LEGISLATIVE COUNCIL

Tuesday 14 September 2010

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

MENTAL HEALTH (REPEAL OF HARBOURING OFFENCE) AMENDMENT BILL

His Excellency the Governor assented to the bill.

RAILWAYS (OPERATIONS AND ACCESS) (MISCELLANEOUS) AMENDMENT BILL

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (ELECTRICITY AND GAS—PRICE DETERMINATION PERIODS) BILL

His Excellency the Governor assented to the bill.

TRUSTEE COMPANIES (COMMONWEALTH REGULATION) AMENDMENT BILL

His Excellency the Governor assented to the bill.

ANSWERS TO QUESTIONS

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

SOUTHERN HAIRY-NOSED WOMBAT

13 The Hon. J.M.A. LENSINK (13 May 2010). Can the Minister for Environment and Conservation advise:

1. What is the population of South Australia's faunal emblem, the southern hairy-nosed wombat Lasiorhinus latifrons?

2. How does the population and distribution of Lasiorhinus latifrons compare to estimations prior to European settlement?

3. Will the minister commission a study of the current population of Lasiorhinus latifrons?

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 for the City of Adelaide): The Minister for Environment and Conservation has been advised that:

1. While it is not possible to give accurate indications of actual wombat numbers, research estimates that there are up to 100,000 Southern Hairy-Nosed Wombats in South Australia.

Populations of Southern Hairy-Nosed Wombats fluctuate depending on climatic conditions, habitat availability and available food resources. Generally, the major colonies have expanded in range over the last 20 years, while the smaller and more fragmented populations have continued to decline.

2. In pre-European times, the Southern Hairy-Nosed Wombat population was distributed from the River Murray westward to the Nullarbor Plain and extending south into Yorke and Eyre Peninsulas. Pastoral and agricultural activity has reduced and fragmented this distribution and the wombats are now mainly restricted to the Nullarbor Plain, Gawler Ranges, Upper Western Eyre Peninsula and the Murraylands. Remnant populations also exist elsewhere.

3. The Government currently has no plans to commission a study. The Department of Environment and Natural Resources will continue to provide support to other researchers working on the Southern Hairy-Nosed Wombat and will continue to work in partnership with the Natural Resource Management Boards and conservation groups to further knowledge on the species.

PARK RANGERS

122 The Hon. J.M.A. LENSINK (1 July 2010). Can the Minister for Environment and Conservation advise the number and percentage of Department of Environment and Heritage staff that can be characterised as Park Rangers?

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 for the City of Adelaide): The Minister for Environment and Conservation has been advised that:

At the end of the 2009-10 financial year, there was a total 109 Field Ranger positions which now represents 9.9 per cent of the Department for Environment and Heritage (now Department of Environment and Natural Resources) workforce.

TALES FROM THE WHALES AND *RIFFS IN THE CLIFFS*

123 The Hon. J.M.A. LENSINK (1 July 2010). Can the Minister for Environment and Conservation advise the total project cost of producing the *Tales from the Whales* and *Riffs in the Cliffs*?

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 for the City of Adelaide): The Minister for Environment and Conservation has been advised that:

Tales from the Whales and Riffs in the Cliffs was developed in partnership with Tourism Eyre Peninsula (used in Eyre Peninsula's Seafood Rewards Card) and the Commonwealth Department for Environment, Heritage, Water and the Arts.

The total cost of the project was:

State DENR:	$16,199
Tourism Eyre Peninsula:	$11,807
Commonwealth (DEWHA):	$16,199
Total:	$44,187

MEMBERS' REGISTER OF INTERESTS

The PRESIDENT (14:21): I lay upon the table the Register of Members' Interests—June 2010—Registrar's Statement.

Ordered to be published.

MEMBERS' TRAVEL EXPENDITURE

The PRESIDENT (14:21): I lay upon the table the Schedule of Members of the Legislative Council Travel Expenditure 2009-10.

PAPERS

The following papers were laid on the table:

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

Professional Standards Council—Annual Report and Financial Report, 2007-08
Professional Standards Council—Annual Report and Financial Report, 2008-09
Reports, 2009-10
- Leases of Properties held by Commissioner of Highways
- Terrorism (Preventative Detention) Act 2005

South Australian Citrus Board—Report for year ended 31 March 2009
Inquiry into the Suitability of Certain Close Associates of the South Australian Jockey Club—Report by the Independent Gambling Authority
Regulations under the following Acts—
- Aquaculture Act 2001—Schedule 1—Fees
- Criminal Investigation (Extraterritorial Offences) Act 1984—General
- Guardianship and Administration Act 1993—General
- Land Tax Act 1936—General

Motor Vehicles Act 1959—Schedule 1—Fees
Plant Health Act 2009—Fees
Prisoners (Interstate Transfer) Act 1982—General
Public Trustee Act 1995—General
Serious and Organised Crime (Unexplained Wealth) Act 2009—Unexplained Wealth
Subordinate Legislation Act 1978—Postponement of Expiry
Rules under Acts—
Legal Practitioners Act 1981—Legal Practitioners Education and Admission Council—Amendment No. 4
Rules of Court—
Supreme Court—Supreme Court Act 1935—Civil—Amendment No. 12
Determination and Report of the Remuneration Tribunal No. 5 of 2010—Alternative Vehicle Request for Magistrate McInnes
Determination and Report of the Remuneration Tribunal No. 6 of 2010—Members of Local Government Councils
Distribution Lessor Corporation Charter
Generation Lessor Corporation Charter
Non-Metropolitan Railways Transfer Act 1997—Approvals to Remove Track Infrastructure for the period 1 July 2009—30 June 2010
Transmission Lessor Corporation Charter

By the Minister Urban Development and Planning (Hon. P. Holloway)—

Regulations under the following Act—
Development Act 1993—Private Bushfire Shelters

By the Minister for Industrial Relations (Hon. P. Holloway)—

Regulations under the following Acts—
Employment Agents Registration Act 1993—General
Occupational Health, Safety and Welfare Act 1986—General

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

Outback Areas Community Development Trust—Report, 2008-09—
Regulations under the following Acts—
Children's Protection Act 1993—General
City of Adelaide Act 1998—Elections and Polls
Health Practitioner Regulation National Law (South Australia) Act 2010
History Trust of South Australia Act 1981—General
Local Government Act 1934—Cemetery
Local Government (Elections) Act 1999—General
Public and Environmental Health Act 1987—Waste Control
South Australian Housing Trust Act 1995—General
By-law under Act—
Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1982—Permits By-law 2009
District Council By-laws—
Barunga West—
No. 1—Permits and Penalties
No. 2—Local Government Land
No. 3—Roads
No. 4—Moveable Signs
No. 5—Dogs
No. 6—Cats
Franklin Harbour—
No. 1—Permits and Penalties
No. 2—Local Government Land
No. 3—Dogs
Kangaroo Island—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Local Government Land

No. 4—Roads
No. 5—Dogs
No. 6—Cats
No. 7—Bird Scaring Devices
No. 8—Boat Facilities
No. 9—Foreshore
Loxton Waikerie—
No. 1—Permits and Penalties
No. 2—Local Government Land
No. 3—Roads
No. 4—Moveable Signs
No. 5—Dogs
No. 6—Cats
Murray Bridge—
No. 1—Permits and Penalties
No. 2—Local Government Land
No. 3—Roads
No. 4—Moveable Signs
No. 5—Dogs
No. 6—Nuisances caused by Building Sites
Naracoorte Lucindale—
No. 1—Permits and Penalties
No. 2—Local Government Land
No. 3—Roads.
No. 4—Moveable Signs
No. 5—Dogs
Renmark Paringa—
No. 1—Permits and Penalties
No. 2—Local Government Land
No. 3—Roads
No. 4—Moveable Signs
No. 5—Dogs
No. 6—Cats
No. 7—Nuisances caused by Building Sites

By the Minister for Consumer Affairs (Hon. G.E. Gago)—

Regulations under the following Acts—
Conveyancers Act 1994—General
Land Agents Act 1994—General
Land and Business (Sale and Conveyancing) Act 1994—General
Land Valuers Act 1994—General
Liquor Licensing Act 1997—Dry Areas—Long Term—
Barmera and Berri
Coober Pedy
Hahndorf
Port Elliot
Plumbers, Gas Fitters and Electricians Act 1995—General
Residential Tenancies Act 1995—General
Retail and Commercial Leases Act 1995—
Exclusions
General
Second-hand Vehicle Dealers Act 1995—General

By the Minister for Government Enterprises (Hon. G.E. Gago)—

State Lotteries Act—Review of Special Appeal Lotteries Report July 2010

BOWDEN URBAN VILLAGE

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:27): I rise to make a correction to an answer

provided to a question about Bowden Village asked by the Hon. Mr Ridgway on Thursday 22 July 2010. In my response I mentioned that Mr Tim Horton, the Integrated Design Commissioner, was already working with the Land Management Corporation and the Department for Planning and Local Government on this exciting project.

At the time, I believed that Mr Horton's involvement in this project had commenced. I may have spoken too soon. I have since been advised that Mr Horton has only just begun working with the LMC and the Department for Planning and Local Government and will soon begin his involvement in the Bowden Village project. I am confident that Mr Horton's expertise as the Integrated Design Commissioner will assist the progress of this important development on the former Clipsal site.

SINGAPORE AND INDIA MISSION

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:28): I table a copy of a ministerial statement relating to the Premier's mission to Singapore and India made earlier today in another place by my colleague the Premier.

MEMBER, CHANGE OF NAME

The Hon. T.A. FRANKS (14:32): I seek leave to make a personal explanation.

Leave granted.

The Hon. T.A. FRANKS: I wish to inform the chamber that I have ceased using my previous married surname of Jennings and will resume using my previous surname of Franks. While I am incredibly sad and the process of divorce is a most painful one, the reclamation of my previous name of Tammy Franks as the one that I have used the majority of my adult life has given me some sense of comfort in this turbulent time. I am certainly not the first person to grapple with these issues in Australia or South Australia, and I am certainly not even the first person in this parliament to undergo such a process. I thank those members who have been supportive for their kindness.

QUESTION TIME

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:33): I seek leave to make a brief—

The Hon. B.V. Finnigan: Forty-five seconds. We'll be counting.

The Hon. D.W. RIDGWAY: I hope that the 45 seconds will stop the boofheads interjecting from the other side of the chamber, Mr President.

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: And that, if those changes were implemented, you would come down on him like a tonne of bricks, or perhaps two tonnes of bricks would be needed for Bernie. I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question in relation to the 30-year plan.

Leave granted.

The Hon. D.W. RIDGWAY: Last year, on Tuesday 22 September, I asked the minister a question in relation to the draft 30-year plan and, in particular, my concerns about the inaccuracies in that particular draft and that the maps were not drawn to scale and were, in fact, misleading. The minister's response was that it was not misleading. In fact, what I was referring to was that the plan talked about development within 800 metres of a transit corridor. When you draw the maps to scale, the corridors are no longer corridors but, in fact, morph into one particular large slab of Adelaide being subject to high-density residential development. The minister went on to say:

> It is not misleading. How can it be? If the map did not indicate what the corridors were, it would be misleading. To advance debate on this, we have tried to illustrate the corridors. The policy that goes around the corridors is obviously a different issue.

I then said by way of interjection, 'It is 800 metres.' The minister replied:

What might happen within that 800 metres, of course, will depend on a whole lot of extra work to be done, but we believe we can accommodate the population in there. This is why it is out for discussion.

During the election campaign the final document was released by the minister and the Premier, and they very happily put their names to this particular document. I will quote one of the paragraphs in the minister's foreword:

By focusing on transit corridors we can ensure that we preserve Adelaide's distinctive urban character, leaving about 80 per cent of metropolitan Adelaide largely unchanged as a result of the plan.

Given that the plan speaks about 70 per cent of future growth within the current urban growth boundary, I have here today for the minister (and I will provide him with a copy of it) the maps which, when drawn to scale, are still not accurate. When drawn to scale, large swathes of Adelaide suburbs are now subject to high-density residential development under this minister and this Premier's plan. My questions to the minister are:

1. Why are the maps in the final document (the one that the Premier and the minister signed off on) not to scale and still misleading?

2. Can the minister confirm that it is the government's intention to allow high-density development within 800 metres of a mass transit corridor (the fixed corridors of the O-Bahn, train and tram) and within 400 metres of transit corridors?

The PRESIDENT: I am thinking seriously about whether I will be able to second Mr Parnell's motion!

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:38): The first point that I make to the Leader of the Opposition is that high density and high rise are different things. One can actually have a high-density development which need not necessarily be high rise.

What the 30-year plan aims to do, as the honourable member said, is to concentrate 70 per cent of the future growth of Adelaide within the current boundaries by the end of that 30-year period. That can be achieved we believe (as the report points out) without affecting up to 80 per cent of the current metropolitan area of Adelaide. That can be done by having high density along our major corridors.

An honourable member interjecting:

The Hon. P. HOLLOWAY: If anyone does have a look at that development—and I hope the honourable member and this parliament should take the opportunity to go and have a look at some of the urban design—

An honourable member interjecting:

The Hon. P. HOLLOWAY: He is welcome to come along. There is another one being organised by the industry next year, and perhaps the honourable member should join it and have a look at some of the developments where there is high density. Here we are talking about perhaps four or five storeys along major roads, but it steps back fairly quickly into the suburbs. If one goes within even, in some cases, as little as 50 metres from the main road it is scarcely noticeable in the suburbs. You can get off the main road and within a very short distance there is that transition. The government is talking about looking at those distances from transport nodes.

An honourable member interjecting:

The Hon. P. HOLLOWAY: The ideal objective of any planning that is trying to concentrate development around transport is to have those people living within walkable distance, preferably 400 metres, of a transport corridor. What this government has been doing and will be announcing very shortly involves our first steps to extend the rezoning process to our major corridors. The department has already undertaken a lot of the significant work in relation to some of those corridors. It has begun particularly with the north-west corridor, which is along Port Road and the train line out to Outer Harbor to look at the opportunities there. If one looks at that corridor, one sees that there are many degraded areas, both urban and factory areas.

What one will do will depend on looking at the area. When we go through and do the exercise of having a look at the zoning, obviously some of those areas will be heritage areas quite close to the actual corridor. One does not deal with those. What one does is to look at the area within walking distance of the corridors and make the decision then as to exactly how one might

rezone that. That will obviously depend on the areas concerned. What might work if one was looking at having some high density on Unley Road, for example, might be completely different from the situation involving, say, the Port Road corridor.

All that the 30-year plan really sets out, I think, is the guide about which ones we should aim to have. To have that development within that distance, one should aim to have the higher density to encapsulate the development we want within that particular distance of the transport corridors, because that will reinforce the role that public transport has; it will make public transport more viable, and you can have more frequent public transport. That in turn will make it more attractive and it will achieve a whole lot of other benefits in relation to reducing petroleum consumption, with commensurate reductions in carbon emissions, etc., as well as providing a more walkable city.

Essentially, the 800-metre zones are really just the guidelines, if you like, for where we will be looking for these specific policies, but it should not be taken to mean that in the case of Unley Road, for example, 800 metres each side of that road would somehow or other become available for change. In fact, most of that area has already been through the rezoning process involving Unley council and the government and has been set aside as character development. But that is not to say that one could not redevelop those major corridors and provide buildings of three, four or five storeys—whatever is more appropriate—and then stepping that back down into the surrounding suburbs. If there are opportunities to go further back from the road with the development because the properties in the area might be degraded, then one should look at that.

It is important to stress that the objective of the plan is to leave about 80 per cent—and that is clearly set out in the 30-year plan—of our current suburbs untouched. In other words, we are trying to manage our growth. The options for city growth are either fringe development (urban sprawl, if you like) or higher density in one form or another. The government has clearly chosen that we want to contain sprawl, so we will need to have some denser development, and that is best focused along transport corridors. That is exactly the direction that we will be moving in, and we believe that, from the work that has been done and as expressed in the 30-year plan, under that process 80 per cent of the suburbs will remain untouched. In these studies that will be done of our major corridors, we will be looking at up to 800 metres from the corridor for the possibility, but obviously the actual outcome will vary greatly depending on the nature of the suburbs and the opportunities available for development.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:43): As a supplementary question, why do the maps not reflect the zones to scale, the 800 metres and 400 metres, respectively?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:43): As I said, the government is about to actually begin. We have been talking to a number of councils. We are going to begin with those councils around the inner ring of Adelaide about how we might go about it. Some councils, like Unley, have had a development plan process underway to look at roads like Greenhill Road for some time. One might expect that, on a road like Greenhill Road, which is a Parkland frontage, one would get higher density and higher level development than that along other roads.

What is important is going to be the detail when it gets out. The 30-year plan is the broad planning strategy. In fact, the 30-year plan has been adopted under the Development Act as the planning strategy. That is the strategy, but it is the detail that we have worked out through a series of structure plans and precinct plans, all involving discussions with local government. That will be the detail about how we go about it.

I would remind honourable members that, when it came to setting the 30-year plan targets for expected population growth and so on, they were decided upon with local government. Yes, it was based on statistical work and consultants' reports, but we actually discussed with councils the details of that growth. What we have to do now is go to the next stage. We have the broad strategy for 30 years—the broad principles—and one of those principles is the walkability; the distance from corridors. We know how to put the meat on the bone, so to speak, in relation to the details of that. That is the process that we have already begun.

30-YEAR PLAN FOR GREATER ADELAIDE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:45): As a further supplementary question, at the risk of repeating myself, why are the maps not to scale? It is a simple question.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:45): If you have the 30-Year Plan for Greater Adelaide on an A4 piece of paper, because the 30-year plan that most would have is on an A4 frame, then how does one do a scale diagram? As we get into the development plans which flow out of it, then clearly they will be looking at a much greater scale and much greater detail. I would certainly not accept that those maps of the 30-year plan are in any way misleading. They illustrate it. Obviously, if you are putting Adelaide, or parts of it, on an A4 page, then there is a question of scale.

The Hon. D.W. Ridgway: It is sneaky.

The Hon. P. HOLLOWAY: What is sneaky about it? I really do not understand what the honourable member means. The 30-year plan sets out the broad principles. It was adopted as part of the planning strategy. What we now need to do is to translate that, and that is why there are a number of development plan amendments for greenfield areas and now we will be starting upon those areas within the current metropolitan boundaries, particularly beginning with the inner-city areas, because that is the mechanism by which we will give effect to the objectives set out in the 30-year plan.

WOMEN'S HONOUR ROLL

The Hon. J.M.A. LENSINK (14:47): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question on the subject of the South Australian Women's Honour Roll.

Leave granted.

The Hon. J.M.A. LENSINK: Honourable members may be aware that the Women's Honour Roll was an initiative in 2008 by the then minister, the Hon. Jennifer Rankine, who launched the program. This program was inherited by the current minister, and I quote from a publication in which she was quoted in 2009 where she said:

> The Women's Honour Roll was established in 2008 and I am very pleased that in 2009 over 250 South Australian women have been nominated...

She went on to say:

> It is vital that we find ways to recognise and celebrate the achievements of women who contribute so much to our community.

I must state that this is something that would have multipartisan support. In the years 2008 and 2009 there were at least two media releases issued advertising the program and, try as we might, my office has searched for any information in relation to this important program for 2010. My questions to the minister are:

1. How much did it cost to run the women's honour roll program in 2008 and 2009?

2. Can the minister advise me if there is some place we can look, because thus far we have searched fruitlessly for information on the program for this calendar year?

3. Finally, if it is not available, why has this important program been scrapped?

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 for the City of Adelaide) (14:49): Indeed, the women's honour roll in South Australia has been a very important initiative put forward by the Rann Labor government. It was put forward as a means of recognising ordinary South Australian women who contribute enormously to our community and our society and who very often go unrecognised. We know that women are notoriously bad at pushing themselves forward and banging their own drums, so we established this roll to acknowledge the important contribution of many women.

We ran the honour roll for two years in a row (2008 and 2009) and received an overwhelming response and very good feedback as well. This year we have decided to look at

revamping the honour roll somewhat. We believe that opening it up initially to 100 people to go onto the honour roll each time was a very good way of establishing and promoting the honour roll and to get it going. We believe we have done that and done that very successfully.

One of the things which I have been very keen to do is to try to also increase the number of female nominations being put forward for the Australia Day awards. We know that significantly fewer women are successful in winning those awards and significantly fewer women are being put forward as nominees for those awards. We have been looking at ways to establish stronger links between the women who are being put forward on the honour roll and the Australia Day awards system. We have done quite a bit of work at establishing those links.

I have also been successful in asking our Governor to conduct either a morning tea or an afternoon tea for our honour roll recipients. Again, that was a wonderful event last year and the recipients enjoyed it immensely, and it gave a certain level of prestige to the event as well. I am very grateful to the Governor and his wife for hosting that very wonderful event. The honour roll scheme has not been scrapped. It will be conducted in 2011. It is likely that, from then on, it will become a biennial event.

