LEGISLATIVE COUNCIL

Thursday 10 November 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:04 and read prayers.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:06): I move:

That the sitting of the Legislative Council be not suspended during the continuation of the conference with the House of Assembly on the bill.

Motion carried.

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:06): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15pm.

Motion carried.

WORKERS REHABILITATION AND COMPENSATION (EMPLOYER PAYMENTS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:06): Obtained leave and introduced a bill for an act to amend the Workers Rehabilitation and Compensation Act 1986; and to make consequential amendments to the Occupational Health, Safety and Welfare Act 1986, the Stamp Duties Act 1923 and the WorkCover Corporation Act 1994. Read a first time.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:06): I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to enable a new approach to employer payments in the South Australian workers compensation Scheme.

As the House is aware, the WorkCover Scheme is funded by employers to provide fair compensation to injured workers and to support them to remain at work wherever possible or return to work or the community, at a reasonable cost to employers.

In 2008, on the basis of recommendations made by Australia's pre-eminent workers compensation experts in the Clayton Walsh Review, the Government implemented fundamental amendments to the Scheme aimed at addressing the poor return to work rates of injured workers in South Australia.

As noted in the independent review of the 2008 amendments conducted by Mr Bill Cossey in early 2011, there has been some trend towards improvement in return to work rates, however it is too early to evaluate the impact of the 2008 changes. The Government acknowledges there is still a way to go before the goals of the 2008 amendments are met.

The proposed new approach to employer payments will provide a financial incentive to employers to achieve the best possible work health and safety practices leading to fewer workplaces injuries.

Where workplace injuries do occur, the system will provide a financial incentive to employers to support injured workers to stay at work wherever possible or to achieve an early and safe return to work.

Improvements in injury prevention, management and return to work practices in the Scheme will result in better outcomes for workers as well as lower the cost of the Scheme.

Registered employers currently pay a levy based on their industry classification and the amount of remuneration paid to employees. The industry levy rate reflects the expected cost of claims for that industry. On

average, the total amount collected from registered employers is about 2.75 per cent of the total remuneration paid to employees by registered employers. This is what is known as the average levy rate and is set by the WorkCover Board each year based on actuarial evaluations.

The allocation of how much each employer pays is currently dependent only on the industry they are in and how much they pay their employees. Improved performance of an industry as a whole is required before employers within that industry benefit from a reduced levy rate.

Clearly where the cost of a claim has only a small impact on the amount an employer pays, there is little incentive to reduce the claim costs by helping injured workers to recover and remain at work or return to work as soon as possible.

The new approach to employer payments has been carefully developed and the framework incorporated into this enabling legislation. The full detail of the new approach is not incorporated into the Bill because the system is best served by including the design framework in the Act, with supporting detail contained in the Regulations and various Gazetted documents, as is the case in the similar New South Wales, Victorian and Queensland schemes.

The Regulations and gazettal documents will be developed for consultation with stakeholders subject to the passage of the Amendment Bill through Parliament.

The new approach to employer payments can be summarised as incorporating:

- a mandatory Experience Rating System for medium and large employers registered with the Scheme
- an optional Retro-Paid Loss arrangement for large employers registered with the Scheme
- no change to the way in which premiums are calculated for small employers registered with the Scheme
- minimal change to private and Crown self-insured arrangements
- changes to terminology, definitions and practices within the Scheme, aimed at achieving cultural change.

Both the Experience Rating System and the Retro-Paid Loss arrangements are forms of experience rating. Under an experience rating approach the amount an employer pays in premium is directly impacted by their own claims experience.

Experience rating aims to provide a financial incentive for employers to improve their claims experience through good work health and safety practices and injury and return to work management. The result is that if an employer has high claims costs it is likely that they will pay more in premium in comparison to similar sized employers operating in the same industry who have lower claims costs.

The premium calculation for the Experience Rating System is designed to take into consideration the employer's individual claims experience, as well as their size and the level of risk of their industry. A range of employer protections are built into the system to achieve a balance between 'insurance protection' with 'user-pays' principles.

The design of the new approach to employer payments has been based on similar systems in New South Wales, Victoria and Queensland, independent actuarial modelling of the appropriate scheme framework for the South Australian market and a comprehensive consultation process undertaken by WorkCover and the Government.

