate a network agreement or augmentation connection agreement

This clause provides the circumstances under which the AER may determine a dispute relating to negotiation of a network agreement or augmentation connection agreement, which is then binding on interested parties.

50J—General principles governing determinations

This clause provides general principles for the AER making determinations under this Subdivision.

Division 3—Information etc to be provided to Ministers

51—Ministerial request

This clause enables MCE or Ministers of participating jurisdictions to ask AEMO for information, and provide a written statement of the purpose for which this is sought.

51A—Compliance with request

This clause requires AEMO to comply with a request under this Division, and mandates that protected information may only be disclosed under such a request if authorised under this Law or the Rules.

51B—Quarterly report

This clause requires AEMO to report quarterly to MCE on requests made under this Division, summarising each request and by whom it was made.

Division 4—Fees and charges

52—AEMO fees and charges

This clause enables AEMO to determine and levy fees and charges, on a non-profit basis to enable costs over time to approximate revenue.

Division 5—Information gathering

53—Information gathering powers

This clause enables AEMO to make orders, either to persons or a class of persons, requiring the provision of certain information in relation to specified functions.

53A—Making and publication of general market information order

This clause provides the conditions for making a general market information order, including consultation and publication requirements.

53B—Service of market information notice

This clause provides the conditions for making a market information order to a person, including consultation and publication requirements.

53C—Compliance with market information instrument

This clause outlines the need for, and conditions surrounding, compliance with a market information order and protects a person for civil liability for compliance.

53D—Use of information

This clause enables AEMO to use any information obtained for any purpose connected with the exercise of AEMO's statutory functions, subject to this Law, and the Rules, Regulations and Procedures.

53E—Providing false or misleading information

This clause provides penalties for knowingly providing false or misleading information in response to a market information order.

Division 6—Protected information

Subdivision 1—AEMO's obligation to protect information

54—Protected information

This clause requires AEMO to prevent information given to it in confidence or in connection with its statutory duties from being used or disclosed in a way contrary to this Law, the Rules or Regulations.

Subdivision 2—Disclosure of protected information held by AEMO

54A—Authorised disclosure of protected information

This clause authorises AEMO to disclose protected information in accordance with this Subdivision, or as authorised by the Rules or Regulations.

54B—Disclosure with prior written consent

This clause authorises AEMO to disclose protected information if it has the written consent of the person from whom the information was obtained.

54C—Disclosure required or permitted by law etc

This clause authorises AEMO to disclose protected information under certain laws or to certain bodies and the use of that information in connection with the performance of functions or exercise of powers of that body.

54D—Disclosure for purposes of court and tribunal proceedings

This clause authorises AEMO to disclose protected information for the purposes of court or tribunal proceedings.

54E—Disclosure of document with omission of protected information

This clause enables AEMO to disclose documentation with both protected and unprotected information by omitting the protected information.

54F—Disclosure of non-identifying information

This clause enables AEMO to disclose protected information provided the information and its disclosure cannot lead to the identification of the person to whom that information relates.

54G—Disclosure of protected information for safety, proper operation of the market etc

This clause enables AEMO to disclose protected information when necessary for the safety, reliability, security and supply of electricity or the national electricity system, for the proper operation of the national electricity market, where the information is customer profiling information for facilitating retail competition, or where the information is in the public domain.

54H—Disclosure of protected information authorised if detriment does not outweigh public benefit

This clause enables, and outlines the conditions under which, AEMO to disclose protected information if disclosure would not detriment the person who has given it or a person from whom that person received it, or where the public benefit of disclosure outweighs that detriment.

Division 7—AEMO's statutory funds

55—Definitions

This clause defines Rule fund in this Division.

55A—AEMO's Rule funds

This clause vests existing Rule funds in AEMO and makes AEMO responsible for the administration of Rule funds.