As I said, we are looking to revamp the thing slightly to make better connections with the Australia Day awards system and to ensure that we also maintain an air of prestige around the event to ensure that it becomes a very special event every two years. In terms of the cost, I do not have those figures with me. I am more than happy to get the costings and bring them back to the chamber. It would be a very modest sum, however. It is not a very costly event. I can assure you that it is quite modest, but I am happy to bring those details back.

WOMEN'S HONOUR ROLL

The Hon. J.M.A. LENSINK (14:53): As a supplementary question, given that we are more than nine months into the current calendar year, when is the government planning to tell people that the program has been scrapped for this year?

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 for the City of Adelaide) (14:54): Work is being done on the revamping of this event, and when that has been completed we will make it available publicly.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:54): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about Burnside council.

Leave granted.

The Hon. S.G. WADE: On 22 July 2009, 14 months ago, the Minister for State/Local Government Relations issued a press release announcing the Burnside council inquiry. In that release she stated:

> While no evidence of corruption was uncovered among preliminary information gathered by my department, should any become apparent it will be immediately referred to the SAPOL Anti-Corruption Branch for it to investigate.

This statement reflects the fact that the independent investigator has no power to prosecute. I ask the minister:

1. Can she assure the council that the investigation proceeded in accord with her undertaking?

2. Will she advise the council whether any and, if so, how many matters have been referred to the police during the investigation?

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 for the City of Adelaide) (14:55): It may have escaped the attention of the honourable member, but I have actually not yet received a report. I have put that on the record here on numerous occasions. I have not received a copy of the report; I have not been briefed on the contents of the report; I do not know what is in the report. In terms of the matters the honourable member has referred to, they stand on record as stated and, until I have the final report before me with the relevant information—and I do not know what the report may or may not contain—I am unable to make any relevant referrals.

MURRAY-DARLING BASIN

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 for the City of Adelaide) (14:56): I lay on the table a copy of a ministerial statement made by the Hon. Paul Caica in another place today on increased flows to South Australia as a result of the recent flooding in the Murray-Darling Basin.

QUESTION TIME

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:56): Will the minister assure the council that she gave directions to the investigator in accord with her press release as I quoted it?

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 for the City of Adelaide) (14:57): I am not too sure what the honourable member is referring to. Exactly what assurance is he referring to?

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:57): As I said in my question, the minister in a press release on 22 July assured the public of South Australia that, if any matter—

The PRESIDENT: Are you asking a supplementary question?

The Hon. S.G. WADE: The minister has asked me to go back to the information of my original question.

The PRESIDENT: I don't really care what the minister has asked you. Do you have a supplementary?

The Hon. S.G. WADE: I am within the same supplementary. She asked for clarification and I am responding to her response.

The PRESIDENT: Put it another way and put it as a supplementary instead of making a long-winded explanation.

The Hon. S.G. WADE: Okay; as a second supplementary because the minister could not understand the first one: will the minister advise the council that she gave directions to the investigator in accordance with her commitment to the South Australian community that any matter which involved any evidence of corruption would be referred immediately to the South Australian Anti-Corruption Branch for it to investigate? 'Immediately' means before the report is finalised.

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 for the City of Adelaide) (14:58): I have already put on record that any matters referred to me or found in the report that are of a criminal or illegal nature will be referred. I have given that commitment. As I said, I have not received the report and I do not know the content of the report. As there are no matters of any illegal nature of which I am aware, I could hardly refer them.

KEMPPAINEN, MS PIRJO

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:58): I lay on the table a ministerial statement made today by the Minister for Police in relation to the murder of Pirjo Kemppainen.

QUESTION TIME

MINERAL EXPLORATION

The Hon. I.K. HUNTER (14:59): My question is to the Minister for Mineral Resources Development. Will the minister provide the chamber with an update on the latest quarterly mineral exploration figures from the ABS, and is he aware of any other views on the performance of the resources sector; if so, will he share that information with members?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (14:59): I thank the honourable member for his timely

question. The Australian Bureau of Statistics issued the June quarter mineral resources exploration figures only last week. These figures unquestionably show that mineral exploration in this state is beginning to recover from the hit taken in the aftermath of the global financial crisis. While the chances were slim that South Australia would be sheltered from the economic tsunami that swept the world in 2008, it has been encouraging to note the speed at which our resources sector has rebounded. Financial markets remain tight and opportunities for raising capital remain constrained, but global commodity prices have improved due largely to demand from countries such as China.

So while annual expenditure is off the levels experienced before the global financial crisis, the latest quarterly figures show that the exploration sector, at least, has begun to strengthen. In the June quarter total expenditure on mineral exploration in South Australia rebounded to the highest level in nine months, rising 41.5 per cent compared with the previous quarter to $47.7 million. South Australia's quarterly growth rate was behind Queensland, but neck and neck with Western Australia and above the national average rise for that quarter on quarter growth.

In the 12 months to June exploration expenditure was $166.5 million, well above the $100 million a year target set in South Australia's Strategic Plan and four times the paltry $40 million we had some eight years ago. These results provide further confirmation that even in difficult times the exploration industry remains confident in South Australia as an investment destination due to our state's world-class mineral potential. That is unambiguously good news for South Australia.

One of the more pleasing aspects of the latest quarter figures was the increase in exploration for new deposits. This element of exploration comprised $32.4 million, or 67.9 per cent of total June quarter spending, the highest quarterly spending on frontier and greenfields regions in more than two years. It should also be remembered that the June quarter was characterised by the national debate on a commonwealth resources rent tax during the quarter. Some of that uncertainty might possibly be reflected in the September quarter figures, but I am confident that there will be no lasting effect on exploration in our state now that the key issues in the implementation of a mineral resources rent tax appear to have been resolved.

A key forward indicator for mineral exploration activity and investment is the total drilling work approvals for South Australia. Again, these provide scope for confidence in the future outlook for the sector, with PIRSA approving mineral drilling projects in 2009-10 totalling 968,049 metres, an increase of 32 per cent compared with the 2008-09 drilling approvals.

The Rann Labor government is determined to support the industry in transforming exploration into viable mining projects. We now have 12 mines in operation in South Australia, treble the number of projects in existence when this government took office. We have already officially opened three new mines in South Australia this year, and there are more in the pipeline. Only this week Rex Minerals announced a further early-stage discovery at its Parara copper prospect on Yorke Peninsula. The company announced yesterday that it would follow up this early find with further explorative drilling. This discovery by Rex follows a defined copper resource at its nearby Hillside prospect near Ardrossan.

So exploration is continuing throughout the state, including in traditional mining areas such as the Copper Coast, and this is because this government has worked hard in the past 8½ years to create a climate of certainty in this state that provides investors with the confidence they need to plan long-term investments in the mining sector. Our Plan for Accelerating Exploration, or PACE, has been an incredibly successful program delivering extraordinary growth in the minerals and energy sectors for South Australia.

The honourable member asked whether I was aware of any other views about the performance of the minerals sector, and indeed I am. Here we were last week with an undeniably good result for South Australia, and what happened? The opposition put out a statement to try to hoodwink the South Australian public into thinking all was doom and gloom. We had the opposition spokesman on mineral resources development stretching back into the pre-global financial crisis days of 2007-08 to claim that somehow mining operation expenditure had collapsed. The shadow minister conveniently ignored the quarter on quarter growth—that 41.5 per cent growth I talked about—the best quarterly spending result in nine months and the best result in greenfields exploration in more than two years.

So, yes, South Australia's total spending is below the peak achieved before the global financial crisis, but to ignore the obvious signs of recovery is simply an attempt to mislead the South Australian public. By any metric, expenditure on mineral exploration in South Australia is

now vastly superior to the $40 million in a whole year that we had a decade ago. Let us not stop there. Mineral production last year exceeded the $3 billion a year benchmark this government set in South Australia's Strategic Plan. In terms of exports, mineral resources are now the most important traded commodity, outperforming agricultural production and wine.

Traded commodities recording growth in the year to July 2010 compared with the previous 12 month period included a 113 per cent rise in exports of metal ores and metal scrap. In the same period, South Australia recorded a 202 per cent rise in exports of other metals, more than trebling the previous 12-month figure. We also reported a 20 per cent rise in gold, silver and platinum exports.

South Australian export markets that experienced growth in the year to July 2010, compared with the year to July 2009, included a 26 per cent rise in goods destined for China, one of our key markets for mineral resources.

This government is not resting on its laurels; it is continuing to support exploration through PACE. During the recent recess I visited China to promote investment in our resources sector at the world expo in Shanghai at a special two-day seminar held in the magnificent Australia Pavilion, where we showcased the mineral and energy potential. So, when the opposition claims that South Australia's mining boom, which is already delivering jobs, investment and exports to the benefit of our economy, is just hot air, we know the identity of the real windbag.

WATER FLUORIDATION

The Hon. A. BRESSINGTON (15:06): I seek leave to make a brief explanation before asking the minister representing the Minister for Health questions on fluoridation of public water supplies.

Leave granted.

The Hon. A. BRESSINGTON: On 8 February 2007, the minister stated in the other place:

> While some people have made claims about the risk of fluoridation, these claims are not scientifically proven.

Dr Phyllis Mullenix, who was the head of the Toxicology Department of the Forsyth Dental Centre in Boston, the world-renowned dental research institute affiliated with the Harvard Medical School, stated in a letter discussing statements made by the Calgary Regional Health authority:

> As a toxicologist involved in fluoride research for over 10 years, I was stunned by the CRHA's glib comments proclaiming water fluoridation safe. The '50 years' of studies about fluoride safety do not exist. The 'ongoing intensive research on fluorides and fluoridation' does not exist, certainly none investigating safety.
>
> In 1995, I and three colleagues published a paper about the effects of fluoride on the central nervous system in the international journal *Neurotoxicology and Teratology* and that paper was published in a peer-reviewed medical journal as well as subsequent other papers, showing there is a lack of evidence that fluoridation is safe relative to brain function. The National Federation for Federal Employees, representing the scientists, lawyers and engineers at the United States Environmental Protection Agency, recognises the risks for neurological impairment by fluoridation.

Dr Doug N. Everingham, former health minister in the Whitlam government, wrote to the current Minister for Health, stating:

> There is more objective investigation of incidence of bone and joint problems, intellectual and other cumulative ill effects of fluoridation in mainland Europe than in fluoridating countries. There is a reluctance to include critical research and researchers in official investigations; for example, in the delay in Harvard's releasing Bassin's findings of young males' osteosarcoma incidence.

These are just two of hundreds of letters that I have received over the last two weeks from people who have done extensive research, and been published, into the harms of fluoridation. My questions to the minister are:

1. Will the minister provide to the people of Mount Gambier and South Australia the research that is being used to justify the further expansion of water fluoridation to that area before the plant is online?

2. Is the minister aware that a number of dental health professionals provided Dr Gunliff with up-to-date research from the USA on the harms of fluoride, and was this research considered in the decision to forge ahead with forced fluoridation in Mount Gambier?

3. In January of this year, Dr Gunliff, on ABC radio, made the commitment to have a meeting in Mount Gambier to discuss the concerns about fluoridation before the plant went online.

Will the minister guarantee that a meeting being held on 9 October will be attended by Dr Gunliff and his advisers to have an open debate with health care professionals about fluoridation?

4. Can the minister explain why interested residents of Mount Gambier are not allowed to see inside a shed that has been purpose-built for the fluoridation plant, as they have been told that the equipment has not yet arrived and the shed is empty, so they cannot have a look inside an empty shed?

5. Is the minister planning to install the equipment and turn on the fluoridation without informing the people of Mount Gambier of the date that fluoridation will commence?

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 for the City of Adelaide) (15:09): The fluoridation of water has been available for over 50 years, so there is a great deal of evidence and research around the positive effects of fluoridation. As I said, there is well established evidence over a very long period of time, and we know that many benefits associated with fluoridation are well established on the record. However, I am very pleased to refer those questions to the Minister for Health in another place and bring back a response.

WATER FLUORIDATION

The Hon. A. BRESSINGTON (15:11): As a supplementary question, given that the minister has cited research that she is obviously familiar with, can she now cite to this place the research that she says backs up fluoridation of our water supply?

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 for the City of Adelaide) (15:11): I do not have the specific articles here with me—

The Hon. A. Bressington interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: —but I have read the questions and have been engaged in the debates for and against fluoridation over many years. I am a former health care professional. I was involved in the issues around fluoridation 20-odd years ago when I was practising in health, so I have read about them and have been involved and engaged in those arguments over many years. Just because I do not have particular research in front of me at the moment to cite specific examples does not mean that I have not read any. I am also aware of arguments against fluoridation. They have been around for a long time as well and, again, I am not able to cite specific research here today. However, the point I was making is that fluoridation of our water has been in place for almost 50 years, and there is a plethora of evidence and research available in relation to the effects of fluoridation.

ROYAL ADELAIDE SHOW

The Hon. R.P. WORTLEY (15:12): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the Royal Adelaide Show.

Leave granted.

The Hon. R.P. WORTLEY: The Royal Adelaide Show ran this year from 3 to 11 September, and I understand that it was a great success in spite of the sometimes rainy conditions. Will the minister inform the chamber—

The Hon. J.S.L. Dawkins: Did you go, Russell?

The Hon. R.P. WORTLEY: I did, yes. I had a great time. Will the minister inform the chamber of the Office of Consumer and Business Affairs, compliance activities at this year's show?

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 for the City of Adelaide) (15:13): I thank the honourable member for his very important question, which does go to the very serious issue of safety, particularly the safety of our children. We all know how much our children love going to the show and how much they enjoy the show bags in particular, as well as the other novelty items available at the show. I believe it is, in fact, quite a serious issue.

This was one of the few years that I did not make it to the show, and it was not because of the inclement weather. However, I am pleased to inform the chamber that OCBA safety inspectors were out there. As members might be aware, OCBA product safety officers inspect all show bags prior to the opening of the Royal Adelaide Show each year. This is a preventive measure to ensure that novelty items and toys are safe and comply with safety standards before they actually go on sale.

This year, a total of 303 show bags were presented for examination on 10 August 2010 at the Adelaide Showgrounds and, of these, 94 required no further examination because they were food or only contained items such as magazines. Of the remaining 209 bags, officers examined or tested a total of 889 items. Five items were identified as having safety concerns. This was followed up with the suppliers, who all agreed to either amend or remove the items from the show bags.

In addition to the show bag testing, OCBA also monitored sideshows and stalls to ensure that products supplied to consumers complied with relevant safety and information standards. Unfortunately, inspectors did find products which failed to meet safety standard labelling requirements. These items included baby nightwear and sunglasses. I am advised that OCBA officers detected baby jumpsuits for sale at two stalls at the show which did not comply with the mandatory safety standard for children's nightwear.

Officers seized a jumpsuit from one stall and requested that the trader remove all other noncompliant clothing from sale. The trader will be issued with a warning letter advising that further action may be taken if the trader cannot provide written assurance that steps will be taken to ensure that no further breaches will occur. The owner of the second stall was selling jumpsuits with a warning label, but the labels were not secured in the correct position. Officers requested that these garments be removed from sale.

Officers also detected sunglasses for sale which did not meet safety standards for sunglasses. The standard requires that these items must be labelled to indicate the lens category and have a description of the lens category, including a warning if they are not to be used for driving. The trader was required to remove the noncompliant goods from sale.

Maximum penalties for a breach of a mandatory safety standard under the Trade Standards Act 1979 is $10,000 or a $315 expiation fine for less serious breaches. OCBA compliance officers also inspected 57 stalls at the Exhibition Hall and also sideshow alley, focusing on illegal refund signs, two-priced advertising and misleading representations concerning the quality of jewellery and clothing. As members would appreciate, it is a fairly expensive outing for a family to go to the show. Consumers need to know that they are getting value for money and are not being ripped off by some of these exhibits.

I am advised that overall compliance was good and that OCBA is following up one possible breach of the Building Work Contractors Act concerning an unlicensed building work contractor. I would certainly like to commend OCBA officers for their hard work in helping to ensure that South Australians can enjoy a safe and memorable Royal Adelaide Show. I have been approached by many members of the public who have offered to assist me next year by helping to inspect show bags and other items.

MOUNT BARKER DEVELOPMENT PLAN AMENDMENT

The Hon. M. PARNELL (15:18): I seek leave to make a brief explanation before asking a question of the Minister for Urban Development and Planning about the Mount Barker Development Plan Amendment.

Leave granted.

The Hon. M. PARNELL: Tonight's is the last of an unprecedented four public meetings as part of the Development Policy Advisory Committee process for the Mount Barker Urban Growth Development Plan Amendment (DPA). There has been extraordinary public response to the government's draft DPA, with over 520 of the 539 submissions vehemently opposed to the government's rezoning plans.

I have attended all three public meetings so far, and the anger, emotion and frustration from the Mount Barker and Nairne communities are palpable. Many speakers have questioned why the planning minister has not come to hear first-hand what the community is saying. Many have also expressed a deal of concern at the process whereby the Development Policy Advisory Committee does not take minutes or some other record of these public meetings but then attempts

to paraphrase the community's views and send a report in secret to the minister, with the community never knowing if what it said had any impact.

One of the strongest themes to emerge from the meetings is the sheer size of the potential population growth proposed for Mount Barker. According to the local council, the government's planned increase of 47,500 people in the DPA, plus the current population of around 18,000, and a latent development capacity of land to house another 10,000 within the current boundaries adds up to a whopping 75,000 people in Mount Barker, a phenomenal, near fourfold increase.

The overwhelming sense from the council and the community is not that they oppose any or all growth: they simply cannot understand how their area will effectively have to accommodate the total population of Mount Gambier, Port Augusta and Port Lincoln on top of the current already expanding population, with no commitment to jobs, infrastructure, public transport or other essential services. On top of that, there are consistent reports of landowners located beyond the expanded boundaries included in the current DPA already being approached for options to sell their land to developers as part of a mooted stage 2 further expansion of Mount Barker. My questions are:

1. Why are some of the same people who approached landowners a few years ago prior to this current rezoning exercise now approaching landowners beyond the boundaries of the Mount Barker urban growth development plan amendment for options to sell?

2. Will the minister release the DPAC advice on the Mount Barker urban growth DPA as requested by the community?

3. If parliament rises in time tonight, will the minister go to the DPAC meeting in Mount Barker to hear first-hand what the residents are saying and, if not, how can the community have any confidence that their extraordinary opposition to the government's plans will be listened to?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (15:21): The Hon. Mr Parnell should have pointed out that he was a member of DPAC for a number of years, so he knows full well how it operates. He knows full well the history of it.

The Hon. M. Parnell: Five months.

The Hon. P. HOLLOWAY: Well, why only be on it for five months? That in itself might be an interesting question. It would be interesting to know what sort of conflicts of interest there were there. The Hon. Mr Parnell, having been a member of DPAC, knows full well that DPAC, under the act, is to consider the submissions made on ministerial development plans and to advise the minister. He would well know the history and that DPAC and its predecessors have been in operation for decades, and he would know that it has always been the tradition that those reports are not made public.

Of course, if you haven't got an argument—if you are out there opposing growth for the sake of opposing it and you haven't got an argument—what better thing to do than set up a straw issue? That is exactly what this is by the Democrats—well, there's probably not a lot of difference between them and the Greens; perhaps they'll go the same way—but it is a side issue; it is not really the core of the issue. At the end of the day I will have to make the decision on the final form of the development plan, and I will be fully accountable, as I should be, for the final form of the development plan amendment. It is DPAC's role to consider the submissions that are made, but it has to consider them, of course, in the context of the planning strategy for the state, which now incorporates the 30-Year Plan for Greater Adelaide.

The honourable member, I think, has been trying to stir up confusion within the community of Mount Barker about what the role of DPAC really is and how it performs its function. The very fact that in his preamble the honourable member could talk about a fourfold increase in population when he says he was at the meeting—well, if he had been at the meetings he would know full well that, when the information was put out in relation to that, and if he had read the proposals in the development plan amendment itself, what we are talking about is about 7,000 dwellings in the 1,300 hectares.

He should know full well—I think he describes himself on his website as the only MP with planning qualifications—that, if you are looking at land to rezone, at least 40 per cent of that land will not be built on. What the council of Mount Barker and those who are opposed to this proposal appear to be doing to work out their greatly inflated figure for potential population at Mount Barker

is to take the 1,300 hectares and multiply it by the highest density they can get away with and come to this sort of fourfold increase that the honourable member is talking about. In fact, that will not be the reality and is never likely to be.