WorkCover in fact commenced a comprehensive consultation process on the new approach to employer payments in September 2010. Employers, employer associations and unions have been heavily involved in the design of the new approach and input has also been received from insurance companies and insurance brokers.

The Government believes that there is broad support across WorkCover's stakeholder base for the introduction of a new approach to employer payments in South Australia. The employer community looks forward to the opportunity to influence the amount of premium they pay and unions are fully cognisant of the potential benefits to workers when employers focus on reducing claims costs by assisting the recovery of injured workers and enabling them to remain at work or return to work as soon as possible.

Who will be experience rated?

The Experience Rating System has been designed to be fair and reflective of an employer's risk of a workplace injury, as indicated by the employer's claims experience, relative to their business activity and size.

Independent actuaries have modelled the new approach to determine the threshold at which point employers should be experience rated–this has been based on the likelihood of employers having a claim, relative to their size.

Small employers will be defined in regulation as those with a base premium of less than $20,000 or annual remuneration paid to their employees of less than $300,000 and they will continue to pay premium based on their remuneration and relevant industry premium rate.

All employers with base premium equal to or above $20,000 and annual remuneration equal to or above $300,000 will meet the threshold criteria for entry into the Experience Rating System.

Large employers will be defined as those employers with base premium of more than $500,000 and will be experience rated unless they apply for and are accepted into the separate Retro-Paid Loss arrangements.

The effect of these categories is that only approximately 10 per cent of registered employers will be above the threshold for entry into the Experience Rating System. While this percentage may seem insignificant, it is important to note that this same group are responsible for approximately 75 per cent of claims costs and 75 per cent of the levy currently paid by registered employers.

Approximately 90 per cent of employers will be categorised as small and these employers will continue to pay premium based on their remuneration and industry rate. This is because the likelihood that small employers will have a claim is so low – in fact employers who currently pay less than $20,000 in levy are likely to have one claim approximately every 13 years. Clearly it is difficult to differentiate between 'chance' and 'performance' in understanding claims experience of individual employers in this size category.

Although all employers have the ability to have an impact on the number and costs of their claims through workplace safety, injury, and claims management practices, the objective of the Experience Rating System is to influence employer behaviour so that their performance improves. Therefore it is important that the new system be limited to employers who are of sufficient size so that their individual claims experience is a credible indication of their work health, safety and injury management efforts.

What is Retro-Paid Loss?

Under the new employer payments approach, large employers (those with a base premium over $500,000) will also have the option of applying to enter into Retro-Paid Loss arrangements. Retro-Paid Loss is a form of experience rating that calculates the premium an employer pays in a manner that closely reflects the actual costs the employer has incurred. It has limited association with industry experience.

Employers within Retro-Paid Loss arrangements can experience significant reductions in the amount of premium that they pay if they have good claims experience. However, employers can experience a high premium if they don't manage their claim numbers and costs effectively. For this reason, Retro-Paid Loss arrangements are often referred to as 'burning cost'.

In this approach, the premium an employer pays is closely linked to their claims performance (that is, injury prevention and management practices), not only during the policy period but until the claim is closed, or for four years following the expiry date of the policy period, whichever comes first.

Because of the potential for significant volatility in premiums, Retro-Paid Loss arrangements will be optional and restricted to large employers with demonstrated capacity and resources to manage the inherent risks of the approach.

Key aspects of the new approach to employer payments

Terminology changes

Within the new approach to employer payments the amount employers pay will be referred to as their premium instead of 'levy'. This terminology is more appropriate for an Experience Rating System and reflects a general insurance concept that implies some degree of influence over how much is paid.

Additionally, the Act currently refers to a physical or mental injury as a disability. Changing the terminology used within the Act to injury will more accurately reflect the contemporary workers rehabilitation and compensation Scheme in which the majority (79 per cent in 2009-10) of injured workers either do not take time off work, or return to work within two weeks of an injury.

Claims estimates

A key part of the premium calculation within the new Experience Rating System is the inclusion of employer claims costs. An employer's experience will take into account actual paid costs and a manual estimate of the outstanding costs for the life of the claim. This will ensure that employers focus more on management of their claims with the aim of reducing the costs and this will directly benefit their injured workers.