55B—Payments into and out of Rule funds

This clause requires certain payments under the Rules and Procedures, including income from investment of money in a Rule fund, to be paid into that Rule fund, and requires payments out of a Rule fund to only be made in accordance with the Rules and Procedures or to pay liabilities or expenses of the Rule fund.

55C—Investment

This clause enables AEMO to invest money held in a Rule fund subject to the exercise of care, diligence and skill.

18—Amendment of section 58—Definitions

This clause makes consequential amendments as a result of the amendments to Part 5.

19—Amendment of section 62—Additional Court orders

This clause makes consequential amendments as a result of NEMMCO's name being changed to AEMO.

20—Amendment of section 69A—Commercial Arbitration Acts apply to proceedings before Dispute resolution panels

This clause amends section 69A. The amendment makes it clear that a referral of a Dispute which is to be dealt with under the procedural parts of a Commercial Arbitration Act will be subject to the operation of the relevant Act as if the matter were a referral to arbitration under an arbitration agreement.

21—Amendment of section 70—Applications for judicial review

This clause makes consequential amendments as a result of NEMMCO's name being changed to AEMO.

22—Amendment of section 71A—Definitions

This clause makes consequential amendments as a result of AEMO's power to make decisions to disclose information.

23—Amendment of heading to Part 6, Division 3A, Subdivision 3

This clause makes consequential amendments as a result of the amendment to section 71A.

24—Amendment of section 71S—Application for review

This clause makes consequential amendments to section 71S.

25—Amendment of section 71U—Determination in the review

This clause outlines the requirements of any determinations made under section 71U.

26—Amendment of section 71V—Tribunal must be taken to have affirmed decision if decision not made within time

This clause makes consequential amendments as a result of the cessation of AER.

27—Substitution of 71W

71W—Assistance from AER or AEMO

This clause makes consequential amendments as a result of AEMO's powers.

28—Amendment of section 72—Obligations under Rules to make payments

This clause makes consequential amendments as a result of NEMMCO's change of name to AEMO.

29—Amendment of section 87—Definitions

This clause makes consequential amendments as a result of NEMMCO's change of name to AEMO.

30—Insertion of section 90B

90B—South Australian Minister to make initial Rules related to AEMO's functions under this Law

This clause enables, and outlines the conditions on which, the South Australian Minister to make initial Rules and Procedures, upon recommendation by MCE.

31—Amendment of section 91—Initiation of making of a Rule

This clause limits the persons whose request may initiate the making of a new Rule by the AEMC and outlines limits to the AEMC's rule-making power.

32—Amendment of section 94—Initial consideration of request for Rule

This clause makes amendments to section 94.

33—Amendment of section 100—Right to make written submissions and comments in relation to draft Rule determination

This section makes consequential amendments as a result of changes in this Bill.

34—Amendment of section 101—Pre-final Rule determination hearings

This section makes consequential amendments as a result of changes in this Bill.

35—Substitution of section 102A

102A—Proposal to make more preferable Rule

This clause enables the AEMC to make a draft or final Rule determination with respect to what it considers to be a more preferable Rule, in view of the response to a draft Rule determination.

36—Amendment of section 109—Definitions

This clause makes consequential amendments as a result of AEMO taking over NEMMCO's powers.

37—Amendment of section 110—Appointment of jurisdictional system security coordinator

This clause enables AEMO to be appointed as a jurisdictional system security coordinator, subject to direction by the Minister of the relevant jurisdiction with respect to certain matters.

38—Amendment of section 111—Jurisdictional system security coordinator to prepare jurisdictional load shedding guidelines

This clause requires a jurisdictional system security coordinator to give to AEMO a copy of the jurisdictional load shedding guidelines, if AEMO does not have that role.

39—Amendment of section 112—NEMMCO to develop load shedding procedures for each participating jurisdiction

This clause makes consequential amendments to section 112 and requires AEMO to give to the jurisdictional system security coordinator a copy of the AEMO load shedding procedures.