Mind you, in the council discussions with me earlier, we were talking about how they would like to see some slightly higher density in the town centre of Mount Barker, which is now full of vacant allotments. I agree with them on that. One of the things we agree to in the development plan is to incorporate those changes that the council wants to allow some higher density around the township. As we are approaching local government elections and so on, I guess we are not going to get much sanity in the debate until that is out of the road.

The other thing that Mr Parnell has been talking about has been judicial reviews, involving one of the reasons why he asked whether I would I go along and listen. Let me point out that I did attend a public meeting at Mount Barker when we were discussing the overall growth as part of the 30-year plan, so I have attended a meeting in Mount Barker and I will certainly be happy to explain the final decision when the process is completed. However, if I were to attend a public meeting—if the final arbiters were to do that—then no doubt the Hon. Mr Parnell would be the first one trying to get a judicial review, because it would be alleged that I would be interfering in the process; that is, if I had said anything.

You know what would happen: you would go along to the meeting and then you would be challenged: 'Look, the minister is here. Let him get up and answer the questions.' If you tried to do so, you would immediately compromise the whole process. What I am going to do is what I have done with every other development plan amendment that I have handled since I have been minister in the last six years, and deal with it properly. I will deal with it appropriately and with precedent.

I have already had a look at many of the recommendations relating to the Mount Barker development plan amendment. The honourable member also referred to anger, emotion, frustration and the like. I can say that what will impress me in relation to my final view is logic. That is what I will be looking for: good logic in relation to that, not anger, emotion and frustration in determining the final outcome of this development plan amendment.

That is why I will not be attending: as I said, it could potentially compromise the proposal. The honourable member himself is reported in the local paper up there as advocating judicial review. No doubt he will be looking at anything he can to try and challenge this process through some judicial review. I will be making sure that I behave appropriately during the entire process, but I will be happy to be fully accountable for, and explain fully, whatever decision I come up with. It will then go to the committee of the parliament.

Finally, the honourable member asked about, I think, allegations that the developers appear to be trying to get options on land outside the current development plan. I have no idea, or interest for that matter, in what developers might be doing with land outside the proposed development plan. All I am interested in is ensuring that the current process to consider the development plan—

Members interjecting:

The Hon. P. HOLLOWAY: Sorry, what was that?

Members interjecting:

The Hon. P. HOLLOWAY: Well, that is the other allegation that has been made during this whole thing, and it keeps getting repeated ad nauseam that, somehow or other, this is a developer-driven process. Of course, if you are going to redevelop land, you will talk to developers. Who else is going to develop land? You do not get individuals going out and buying a block of land in the middle of nowhere, subdividing it themselves and doing it. That is not how the system works. If you try to develop a plan for how you might house a population for the next 30 years, then of course you will talk to those whose interest it is, as a group, to develop land. The important thing is that, whereas you will get input from those people, the final decision is and has always been that of the government, and it will remain so. We will make our decision on good planning grounds. In relation to that final question, I have no idea whatsoever whether, if or why any developer might be talking to people in Mount Barker.

LIQUOR LICENSING CODE OF PRACTICE

The Hon. J.S. LEE (15:30): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about the review of the liquor licensing code of practice.

Leave granted.

The Hon. J.S. LEE: A number of community groups have contacted the Liberal Party with concerns that they will be required to have all staff trained in responsible service of alcohol. I am specifically talking about those community clubs, like sporting and recreational associations, that have a liquor licence for their clubrooms and rely solely, or in the main, on volunteer help to staff their facility. A review of the liquor licensing code of practice has brought with it concerns for such organisations that mandatory training for all staff will be required. In the review of the code of practice for licensed premises released on 21 July, it stated that there will be exemption for all small, volunteer-based community organisations. My questions to the minister are:

1. What is the exemption that will be made?

2. What do you mean by 'small, volunteer-based community groups'? Can you define them? Is there a size?

3. Will community organisations be required to apply for the exemption from the Liquor and Gambling Commissioner?

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 for the City of Adelaide) (15:31): I thank the honourable member for her most important and sensible questions. Indeed, the review—

An honourable member interjecting:

The Hon. G.E. GAGO: I am very happy to give a sensible answer, Mr President, as all my answers are. In fact, members would be aware that we have recently put out two discussion papers, one looking at a range of reforms relating to liquor licensing and the other relating to reforming our code of conduct and a range of initiatives that are designed to improve alcohol-fuelled behaviour. As we know, some of that conduct, particularly around our licensed venues in and around our entertainment areas, has become untenable. A series of measures are being considered.

We are currently at the tail end of a consultation period. Members of the public have had at least six weeks to consider proposals that have been put and to respond to them and put forward any other views or ideas that they might have, and we will welcome those. That part of the process has not been completed yet, but as soon as that has been completed we will collate those comments and look at what the attitudes are and what other proposals are being put. At this point in time it is only a discussion paper. The details of these proposals, including the mandatory training around responsible service of alcohol, are only proposals at this point in time. The details have not yet been fully explored or decisions made. We look forward to identifying relevant issues throughout the consultation period.

I have also had the pleasure of meeting with a wide range of different stakeholder groups. A range of issues and details will need to be worked through. We are very committed to working with the industry and other relevant stakeholders to resolve those details. As yet, the details around the exemptions have not been established. As I said, we are prepared to continue to engage and consult with relevant stakeholders to ensure that we improve standards of safety. I think South Australia is one of the only states that does not have mandatory training for responsible service of alcohol, so we are out of step there. At this point almost all other states have it, so we need to keep in step. We have indicated that we are prepared to look at exemptions in some circumstances and are prepared to work with the industry to establish and work through the details we would need to make this operational.

ANSWERS TO QUESTIONS

COURT DELAYS

In reply to the **Hon. J.S.L. DAWKINS** (24 June 2010).

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the

Premier in Public Sector Management): The Minister for Housing has provided the following information:

Housing SA eligibility criteria is in place to ensure that housing assistance is directed towards those customers who require assistance to obtain safe, secure and affordable accommodation. Housing SA's eligibility criteria excludes customers who hold any interest in residential property, as in most cases customers who own residential property are able to alleviate their housing need without the assistance of Housing SA.

Housing SA does, however, recognise that in some situations a customer may hold ownership of residential property, but may not have access to this property to alleviate their housing needs. Housing SA therefore provides a number of exemptions where customers who hold residential property may be assisted by Housing SA.

These exemptions relate to:

- marital/relationship breakdown where the applicant has left the jointly owned home which the other partner still occupies, and the applicant has an urgent need to be housed before property settlement takes place;
- high needs that require an individual or family to be housed away from their property and the equity in the property is too little to purchase or rent a reasonable dwelling in the area in which they need to live;
- medical, social or financial reasons for an individual or family to move away from their home to which they will eventually return, or where one partner leaves a jointly owned house due to domestic violence which the other partner still occupies during delayed property settlement procedures.

Housing SA properties are only left vacant where there is a need for the house to be vacant. Houses may need to be vacant for a number of reasons including renovations, regeneration, alterations, redevelopment, maintenance, during preparation for sale or whilst awaiting demolition. The 2009 Productivity Commission's Report on Government Services identified that South Australia had the lowest public housing turn-around times in Australia for 2007-08. If houses are available and suitable to be tenanted Housing SA will endeavour to provide the housing to the next person on the waiting list as soon as possible.

MINING (MISCELLANEOUS) AMENDMENT BILL

In committee.

(Continued from 22 July 2010.)

Clause 71 passed.

New clauses 72 and 73.

The Hon. M. PARNELL: These new clauses are part of a package of measures to include the Burra Monster Mine site within the definition of exempt land under section 9. Mostly we have been dealing with section 9 in clause 6, which is the clause that was to be recommitted. However, if the committee wants to deal now with the question of Burra I can do so, or it can be deferred until after we come back to clause 6.

The Hon. P. HOLLOWAY: I move:

That consideration of new clauses 72 and 73 be deferred until after consideration of clause 6.

Motion carried.

Clause 6.

The Hon. M. PARNELL: I move:

Page 6, after line 4—Insert:

(1) Section 9(1)—after paragraph (bb) insert:

(bc) the land marked as the Burra Mines Historic Site in the map in Schedule 1; or

This is back where we were, on Burra. This amendment seeks to add to the list of exempt places in section 9. Under the Mining Act, 'exempt land' is land that cannot be subject to a mineral

exploration licence or a mining lease unless certain conditions are met. At this stage I will say that there is another related amendment, and I will regard this as a test, I guess, for three amendments.

The first amendment is this change to section 9; the second is a test for the inclusion of the schedule, which is a map of the Burra Monster Mine area; and the third amendment is in Parnell-4, a set which has been fairly recently tabled. Again, it is an amendment to section 9, and basically provides that the exemption of the Burra Monster Mine from mining cannot be waived. The reason I put that in (and I put in a similar one relating to Arkaroola) is that under the waiver provisions the owner of land can actually agree with the mining company that the exemption does not apply. I have sought to make the protection for the Burra Monster Mine site a protection that cannot be waived, which means that the parliament needs to decide whether or not the Burra Monster Mine site will be open for exploration and mining.

That is a bit convoluted, by way of background. To get back to the merits of the issue, the fact that a company called Phoenix Copper is keen to reopen the old Burra Monster Mine historic reserve for the purpose of exploring for copper—and, if successful, mining that copper—has been discussed in this chamber previously. The reason we are dealing with it in this bill is that under the Mining Act a previous minister reserved this area from the operation of the act. In other words, it has already been exempted, if you like, from the operation of the act, and there is now an application before the mining minister to lift that reserve status. If the reserve status is not lifted then exploration and mining cannot go ahead.

I am still hopeful that the mining minister will make a decision in favour of protecting the heritage of the Burra Monster Mine site without the need for this particular amendment, and the minister may tell us shortly whether or not he has yet made a decision. If he has not made a decision then my amendment seeks to treat the already protected monster mine reserve as further protected, if you like, by being incorporated into the exempt land category.

I do not propose to go through all of the details as to why this historic area is worth protecting. Members would know that it is heritage listed; they would know that the reason it is currently reserved from mining is to protect those heritage values. I would hope that members would agree with me that the long-term protection of this site is in the best interests of not just the state's heritage but also the people of Burra and their ability to promote their town as an historic mining town with heritage that is properly protected.

The final thing I will say about the merits is that members may be aware that the World Heritage Convention may eventually apply to this site because there is currently an application before UNESCO to list a range of sites that relate to the heritage that Cornish miners took with them around the world, and that would include, in South Australia, areas such as the Copper Triangle and also the area around Burra.

The purpose of my amendment, as I have said, is to add to the category of exempt land the already protected Burra Monster Mine site. Support of this amendment will give it that extra level of protection that would ensure that if mining is to go ahead in the future it will be a decision of the parliament rather than a decision of the mining minister of the day.

The Hon. P. HOLLOWAY: The Hon. Mr Parnell's amendment proposes to amend the sections in the act relating to exempt land for the purposes of exempting the land known as the Burra Mines Historic Site from mining operations. The government does not support the amendment. The government considers that there are already stringent controls in place to protect the heritage values of the site, and the government is committed to retaining these values.

The government recognises that the Cornish mining heritage at Burra is one of the best examples in Australia. The site is currently covered by a number of historic and heritage covenants. The Burra Mines Historic Site, also known as the Monster Mine Reserve, was reserved from the Mining Act back in 1988. In the first half of 2010, Phoenix Copper, holder of the exploration licence surrounding the township of Burra, lodged a proposal to lift the reserve to allow drilling exploration beneath the existing historic open pit mine.

The company's proposal outlines the geological reasoning for a potential undiscovered copper mineral system deep beneath the mine reserve. PIRSA established a public consultation process on the company's proposal, and almost 50 well-considered public submissions were received. PIRSA has been comprehensively reviewing the submissions and documenting all of the issues raised during the consultation, and I will be briefed by PIRSA when that review and analysis are completed.

I will also be consulting with the Hon. Paul Caica, Minister for Environment and Conservation, and other cabinet colleagues on the breadth of issues raised during the public consultation. I would add that the exemption of land from mining operations in relation to historic mining sites is quite common practice. There have been a number of these through the Adelaide Hills, for example, where former gold mines operated. Clearly, the historic value of those sites is recognised and, indeed, historically PIRSA and volunteers from the department have put a lot of effort into preserving that part of mining history.

In relation to Burra, it is important that all of these issues be considered appropriately so that the best decision can be made. In relation to those structures on site, they are clearly covered by heritage agreements, as they should be, and there would never be any suggestion that any of those historic buildings and the like would be impacted by any mining activity. Indeed, the only question that is before the government is: if there is the potential for a major economic resource of state significance, should we know that fact in relation to considering whether that resource could be exploited for the benefit of the state in such a way that it may not disturb the historic values of the site? To enable us to come to that is something that we need to consider.

As I just mentioned, there have been some very well considered public submissions in relation to the importance of it. From my point of view, as mining minister, I would not want to be party to any proposal just to reopen a mine to eke out the last percentage of resources. I do not believe that that would be in the public interest.

The issue that we do have to consider—and, ultimately, the government will be considering it—is whether we should at least enable sufficient exploration on the site to determine whether there is some resource of state significance there. All of these issues can be, and will be, considered within the context of the Mining Act. We have dealt with such issues before, and I think governments have always come down to decisions that recognise the mining history of this site while still enabling the potential for mining wealth of the state to be examined. So, that is where the government is at at the moment. We certainly do not support this amendment. There are controls in place, and the government will be giving very close consideration to the matters that I have just outlined before we would contemplate lifting any reserve over the Burra area.

The Hon. D.W. RIDGWAY: For similar reasons that the government has outlined, I indicate that the opposition will not be supporting the Hon. Mark Parnell's amendment. We certainly see the historic and heritage value of the Burra mine today, and that should absolutely be preserved. That area made a significant contribution to the early development of South Australia and the growth of our fledgling economy. I think we share the view that we should know, if commodity prices have risen and if there are significant ore reserves, and maybe we should look at ways to mine those reserves that do not impact on the historical and heritage value of the monster mine area.

I expect that it is a decision that a government or a minister would make and recommend to cabinet. I think all of us respect the very important heritage value of the site itself and the equipment and facilities that are still there as part of the old mine. They are very important historic items that need to be preserved. I do not think it would matter which flavour government we have, whether it is as we now see federally a Green-Labor coalition or a Liberal government in the future, I suspect that those values will be upheld and those areas will not be adversely affected. However, we do not see this as the appropriate way.

We have always held the view that we should not use the Mining Act to stop mining; there are other ways. If a decision is made that an area should be exempt from mining, perhaps there are other mechanisms to do so; the Mining Act is not the way to do it. So, we are not supporting this amendment.

The Hon. M. PARNELL: In the minister's response, he referred to the process that his department was going through in relation to assessing the application by Phoenix Copper for the reserve status to be lifted. Can the minister give us any further guidance as to the time frame for the department to finish its deliberations and for the minister to make a decision?

The Hon. P. HOLLOWAY: Without trying to sound facetious, I think it will take however long is necessary for us to be happy with the result.

Phoenix Copper put a proposal, and if the government were to lift any exemption then, clearly, it would have to have very stringent conditions upon such lifting. If one was to go down that path, clearly, conditions would be placed on it as to what activity could be undertaken and so on. All of that would have to be considered if one was to go down that path.

The two alternatives are that either the government says no or it might say, 'Under certain conditions there might be some exploration which would indicate a potential reserve,' and then you would go back to the drawing board in relation to what might then happen. Effectively, I suppose, they are the two alternatives, without trying to double-guess what the department will recommend. Remember this will all be done in consultation with the Minister for Environment, as required under the act, if I recall correctly. It is a cabinet process, and we are well ahead of that. We are not interested in anything that might just try to eke out some remnant resource.

The only grounds on which I would need to be satisfied before I would put it forward would be if there was some prospect of a larger state significant resource which may be under the reserve or adjacent to it where the company has licences. If perhaps through some underground mining, for example, it could be accessed under there and they needed to make it viable, then that would be the sort of conditions where one might contemplate some exploration that would not have any impact on the current reserve. We are really getting into hypotheticals here.

The department would need to be very clear about what the company is proposing before it could give any consideration at all to an exploration program. We are certainly not interested in anything that would just extend current activities to eke out the remainder of the reserve because, clearly, that would not be in the public interest. However, we have not yet ruled out the potential that there may be a state significant resource lying in that vicinity and whether or not some exploration should be allowed to determine it.

Amendment negatived.

The Hon. M. PARNELL: I move:

Page 6, after line 4—insert:

(1) Section 9(1)—after paragraph (d) insert:

or

(e) the land declared to be a sanctuary under the name *Arkaroola—Mt. Painter Sanctuary* on 15 February 1996 (*Gazette 15.2.1996p1144*):

This is the amendment that has focused a great deal of interest in the community. This is the amendment that seeks to protect the iconic Arkaroola Wilderness Sanctuary from mining. The method used in this bill to achieve that result is the same method that we have just been discussing in relation to the Burra Monster Mine, and that is to add the Arkaroola Wilderness Sanctuary to the list of exempt land that is not subject to mineral exploration or mining.

Before I go to some comments about why I believe this is the appropriate treatment for this particular area of South Australia, I want to make a few more comments about the mechanism that I have used. This will be a test amendment for two other amendments that I have on file. One of the amendments on file basically provides that this exemption cannot be waived. Now what that means is that it cannot be waived by the owner of the land. That is important, and in fact it was a loophole, if you like, in the original amendment I put forward, because the owner of the land is technically the Crown, because the Arkaroola Wilderness Sanctuary is still technically a pastoral lease.

It is Crown land, and it has been operated as a wilderness sanctuary, but the ownership rests with the Crown. So if the waiver provisions were to remain that would mean that the Crown as the owner could agree to waive the protection that I am hoping this parliament will impose on Arkaroola. So this amendment is also a test for that.

Another point I want to make in relation to the mechanics of this is that this amendment is a test for an amendment to the schedule as well. That amendment proposes that, whilst the Arkaroola Wilderness Sanctuary is to be protected from exploration and mining, that protection does not extend to the very thin sliver of land on the eastern boundary of the wilderness sanctuary that overlaps the Beverley Four Mile uranium deposit. I have specifically excluded that area from the operation of the exemption.

I think that is important because it says that this amendment is about protecting the biodiversity, the heritage, the geological and the scenic values of Arkaroola; it has nothing to do with uranium mining. In fact, I have said on many occasions that the Greens' opposition to mining in Arkaroola has nothing to do with the fact that the people currently there—Marathon Resources—are looking for uranium. They could be looking for marshmallow or clotted cream for all we care.

The important thing is that the damaging activities that are part and parcel of exploration and mining have no place in this area.

I want to also just reflect briefly on the comments that the Hon. David Ridgway made in relation to the appropriateness of using the Mining Act to effectively classify an area as off limits to mining. He questioned whether or not that was the appropriate way to go. I would say that it is because, if you look at the Mining Act, one of the first things that it does is dedicate certain areas of the state as mineral land. In other words, it establishes where you can mine and, as members would know, that is about 95 per cent of the state.

In fact, there are very few areas of South Australia that are not open to mining in some way or another. So the act classifies where you can mine; the act also classifies through the exempt land provisions areas where mining should not occur. So I see it as entirely consistent to list in the act itself some areas which are going to be off limits to mining. That is why I have taken this approach.

Members might also recall that I have in the past moved for the protection of Arkaroola using different mechanisms, in particular, using the National Parks and Wildlife Act. That is another way of proceeding, because the Arkaroola Wilderness Sanctuary is in fact listed as a sanctuary under the National Parks and Wildlife Act, but the simple fact of the matter is that that act is not before us; the mining act is before us, and this is now a good opportunity for this parliament to finally make a decision about the protection of Arkaroola.

In terms of why this area is so important, I have had a fair bit to say about this over the years, and I am not going to give a full ecological, biological, geological lecture on the importance of this area. It came to the attention of many of us only through the deplorable waste in the wilderness scandal, where Marathon Resources was caught having dumped illegally thousands of bags of waste in the wilderness sanctuary, and as a result this area has been put onto the radar of South Australians.

People are starting to talk about Arkaroola and its values. What excites me is that the conversations that I am having with South Australians are from such a variety that it would be hard to imagine. I have done joint press conferences with Senator Nick Minchin. The honourable senator and I probably agree on very little, but we do both agree on the protection of Arkaroola. The Hon. Iain Evans, the member for Davenport in another place, again has for many years been advocating the protection of Arkaroola.

This is not something that the Greens have just dreamt up. This is something that a great many prominent Australians and South Australia have been calling for. I could also add to that list—whilst I do not put him in the necessarily the category of our most prominent scientists—even Ian Plimer, with whom I agree on almost nothing, who agrees that Arkaroola is worth protecting for its geological values. There are people in the mining industry, who are normally champions of opening land up for exploration and for mining, who agree—some privately, many publicly—that Arkaroola is too important to mine.