Confirmation of registration

The current 'proof of registration' section of the Act is proposed to be replaced with a 'certificate of registration' – a hybrid model between the current proof of registration and the 'certificate of currency' similar to those issued in Victoria and Queensland. It will be used to prove registration to officers of industrial associations and will also need to be produced if requested by someone contracting with the employer to undertake work. This will support principal contractors by providing evidence that a sub-contractor is registered with WorkCover

Transfer of business

The transfer of claims experience with the transfer of business is an important element of experience rating. Without this transfer, the opportunity to 'game' the system by selling and establishing new businesses would be increased. Claims experience and remuneration will follow where a transfer of business occurs within the meaning of the *Fair Work Act 2009*.

Other legislative changes

Consequential changes to other Acts

This Amendment Bill also makes consequential amendments to other Acts. These changes are largely substituting the terms 'disability' and 'levy' for 'injury' and 'premium' but also deal with references to the Occupational Health and Safety fee collected by WorkCover on behalf of SafeWork SA.

Excess waiver

This Bill proposes that employers who meet their notification and claim lodgement requirements under the Act within five calendar days of a worker reporting an injury will be exempt from paying the first two weeks of income maintenance for that worker. This is an increase from two business days and was based on employer feedback that circumstances can make it difficult for employers, even with the best intentions, to provide notification of an injury to the claims agent within the two day window.

By expanding the opportunity to be eligible for the excess waiver, those employers who previously missed the two day window and then had no incentive to lodge the claim quickly will focus on always meeting the five day window. This is critical because early notification of an injury can significantly improve claims management outcomes.

Penalties, fines and supplementary payments

Employers have a range of premium related obligations under the Act. The objective of fines and supplementary payments is to influence employer behaviour and ensure that employer obligations are met.

It is important to acknowledge that for employers who are experience rated or participating in retro-paid loss arrangements, the incidence and cost of claims will directly impact the amount of premium they pay. For this reason, WorkCover will not use the incidence and cost of claims to determine supplementary payments for these employers. An alternative approach will be established by WorkCover in consultation with employer associations and unions.

In addition to existing fines and supplementary payments within the Act a fine has been introduced in the Bill for employers failing to register. Employers may be required to pay both the appropriate premium and an additional fine of up to three times the amount of premium.

WorkCover will implement a program of education for employers on their obligations and support them to achieve effective work health safety and injury management outcomes. A 12 month moratorium will apply to imposition of fines by WorkCover.

Contributory negligence and WorkCover recoveries from third parties

The workers compensation scheme in South Australia is a no fault system that protects employers from common law liability arising from work-related injuries.

Workers can however pursue their common law right to sue a third party or parties whose negligence has caused or contributed to their injury. Where an injured worker brings an action against a negligent third party, the negligent third party can reduce its liability if it can establish that the worker's own negligence caused or contributed to the worker's injury.

WorkCover can bring its own action under the Act against the negligent third party to recover compensation paid and payable to the injured worker.

This Bill removes any doubt that WorkCover recovery actions are limited by a worker's contributory negligence.

This change will not impact on the level of compensation provided to injured workers.

Conclusion

In closing, WorkCover's current levy system offers little incentive for employers to focus on work health, safety and claim outcomes. Changes are required to the current arrangements to influence employer behaviour by rewarding good performers and penalising poor performers.

A system that responds to an individual employer's risk and experience is the most effective lever WorkCover can use to influence employer behaviour and improve outcomes for injured workers, employers and the South Australian community. Providing this incentive will increase the likelihood of improvements in return to work rates, reductions in the incidence of workplace injuries and ultimately contribute to reductions in the overall cost of the Scheme.

The new approach to employer payments as set out in this Amendment Bill is such a system.

The Government commends the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *Workers Rehabilitation and Compensation Act 1986*

4—Amendment of section 3—Interpretation

A number of these amendments relate to a proposal to refer to 'injuries' under the Act rather than 'disabilities'.

Another amendment will continue the ability of the Corporation, if it so determines, to regard 2 or more workplaces in close proximity to each other to be regarded as a single workplace (see section 65(2) of the current Act).