40—Substitution of section 113

113—Exchange of information

This clause enables AEMO or the jurisdictional system security coordinator to share information about loads and load shedding with Ministers from participating jurisdictions, and other Ministers or officials responsible for public safety, or power system or gas system safety or security, to enable AEMO to maintain power system security.

41—Amendment of section 114—AEMO to ensure maintenance of supply of sensitive loads

This clause makes consequential amendments as a result of NEMMCO's change of name to AEMO.

42—Amendment of section 115—Shedding and restoring of loads

This clause makes consequential amendments as a result of NEMMCO's change of name to AEMO.

43—Insertion of section 115A

115A—Determination of customer load shedding arrangement

This clause empowers and outlines the conditions on which the Minister of a participating jurisdiction to determine arrangements between a Registered participant and AEMO, for customer load shedding, should they be unable to come to an agreement within 6 months.

44—Amendment of section 116—Actions that may be taken to ensure safety and security of national electricity system

This clause makes consequential amendments as a result of the insertion of section 115A.

45—Amendment of section 117—AEMO to liaise with Minister of this jurisdiction and others during an emergency

This clause makes consequential amendments as a result of NEMMCO's change of name to AEMO.

46—Amendment of section 118—Obstruction and non-compliance

This clause mandates and provides penalties for the failure to comply with a direction under section 116.

47—Amendment of section 119—Immunity of AEMO and network service providers

This clause makes consequential amendments as a result of NEMMCO's change of name to AEMO.

48—Amendment of section 120—Immunity in relation to failure to supply electricity

This clause makes consequential amendments as a result of NEMMCO's change of name to AEMO.

49—Insertion of sections 120A and 120B

120A—Immunity in relation to use of computer software

This clause grants immunity to AEMO, former gas market operators and their officers, employees and agents for loss suffered as a consequence of the use of computer software to operate a gas market.

120B—Immunity from liability—dispute resolution

This clause grants immunity from civil monetary liability to arbitrators, mediators, managers and facilitators of dispute resolution processes, unless done in bad faith.

50—Amendment of section 158—Failure to make a decision under this Law or the Rules within time does not invalidate the decision

This clause makes consequential amendments as a result of NEMMCO's change of name to AEMO.

51—Amendment of Schedule 1—Subject matter for the National Electricity Rules

This clause makes amendments to Schedule 1, relating to the subject matter for the National Electricity Rules, including defining the subject matter relating to AEMO and its role as the National Transmission Planner.

52—Amendment of Schedule 2—Miscellaneous provisions relating to interpretation

2A—Changes of drafting practice not to affect meaning

This clause provides that differences of language between provisions of this Law or the Rules may be explicable by reference to changes of legislative drafting practice and do not necessarily imply a difference of meaning.

31AF—Evidentiary certificates—AEMO

This clause enables authorised AEMO officers to issue a certificate as evidence that certain decisions or documents issued.

53—Amendment of Schedule 3—Savings and transitionals

Part 10—Transitional provisions related to AEMO amendments

19—Definitions

This clause amends the definitions under Schedule 3.

20—Interaction between this Part and jurisdictional transitional arrangements

This clause provides that this Part and any Regulations or Rules of a saving or transitional nature apply in a participating jurisdiction subject to any exclusions or qualifications made by or under an Act of the participating jurisdiction.

21—Recovery of costs of transition

This clause enables AEMO to recover the costs of transition through participant fees over a period of 4 years.

22—Transitional special project expenditure

This clause enables AEMO to recover the costs of transitional special project expenditure through participant fees over a period of 4 years.

23—Interpretation of obsolete references

This clause provides for references in instruments (including legislative instruments), to the former operator of a market that AEMO takes over, to be regarded as references to AEMO.

Debate adjourned on motion of Hon. S.G. Wade.

At 22:27 the council adjourned until Thursday 4 June 2009 at 11:00.