Most recently, members would recall the first new species of frog discovered in 35 or 40 years, I think it was, was discovered in Arkaroola. Conversations that I have had with people like Professor Mike Tyler indicate that we know very little about the ecology of the Arkaroola Wilderness Sanctuary. There is no doubt that there are species that have yet to be discovered hidden away in the ravines, the crevices and the rock pools of Arkaroola. This is an important area and it does need to be protected from mining.

I will also point out that, in the event that this amendment is unsuccessful, it is my hope that there will nevertheless be some consensus in this chamber about an appropriate level of protection that might be one step below absolute prohibition. I have another amendment on file, which is the amendment set Parnell 5, which looks to legislate existing levels of protection contained in the development plan that covers this area of the Flinders Ranges; in other words, taking existing provisions for the protection of this landscape out of a non-legislated document—the development plan—and incorporating it into the act itself. I think that would be a compromise that may well result in the same thing that the Greens want to achieve and that is to set the bar very high in relation to Arkaroola.

Mining companies should be under no illusion that this is an area that they are going to be able to mine very easily, not until a whole range of other options has been explored. The existing levels of protection, which, I think, people believe are stronger than they really are, talk about the protection of areas like this in a way that says they should only be exploited when you have fully

exploited other equivalent resources, outside of this zone. Is this the last possible uranium deposit left in South Australia? No. It is probably 1 or 2 per cent, maximum, even if you accept the exaggerated, inferred resource figures that Marathon Resources likes to put out. This is, in fact, in many ways what should be the least prospective area for uranium mining, not the most prospective.

I may have a bit more to say in terms of questions once we get into the debate. I wanted to put on the record that the effect of this amendment is the prohibition on exploration and mining. It does not affect the uranium deposit at Four Mile. It is a provision which says, if Arkaroola is ever to be mined, that is to be a decision of the South Australian parliament and not a decision simply of a minister acting alone.

The Hon. P. HOLLOWAY: In relation to the latter, I can assure the honourable member that the current thinking that any decision to mine, and by that I mean going beyond exploration, at Arkaroola would not be a decision for a minister alone. It would be a decision for the government as a whole. The Hon. Mr Parnell's amendment proposes to amend the sections of the act relating to exempt land for the purpose of exempting the land known as the Arkaroola—Mount Painter Sanctuary from 'mining operations'. The government does not support the amendment.

The principles underpinning the Mining Act seek to provide certainty and transparency for all stakeholders. The amendment bill introduced by the government further strengthens the level of regulation and enforcement for all exploration and mining operations across the state. The government recognises that the Flinders Ranges has some of the most recognisable and loved landscapes in South Australia, with outstanding landscape, environmental, cultural and tourism values. The Northern Flinders Ranges is also one of the most geologically diverse and prospective areas in Australia, with a long history of exploration and mining and potential mineral and energy resources of national and international significance.

Indeed, it is interesting that we should be debating this measure on the centenary of the first discovery of uranium in this region. Exploration has been conducted more or less ever since over the past century and, indeed, some exploration—I believe the first one—was taken out by camel for Madame Curie nearly 100 years ago. However, it is, as I think everyone would agree, a unique area of the state, particularly since you have the concentration of all these values—the outstanding landscape, as well as this diverse and prospective area.

I recently visited the Northern Flinders Ranges and Arkaroola with the Premier and the Minister for Environment and Conservation. I was very lucky this time. The previous time I had been there it was in the middle of the drought and a very dusty day, but when we were up there it was an extraordinary clear day and the unique character of Arkaroola and the Northern Flinders Ranges was on show, particularly the untouched landscapes of Freeling Heights and Mawson Plateau. Incidentally, that is where that new species of frog was found. That area is virtually a wilderness and I do not think anyone would suggest that that part in particular should ever be mined. Certainly, that is not my view.

Clearly visible when we were up there was the well-run Beverley uranium mine and the new northern discoveries that have been made north of Beverley. You can clearly see it from the edge of the Flinders Ranges. Beverley is a strictly regulated mine at both state and commonwealth levels and is demonstrating that best practice mining operations can be achieved in this environment. Incidentally, that mine, of course, is not a surface disturbing one.

In 2009, the government initiated a broad ranging scientific study on the landscape biodiversity and resources value in the Northern Flinders Ranges to see whether we could reconcile these competing issues. The scope and direction of the study acknowledged the existing broad scale objectives and principles already in place in the Northern Flinders Ranges Development Plan. The study outlined iconic landscapes and areas of unique character which would be deserving of further protection and controls on access, and I have already mentioned the Mawson Plateau and Freeling Heights in relation to that. The study also identified areas across the entire Northern Flinders Ranges of high mineral endowment and high resource potential for a range of mineral commodities. That went well beyond Arkaroola.

The government consulted on the study findings through 'Seeking a Balance' which was released in late 2009. It is clear from that consultation process that there have been projections put forward by both those from what one might describe as mining interests and conservation interests of the proposed management or access zones which sought to provide more specific detail beyond the guidelines under the Flinders Ranges Development Plan. The government acknowledges the

views strongly expressed and, as a consequence, we are continuing to assess the environmental, cultural and conservation values in the Northern Flinders Ranges (and that was indeed recommendations of some of the better researched submissions in relation to that proposal), as well as the potential for significant mineral and energy resources in the region.

Importantly, the government is closely reviewing opportunities for further protecting the highest values of the Northern Flinders. The state has well established conservation and heritage legislation. It is through these acts that the government will consider future conservation initiatives in the northern Flinders Ranges. The Mining Act—and this is relevant to the debate we just had on Burra—does not mention specific regions of the state where mining can or cannot take place, but rather sets out the framework for assessment to protect broader state interests.

The honourable member said earlier that 95 per cent of the land in this state is available for mining, but I think that mining companies would strongly beg to differ with that. Of course, some land is not available because it is in singly proclaimed parks. Other land is Aboriginal land that may have other restraints on it. You cannot mine within a certain distance of dwellings, so in much of the built-up areas clearly mining would not take place, and I am sure the Hon. Mr Parnell would be the first to object. We had a debate in question time about maps of areas, and the Leader of the Opposition was talking about 800 metres. If you had a map of the state where 95 per cent of mining could take place, I am sure there would be many areas where, for all sorts of reasons, you would not want mining to take place. It was a throwaway line from the honourable member, I understand, but in reality there is much less of the state that is effectively available. The other area of restraint I could mention is the Woomera protected area, which has other restraints. There are many controls on mining, and appropriately so, right across the land.

In his comments the Hon. Mr Parnell mentioned Marathon and its history. There are measures in this bill that seek to increase penalties and implement other measures to improve the government's capacity to control development. In relation to Marathon I should put on the record that one of the things I saw when I visited Arkaroola earlier this year was that Marathon has restored a number of tracks in the area in which it has explored which had been made by previous exploration companies. For anyone who visits Arkaroola and goes on that wonderful ridge-top tour, those tracks were made by mining companies, and there are a number of other tracks sprawling across the countryside, some of which are eroding badly. There are also tracks which, during its recent exploration, Marathon had restored, and it was pleasing to see that following recent rain those tracks were far less visible, even after 12 months of that work being done, than some of these earlier tracks that had been made 20, 30 or 40 years ago. I put that on record to give some balance to the argument.

There has been some disturbance of this area in the past with 100 years of exploration, but there are still parts that have been untouched, such as the Mawson Plateau, which most people would agree ought to remain that way. We have to again balance up these competing interests. The government is still in the process of doing that, and we will be making a decision on further access controls or conservations within Arkaroola, and they will be based on sound scientific evidence and prudent multiple land use management principles. We should not be prescribing particular regions any more than we would be doing in the Mining Act in other areas, such as Flinders Chase or Wilpena Pound, which are exempt from mining under other pieces of legislation. The national parks legislation does not specifically mention particular parks.

The Hon. M. Parnell interjecting:

The Hon. P. HOLLOWAY: The principles and management are established under the act. If one wishes to add to them, one can do so, presumably, through legislation. However, in relation to the issues of Arkaroola the government does not believe—for the same reasons that applied in relation to the Burra mines—that these have to be assessed during proper scientific analysis. I should point out that if one looks at the history of Arkaroola in relation to exploration there has been more or less a 100-year history; it has been somewhat one and off but virtually continuous. Part of the reason for this is that when it was first established by the Spriggs one of the conditions supported at the time was that exploration would continue. That fact does not make decision-making in 2010 any easier.

However, the government will reach its final position on this. As I said, just like with Burra there were a number of well-researched submissions in relation to the area. It is a quite significant area and, because of its size, one can classify different parts of it, as we attempt to do in the 'Seeking a Balance' document. While that has not been successful, I think we would be prepared to say that the process does indicate a need for more work in relation to those environmental, cultural

and conservation values. Indeed, the discovery of that new species of frog was probably a case in point.

Generally speaking, these issues such as the future of mining in Arkaroola are issues on which there are significantly divided views within the community, but the way to deal with it is not through amending the Mining Act in this way.

The Hon. D.W. RIDGWAY: I guess the opposition knew that the government would not support the Hon. Mark Parnell's amendment, and there has been significant commentary in the media about the opposition's position and whether it would support the Hon. Mark Parnell's amendment or whether it would support the current position of the government. It would be fair to say that the party has taken some considerable time on this. The debate was adjourned when parliament last sat, and I know that the leader, Isobel Redmond, along with a number of the team, visited Arkaroola over the break. We have also had a couple of lengthy meetings to arrive at our position.

It is interesting to note that when you look at the 'Seeking a Balance' document (to which I will refer shortly), although it is discounted by some stakeholders in this debate as being perhaps not as robust as it should be, the document nonetheless does refer to the development plan. This is where the opposition has arrived at its position, and I can indicate that it will not support the Hon. Mark Parnell's amendment.

It is the opposition's view that, under the current development plan that the minister referred to, the Land Not Within a Council Area (Flinders), in particular, is in the environmental class A zone. I will read what is contained within this zone, because I think it will help explain what the opposition is trying to achieve. The document provides:

> The objectives and principles of development control that follow apply to that part of the land which is not within the area of a council and which lies within the Environment Class A Zone, shown on maps LNWCA(F)/1 to 31—

which, of course, are the maps in the development plan. It is interesting to note that the Marathon Resources exploration lease lies entirely within the environmental class A zone. The document continues:

> The objectives expressed in this section are additional to those expressed for Flinders.

So it is additional for this zone A. It further provides:

> Objective 1: The conservation of the natural character and environment of the area.
>
> Land in the area is of extremely high landscape, wilderness, environmental and scientific value. These qualities make an attractive natural environment containing little evidence of human impact. New structures need to be restricted to shelters and rainwater storage for walkers and persons on horseback and to structures ancillary and adjacent to existing buildings.
>
> It is recognised that a number of substantial buildings, including some nine pastoral homesteads as well as the Angorichina Tourist Hostel, have been developed in the Environmental Class A Zone and it may be necessary that further small-scale development or the expansion of existing groups of buildings occurs.
>
> Any such development needs to be in keeping with the existing use of land and in close proximity to the principal group or buildings on the land. It should be of an appropriate scale and sited, designed and constructed in a manner sympathetic to the environment.
>
> Grazing activities should be conducted so as to maintain the natural attributes of the area. Clearance of native vegetation needs to be restricted.
>
> The conservation of the environment and landscape is the paramount aim and consideration in the Environmental Class A Zone.
>
> Objective 2: The protection of the landscape from damage by mining operations and exploring for new resources.
>
> Mining operations should not take place in the Environmental Class A Zone unless the deposits are of such paramount importance and their exploitation is in the highest national or state interest that all other environment, heritage or conservation considerations may be overridden. Deposits which may potentially have the required degree of significance have been identified in the following localities only: the western face of the Heysen Ranges; portion of the Moralana Valley; portion of the Mount Hack and Mount Uro areas; portion of the Stirrup Iron Range; portion of the East Gammons and the Mount Painter-Freering Heights area.
>
> Objective 3: Roads which do not unduly disturb the natural character and beauty of the area.
>
> Improvement to existing roads...in the Environmental Class A Zone is envisaged but care is required to ensure that work does not unduly disturb land forms, vegetation, wildlife and aesthetic and other qualities which contribute to the conservation value of the area. At creek crossings, care needs to be taken to minimise damage to

vegetation by road works. Fords should generally be used and when erosion controls are needed the use of natural stone spillways on the downstream side of creek crossings should be considered. No new roads should be constructed.

To safeguard the quality of the environment, access to areas not served by a road...needs to remain difficult. No new tracks (as distinct from roads) should be constructed and the use of existing tracks by vehicles also needs to be restricted.

It then goes on to state:

Principles of Development Control.

The principles of development control expressed in this section are additional to those which apply in the whole of the land not within the area of a council.

These, I think, are the important points:

1. Development should not impair the natural and scenic features of the area.
2. Native vegetation should not be cleared in the Environmental Class A Zone.
3. No new roads or tracks should be formed...in the Environmental Class A Zone.
4. No mining operations should take place in the Environmental Class A Zone except where:
   (a) the deposits are of such paramount significance that all other environment, heritage or conservation considerations may be overridden;
   (b) the exploitation of the deposits is in the national or state interest;
   (c) investigations have shown that alternative deposits are not available on other land in the locality outside the zone; and
   (d) that operations are subject to stringent safeguards to protect the landscape and natural environment.
5. No buildings or structures, including transmission line, towers, antennae, should be erected in the Environmental Zone Class A other than:
   (a) simple shelters and rainwater storages for walkers and persons on horseback; or
   (b) buildings which form extensions of existing pastoral homesteads or tourist hostel developments, provided that they are:
      (i) located within or form compact and continuous extension of existing groups of homestead or hostel buildings;
      (ii) in keeping with the existing use of the land;
      (iii) of the same or lesser scale as existing buildings;
      (iv) constructed of materials which blend with the landscape;
      (v) sited and designed to be unobtrusive; and
      (vi) sited so that excavation to access tracks and utilities are minimised.

When the opposition looked at that particular zoning it became clear that in the development plan for land not within a council area (Flinders region) there was significant protection afforded to areas such as we are discussing today, being Arkaroola and, in particular, the area that Marathon Resources now has an exploration lease over.

It is also interesting to look at the *Seeking a Balance* document and, in particular, the government's discussion in relation to some new zones. The opposition is a little concerned that the government is possibly looking to tweak the zones slightly: zone 1, 'No access', and, 'No access for exploration and resource development', but then zone 2a, which is distinct from class A zone in the development plan, goes on to talk about:

No high impact activities accepted...Declaration of environmental factors (i.e. proposed exploration work programs)—

this is for mineral exploration—

approved by Director of Mines with the endorsement of the Director of National Parks and Wildlife. The following activities will be permitted:

- Aerial surveys
- Walk-in access...
- Rock and soil sampling...

- Other low impact [mining] activities
- Minimal disturbance to flora and fauna.

Then it goes on to talk about proposed mining and resources developments as follows:

- Permissible if access from outside zone to resources underneath.
- Mining proposal assessed in light of planning guidelines...

We have talked about planning guidelines for zone 2A. They then go on and talk about a range of other issues with zone 2A, but when we come to zone 2B, it talks about mining proposals to be 'assessed in light of the development plan guidelines and identified values'. I think the government is suggesting that they want to adhere to the development plan that exists in the Flinders Ranges or in the land not within a council area, and in particular zone 2A.

I indicate that the opposition, while not supporting the Hon. Mark Parnell, will be moving a private member's bill—of which we will probably give notice next week—effectively putting Environmental Class A Zone into the Development Act from the development plan, and that development plan can be changed only with the support of the state parliament. Everybody is very clear. This development plan has been in place since 2003. Marathon Resources was aware of it when it applied for an exploration licence. My understanding is that the Sprigg family at Arkaroola were comfortable with that development plan, and I am sure that they were involved in the consultation process when that particular development plan was settled on and gazetted.

It seems that Marathon was happy with that. Clearly, the government is seeking a balanced report, looking to make sure that the objectives and principles outlined in the development plan, particularly for that area, are taken into account when it comes to any activities in that area.

We talked about mining operations not taking place unless deposits are of such paramount importance that their exportation is in the highest state or national interest that all other concerns can be pushed aside. It is the opposition's view that Arkaroola needs to be preserved and that it is a site of significance. It is certainly many years since I visited in my early 20s, so it is, sadly, 25-plus years ago since I was there. It was particularly breathtaking for me back then, and I am sure that it has not been diminished over the years, and perhaps its importance has been enhanced.

If the government is fair dinkum about adhering to the objectives and principles laid out in the development plan, the opposition would seek the government's support for our private member's bill to have any changes to the development plan to be something that this parliament has a say in. While the Hon. Mark Parnell may be disappointed that we are not supporting his amendment, I am sure he would be willing to support this level of protection.

It is interesting to note that the Hon. Mark Parnell has foreshadowed another amendment that has been put on file that tries to encapsulate some of the principles of the development plan.

It is interesting to note that the Hon. Mark Parnell was advised of the opposition's position in that wonderful place called the parliamentary bar at breakfast time this morning. It is a little typical of the Hon. Mark Parnell in that he saw an opportune time. With the National Parks and Wildlife Act, he had a look at trying to do something in Arkaroola. At the time we sympathised with his concerns, but we did not believe that the National Parks and Wildlife Act was the appropriate one to do it.

At the same time he saw an opportunity with the opening up of the Mining Act and, when it was opened up, he had that opportunity. We agree that, as the minister said, it provides some sort of guidance, clarity and principles for mining to take place, so this probably is not the act. He perhaps realised this morning in the bar discussion with the shadow minister that perhaps his amendment was not going to be successful so he would quickly take an opportunity to—

An honourable member interjecting:

The Hon. D.W. RIDGWAY: No, the shadow minister. I am not accusing you of chatting in the bar (not at that hour of the day), and it was only over breakfast and there was no alcohol being consumed.

The ACTING PRESIDENT (The Hon. J.S.L. Dawkins): The correct title is the refreshment room.

The Hon. D.W. RIDGWAY: Thank you; I did not realise it was called a refreshment room. Nonetheless, that was where the discussion took place. Of course, the Hon. Mark Parnell has had an opportunity to quickly have something drafted by parliamentary counsel. Again, I think it is a little opportunistic to try to jump in on a position that clearly the opposition has arrived at, where we believe that, if the government is fair dinkum in seeking a balanced document, it will support our amendments to the Development Act to make sure that this development plan cannot be amended just in the normal process and that it actually has to come to the parliament.

It is also interesting to note that the government did renew Marathon Resources' exploration licence late last year after the issue of the bags and the rubbish being buried and the damage that was done to the area, which have been well documented and well spoken about. The government did, in fact, reinstate that licence; in fact, I think it issued a new licence late last year because, of course, the existing one was about to expire. The minister may or may not wish to comment, but it is the opposition's advice that if we change the goalposts mid-stream for Marathon Resources then there could be some expectation of compensation.

That is the reason we wanted to try to beef up or strengthen, if you like, the environmental class A zone. That is exactly what Marathon Resources knew it was dealing with when it applied for its initial exploration licence, and we believe that that should stay in place. It certainly spells out in some detail the types of activities that really are not going to be permitted in that particular area. So, we think that this is the best position to take.

I know that the Hon. Mark Parnell talked about the whim of a minister making the decision and the minister said that it would be a government decision, and I am sure that it would be a government decision. I remind the chamber that in a former parliament it was the Liberal Party that chose not to allow mining to be undertaken in the Gammon Ranges. I think the community and the Hon. Mark Parnell and his supporters could take some comfort from the fact that the Liberal Party has had a good track record on environmental protection in certain parts of our state, certainly when it comes to mining.

I can understand why the Hon. Mark Parnell and his supporters—and, in fact, some of us—are a little nervous when you look at this government's track record and, in particular, the Premier's track record when you look at the journey that he has been on over his lifetime as one of the major advocates against uranium mining and particularly the development of Roxby Downs. Of course, he has been the champion of that development as he has come into government and realised that that is actually a pretty important resource for our state. And then, of course, he was the champion, so he claims, of getting rid of the Labor Party's three mines policy.

So, with the journey that the Premier has been on, I think the community could have little faith in what decision this government might make. That is why we want to indicate that in opposition we will beef up the existing arrangements and put the environmental Class A zone into the Development Act by way of a private member's bill so that the parliament then has to be involved in any changes to that zone. We hope that the government is fair dinkum with its Seeking a Balance document and that the Development Act and the zones within that act will reflect the current Development Plan.

With those words I indicate that the opposition will not be supporting the Hon. Mark Parnell, but we will certainly be seeking to have a private member's bill drafted. I have had discussions with parliamentary counsel this morning and they are comfortable that we can come up with a set of words that will enhance the Development Plan. It is the opposition's view that they are the guidelines, principles and objectives under which the current exploration lease was given. We think they need to be strengthened to make sure that those guidelines, principles and objectives are not changed. The opposition does want to see the high environmental value of Arkaroola preserved.