Another amendment will allow the Corporation to designate various forms for the purposes of the Act (rather than the Minister). It will also be possible for the Corporation to specify a form that is different to a written or printed form.

5—Amendment of section 45A—Compensation payable on death—lump sums

This clause will allow the Corporation to pay compensation where a deceased worker only leaves a partially dependent partner or partners.

6—Amendment of section 46—Incidence of liability

The relevant period for the purposes of section 46(8b) of the Act is to be altered from 2 business days to 5 days.

7—Amendment of section 54—Limitation of employer's liability

A right of recovery under section 54(7) of the Act will now also be subject to the express requirement that the amount to be recovered from the wrongdoer must be adjusted to take into account any contributory negligence on the part of the worker.

8—Amendment of section 62—Applications and changes in details for registration

This amendment will include an express requirement under the Act for an employer to provide appropriate information to the Corporation if there is a change in various details or information relating to the registration of the employer.

9—Amendment of section 64—Compensation Fund

This is a consequential amendment.

10—Substitution of Part 5 Divisions 4 to 7 (inclusive)

The new sections to be enacted under this clause will provide a new scheme for the calculation and collection of premiums, payments and fees by employers under the Act.

New section 65 continues the operation of section 65(1) of the Act as it currently stands.

New section 66 will enable the Corporation to establish a set of terms and conditions that will apply to employers in relation to the calculation, imposition and payment of premiums under the Act. These provisions will be referred to as 'WorkCover premium provisions'. Different sets of provisions will be able to be set in relation to different categories of employers. These provisions will underpin the new arrangements for the purposes of premiums under the Act.

New section 67 will establish the requirement for employers to pay premiums under the Act (rather than levies as currently provided by section 66(1) of the Act). An employer who is a self-insured employer, exempt from the requirement to be registered, or exempt under the regulations, will not be required to pay a premium under this Division. A new provision will allow the Corporation to impose on an employer who is in default of the requirement to be registered under the Act a fine not exceeding 3 times the amount of premium that would have been payable under the Act had the employer been registered.

New section 68 will allow the regulations to divide employers into various categories for the purposes of these new arrangements (subject to the ability of the Corporation to assign a particular employer to a different category if it considers that it is appropriate to do so after applying any criteria or factors prescribed by the regulations).

New section 69 will continue the scheme that allows the Corporation to divide the industries carried on in the State into various categories (see section 66 of the Act as it currently stands).

New section 70 will facilitate the setting of a rate (an 'industry premium rate') that is to be applied in relation to each class of industry (compare section 66(6) of the Act as it currently stands).

The new scheme will be based on orders ('WorkCover premium orders') published by the Corporation by notice in the Gazette under new section 71 (and to the extent that such an order does not apply then an employer will pay premiums according to the base premium determined under section 70). A WorkCover premium order may—

(a) apply any principle relevant to the claims experience of a particular category or class of employer, or the size of an employer (after applying such principles or assumptions as the Corporation thinks fit); and

(b) fix and apply various principles, weights, adjustments, caps, assumptions or exclusions according to specified factors; and

(c) without limiting any other provision, specify any adjustment or assumption relating to the remuneration paid to workers over a particular period (including a period into the future); and

(d) allow employers who satisfy any specified criteria, on application and at the discretion of the Corporation, to pay a premium determined by the Corporation according to an alternative set of principles—

(i) specified in the order; or

(ii) specified in another WorkCover premium order that applies in the circumstances; or

(iii) agreed between the Corporation and the employer; and

(e) require that employers of a specified class must provide a deposit, bond or guarantee, or some other form of security, specified in the order; and

(f) make any other provision or impose any other requirement prescribed by the regulations.

New section 72 will establish various stages for the imposition and payment of premiums. These stages will be as follows (in relation to each relevant period for the payment of a premium):

(a) an *initial premium* calculated on the basis of estimates and assumptions made at, or in relation to, the beginning of the period after applying any principles specified by the Corporation in the WorkCover premium provisions or in a WorkCover premium order;

(b) an *adjusted premium* payable at any time during the period based on applying any principles or requirements specified by the Corporation in the WorkCover premium provisions or in a WorkCover premium order;

(c) a *hindsight premium* calculated on the basis of actual amounts and information known or determined by the Corporation at the end of the period after applying any principles or requirements specified by the Corporation in the WorkCover premium provisions or in a WorkCover premium order.