The Hon. M. PARNELL: I want to comment on a couple of things that the minister said and then I want to address the opposition's approach.

The minister reminded us that we are around the time of the centenary of the discovery of uranium. The other milestone that I am sure the minister is well aware of is last month was the 40th anniversary of when the honourable Don Dunstan, with his own hands, carried the rocks up to the top of Sillers Lookout and started to build the cairn that marks that prominent landmark. Sillers Lookout of course is identified in the Seeking a Balance report, which the Hon. David Ridgway referred to, as an area that is going to be opened up for mining. So, that is another anniversary for us to reflect on: 40 years ago Don Dunstan building the cairn, no doubt hoping that Arkaroola would be protected as a tourism and a wilderness sanctuary in perpetuity.

The second thing I want to say relates to the minister's referring to my comment as a bit of a throwaway line when I said 95 per cent of the state is open for mining. Yes, it is a throwaway line, but am happy to sit down with the minister and do the sums. I know it is more than 90 per cent, but I am not sure whether it is quite 95. My recollection is that 4.7 per cent of the state is in National Parks and Wildlife Act reserves that are not subject to joint proclamation. As members would know, three-quarters or more of our National Parks and Wildlife Act reserves are open for mining; it is only a very small proportion that are not.

The proportion of land that is in Aboriginal reserves is available for mining. It just means the mining companies have to negotiate, but they are not off limits, and the map exercise that the minister and I should perhaps sit down and go through is in relation to exempt land, which may bring the percentage up a little bit but it is the wrong figure to use because exempt land is available for mining. We have been debating exempt land in this bill. Every time someone tries to stop mining on exempt lands and they go to the Warden's Court they lose. Exempt land is open for mining unless you get rid of those waiver provisions or you amend them, which is why I have sought to get rid of the waiver provision in relation to Arkaroola. I might just mention that because, as I have said, the owner is the government.

It might also be said that the lessee of the Arkaroola Wilderness Sanctuary is technically an owner and would be part of any waiver discussions. I do not think it is fair to leave the decision up to the current custodians about the long-term future in terms of mining. Getting rid of the waiver provision altogether, I think, is the way to go.

The minister referred to the fact that he would not be making unilateral decisions: that it would be the government as a whole. We need to reflect on that because, under the Mining Act, the minister does have considerable powers, and under the Development Act—which the Hon. David Ridgway has referred to and which I will come back to—the mining minister also has considerable powers.

The first thing to note is that mining is not development under the definition of development. It is only certain types of mining and, in fact, mining does not go through a normal development assessment process. Under section 75 of the act there is a process where two ministers need to talk to each other: the mining minister and the planning minister. In this current situation, they are the same person. The minister needs to talk to himself and decide—

The Hon. P. Holloway interjecting:

The Hon. M. PARNELL: He says 'Or delegate', but the point is that the decision is concentrated at present in the hands of one minister; in the future, it might be two. The mining minister and planning minister talk to each other. What do they have to decide? They do not decide on a development approval: they decide on whether it is going to be a major project, whether it needs an EIS, and at the end of the day the question for us to ask pertains to the measures that the Hon. David Ridgway read out in their entirety.

In relation to these measures that say that areas like Arkaroola are inappropriate for mining unless a series of conditions are met, what status does that document have? What level of protection does that class A status have in relation to Arkaroola? The answer is: it has virtually no status at all. If we go through the section 75A provisions, through the major project stream, and we do an EIS, the final decision that is made does not have to be consistent with the planning scheme. It does not have to be consistent with the zone A environmental requirements. Inconsistent decisions can be made. There is no appeal, there is no challenge; there is nothing that can be done about it.

These provisions, as good as they are, have no teeth at all. It would only be a factor to be taken into account. If these provisions had some legal force, then would I be happy? Would the Greens be happy? We would be happiest of all if we could get this amendment through but as a fallback position, if we could get some genuine teeth into legislation that meant that these requirements must be fulfilled before any mining activity could go ahead, then at least we would be better off than we are at present.

The question then is whether the approach that the Hon. David Ridgway has foreshadowed is likely to actually achieve that level of legal certainty. Will writing into the Development Act a provision that maybe vegetation should not be cleared—or a provision that no new roads or tracks should be formed, or that no mining operations should take place except where the deposits are of such paramount significance that all other environment, heritage or conservation considerations

may be overridden—have force of law by virtue of a private member's bill amending the Development Act?

The answer, of course, depends largely on how it is drafted and it also depends on the government's attitude. We are no strangers in this place to a majority of members passing a private member's bill only to find it languishing in the lower house. What I would not like to see is members of the opposition being able to rub their hands together and say, 'Well, we tried. We passed a private member's bill and it is not our fault that it languished in the lower house and never became law.'

I think that would be disingenuous. As the Hon. David Ridgway talks about the government being fair dinkum about protecting the values of Arkaroola, all of us here need to be fair dinkum. I am not, at this fairly early stage of proceedings, convinced that simply writing 'the land not within a council area (Flinders development plan)' into the Development Act is going to do the trick unless we have substantial other amendments to make sure that these provisions are the determinating provisions and not just advisory provisions.

The Hon. David Ridgway referred to the fact that Marathon as the main stakeholder, and I guess the Spriggs as well as the owners of the wilderness sanctuary, have known about these class A environmental conditions and therefore, if we give these conditions more strength, no-one can argue that the goalposts have been changed. That has some merit, as long as we can legislate for these provisions and that drives the decision-making of the minister. The Hon. David Ridgway referred to whether my putting an amendment forward now was opportunistic. Perhaps because we had a discussion and I wanted to know what the opposition was thinking—I do not yet know what the minister is thinking about the opposition's approach—I was prepared to make the major concession of having a fallback position which said, 'Let's beef up the protection as much as we can.'

The way to do it is in a further amendment to this Mining Act incorporating these class A provisions into the Mining Act, not putting them into the Development Act where they will not work, but putting them into the Mining Act. That is a conversation that I will want to have with the opposition. I do not blame the members of the opposition for taking their time in making a decision. This is a very important issue of state significance. I would rather them take their time and make the right decision rather than rushing into something and making the wrong decision.

It may well be that, once we have dealt with this amendment, when we do get to my amendment (which is to incorporate these provisions pretty well word for word out of the Development Plan and write them into the Mining Act) that that might be a time for us to report progress so that we can test the bona fides of the Liberal opposition and how serious they are about having these provisions have the force of law in relation to mining at Arkaroola. When we get to that amendment, I will speak to that then, but for now I would urge members to support this amendment which I will be dividing on. This is the amendment which says: Arkaroola is too precious to mine and we are going to say so in the Mining Act itself. I commend the amendment to members.

The committee divided on the amendment:

AYES (5)

Bressington, A.	Brokenshire, R.L.	Franks, T.A.
Hood, D.G.E.	Parnell, M. (teller)	

NOES (14)

Darley, J.A.	Dawkins, J.S.L.	Finnigan, B.V.
Gago, G.E.	Gazzola, J.M.	Holloway, P. (teller)
Hunter, I.K.	Lee, J.S.	Lensink, J.M.A.
Lucas, R.I.	Ridgway, D.W.	Stephens, T.J.
Wade, S.G.	Zollo, C.	

Majority of 9 for the noes.

Amendment thus negatived.

The Hon. M. PARNELL: I move:

Page 6, after line 4—Insert:

(2) Section 9(1)—delete 'the land ceases to be so exempt' and substitute:

the benefit of the exemption is waived under section 9AA.

This is the second part of amendment 1 in Parnell 1 and is consequential to amendment No. 3 of Parnell 1, which was the insertion of new section 9AA, which has passed. Therefore, this is consequential and I would expect that it would also pass.

To assist the committee, I point out that the change that was made before the winter break in relation to clause 7 was a rewriting of the rules for waiving exemptions, in particular landholders in their dealings with mining companies, and, whilst this amendment is earlier in time in the bill, it is in fact consequential on the provision we already passed. As the committee supported the new section 9AA, it should also consequentially support this amendment.

The Hon. P. HOLLOWAY: I will take the advice of parliamentary counsel, and will not object to this amendment.

The Hon. D.W. RIDGWAY: The opposition does not object.

Amendment carried.

The Hon. M. PARNELL: I move:

Page 6, after line 5—insert:

(4) Section 9(3) and (3a)—delete subsections (3) and (3a)

(5) Section 9(3b)—delete 'this section' (first occurring) and substitute:

this act

This amendment is also consequential on the passage of new section 9AA. My understanding is that parts (4) and (5) of this amendment are consequential.

The Hon. P. HOLLOWAY: My advice is that this is consequential on an amendment we had, so the government does not oppose it.

The Hon. D.W. RIDGWAY: The opposition does not oppose the amendment.

Amendment carried.

The Hon. M. PARNELL: I move:

Page 6, after line 5—Insert:

(5a) Section 9(3b)—after 'this section' (second occurring) insert:

(and, subject to an order of the ERD Court under section 9AA, each person who has the benefit of an exemption must be a party to an agreement to waive the benefit before the land can cease to be exempt land)

This amendment seeks to clarify that where there is a proposal to waive an exemption, all those with the benefit of that exemption need to be party to that agreement, otherwise the exemption is not waived. In a nutshell, this again relates to the concept of exempt land, land that is close to houses or in ploughed fields. I think it covers the situation where you might have an owner—perhaps a sharefarmer or lessee—and if the benefit of the exemption is to be waived, all those who hold the benefit need to be a party to the agreement.

Effectively, this is really consequential on the new arrangement we have for the waiver of exemptions in new section 9AA. It clarifies that all those with a benefit need to agree before the exemption can be waived and mining or exploration go ahead.

The Hon. P. HOLLOWAY: The government has no problem with this amendment.

The Hon. D.W. RIDGWAY: The opposition supports the amendment.

Amendment carried.

The Hon. M. PARNELL: I move:

Page 6, after line 5—Insert:

(6) Section 9(3c)—delete subsection (3c)

I think this is now consequential, because it is replacing subsection (3c), effectively, I think, with the new 5(a) that we have just agreed to. So, I think it is consequential and I would urge members to support it.

The Hon. P. HOLLOWAY: We do not oppose the amendment.

Amendment carried; clause as amended passed.

Schedules 1 and 2 and title passed.

Bill reported with amendment.

Bill recommitted.

Clause 4.

The Hon. P. HOLLOWAY: I move:

Page 5, line 23—Delete the definition of 'mining operator' and substitute:

'mining operator' means the holder of the relevant mining tenement;

In effect, this amendment goes back to the original clause in the bill. Members will recall that when we last debated this back on 20 July the opposition moved an amendment. I did not oppose it at that time, subject to a further review and recommitment in the spring session. Since that time, there has been some significant discussion, to which I will refer in a minute.

The Hon. Mr Ridgway's amendment No. 1 proposing to amend the definition of mining operator was debated back in July. The government did not support the amendment; however, to keep the issue live, the amendment was not opposed subject to further discussion and re-committal. I can now advise honourable members that my department has undertaken further discussion with the Chamber of Mines and Energy and its legal representatives, and I think the opposition has been involved in that as well.

I advise honourable members that the government's position as previously outlined to this parliament remains unchanged. I reaffirm that the definition proposed by my department in the bill will not change the law as it currently applies; that is, the operator is the person to which the lease or licence has been granted and who has been authorised by that lease or licence to conduct mining operations. It is fundamentally critical that the intent of this definition remains unchanged to ensure the effective and efficient management of the state's mineral assets through best practice regulation and the general good governance of the mineral resources sector.

In answer to a question asked back in July by the Hon. Mr Parnell, it also makes it clear that the ultimate liability must remain with the holder of the lease or licence. As a result of further discussions with industry, the government recognises and has made an undertaking to industry that policy and better guidelines will be developed to ensure that parties entering into joint ventures, farming agreements or subsequent part 9B agreements are fully aware at the outset of the legal entitlements, rights, obligations and limitations of the respective parties.

For example, the purpose of negotiating a native title mining agreement under section 63F of part 9B, an exploration licence holder must be both a principal of and be bound by any agreement that is reached for that agreement to allow activities under the exploration licence to affect native title.

Where a joint venturer or other authorised party has been given effective and binding legal authority to enter into such an agreement on behalf of an exploration licence holder, then the normal rules of agency will apply. This emphasises that where a company, other than a tenement holder, has an involvement in a mining operation, both the tenement holder and that company should ensure that the extent and limits of their authority in respect of that operation is clear.

There has been a lot of lengthy discussion. I fully understand why the opposition originally moved the amendment because there have been various views about how this section would apply and I think they have been generally clarified. However, it is important and the government recognises that, while we should revert to the clear-cut definition that 'mining operator' means the holder of the relevant mining tenement and do not water that down in any way, we do need to communicate better with the mining industry as to what that means in relation to various joint ventures and so on. I trust those lengthy discussions (and I thank the opposition for its part in that) will clarify this situation going forward.

The Hon. D.W. RIDGWAY: The opposition supports the amendment proposed by the minister. We have had some lengthy discussions as recently as this morning with industry stakeholders and I think the minister has summed it up well. He understood what we were trying to achieve in that initial amendment but, subsequently, we are now happy to support what the minister is proposing.

Amendment carried; clause as amended passed.

Clause 7.

The Hon. P. HOLLOWAY: I move:

Page 6, after line 7—[Holloway Amendment 1]

New section 9AA(2)—Delete subsection (2) and substitute:

(2) A notice under subsection (1) must be in a form determined or approved by the Minister.

Page 6, after line 7—[Holloway Amendment 2]

New section 9AA(7)—Delete 'ERD Court' and substitute:

Warden's Court

Page 6, after line 7—[Holloway Amendment 3]

New section 9AA(8)—Delete 'ERD Court' and substitute:

Warden's Court

Page 6, after line 7—[Holloway Amendment 4]

New section 9AA(8)(b)—Delete paragraph (b) and substitute:

(b) the operator provided the respondent with information prescribed by the regulations for the purposes of this section; and

Page 6, after line 7—[Holloway Amendment 5]

New section 9AA(9)—Delete 'ERD Court' and substitute:

Warden's Court

Page 6, after line 7—[Holloway Amendment 6]

New section 9AA(9)(a)(i)—Delete 'exceptional'

Page 6, after line 7—[Holloway Amendment 7]

New section 9AA(10)—Delete subsection (10) and substitute:

(10) The Warden's Court may not make an order for costs against the respondent unless the Court considers that it is appropriate to do so on the ground that the respondent—

(a) has obstructed or unnecessarily delayed the proceedings; or

(b) has failed to attend any proceedings or failed to comply with a rule, order or direction of the Court.

The amendments that I have moved in relation to clause 7 seek to address a number of matters with respect to the Hon. Mr Parnell's waiver of exemption, right to cool off amendments which were debated and carried. I will address these accordingly.

Amendments 2, 3 and 5 replace any reference to the ERD Court with the Warden's Court. We have previously debated the merits of the ERD Court versus the Warden's Court. In that debate it was recognised that the Warden's Court is a low-cost court which provides a forum where landowners may represent themselves and can often receive guidance from the court. Maintaining exempt land related appeals to the Warden's Court ensures consistency in the legislation and a less costly and more efficient option for the parties.

For example, a landowner would not want to be put in the position where they are appearing in the Warden's Court on a notice of entry matter and then have to appear in the ERD Court on a waiver of exemption matter. Currently under the act, both matters are heard in the Warden's Court and that is why we are correcting it to address that technical issue. They are amendments 2, 3 and 5.

Amendment 7 relates to costs. The government supports the concept that costs should not be awarded against the respondent. However, for the purposes of procedural fairness, if, in a particular case, it is evident to the court that the respondent has been unnecessarily vexatious to

the extent where they are deliberatively obstructing or delaying the court proceedings then, in this case, the court should have the option to award costs against the respondent.

Amendments 1 and 4 relate to the information that the mining operator should provide to the person who has the benefit of the exemption. The objective of this amendment is to set out the minimum standards of information in the regulations. This approach will be consistent with the minimum standards to be set in the regulations for notices of entry. Again, this ensures that the legislation is consistent in its administration and consistent for the parties in its application.

Amendment No. 6 seeks to remove the word 'exceptional' where in the new amendments it states:

> On an application the ERD Court may:
>
> (a) if the mining operator satisfies the court that
>
> (i) exceptional circumstances exist in justifying the carrying on of mining operations on the exempt land

The word 'exceptional' in its ordinary meaning relates to an unusual or extraordinary instance. I remind honourable members that the exempt land provisions in the act apply to all mineral land, including pastoral lands and crown lands as well as freehold. The exempt land provisions apply to all types of mining operations, including prospecting and exploration.

What is exceptional in one case may not be exceptional in another. For example, if the mining operator wants to undertake low impact exploration, such as a geochemical survey, the mining operator would have to satisfy the court that their surface sampling is an extraordinary instance. This has the potential to set an inequitable precedent. So, while the government originally opposed the major amendment to clause 7, we hope these changes will make this section workable, so I ask the committee for its support.

The Hon. M. PARNELL: I will speak to these before the opposition, if I may, given that it is my amendment that is being tinkered with, as it were. I will again speak to them all now. The minister's amendments 2, 3 and 5 seek to replace the Environment, Resources and Development Court with the Warden's Court, in other words, go back to the current situation where the Mining Warden determines these applications.

The minister's reasons for going back to the mining Warden's Court were that it was low cost and that you could represent yourself. Both of those apply to the Environment, Resources and Development Court, but the ERD Court has one extra advantage that I see, and that is it has the provisions in section 16 of its act, where the first port of call is a round-table conference. You do not have to go straight into an adversarial situation before a warden. It is around the table to see if you can sort it out.

In my experience with these waiver cases over the years—as I said when I moved the original amendment, I have read most of the Mining Warden's judgments—I think the mining wardens have locked themselves into a bit of a precedent situation, where they will struggle with this new regime, where the presumption is in favour of the protection of exempt land. At present the presumption is in favour of allowing the mining companies to have their way.

I am not saying that the mining wardens are the problem in themselves. I am just saying that a new regime, I think, could benefit from a fresh set of eyes in the ERD Court, bearing in mind that these matters are likely to be dealt with by a commissioner of the ERD Court who has expertise in mining matters. That is the way the ERD Court works. It appoints specialists from different fields, so I oppose going back to the mining wardens. I do not accept the difficulty that there might be a couple of applications in different courts. That happens all the time.

Most big businesses would be multiple courts at any one time, depending, for example, on the level of debt that they were trying to recover. It might be small claims; it might be the District Court; it might be the Supreme Court. I have no problem with mining companies having to go to more than one court to conduct their business. In relation to amendments—I am pretty sure they are amendments 1 and 4—I see these as procedural, where the government would set the form of information that needs to be provided. I have no objection to those, so I am happy to support amendments 1 and 4.

Amendment 6 deletes the word 'exceptional'. Now, the reason that I put the words in so that exceptional circumstances need to exist before the court would order the mining company to be allowed to go in, even though there is an exempt land in place, was to reverse the presumption

of the decision-maker—currently the Mining Warden; I say it should be the environment court—that mining should win over the protection of exempt land. One of the main mechanisms that I have put in place in this new section 9AA is the word 'exceptional', so that the presumption is in favour of the landholder being able to keep the mining companies more than 400 metres away from their homes, out of their ploughed fields and more than 150 metres away from their dams and stock infrastructure.

I do not think that it is too much to ask that the mining companies only be allowed in those areas if there are exceptional circumstances. The actual amount of exempt land is relatively small and it is exempt for a reason. I do not support the removal of the word 'exceptional', so I will not be supporting amendment No. 6.

In relation to amendment No. 7, which basically says that costs can be awarded against a landholder in certain defined circumstances such as being obstructive, unnecessarily delaying proceedings or failing to comply with court orders—I am comfortable with that. I think the general rule should be that costs are not levied against the landholder, but if the landholder has behaved badly enough then yes, fair enough, costs might be awarded.

The only thing I would say is that, in amendment No. 7, the minister proposes to replace subsection (10) as passed by this chamber previously with a new subsection (10). Depending on the outcome of the earlier amendments, it may well be that if we do keep the environment court as the court of appropriate jurisdiction, we might need to remove the words 'the Wardens Court' from the proposed new subsection (10) and put the Environment, Resources and Development Court back in there. Aside from that technicality, I support the intent of amendment No. 7.

The Hon. D.W. RIDGWAY: I indicate that these certainly are amendments to an amendment that we supported of the Hon. Mark Parnell's. I think, just in talking to them all, that I support the comments of the Hon. Mark Parnell. Not having been personally to either the Warden's Court or the ERD Court, from the explanations that members have made and given to me over time, I do not think that deleting the ERD Court and going back to the Warden's Court is in the spirit of the amendments that we supported.