Each component will be payable by a date specified by the Corporation. The Corporation may agree that an initial premium or an adjusted premium will be paid by instalments. The Corporation will be able to grant discounts or other incentives in order to encourage the payment of a premium in advance.

New section 72A sets out a set of grouping provisions. A group will be determined in the same way as presently applies under section 65(3) of the Act as it currently stands. Where 2 or more employers constitute a group—

(a) unless the Corporation otherwise determines, each employer in the group will be liable to pay premiums in accordance with a WorkCover premium order (rather than on the basis of aggregate base premiums); and

(b) the Corporation may apply any claims experience, rating or other principle to all members of the group on a combined basis (rather than on an individual basis) in accordance with the provisions of a WorkCover premium order; and

(c) the Corporation may aggregate the employers in such manner (in any way or for such other purposes) as the Corporation thinks fit under a WorkCover premium order (including by treating 1 employer within the group as if the employer were the employer of all workers employed by the members of the group or by rating them together or according to a common factor).

In addition, the employers in a group will be jointly and severally liable for the payment of premiums attributable to the group.

New section 72B provides for a fee to be paid by self-insured employers (just as a levy is currently payable under section 68 of the Act). The fee will be fixed by the Corporation with a view to raising from self-insured employers—

(a) a fair contribution towards the administrative expenditure of the Corporation; and

(b) a fair contribution towards the cost of rehabilitation funding; and

(c) a fair contribution towards the costs of the system of dispute resolution established by the Act; and

(d) without limiting a preceding paragraph, a fair contribution towards the costs associated with the operation of Part 6C and Part 6D of the Act; and

(e) a fair contribution towards actual and prospective liabilities of the Corporation arising from the insolvency of employers.

Various elements of the current scheme for self-insured employers will also be preserved.

New section 72C will revise the principles relevant to the remission of a premium or fee otherwise payable by an employer or the imposition of supplementary payments. The new section will accordingly replace section 67 of the Act as it currently stands. However, a number of new principles are to be established, including the following:

(a) the matters that will be relevant for the purposes of the section, insofar as they relate to a particular employer, will be able to be applied to another employer who is linked to the original employer through a transfer of business;

(b) the specification of the various matter under the section is not intended to limit the Corporation's discretion as to other matters that may be considered relevant to the operation of the section.

New sections 72D to 72Q (inclusive) will set out various ancillary or related provisions associated with the operation of the new scheme for the calculation and payment of premiums and other relevant amounts. Many of these provisions are based on provisions appearing in the Act as it currently stands.

11—Amendment of section 73—Separate accounts

These are consequential amendments.

12—Substitution of section 76

This clause will enact a new provision that allows the Corporation to issue a certificate with respect to—

(a) the registration of an employer under the Act; and

(b) the compliance of an employer with any requirement to pay premiums under this Part.

13—Repeal of section 76A

The section to be deleted by this clause is to be enacted as new section 72O.

14—Amendment of section 112A—Employer information

It is to be made clear that the information that may be disclosed by the Corporation under this section extends to information about a former employer.

15—Amendment of section 120A—Evidence

This is a consequential amendment.

Schedule 1—Further amendments of *Workers Rehabilitation and Compensation Act 1986*

These are consequential amendments.

Schedule 2—Consequential amendments and transitional provisions

This schedule sets out consequential amendments to other Acts, and relevant transitional provisions.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

AQUACULTURE (MISCELLANEOUS) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:09): Obtained leave and introduced a bill for an act to amend the Aquaculture Act 2001. Read a first time.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:09): I move:

That this bill be now read a second time.

South Australia is home to Australia's most diverse range of aquaculture sectors with a world-class reputation for quality seafood and environmental sustainability. Of South Australia's total seafood production, 30 per cent originated from aquaculture in 2009-10, representing 49 per cent of the total seafood value of production. This trend is reflected worldwide, with expectations that by 2020 aquaculture will produce 47 per cent of global seafood production.

The South Australian aquaculture industry continues to generate employment across the state, most of which is in regional South Australia. In 2009-10, South Australian aquaculture generated direct employment for approximately 1,800 persons and 1,700 flow-on jobs, a total of 3,400 jobs in the state, 71 per cent of which are in the regional areas of South Australia. Indications are that there is significant potential for further industry growth not only in established sectors such as tuna and oyster farming but also in other marine finfish, shellfish, biotechnology and land-based aquaculture.

The success of aquaculture development in South Australia can be attributed to the South Australian government's aquaculture resource management framework and the strong partnership approach we have fostered with key stakeholder groups, particularly in the seafood industry. Central to this framework is the Aquaculture Act 2001, a unique piece of legislation dedicated to aquaculture in the state that provides certainty to industry and the community. The act is the first of

its kind in Australia and has as its primary objective the ecologically sustainable development of aquaculture.

This bill builds upon the framework established by the act and aims to streamline processes and reduce red tape. It also aims to further promote fair and transparent decision-making with respect to the management of and access to the state's marine water resources while maintaining the balance between social, economic and environmental needs of the community.

Amendments to the act contained in the bill are considered appropriate to keep the legislation up to date with the rapid development of industry practice, aquaculture management practice, administrative best practice and the ongoing ecologically sustainable development of the aquaculture industry. The bill will also further enhance and facilitate attraction of private investment to the aquaculture sector through the introduction of third party registrations on leases (similar to mortgage arrangements on property).

The development of the bill has been aided by the consideration and input of the Aquaculture Advisory Committee, members of industry peak bodies and members of government agencies involved in regulating the aquaculture industry. With cabinet's approval on 13 December 2010, the draft bill was released for three months' public consultation. During this time, advertisements promoting consultation were published in newspapers across South Australia and public meetings were held in a number of locations. During consultation, meetings were also offered to key government agencies and key stakeholder bodies. A separate process has commenced for the review of the supporting aquaculture regulations, which are both consequential changes from the bill, and other amendments linked to regulatory improvements. This step will involve further consultation.

It is important to state at the outset that the objects of this bill remain unchanged—that is, the Aquaculture Act 2009 (the act)—namely, ecologically sustainable development of marine and land-based aquaculture, maximising the benefits to the community from the state's aquaculture resources, and assuring the efficient and effective regulation of the aquaculture industry. It is with these principles in mind that the following key amendments are sought.

New definitions have been added to clarify that the act encompasses the regulation of aquaculture equipment and farming structures held on licensed sites. This will bolster the regulation-making powers of the act to clearly enable the making of regulations dealing with such matters as the use of infrastructure, including site markers, anchors and feed barges used on licensed sites. Previously the act regulated only the farming activity; the infrastructure that did not contain stock on a licensed site was left unregulated. Holding sites and the maintenance of infrastructure will be managed on the licence under these very clear powers. The capacity to licence the towing of live aquaculture stock has also been included in order to be able to regulate the risks to the state from the movement of stock to and from a licensed site.

The bill has given greater clarity and transparency to the determination of a suitable person who may be granted an aquaculture licence. The minister will have the power to take into account such matters as the person's financial capacity to comply with the obligations of the act and whether the person has committed any offences or has had any statutory authorisation relating to aquaculture, fishing or environmental protection, cancelled or suspended. This will ensure that the state's aquaculture resources will be granted only to those who are prepared and committed to undertake aquaculture farming activity as regulated under the act.

Further clarity has also been added by the bill so that there will be no confusion as to the application of standard conditions of aquaculture policies. Once created under such a policy, those standard conditions will apply to all aquaculture leases and licences whether granted before or after the making of the policy and will prevail over any such lease or licence to address any inconsistency.

The bill ensures that the 28 day timeframe set for consideration of aquaculture policies by the Environment, Resources and Development Committee of parliament is not eroded by the Christmas holiday period or in periods near general elections. Such periods will be disregarded in the 28 day timeframe. This was recommended by the Environment, Resources and Development Committee itself. Now policies can be referred to this committee at any time without compromising the opportunity for parliamentary scrutiny.