Certainly, I think that deleting the exceptional circumstances is not in the spirit of the amendments that we supported when we last sat. We certainly support amendment No. 7, which, of course, is where costs can be awarded. I think that is reasonable and fair. So, I indicate that we will be supporting amendment No. 1 but not the other amendments in relation to the ERD Court or deleting the word 'exceptional'.

The Hon. R.L. BROKENSHIRE: On behalf of Family First I indicate to the council that we will be supporting the retention of the ERD Court, as we did before. We find it unusual that the government is bringing back amendments to its own bill that were actually carried in this place before they go down to the other house and then come back if they are amended. I cannot recall this happening before, but we will certainly be sticking with our plan 1.

The Hon. P. Holloway's amendment No. 1 carried.

The committee divided on the Hon. P. Holloway's amendment No. 2:

AYES (7)

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

NOES (13)

Brokenshire, R.L.	Darley, J.A.	Dawkins, J.S.L.
Franks, T.A.	Hood, D.G.E.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I.	Parnell, M. (teller)
Ridgway, D.W.	Stephens, T.J.	Vincent, K.L.
Wade, S.G.		

Majority of 6 for the noes.

The Hon. P. Holloway's amendment No. 2 thus negatived.

The Hon. P. Holloway's amendment No. 3 withdrawn.

The Hon. P. HOLLOWAY: Amendment No. 4 is a technical amendment.

The Hon. D.W. RIDGWAY: The opposition supports amendment No. 4.

The Hon. P. Holloway's amendment No. 4 carried.

The Hon. P. Holloway's amendment No. 5 withdrawn.

The Hon. D.W. RIDGWAY: The opposition does not support amendment No. 6.

The Hon. P. Holloway's amendment No. 6 negatived.

The Hon. P. HOLLOWAY: I move to amend amendment No. 7:

Page 6, after line 7—New section 9AA(1)—Delete subsection (10) and substitute:

(1) The ERD Court may not make an order for costs against the respondent unless the court considers that it is appropriate to do so on the ground that the respondent—

(a) has obstructed or unnecessarily delayed the proceedings; or

(b) has failed to attend any proceedings or failed to comply with a rule, order or direction of the court.

'The ERD Court' has been substituted for 'The Warden's Court' in the original amendment. This change has been made to be consistent with the previous amendments.

The Hon. P. Holloway's amendment No. 7 as amended carried.

The Hon. M. PARNELL: I will not yet move my amendment, because I want to say a few words first. This amendment is in the set Parnell 5, and it brings us back to Arkaroola. As I foreshadowed before, there is some agreement, I think, between the Liberal opposition and the Greens about some of the words we want to see in legislation to give an appropriate level of protection to Arkaroola, albeit protection that is short of an absolute prohibition of exploration or mining.

I would like to have the opportunity to have further discussions with the shadow minister for mining and the Leader of the Opposition in this place to see whether they are able to support this amendment or whether the approach foreshadowed by the Hon. David Ridgway (that is, to put these words in a private member's bill amending the Development Act) is the best way to go.

For reasons I have mentioned previously, I am not convinced at first blush that the opposition's amendment will actually achieve what the opposition thinks it might. I would like to take this opportunity to report progress, and we can come back to this tomorrow or Thursday. I so move:

That progress be reported.

The Hon. P. HOLLOWAY: I think we have spent enough time on this bill and particularly enough debate in relation to Arkaroola. Essentially, the amendment moved by the Hon. Mr Parnell suffers from the same problem in that it sets out within the Mining Act specific conditions to one particular region. I believe that is bad in principle. What a mining act should do is set out the conditions under which mining operations can be properly assessed and regulated. It is a misuse of legislation to specify particular operations in relation to the Mining Act. So, we will be opposing this amendment for the same reason that we did previously.

I know the Hon. Mr Ridgway made some comments earlier in relation to the environmental class A zone. That is really a different matter, and I do not propose to take up the time by addressing that now. Obviously, if the opposition moves a bill in relation to that, we will consider it on its merits. However, in relation to the Mining Act, this amendment suffers from the same deficiency as Mr Parnell's previous amendments; that is, it is not really an appropriate way in which to deal with specific mining issues by setting them out in the act. I therefore oppose the deferral.

The CHAIRMAN: Hon. Mr Parnell, did you move the amendment?

The Hon. M. PARNELL: I moved to report progress.

The CHAIRMAN: Well there is no debate on that.

The Hon. M. PARNELL: I am pretty clear that that is what I said. I apologise if there is confusion. I did not want to move my amendment and then find that there was some obligation to deal with it tonight, when what I am looking for is an opportunity to have some further consultation with the opposition, which I will do as quickly as possible.

The CHAIRMAN: I will put the question, and it is up to the committee whether it wants it or not.

Motion negatived.

The Hon. M. PARNELL: I move:

Page 7, after line 30—Insert:

9AB—Mining in Arkaroola—Mt. Painter Sanctuary

(1) Despite any other provision of this Act (including sections 9, 9AA and 9A), the Minister must not grant a mining tenement in relation to any part of the Arkaroola—Mt. Painter Area unless—

(a) the Minister is satisfied—

(i) that the minerals to be recovered under the tenement are of such significance that all other environmental, heritage or conservation considerations may be over ridden; and

(ii) that the exploitation of the deposits of those minerals is in the National interest or the interests of the State; and

(iii) that investigations have shown that alternative deposits are not available on other land in the locality outside the Arkaroola—Mt. Painter Area (being a locality determined by the Minister as being reasonable in the circumstances); and

(iv) that the mining operations to be carried out in pursuance of the tenement—

(A) will not impair the natural and scenic features of the area; and

(B) will not require the clearance of native vegetation (being clearance of native vegetation within the meaning of the *Native Vegetation Act 1991*); and

(C) will not require any new road or track to be formed in the Arkaroola—Mt. Painter Area; and

(b) the Minister, in determining the terms and conditions subject to which a tenement is to be granted under this Act, takes steps to ensure that stringent safeguards will be in place to protect the landscape and natural environment in the Arkaroola—Mt. Painter Area.

(2) This section does not apply in relation to—

(a) a mining lease granted pursuant to an application for a lease made under this Act on or before 3 September 2008; or

(b) a miscellaneous purposes licence granted for purposes ancillary to the conduct of mining operations under such a lease.

(3) This section applies whether or not the land (or any part of it) remains a sanctuary after the commencement of this section.

(4) In this section—

Arkaroola—Mt. Painter Area means the land declared to be a sanctuary under the name *Arkaroola—Mt. Painter Sanctuary* on 15 February 1996 (*Gazette 15.2.1996 p 1144*).

My amendment seeks to incorporate into the Mining Act exactly the words of protection that the Liberals say they want to see applying to the Arkaroola Wilderness Sanctuary. I have to say that it surprises me somewhat that the opposition did not support having further discussions with the Greens on this matter because I believe that the private member's bill foreshadowed by the leader is destined to fail, and I think the Hon. David Ridgway's call for the government to be fair dinkum about this applies to the opposition as well.

I understand that the opposition has agreed with the minister that they do not accept that the Mining Act is the place to set out particular provisions in relation to mining in particular areas. I do not accept that, but I understand that that is a position they have taken and that is fine. If you

want the Mining Act to be just a framework for mining, so be it. What would be a great disappointment to me, and to the people who have worked long and hard to try to get proper protection for Arkaroola, would be to find a Liberal private member's bill that will pass this place, I am sure, to the Development Act and then find that it languishes in the lower house or, worse still, that it turns ought to be completely ineffective.

As I said earlier, the Development Act defines development as not including most forms of mining. You do not need a Development Act approval for mining. Section 75A provides that there are certain areas, which would include Arkaroola, where there is some consultation between the mining and planning ministers, and then there may be (but it is not essential) an environmental impact statement, which would be a good thing, but that statement does not guarantee that the class A environment provisions would apply.

The opposition will have to be very careful with how it words its amendment to the Development Act because there is a great risk that it might be a lot of sound and fury that actually signifies nothing. I make the offer to work with the opposition to make sure that whatever amendments are put forward do genuinely protect Arkaroola from inappropriate activities and that the bar is set very high so that we do not just get run-of-the-mill, opportunistic mining. There must be exceptional circumstances, as set out in the class A provisions. The words are 'of such paramount significance'; in other words, it is a very high bar.

I am disappointed that the opposition has not supported reporting progress, and I assume that it is an indicator that it is not supporting the amendment. However, having achieved on the record the vote of this committee on my original motion, I will not divide on this amendment, provided the opposition makes its views very clear on why they do not think this is an appropriate measure to put in this bill.

The Hon. P. HOLLOWAY: I have already indicated in general terms why the government opposes this amendment: because it suffers from the deficiency—

The Hon. M. Parnell: I want to hear from David.

The Hon. P. HOLLOWAY: But just before that, there are a couple of other things to be said. In relation to the development plan for the region, this was introduced under this government and essentially it reflects government policy. My reading of the environmental class A zone, as it relates to Arkaroola, is that it rules out significant surface disturbance, such as an open-cut mine. I have made clear on a number of occasions that that was my interpretation.

The Hon. Mr Parnell is correct that mining operations are generally considered under the Mining Act, although one notable exception is Olympic Dam because it has a number of related facilities, and in fact the environmental impact statement for Olympic Dam and its various facets is being carried out under the Development Act.

It is the government's view that there should be some consistency, and the policies this government has adopted in relation to mining or exploration in the northern Flinders Ranges is fully consistent with the relevant zoning to the area. If there is one issue in relation to the zoning, the only thing I would point out is that perhaps the actual boundaries of the zone have not necessarily been ground-truthed in some detail. I know that the Hon. Mr Parnell himself, in one of his amendments, was reminding us that there are some parts of the Arkaroola sanctuary that are actually on the plains to the east of the area and they are right adjacent to the Four Mile uranium deposit.

The Hon. Mr Parnell himself has suggested that with his earlier regulation he did not believe that that should be included within the boundary. I think that is one of the issues in relation to the boundaries of the zone. I point out that it has been the government's view that its policy under the Mining Act should be consistent obviously with its policy as expressed in the Development Act for this area, and that is why we have made it clear that we would not allow that significant surface disturbance in those activities because that would be inconsistent with the Development Act.

The Hon. D.W. RIDGWAY: I indicate, as the Hon. Mark Parnell has rightly picked up, that the opposition will not be supporting his amendment. The Liberal Party came to a position that I outlined earlier of incorporating the objectives and principles of the development plan either in the Development Act or that any change to those principles and objectives be done by the parliament. I rang parliamentary counsel before parliamentary counsel got to work this morning; I had a mobile number and called them to explain what we were trying to achieve. Their view at the time was that

we could do that through an amendment to the Development Act. They explained to me that we had the Mining Act in front of us today and that the Development Act was not before us; I assumed that we could do it by way of a private member's bill. They explained to me that, yes, that could be done.

I thank the Hon. Mark Parnell for the offer to work with the opposition to make sure that, on the advice that we have been given, we can achieve what we are attempting to do. Isobel Redmond today made some comments in a press conference in relation to the deposit and said that they are of such paramount significance that all other environment, heritage or conservation considerations may be overridden. I also highlight this third point that investigations have shown that alternative deposits are not available on other land in the locality outside the zone. That particular area is particularly rich in mineralisation, uranium and all the other particular bits and pieces and minerals that people explore for.

Isobel Redmond said in that press conference today in speaking on behalf of the party that she thought it would be highly unlikely that in her lifetime, our lifetime—in the foreseeable future or whatever—that Arkaroola would ever be mined. That was a position that we arrived at as a party prior to parliament resuming today. We believe in the advice we have received from parliamentary counsel that we can achieve what we would like to achieve through amendments to the Development Act.

The Hon. Mark Parnell said that we had reached agreement with the minister on the Mining Act and it was not the appropriate tool or mechanism to amend to bring this into effect. I hope he was not inferring that we had reached an agreement behind closed doors. We have formed a similar view; the shadow minister Mitch Williams, the member for MacKillop, has led the debate in our party room. It is certainly our view that the Mining Act is not the appropriate place; it is the framework and the principles by which mining operations should take place. The advice we have received is that we can achieve what we would like to achieve in the Development Act; so, as I said, we do not support the Hon. Mark Parnell but do look forward to his offer of support to help achieve what we have laid out earlier today.

The Hon. P. HOLLOWAY: For the record, the Leader of the Opposition referred to his leader in another place. I point out that under the Environmental Class A Zone 'Objective 2—The protection of the landscape from damage by mining operations and exploring for new resources' (and the honourable member himself read this out earlier), it says:

> Deposits which may potentially have the required degree of significance have been identified in…portion of the east Gammons and the Mount Painter-Freeling Heights area.

So, in relation to that environmental class, and contrary to what his leader in another place said, it is pointed out that not with certainty, but it may potentially, have the required degree of significance. I just point that out.

Amendment negatived; clause as amended passed.

Clause 24B.

The Hon. P. HOLLOWAY: I move:

Page 18, after line 16—

> New section 35B(a)—delete 'or oral'

This amendment seeks to remove reference to oral representation from section 35B(a) as moved and carried in the Hon. Mr Parnell's amendment No. 12 and the Hon. Mr Ridgway's further amendments.

Section 35B(a) relates to notification of a decision on an application for a mining lease. Under this new section the minister is required to give written notification to each person who made a written or oral representation. The government does not support the requirement to give written notification to persons who may have made an oral representation. Notwithstanding that, there is no legislative provision for oral representations; it is almost nonsensical to consider defining what is officially an oral representation. For that reason we seek that amendment.

The Hon. D.W. RIDGWAY: The opposition supports the amendment. If it were a well considered oral representation it may be a little easier, but it would be difficult if it were not a well considered and well put together oral representation; it may perhaps be just a bit of a spray of a representation. For the minister to have to respond to oral representations seems a bit excessive, so we support the minister's amendment.

The Hon. M. PARNELL: We are happy to support the amendment.

Amendment carried; clause as amended passed.

Clause 39A.

The Hon. M. PARNELL: Given the hour and the indications, I will not be moving this amendment.

Clause passed.

Clause 40A.

The Hon. P. HOLLOWAY: I move:

Page 25, after line 3—

New section 62A—After subsection (2) insert:

(3) This section does not apply in relation to an exploration licence.

This amendment deals with the right to require acquisition of land. This amendment seeks to clarify that this new section will not apply to exploration licences. However, I point out that this amendment would not preclude the holder of an exploration authority and the landowner entering into a private agreement for the acquisition of land at the exploration licence stage.

That can still take place, whereas I think the original clause was proposed by the Hon. Mr Brokenshire, and the government supported it subject to further discussions with industry and, as a result of those discussions, we have moved this further amendment just to exempt the exploration stage because that creates some complexities. With that amendment, the Hon. Mr Brokenshire's thinking in it that we had supported remains intact.

The Hon. R.L. BROKENSHIRE: I will be brief. Firstly, I do acknowledge and thank the minister for putting most of that amendment that Family First put forward, supporting that with his amendment, but I remind the minister that he did remove (2) which was to do with being economically unviable, and I gather from the numbers that we will not get that part up. However, the point with this clause—and I hope that the opposition and crossbenchers will support me on this—is that I am opposed to this further amendment.

I know that in fairness the minister did say that he was going to revisit the matter over the break, and I thought he was going to revisit it and give farmers a bit of a benefit with economic viability. Sadly, however, he revisited it and kicked the farmers in the backside. I highlight to the committee that exploration can be just as bad as mining.

These people can get this exploration licence; they can spend months or years running all over your farm, drilling holes every five or 10 metres and make an absolute mess of your farm, and you are now restricted during that exploration period from being able to go to an independent arbiter if you decide to sell your farm and move to another farm.

I think that it is grossly unfair, and I highlight to the committee that in the recess we had a constituent contact us who is now in a very detailed compensation claim for specifically this matter. He was a longstanding farmer. He was out there farming and growing sustainable food, and then along came the exploration licence and played merry hell on his farm and ruined it, and he had no opportunity. He has had to move away from that farm, and now he needs compensation.

This is specifically why we put this clause up. The miners have had a good go. Family First supports miners, but we also support farmers, and I call on the crossbenchers and the opposition to stop the government from carrying this unnecessary and unfair amendment against farmers in South Australia.

The Hon. D.W. RIDGWAY: My understanding of what the minister is trying to do is not to allow any compensation at the exploration stage.

The Hon. P. HOLLOWAY: It is not compensation. It is compulsory acquisition. This is requiring a company to compulsorily acquire the land.

The Hon. D.W. RIDGWAY: It is compulsory acquisition of the land at the exploration stage. I ask the Hon. Robert Brokenshire: if an exploration licence is granted and they come in and explore and then find nothing and they have had to compulsorily acquire the property, it seems to me from what you are saying that, if we oppose the minister's amendment, you can have an

explorer come in and have to compulsorily acquire the property. If he then finds nothing, what does he do with the property? Does he sell it back to the landowner or flog it off to somebody else?

The Hon. R.L. BROKENSHIRE: Clause 1 of 62A—Right to acquire acquisition of land, provides:

> If the activities of a mining operator—

and I highlight to the committee that whether you are exploring or actually mining, you are still a mining operator; exploration is fundamental to proceed to mining—

> on land substantially impair the owner's use and enjoyment of the land, the owner may apply to the Land and Valuation Court for an order under this section.

So, it is not compulsory; it gives the farmer an option. You have been a farmer yourself, Leader of the Opposition. How would you like to go about trying to export flowers that you have contracts for when you have someone running around squashing your flowers day after day as you are trying to grow them up for the export market? You may just want this option, and that is all it is, an option. The key word being 'may'.

The Hon. D.W. RIDGWAY: I might indicate that we may—and I have not said that we would yet—oppose the minister's amendment on the basis that it is 6 o'clock—I think this is the last amendment that we are dealing with today; it will go to the House of Assembly—so that we do not hold it up here any longer. I am not sure where our shadow minister is and I would like to have a further discussion with Mitch on this particular issue. So, I will indicate that we will oppose it but also indicate that, if the government changes the bill in the House of Assembly and it comes back here, we may also reserve our right to change our mind.

The Hon. P. HOLLOWAY: In view of the time, we will not divide on it. We clearly do not have the numbers, but perhaps we can have some more discussion on it.

Amendment negatived; clause passed.

Bill reported with amendment.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Industrial Relations, Minister Assisting the Premier in Public Sector Management) (18:02): I move:

> That this bill be now read a third time.

I thank the cooperation of the council for what is a very important bill for the state.

Bill read a third time and passed.

TRUSTEE (CHARITABLE TRUSTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 July 2010.)

The Hon. J.A. DARLEY (18:03): I rise, briefly, to indicate my support for this bill. In short, as indicated in the second reading speech, the bill is intended to ensure that a gift fund established to hold donations or other gifts for the benefit of a government instrumentality can hold the donations or gifts on trust without running the risk of becoming an invalid charitable trust for the purposes of being considered a deductible gift recipient by the Australian Taxation Office.

It is as a result of advice from the ATO that incorporated health advisory councils could not be considered deductible gift recipients because they were not a public hospital or charity. In addition, from the ATO's perspective, a health advisory council could not be DGR endorsed for its gift fund because any trust established by the HAC solely for the purposes of distributing money, property or benefits to government institutions, including public hospitals, would not be a valid charitable trust because of its connection to government.

My only comment in relation to the bill is in the form of a question to the minister as follows: why was this legislation considered necessary, when it appears to me that the same outcome could be achieved by proclaiming the country hospitals under the Public Charities Funds Act? I ask this because, in practical terms and based on past experience as a commissioner of charitable funds, donations are always made to hospitals and it is unlikely that donors would even contemplate donating to health advisory councils rather than to hospitals directly. It would appear to me that on this occasion the health department's policy advisers have been too close to the ether.

The Hon. J.M.A. LENSINK (18:05): I will be brief. This is a small bill. The issue has arisen and I understand was foreshadowed by the Liberal opposition during the passage of the health care bill in 2008, and it is an issue that relates to tax deductibility. We previously had a number of hospitals, particularly country hospitals, which were constituted under their own boards and they are now local boards. With the passage of that particular piece legislation they were incorporated under health advisory councils. This knocked off their deductibility status with the tax office, as they were then associated as a government body. I understand there are some millions held in trust by Country Health and some non-government organisations, such as the Red Cross, for those purposes.

Many members on this side of the house, in particular, would be familiar with the good work of the hospital auxiliaries in raising funds, and they would see it as appropriate, as indeed we would, that those funds would revert to those communities through their own hospitals. So the tax office did not recognise deductible gift recipient status and this bill will correct that. It is not an anomaly: I think it is probably fair to characterise it as an unintended consequence of the health care bill that passed through this place a couple of years ago. I commend the bill to the council and look forward to the probably brief committee stage of the debate.