The concurrence of the minister responsible for the administration of the Harbors and Navigation Act 1993 to the grant of an aquaculture lease has been clarified in the bill with the effect that concurrence is not required where a lease is subdivided or two leases are amalgamated. In

these situations the leases are replaced or substituted with a new lease or leases within the same area. This substitution is not a “grant” for the purpose of seeking the concurrence of the Minister responsible for the administration of the Harbors and Navigation Act 1993. This section also establishes that concurrence is not required for an emergency lease unless it is to be granted within the boundary of a port or harbor.

The bill removes a mandatory requirement for the lease to specify a class of aquaculture as, in practice, it has long been considered more appropriate for a licence to specify this. The bill also provides that the lease may specify performance criteria to be met by the lesee. All leases granted since 2006 have performance criteria as it is a key management tool to ensure all State waters set aside for aquaculture are actually used for this purpose and not left undeveloped for speculators simply seeking to make a profit from a lease entitlement. Allowing leased areas to remain undeveloped is not consistent with the objective of the act relating to maximising benefits to the state from the use of state resources.

The bill introduces a power for the minister to cancel an aquaculture lease where no aquaculture is being conducted; where the performance criteria have not been met or where lease fees have not been paid. While these conditions are present in all leases granted since 2006, before this time some long-term leases were granted without them and the conditions on those leases did not always enable their variation for this reason. This section creates consistency in this regard and also inserts procedural fairness steps that the minister must follow before any cancellation may take effect. This provision will make all leases subject to these requirements and will thereby ensure that leases are held only for ongoing aquaculture activities.

The classes of lease have been varied to remove development leases. The removal of development leases simplifies current administrative measures, reducing red tape, without compromising the adequacy of the aquaculture management regime. The term and rate of development under a development lease can be managed in the same way through a production lease. Removing the development lease reduces the need for lease conversion into a production lease after nine years. As part of the transitional provisions of this bill all development leases will automatically become a production lease with the same terms and conditions as those that applied to the existing development lease. The minister will now be required to give consent to the transfer of production leases in the same way consent was required for the transfer of development leases.

As part of further measures to streamline administrative process and reduce red tape, the provision for the allocation of pilot leases in prospective zones has been removed together with the provision for prospective zones as the latter have not been used in practice and there is no longer any perceived need for them.

To help foster innovation and new aquaculture development, the maximum aggregate term of a pilot lease has been increased to not more than five years (up from three years). This term better reflects the time that is required to set up a new aquaculture farm including the establishment of infrastructure, obtaining stock, providing for development of aquaculture activities which may include proof of concept on a lease site, to a scale considered suitable for the grant of a longer term lease arrangement under a production lease. This time frame also allows proper environmental monitoring of the site before any consideration of conversion to a production lease. The lease may be converted after three years if the minister is satisfied with the performance of the activity on the site.

A new scheme for the grant of leases within aquaculture zones that is more flexible and more transparent to those involved has been provided in the bill. As part of further measures to streamline administrative processes, the bill identifies two methods by which to 'release' tenure or access rights to areas of state waters within aquaculture zones. The current 'public call' system has been retained and will follow an advertised call for applications in much the same way as is currently provided for in the Aquaculture Act 2001. As part of further measures to streamline administrative process and reduce red tape, applications for a lease and corresponding licence are now to be made at the same time (as a package). The applications however, will still be considered by the Aquaculture Tenure Allocation Board.

The second and new form of tenure release is an 'on application' regime where no public call will be required. Accordingly, certain zones will allow for applications to be received throughout the year and any applications received will be assessed by the Aquaculture Tenure Allocation Board and processed accordingly. This will permit aquaculture farmers to make applications at any time which commercially suit them and will not require them to wait for a public call process. This scheme will be applied to zones which are determined by the minister to be of lesser commercial

interest and will be utilised to encourage investment whenever possible. In practice, the Aquaculture Advisory Committee will review any proposed change to the application regime of an aquaculture policy and recommend appropriate action for the minister.

I seek leave to have the rest of the second reading explanation incorporated into *Hansard*, together with the explanation of clauses, without my reading it.

Leave granted.

In either case all applications will be assessed by the Aquaculture Tenure Allocation Board against set criteria, taking into account the objects of the Act, assessment guidelines approved by the Minister and the provisions of the aquaculture policy governing the relevant waters. Grading of applications by the Aquaculture Tenure Allocation Board may be subject to weighting of relevant criteria.