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 for the City of Adelaide) (18:07): I thank honourable members for their second reading contributions. I have also been advised by other Independents and minor parties of their support, and I thank them for that.

Indeed, this bill is the result of an unintended consequence, as the Hon. Michelle Lensink has outlined. It seeks to make amendments to the Trustee Act. The bill ensures that a gift fund established to hold donations or other gifts for the benefit of a government instrumentality (such as a public hospital or ambulance service) can hold the donations or gifts or trust without being at risk of becoming an invalid charitable trust from the perspective of the ATO; and a fund established, for example, by a HAC would therefore be considered charitable, despite its connection to government. The bill will enable a gift fund to operate in a way that is consistent with ATO advice.

In relation to the question asked by the Hon. John Darley, I am advised that the health advisory councils (HACs) are not hospitals and therefore cannot be proclaimed under the Public Charities Funds Act. Therefore, we are required to proceed with this amendment bill. Again, I thank honourable members for their contributions and look forward to the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. J.M.A. LENSINK: It would be appreciated if the minister could perhaps outline what sort of funds are residing within trusts that are unable to be accessed at this stage.

The Hon. G.E. GAGO: At this point, I do not have the details of any exact figures. However, I am advised that it would most likely involve land, other real property and donations.

Clause passed.

Remaining clauses (2 and 3), schedule and title passed.

Bill read a third time and passed.

GAMING MACHINES (MISCELLANEOUS) AMENDMENT BILL

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

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 for the City of Adelaide) (18:12): 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.

This Bill seeks to amend the *Gaming Machines Act 1992* to create better responsible gambling environments in South Australia, to reduce the cost and risk associated with regulation, and for a number of administrative improvements.

On 23 June 2010 the Australian Government released the Productivity Commission report on Gambling.

The inquiry was conducted in accordance with terms of reference received by the Productivity Commission on 24 November 2008. At that time, work and consultation on the Bill now before the House was well advanced.

The decision was taken that further consideration of the Bill should be deferred until after the Productivity Commission had released its Final Report. It is important for the community, industry and Parliament to be confident in the amendments proposed. This Bill has now been assessed against the Productivity Commission Report and the Bill is considered to not be inconsistent with the Final Report. Details of the assessment are reported in the Final Policy Position Paper released today and available from the Department of Treasury and Finance website.

Importantly, the steps taken to develop this Bill are consistent with the Productivity Commission's recommendations regarding strengthening consultation processes and the incorporation of stakeholders' views into policy development processes.

The policy that underlies this Bill was developed by extensive public consultation. It included two inquiries by the Independent Gambling Authority, the 2004 Amendments Inquiry and the 2006 Review, and a detailed consultation on the contents of the Bill completed in October 2008. The inquiry reports are available on the Independent Gambling Authority's website. The September 2008 Consultation Paper, the July 2010 Final Policy Position Paper and stakeholder submissions are available on the Department of Treasury and Finance website.

I would like to take this opportunity to thank every person who was involved with the Independent Gambling Authority inquiries and the consultation on this Bill conducted by the Department of Treasury and Finance. While it is often a difficult area, the quality of the submissions was impressive, as was the desire by all participants to improve the regulatory framework for gaming machines in South Australia.

This Bill signals the Government's first steps in addressing the recommendations of the Productivity Commission. The South Australian Government will be working in the coming year with other Australian governments on a national response to the Productivity Commission's recommendations.

As noted by the Productivity Commission, this policy development work should involve a strong consultative element and incorporate stakeholder views into the policy development process.

In the last quarter of 2010, the Department of Treasury and Finance will release a Consultation Paper that addresses the changes necessary to gambling legislation to allow a national response to be developed and implemented.

The Consultation Paper will also address:

- the recommendations of the Independent Gambling Authority's Barring Inquiry;
- the Responsible Gambling Working Party's recommendations on signage; and
- other Productivity Commission recommendations that are not part of the national response.

A Bill will be developed following this careful consultation.

It is important that the Bill before us should not be delayed or fundamentally changed to further address the Productivity Commission report. To do so would only delay the implementation of good measures that are well understood by industry and the community sector.

This Bill and the forthcoming Bill are two important pieces in a co-ordinated effort by this Government to prevent and tackle problem gambling. Other parts of that effort include: improved gambling help services, new Codes of Practice from the Independent Gambling Authority, the creation of new industry responsible gambling agencies Club Safe and Gaming Care, and pre-commitment trials being evaluated by the Responsible Gambling Working Party.

Nationally, the Government is working with other jurisdictions on responsible gaming environments, gaming machine standards and pre-commitment. This is expected to be accelerated with the proposed national response to the Productivity Commission.

Together this work is about creating better responsible gambling environments.

This Bill brings to the mix seven measures that will help.

The first of these is the proposal to remove the fixed price of $50,000 on gaming machine entitlements traded through the approved trading system. This fixed price was identified by the Independent Gambling Authority as the reason why the trading system had failed to deliver the additional reduction in gaming machine entitlements required to achieve the 3,000 target.

The Government is committed to achieving this target. Details of the proposed new approved trading system have been released for public consultation and are available on the Department of Treasury and Finance's website. The focus of the trading system is to remove impediments from trade and to make the trading system fair for all types of gaming machine licensees. To that end, the Bill also includes a Stamp Duty exemption on the trades conducted through the approved trading system. This exemption is also available to clubs that transfer entitlements as part of a merger or to Club One.

The Government is planning to hold the first trading round under the new approved trading system next year.

The second measure strengthens the Social Effect Test for new venues by providing the Independent Gambling Authority the power to prescribe an inquiry process to be conducted by the applicant, and the power to prescribe principles for assessing the social effect that must be applied by the Liquor and Gambling Commissioner.

This measure is consistent with the recommendation of the Independent Gambling Authority in its 2004 Amendment inquiry report.

As a result of the consultation process, the Bill was amended to allow the Commissioner to apply the Social Effect Test to applications by venues that seek to increase the maximum number of gaming machines and other licence variations, if the Commissioner is of the opinion that the variation may significantly alter the social effect on the local community.

The third and fourth measures formally recognise the solid work of the Independent Gambling Authority, Clubs SA and the Australian Hotels Association in creating Club Safe and Gaming Care responsible gambling agencies. This approach is about working with venues to create the necessary cultural change so that gaming venues have consistently high standards for the responsible delivery of gaming. The Independent Gambling Authority, through its recently released Codes of Practice, created incentives for gaming venues to participate in Club Safe or Gaming Care.

It is proposed in this Bill to formally recognise the industry responsible gambling agencies and to identify the Independent Gambling Authority's powers in relation to them.

Also, the Bill proposes to reinforce the incentive created in the Independent Gambling Authority's new Codes of Practice by imposing longer closing hours on those gaming venues which do not have a responsible gambling agreement with an industry responsible gambling agency. Those venues will be required to close from midnight to 10am on weekdays and between 2am and 10am on weekends. This was recommended in the 2006 Inquiry Report.

For those venues that sign up to a responsible gambling agreement and have late trading, it is proposed that obligations for training, referrals to gambling help services and restrictions on the use of automatic coin machines be imposed during late trading. These obligations aim to identify and support gamblers who may have problems with gambling at an early stage.

It is considered that these measures together are superior to the Productivity Commission recommendation regarding closing hours.

The fifth measure is the strengthening of the compliance and enforcement provisions.

Compliance and enforcement is an area that occupied a significant part of the submissions received. There is no doubt that the work of the Liquor and Gambling Commissioner, Mr Paul White, in changing the approach to compliance and enforcement will address many of these concerns.

The draft Bill proposed a relatively complicated system of civil penalties. Given the submissions received and advice from the Commissioner, the Bill has adopted a simpler system of expiation notices for minor offences which can be issued on-the-spot by South Australian Police and authorised officers. The approach adopted is broadly consistent with the *Liquor Licensing Act* which is also administered by the Commissioner.

The penalty provisions have been reviewed and certain penalties have been increased.

The sixth measure makes it clear that gaming machines must be located in enclosed areas where smoking is not allowed.

The seventh measure provides a mechanism to extend responsible gambling regulation to those venues located on airport land controlled by the Australian Government.

I commend these seven responsible gambling measures to Members.

Reducing red tape is important in all industry sectors. It is also important for clubs and hotels because it can free up the industry to concentrate on implementing better responsible gambling environments. This Bill also includes seven measures aimed at reducing the cost and risk associated with the gaming machine regulatory framework.

The first measure goes hand in hand with the responsible gambling measure to strengthen the social effect test. It is proposed to create a social effect certificate, the purpose of which is to bring forward the assessment of the social effect of a proposed gaming venue so that it can occur before the costs associated with development and liquor licensing approvals have been incurred.

This will avoid unnecessary costs from being incurred by the proponent if the venue is ultimately determined to fail the social effect test.

The second and third measures bring in concepts implemented in the Liquor Licensing Act to the Gaming Machines Act. These are conciliation of contested applications and the proposed premises certificate. These measures have been successful in lowering cost and risk to applicants and objectors.

The fourth measure seeks to clarify the arrangements regarding gaming machines and gaming machine entitlements as collateral in finance arrangements by the holder of a gaming machine licence, gaming machine

dealer's licence or the special club licence. It replaces existing exemptions made under the *Gaming Machine Regulations* to provide the industry and financiers with greater certainty.

The fifth measure responds to concerns that some clubs have had over the provisions that allow the transfer of gaming machine entitlements to facilitate club mergers or amalgamations. It is a minor change that allows the club to de-merge if the objectives of the merger are not met.

The sixth measure removes the requirement that a Government inspector be present at the installation or repair of a gaming machine to seal the machine. This allows the Liquor and Gambling Commissioner to better allocate the Office's resources as part of its compliance and enforcement function based on the Commissioner's assessment of risk.

The seventh measure changes the regulatory arrangements regarding the sale and supply of gaming machines. Currently, the State Procurement Board is the only organisation from which gaming machine licensees can procure gaming machines. The role, however, can best be characterised as an intermediary between sellers and buyers of gaming machines for which an additional cost is imposed on the industry.

The current arrangements are not essential to ensuring either integrity or responsible gambling. The proposed arrangements include a series of measures to ensure on-going integrity of gaming machines. In particular, there are new provisions relating to the approval of supply contracts, a new offence for selling gaming machines without an approved supply contract, a new offence for offering or providing inducements to purchase gaming machines and extending existing prohibitions on links between gaming machine dealers and other licensees.

I commend these seven red tape reduction measures to Members.

The Bill also includes a number of proposals to improve the administration of the Act. The proposals include restructuring the Act to better describe the role of the Independent Gambling Authority as a rule maker which includes changes to the review period from 2 years to 5 years and an extension of the consultation period for changes to Codes of Practice from 14 days to 28 days.

The Bill also includes proposals to allow the Commissioner to release non-confidential information and to allow the Commissioner to refer matters to the Licensing Court.

Before I conclude, I would like to make some comments regarding section 15A which requires gaming venues not be located under the same roof as shops or within shopping complexes. Clubs SA raised in its submission a concern that section 15A prevented a gaming venue from being located on a site which had previously been shops, even though there were no shops at the time of application for a gaming machine licence or planned for the future.

The scenario highlighted by Clubs SA was clearly not the intent of the Parliament at the time. To have this arrangement would have placed an unreasonable burden on the club and hotel sector. In response to Clubs SA's submission, section 15A has been considered in detail. It has been concluded that section 15A does not, in general, prevent a gaming venue on a site on which shops had previously been located.

In summary, this Bill is part of a co-ordinated effort. It is not a knee-jerk response to a headline or two. It is well considered and well understood. Some people may not like all of the elements. That is no surprise. In the past the sides of the gambling debate have been diametrically opposed. What has impressed me throughout this process is how the community and industry have found a common ground to work from. This work is occurring in the Responsible Gambling Working Party, Gaming Care and Club Safe and it is evident in the thoughtfulness of the submissions received.

This approach will again be applied by the South Australian Government in the coming year to address a range of issues arising from reports of the Productivity Commission, the Independent Gambling Authority and the Responsible Gambling Working Party.

This Bill currently before the House is but one important step in creating better responsible gambling environments.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Gaming Machines Act 1992*

4—Amendment of section 3—Interpretation

This clause inserts definitions into the principal Act that are required for the purposes of the measure.

5—Amendment of section 4—Application of Act

Clause 5 proposes to amend section 4 of the principal Act to allow the Governor, by regulation, to apply provisions of the Act to a person who is not required to hold a gaming machine licence because of a Commonwealth law as if the person holds a gaming machine licence. This is designed to address venues on airport land.

6—Amendment of section 7—Conduct of proceedings

Clause 6 proposes to amend section 7 of the principal Act to require the Commissioner to attempt to achieve agreement between an applicant and an objector by conciliation. If agreement is reached, the Commissioner must have regard to the agreement in determining the matter.

7—Amendment of section 7A—Powers to make interim or conditional decisions and accept undertakings from parties

Clause 7 is consequential on the proposal to have a proposed premises certificate and a social effect certificate—see inserted sections 17A and 17B.

8—Insertion of section 8A

Clause 8 inserts new section 8A into the principal Act to provide that the Commissioner may refer to the Court proceedings that involve questions of substantial public importance, a question of law or any other matter that should, in the public interest or in the interests of a party to the proceedings, be heard and determined by the Court.

9—Amendment of section 9—Power to disclose information to certain authorities

Section 9 of the principal Act provides that the Commissioner may disclose information gained in the course of the administration of the Act to certain authorities. Clause 9 proposes to extend the provision to provide that if the information is disclosed in a form that does not identify the person to whom it relates, the Commissioner may disclose the information to any other person, or in any other way, the Commissioner considers appropriate in the public interest.

10—Insertion of sections 10A and 10B

Clause 10 inserts 2 new sections into the principal Act. Proposed section 10A provides that the Independent Gambling Authority may, by notice in the Gazette, prescribe—

- an inquiry process that must precede an application for a social effect certificate or, if required by the Commissioner, a variation of a gaming machine licence (a *social effect inquiry*);
- principles for assessing the social effect of the grant or variation of a gaming machine licence (*social effect principles*);
- principles for assessing whether a game is likely to lead to an exacerbation of problem gambling;
- an advertising code of practice;
- a responsible gambling code of practice;
- the form of a responsible gambling agreement.

It is proposed that the Authority may include provisions in the advertising and responsible gambling codes of practice that—

- designate a provision of the code as a mandatory provision for the purposes of section 47; and
- declare whether contravention of a mandatory provision is a category A, B, C or D offence; and
- if the offence is expiable, whether the offence is a category A, B, C or D expiable offence.

The proposed clause further provides that the Authority must review the process, principles, codes and form prescribed under the clause at least every 5 years.

Proposed section 10B provides that the Authority may, by notice in the Gazette, recognise a person as an industry body with whom a licensee may enter into a responsible gambling agreement and recognise a course of training as advanced problem gambling intervention training.

11—Amendment of section 12—Criminal intelligence

Clause 11 is consequential to the inclusion of social effect certificates and proposed premises certificates—see inserted sections 17A and 17B.

12—Amendment of section 14—Licence classes

Clause 12 proposes an amendment to section 14 of the principal Act to remove the gaming machine supplier's licence. This licence is currently held by the State Procurement Board—see section 26 of the principal Act. The proposed amendment would authorise the holder of a gaming machine dealer's licence to sell or supply approved gaming machines, prescribed gaming machine components and gaming equipment to the holder of a gaming machine licence or a gaming machine service licence or to another holder of a gaming machine dealer's licence.

13—Amendment of section 15—Eligibility criteria

Clause 13 inserts the proposed new concepts of a social effect certificate and a proposed premises certificate into section 15 of the principal Act. It provides that a gaming machine licence will not be granted unless

the applicant for the licence held a social effect certificate for the site of the premises in respect of which the licence is sought at the time of making the application for the licence. It also allows a gaming machine licence to be granted if the applicant holds a proposed premises certificate for the premises and satisfies the Commissioner that the conditions (if any) on which the certificate was granted have been complied with and that the premises have been completed in accordance with the plans approved in the certificate or a variation of those plans later approved by the Commissioner.

14—Insertion of sections 17A and 17B

Clause 14 proposes 2 new sections be inserted into the principal Act. New section 17A provides that a proposed premises certificate approving plans submitted by the applicant for the certificate will not be granted unless—

- the applicant holds a social effect certificate for the site of the proposed premises; and
- the applicant satisfies the Commissioner that the eligibility criteria required under section 15(5)(a) will be met in relation to the proposed premises if completed in accordance with the plans and that any approvals, consents or exemptions that are required under the law relating to development to permit the use of the proposed premises for the conduct of gaming operations have been obtained.

Proposed new section 17B provides that a social effect certificate will only be granted if the applicant satisfies the Commissioner that the grant of a gaming machine licence in respect of premises on the site would not be contrary to the public interest on the ground of the likely social effect on the local community and, in particular, the likely effect on problem gambling within the local community. In assessing the social effect of the grant of a gaming machine licence, the Commissioner must apply the social effect principles, and must not have regard to the economic effect that the granting of a gaming machine licence might have on the business of other licensed premises in the relevant locality (except insofar as that economic effect may be relevant to an assessment of the likely social effect of the grant of the licence on the local community) and must take each site in respect of which a social effect certificate is then in force into account as if a gaming machine licence were held for licensed premises on the site.

15—Substitution of heading to Part 3 Division 3

Clause 15 is a drafting amendment necessitated by the inclusion of additional material in the Division.

16—Amendment of section 18—Form of application

Clause 16 is consequential on the proposed new social effect and proposed premises certificates.

17—Insertion of section 23A

Clause 17 inserts a proposed new section 23A into the principal Act to provide that the Commissioner may treat an application for a gaming machine licence for proposed premises as if it were an application for a proposed premises certificate having regard to the extent to which the proposed premises are uncompleted.

18—Repeal of section 26

Clause 18 is consequential on the removal of the gaming machine supplier's licence.

19—Amendment of section 27—Conditions

Clause 19 proposes to amend section 27 of the principal Act to provide that if a licensee has not entered into a responsible gambling agreement, gaming operations cannot be conducted on the premises before 10am on Monday to Friday and between 2am and 10am on Saturday and Sunday.

20—Insertion of section 27AA

Clause 20 proposes a new section 27AA relating to variation of licence, with some provisions that were formerly in section 27 and 3 new subsections. The proposed new subsections provide that the Commissioner may require an applicant for variation of a gaming machine licence to complete a social effect inquiry if of the opinion that the variation of the licence in respect of the premises may significantly alter the likely social effect on the local community and, in particular, the likely effect on problem gambling within the local community.

21—Amendment of section 27A—Gaming machine entitlements

Clause 21 proposes to amend section 27A of the principal Act to provide that the Commissioner must keep a register of licensees holding gaming machine entitlements.

22—Amendment of section 27B—Transferability of gaming machine entitlements

Clause 22 amends section 27B of the principal Act to provide, amongst other things, that no liability to stamp duty arises in relation to a transfer of gaming machine entitlements under section 27B(1)(b), (c) or (f) executed after the commencement of the measure.

23—Amendment of section 29—Certain applications require advertisement

Clause 23 requires advertisement of applications for the new proposed premises certificate and the social effect certificate and for variation of a licence in a case where a social effect inquiry is required.

24—Amendment of heading to Part 3 Division 6

Clause 24 is consequential on the new proposed premises certificate and the social effect certificate.

25—Insertion of section 32A

Clause 25 proposes to insert a new section 32A into the principal Act to provide that the holder of a social effect certificate may, by notice in writing to the Commissioner, surrender the social effect certificate and the certificate will cease to be in force on acceptance by the Commissioner of the surrender. The proposed section also provides that the Commissioner may, by notice in writing to the holder of a social effect certificate, revoke the certificate if satisfied that the holder has ceased to have a proprietary interest in the site to which the certificate relates.

26—Amendment of section 36—Cause for disciplinary action against licensees

Section 36 provides the circumstances in which there is proper cause for disciplinary action against a licensee. The proposed amendment adds the ground of the licensee contravening or failing to comply with the advertising code of practice or the responsible gambling code of practice.

27—Amendment of section 36B—Taking of disciplinary action against licensees

Clause 27 proposes to increase the fine that may be imposed by the Commissioner if satisfied there is proper cause for disciplinary action against a licensee from $15,000 to $20,000.

28—Substitution of section 39

Clause 28 substitutes section 39 of the principal Act. Currently, section 39 deals with the approval of a person to act as an agent of the State Procurement Board. As a consequence of the removal of the gaming machine supplier's licence the section is no longer required. The proposed new section 39 instead deals with the approval of the form of a supply contract. It provides that the Commissioner may approve the form of a contract to be entered into by the holder of a gaming machine dealer's licence and the holder of a gaming machine licence, the holder of a gaming machine service licence or the holder of another gaming machine dealer's licence for the sale or supply of approved gaming machines, prescribed gaming machine components or gaming equipment.

29—Amendment of section 40—Approval of gaming machines and games

Clause 29 amends section 40 of the principal Act to require the Commissioner, when determining whether a game is likely to lead to an exacerbation of problem gambling, to apply the principles prescribed by the Authority—see inserted section 10A.

30—Amendment of section 41A—Applications to be given to Commissioner of Police

Clause 30 is a consequential amendment.

31—Amendment of section 42—Discretion to grant or refuse approval

Clause 31 is consequential on the removal of the gaming machine supplier's licence.

32—Amendment of section 43—Intervention by Commissioner of Police

Clause 32 is a consequential amendment.

33—Amendment of section 44A—Prohibition of links between dealers and other licensees

Section 44A of the principal Act prohibits the holder of a gaming machine dealer's licence from being associated with a licensee of some other class under the Act. Subsection (4) lists the situations where a person is considered to be associated with a licensee. The proposed amendment inserts into that list that a person is associated with a licensee if the person and the licensee are parties to an agreement or arrangement under which one participates in, or is remunerated or paid for something by reference to, the proceeds or profits of the business of the other.

34—Amendment of section 45—Offence of being unlicensed

Clause 34 is a drafting amendment, partly consequential on the removal of the supplier's licence.

35—Amendment of section 46—Offence of breach of licence conditions

Section 46 of the principal Act provides the penalty for a licensee contravening or failing to comply with a condition of his or her licence. The proposed amendment makes the offence expiable if it is constituted of the contravention of or failure to comply with a condition imposed under Schedule 1(o).

36—Substitution of section 47

Clause 36 deletes section 47 of the principal Act and proposes 2 new sections - section 47 and section 47A. The current section 47 deals with the offence of a breach of agency conditions by an agent of the State Procurement Board. As a consequence of the removal of the gaming machine supplier's licence this is no longer required. The proposed new section 47 provides that the holder of a gaming machine licence must not contravene or fail to comply with a mandatory provision of the advertising code of practice or the responsible gambling code of practice. The proposed penalty for such a breach is—

(a) for a category A offence—$10,000;

(b) for a category B offence—$5,000;

(c) for a category C offence—$2,500;

(d) for a category D offence—$1,250.

It also provides expiation fees for such a breach.

(a) for a category A expiable offence—$1,200;

(b) for a category B expiable offence—$315;

(c) for a category C expiable offence—$210;

(d) for a category D expiable offence—$160.

The codes will determine the category of offence. Proposed new section 47A creates 2 offences with maximum penalties of $35,000 or imprisonment for 2 years. It provides that the holder of a gaming machine dealer's licence must not—

- enter into a contract to sell or supply a gaming machine, a prescribed gaming machine component or gaming equipment unless the contract is in a form that has been approved by the Commissioner; or
- provide or offer to provide any form of inducement to a person to enter into a contract for the sale or supply of a gaming machine, a prescribed gaming machine component or gaming equipment other than a discount that is calculated on a basis that has been fully disclosed in the contract and depends on the number of machines, components or items of equipment to be supplied under the contract.

37—Amendment of section 50A—Approved gaming machine managers and employees must carry identification

Proposed clause 37 amends the penalty provision . Currently, the maximum penalty for an offence against this section is $2,500. The proposed amendment maintains the $2,500 penalty for an offence committed by a licensee, but adds that if the offence is committed by any other person the maximum penalty is $1,250. It also proposes an expiation fee of $210 for an offence allegedly committed by a licensee and $160 in any other case. This amendment brings the clause into line with a similar provision in the *Liquor Licensing Act 1997*.

38—Amendment of section 51—Persons who may not operate gaming machines

Clause 38 proposes to amend the penalty provision for offences against section 51(1) and (2). Currently both offences have maximum penalties of $10,000 or imprisonment for 6 months. This is maintained for offences committed by the holder of a gaming machine licence or a person who occupies a position of authority in a trust or corporate entity that holds such a licence, but adds that in the case of an offence committed by an approved gaming machine manager or gaming machine employee the maximum penalty is to be $5,000. The amendment also proposes an expiation fee for an offence allegedly committed by an approved gaming machine manager or gaming machine employee of $315.

39—Amendment of section 54—Licences to be displayed

Section 54 of the principal Act creates an offence if the holder of a gaming machine licence does not display a copy of his or her licence. The current penalty provision provides for a maximum penalty of $2,500. It is proposed to amend this to a maximum penalty of $10,000 with an expiation fee of $1,200. This is designed to match comparable offences in the *Liquor Licensing Act*.

40—Amendment of section 57—Licensee must erect warning notices

Section 57 of the principal Act provides that a licensee who fails to erect a warning notice is guilty of an offence. The current maximum penalty is $5,000. Clause 40 proposes increasing the penalty to $10,000 and adds an expiation fee of $1,200. This is designed to match comparable offences in the *Liquor Licensing Act*.

41—Amendment of section 58—Powers in relation to minors in gaming areas

Clause 41 is a drafting amendment ensuring section 58 properly reflects the *Liquor Licensing Act* provisions.

42—Amendment of section 62—Interference with machines, equipment or games

The principal Act provides a maximum penalty of $20,000 or imprisonment for 4 years for an offence against section 62. Clause 42 proposes an increase in the monetary penalty to $50,000. This brings the penalty into line with other penalties in the Act.

43—Amendment of section 63—Interference devices

The principal Act provides a maximum penalty of $20,000 or imprisonment for 4 years for an offence against section 63. Clause 43 proposes an increase in the monetary penalty to $50,000. This brings the penalty into line with other penalties in the Act.

44—Substitution of section 64

Clause 44 proposes to substitute section 64 of the principal Act. Currently, only an authorised officer is permitted to seal or break a seal on any part of a gaming machine. The proposed clause would permit an approved gaming machine technician to also seal or break a seal on any part of a gaming machine.

45—Amendment of section 71—Powers of authorised officers

Section 71 of the principal Act contains the powers of authorised officers. Clause 45 adds to those powers that an authorised officer may require a person who has custody or control of books, papers or documents relevant to a business conducted under a licence to produce them at a specified place for inspection at a specified time or

within a specified period, and that an authorised officer may inspect books, papers or documents so produced and retain them for as long as is reasonably necessary for the purposes of copying or taking extracts from any of them.

46—Amendment of section 73A—Sport and Recreation Fund

47—Amendment of section 73B—Charitable and Social Welfare Fund

48—Amendment of section 73BA—Gamblers Rehabilitation Fund

These clauses update references to Ministers and Departments.

49—Amendment of section 74—Annual reports

Clause 49 is a consequential amendment.

50—Repeal of sections 74A and 74B

These provisions are now substantially contained in the proposed new section 10A.

51—Insertion of section 76A

Clause 51 proposes to insert a new section 76A into the principal Act to provide for financing of a licensee's business. This matter is currently dealt with in the regulations. It allows the Minister to grant an exemption from such provisions of the Act as necessary for the purpose of enabling—

- the holder of a gaming machine licence, the special club licence or a gaming machine dealer's licence and a credit provider to enter into any arrangements (including leasing arrangements) for the financing of the licensee's acquisition of gaming machines or gaming machine entitlements or otherwise financing the business conducted on the licensed premises; and
- a credit provider to exercise rights of repossession and sale over gaming machines, and gaming machine entitlements, subject to any credit arrangement.

52—Amendment of section 77—Certain agreements and arrangements are unlawful

Clause 52 is consequential on the removal of the gaming machine supplier's licence.

53—Amendment of section 79—Bribery

The principal Act provides a maximum penalty of $20,000 or imprisonment for 4 years for an offence against section 79. Clause 53 proposes an increase in the monetary penalty to $50,000. This brings the penalty into line with other penalties in the Act.

54—Repeal of section 86A

Clause 54 is a consequential amendment.

55—Amendment of section 87—Regulations

Section 87 provides for the making of regulations by the Governor. Clause 55 proposes to increase the penalty that may be fixed for breaches of the regulations from $2,500 to $10,000. The clause also proposes to allow for the fixing of expiation fees not exceeding $1,200 for alleged breaches of the regulations.

56—Amendment of Schedule 1—Gaming machine licence conditions

Clause 56 makes technical amendments to the conditions to which a gaming machine licence is subject and requires any licensee conducting gaming operations between 2am and 8am (in accordance with the terms of the licence) to ensure that:

- a gaming machine manager or gaming machine employee who has completed advanced problem gambling intervention training is present in the gaming area at all times; and
- arrangements are in place under which the gaming machine manager or gaming machine employee may immediately refer a person identified as engaging in problem gambling to a service to address the problem; and
- measures are in place that prevent machines designed to change a monetary note into coins and located on the licensed premises from being operated between the hours of 2am and 8am.

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Casino Act 1997*

1—Amendment of section 41C—Review and alteration of codes

This clause proposes to amend the *Casino Act 1997* to bring it into line with the amendments proposed to the *Gaming Machines Act 1992* by this measure.

Part 2—Amendment of *Independent Gambling Authority Act 1995*

2—Amendment of section 15B—Voluntary barring of excessive gamblers

This clause proposes to amend the *Independent Gambling Authority Act 1995* to provide that the Authority may bar a person from an area within which gaming machines may be operated under a Commonwealth law.

Part 3—Amendment of *State Lotteries Act 1966*

3—Amendment of section 13D—Review and alteration of codes

This clause proposes to amend the *State Lotteries Act 1966* to bring it into line with the amendments proposed to the *Gaming Machines Act 1992* by this measure.

Part 4—Transitional provisions

4—Principles

This clause contemplates continuation of the principles for assessing whether a game is likely to lead to an exacerbation of problem gambling without subjecting them to a disallowance process. Any variations of the principles will be subject to disallowance.

5—Application for gaming machine licence

6—Exemptions

These clauses contain necessary transitional provisions.

Debate adjourned on motion of Hon. J.M.A. Lensink.

PROFESSIONAL STANDARDS (MUTUAL RECOGNITION) AMENDMENT BILL

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

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 for the City of Adelaide) (18:14): 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.

All States and Territories have enacted legislation that provides for the approval of schemes under which the occupational liability of members of occupational associations is limited in return for the members:

- holding compulsory insurance (or minimum business assets) up to a prescribed level; and
- adopting risk management and dispute resolution procedures.

The Commonwealth legislated in 2004 to amend the *Trade Practices Act 1974* and related Acts to provide for the application in Commonwealth law of schemes in force under State and Territory professional standards legislation.

The South Australian Act, the *Professional Standards Act 2004* (the *Act*), commenced on 1 October 2006.

This legislation fulfilled a commitment given by Insurance Ministers nationally in response to the insurance crisis.

Under the Act, an occupational association may submit a scheme that limits the occupational liability of all or some of its members for approval by the Professional Standards Council (the *Council*), an independent body corporate established by the Act. There are requirements for public notification and consultation (including public hearings) on proposed schemes, including a minimum 28 day consultation period.

Once in operation, a scheme caps the occupational liability of a member of the occupational association if that member holds approved insurance or business assets up to the level of the cap.

It was always the intention of the Commonwealth, State and Territory Governments that, if possible, there should be a national system of professional standards legislation. Many professions, and their corresponding professional associations, operate across State and Territory borders. Practitioners may serve clients anywhere in Australia.

To this end an inter-governmental agreement, the *Professional Standards Agreement 2005* (the *Agreement*), was negotiated and signed by Ministers on behalf of all Australian Governments. The Agreement provides for (among other things)—

- the appointment of common members to each State or Territory Professional Standards Council (so that, in fact, although not in law, the State and Territory Councils will operate as one). As the law requires that each Council comprise up to 11 members, the Agreement allocates nomination rights according to population size. New South Wales and Victoria are to have 2 nominations each, and other jurisdictions, including the Commonwealth, 1 nomination each;
- the establishment of a common Secretariat by the New South Wales Attorney-General's Department to provide administrative services to the State and Territory Professional Standards Councils. The Agreement provides for each jurisdiction to enter into a service agreement with the New South Wales Attorney-General's Department under which that jurisdiction's Council will purchase necessary administrative services from the New South Wales Attorney-General's Department; and

- the making of uniform regulations about fees, penalties and the disclosure that people covered by schemes must make on documents provided to clients and prospective clients.

There remains a further obstacle to national operation.

At present, a professional's liability is capped only for acts and omissions occurring in jurisdictions where the professional has the benefit of a scheme. Although a professional can obtain the benefit of a cap in liability outside his home jurisdiction, this is a cumbersome, expensive and time-consuming process involving much duplication and inefficiency and involves either the professional's occupational association applying for schemes in all jurisdictions or occupational associations permitting interstate members.

To address this, and to promote the national operation of schemes, the Standing Committee of Attorneys-General (*SCAG*) has agreed to a model for mutual recognition, in all jurisdictions, of schemes approved in 1 jurisdiction, to enable professionals to have capped liability outside their home jurisdiction.

The Bill reflects the nationally agreed model, which incorporates these key features—

- State and Territory based associations will be able to apply to the Council in their jurisdiction and national associations will be able to apply to the Council in the jurisdiction in which their head office is based. When applying to a Council, an association will have to indicate which jurisdictions it wants the scheme to operate in;
- proposed national schemes will have to be advertised in newspapers in all relevant jurisdictions;
- for national schemes, the relevant Council will have to consider the application in a national context. Issues such as claim information, level of liability cap, insurance arrangements and consumer protection measures will be considered from a national perspective;
- for a scheme to operate in a particular jurisdiction, the relevant Minister in that jurisdiction would have to have the scheme gazetted under that jurisdiction's legislation;
- the scheme (and that scheme's cap) will apply to a member of the occupational association covered by the scheme in every jurisdiction in which the scheme has been gazetted;
- a scheme may be challenged in any State or Territory;
- income derived from fees payable by an occupational association for the national scheme (an application fee and annual membership fees for each participating member) will be divided among the relevant State and Territory Councils in accordance with a formula based on the number of members of the association resident in each jurisdiction.

Under the proposed model, national occupational associations (for example, the accounting associations) would be able to register a scheme in 1 State or Territory that covers its members in all jurisdictions. Members of State and Territory based associations (for example, the Law Society) will be able to have the benefit of their association's scheme for occupational liability arising in another State or Territory.

Importantly, under the proposed model, sovereignty is maintained in that a scheme, national or otherwise, will only operate in a jurisdiction that has gazetted it.

The *Professional Standards (Mutual Recognition) Amendment Bill 2010* makes the necessary amendments to the South Australian *Professional Standards Act 2004* to give effect to the SCAG agreement.

I commend the Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Amendment provisions

Clauses 1 and 2 are formal.

Part 2—Amendment of *Professional Standards Act 2004*

3—Amendment of section 4—Interpretation

This clause proposes to insert definitions into the principal Act that are necessary for the measure. In particular, *corresponding law* is defined as being a law of another jurisdiction that corresponds to the Act, and includes a law of another jurisdiction that is declared by the regulations to be a corresponding law of that jurisdiction for the purposes of the Act.

4—Amendment of section 8—Preparation and approval of schemes

Section 8 of the principal Act provides that a scheme for limiting the occupational liability of members of an occupational association may be prepared and approved. The proposed amendment provides that a scheme prepared under the section may indicate an intention to operate in South Australia only, or in both South Australia and another jurisdiction.

5—Amendment of section 9—Public notification of schemes

Section 9 of the principal Act provides that before approving a scheme, the Council must publish a notice in a daily newspaper circulating throughout the State explaining the scheme, advising where a copy of the scheme may be obtained and inviting comments and submissions. The proposed amendment provides that if the scheme indicates an intention to operate in both South Australia and another jurisdiction, the Council must publish a similar notice in the other jurisdiction in accordance with the requirements of the corresponding law of that jurisdiction.

6—Amendment of section 11—Consideration of comments, submissions and other matters

Section 11 of the principal Act sets out a number of matters the Council must consider prior to approving a scheme. The proposed amendment provides that if a scheme indicates an intention to operate as a scheme of both South Australia and another jurisdiction, the Council must also consider any matter that the appropriate Council for the other jurisdiction would have to consider under the provisions of the corresponding law of that jurisdiction, and all of the matters to be considered by the Council are to be considered in the context of each of the jurisdictions concerned.

7—Amendment of section 13—Submission of approved schemes for gazettal

Section 13 of the principal Act provides that the Council may submit a scheme approved by it to the Minister. The proposed amendment provides that if a scheme indicates an intention to operate as a scheme of both South Australia and another jurisdiction, the Council may also submit the scheme to the Minister administering the corresponding law of the other jurisdiction.

8—Amendment of section 14—Gazettal, tabling and disallowance of schemes

Section 14 of the principal Act provides that the Minister may, after taking into account such matters as he or she thinks fit, authorise the publication in the Gazette of a scheme submitted by the Council. The proposed amendment provides that in the case of an interstate scheme, the Minister may authorise the publication of a scheme submitted by the appropriate Council for the jurisdiction in which the scheme was prepared.

9—Amendment of section 15—Commencement of schemes

Section 15 of the principal Act provides that a scheme commences on such day after the date of its publication as specified by the Minister by notice in the Gazette or, if no such day is specified, 2 months after the date of its publication. This commencement is subject to an order of the Supreme Court on a challenge to the validity of a scheme under section 16 of the principal Act. The proposed amendment provides that the commencement of a scheme is also subject to an order made by the Supreme Court of another jurisdiction under the corresponding law of that jurisdiction.

10—Amendment of section 16—Challenges to schemes

Section 16 of the principal Act provides that a person who is, or is reasonably likely to be, affected by a scheme may apply to the Supreme Court for an order that the scheme is void for want of compliance with the Act. The proposed amendment provides that the Court may make an order that an interstate scheme is void on the ground that the scheme fails to comply with the provisions of the corresponding law of the jurisdiction in which it was prepared.

11—Amendment of section 17—Review of schemes

Section 17 of the principal Act provides for the review of the operation of a scheme. In the case of a scheme prepared under the principal Act, a review may, but need not, be conducted in order to decide whether a scheme should be amended or revoked or whether a new scheme should be made. The proposed amendment provides that, in the case of an interstate scheme, a review may, but need not, be conducted in order to decide whether the operation of the scheme should be terminated in relation to this jurisdiction.

12—Amendment of section 18—Amendment and revocation of schemes

Section 18 of the principal Act provides for the amendment to, or revocation of, a scheme. The proposed amendment provides that this section does not apply to an interstate scheme.

13—Insertion of sections 18A and 18B

Clause 13 of the measure proposes to insert 2 new sections into the principal Act.

18A—Notification of revocation of schemes

Proposed new section 18A provides that on the revocation of a South Australian scheme that operates as a scheme of another jurisdiction, the Minister must cause notice of the revocation to be given to the Minister administering the corresponding law of that other jurisdiction. On receipt of notice that an interstate scheme has been revoked under the corresponding law of the jurisdiction in which it was prepared, the Minister must cause a statement to that effect to be published in the Gazette.

18B—Termination of operation of interstate schemes in this jurisdiction

The Council may, on the application of an occupational association, prepare an instrument terminating, in this jurisdiction, the operation of an interstate scheme that relates to members of the association. The scheme terminates from a date specified or 2 months after the date of publication.

14—Amendment of section 34—Duration of scheme

Section 34 of the principal Act provides that a scheme remains in force for such period (not exceeding 5 years) from its commencement as is determined by the Council unless it is revoked, its operation extended or its

operation ceases because of the operation of another Act. The proposed amendment provides that a South Australian scheme will also cease to operate if the scheme is declared void by the Supreme Court or by the Supreme Court of another jurisdiction under the corresponding law of that jurisdiction, or if it is disallowed under the *Subordinate Legislation Act 1978*. The proposed amendment also provides for the duration of an interstate scheme. An interstate scheme remains in force for such period (not exceeding 5 years) from its commencement as is determined by the Council unless its operation in relation to this jurisdiction is terminated, or the scheme ceases to have effect in the jurisdiction in which it was prepared, or the scheme is disallowed under the *Subordinate Legislation Act 1978*.

15—Functions of Council

Clause 15 is a drafting amendment.

16—Insertion of section 46A

Clause 16 of the measure proposes to insert new section 46A into the Act.

46A—Cooperation with authorities in other jurisdictions

This clause provides that for the purposes of dealing with a scheme that operates in both this jurisdiction and another jurisdiction, the Council may act in conjunction with the appropriate Council for the other jurisdiction.

Schedule 1—Transitional provision

1—Expiry date of existing schemes

The transitional provision provides for the expiry date of existing schemes.

Debate adjourned on motion of Hon. J.M.A. Lensink.

At 18:15 the council adjourned until Wednesday 15 September 2010 at 14:15.