The guidelines provide relevant criteria for pre-selection and will provide a greater level of transparency to the assessment process for the applicant. The draft Bill proposes that the Ministerial guidelines be gazetted and be available on the internet, providing clarity and confidence in the process to prospective applicants and the wider public. The guidelines will be available to everyone before a public call is made.

The assessment of the lease and licence applications, once they have passed the tenure allocation process, will then undergo the same environmental and public scrutiny currently afforded to such applications.

To continue to foster and enhance the innovation and research that has underpinned the success of aquaculture industry development in South Australia, the concept of a research lease has been included in the Bill to enable certain waters to be dedicated to research activities. By doing so, research providers and aquaculture farmers will not be competing with each other for access to State waters. It is proposed that the grant of a research lease and corresponding licence will be at the discretion of the Minister. The term of the research lease will be five years or less. A research lease will be renewable but not as to extend beyond the research project. It will not be transferable and the holder of the corresponding licence must be the same as the holder of the research lease. Applications for these leases may be made at any time.

To improve administrative process and reduce red tape, a new regime for the grant of emergency leases has been introduced in this Bill. Emergency leases will no longer require an aquaculture emergency zone to exist as the type, area and effect of any emergency is not predictable. The Minister may, on her or his own initiative or upon application, grant an emergency lease if the Minister considers that emergency circumstances exist that warrant such action. They may be granted inside or outside an aquaculture zone, but not within an aquaculture exclusion zone, without public notice or referral to the Environment Protection Authority as time will be of the essence. The concurrence of the Minister responsible for administering the *Harbors and Navigation Act 1993* will be required only if it is necessary to grant an emergency lease within a port or harbor.

The provisions of the Bill allow an emergency lease to be renewed for a term commensurate with the length of the emergency. It is considered more practical and flexible to manage an emergency lease in this manner. The Minister is required to ensure that the Environment Protection Authority and the Minister responsible for the administration of the *Harbors and Navigation Act 1993* are notified of a proposal to grant or renew an emergency lease. This arrangement will enable swift and effective action to be taken to move aquaculture stock that may be in danger to a safer location pending the end of the emergency. Should it be necessary, more permanent arrangements can be made for the movement of the site in the normal manner consistent with the provisions of the Act.

The current power for the Minister to require or carry out work on a licence has been extended to require or carry out work on a lease. The Minister may now direct a lessee or former lessee to take action or remove equipment in certain circumstances in much the same was as is currently possible in relation to a licensee. Failure to comply with the Minister's direction may result in a penalty and the Minister will be able to organise for the work to be done and recover the associated costs from the lessee or former lessee. It should not be forgotten that aquaculture leases exist in State waters and any dangers to other users of these waters resulting from aquaculture activity should be minimised. For example, abandoned sites must be secured and clearly marked until any existing infrastructure is removed.

The Bill modifies and expands the provisions dealing with licence conditions and variation of licence conditions, clarifying the scope of such conditions and the time at which variations may be made. It also introduces an offence of contravening a condition of licence, with the maximum penalty being $10,000 or expiation fee of $1,000.

To provide for greater business certainty and to enhance the attractiveness of investment in the South Australian aquaculture industry, an important change has been introduced by this Bill to provide for the ability to register the interest of a third party (for example a mortgagee) on an aquaculture lease or licence. Currently third parties are noted on a lease or licence but this does not provide the third party with a level of security or protection of their interest in the asset. Once registered the third party is required to consent to the transfer and variation of a lease or licence. The Minister must also give a registered third party written notice of any proceedings for an offence, of any notice proposing to cancel or not renew a lease, of any notice to suspend or cancel a licence or direct a lessee or licensee to carry out work. This new provision will foster greater investment in aquaculture activity in this State and is supported by the Australian Bankers Association.

The Bill clarifies the fee structure for lessees and licensees and elevates provisions dealing with annual fees for licensees to the level of the Act, replacing the periodic fees that are currently managed under the regulations.

Membership of the Aquaculture Advisory Committee is expanded from 10 to 11 members, the additional member being a person engaged in the administration of the *Harbors and Navigation Act 1993*.

The Aquaculture Resource Management Fund will be known as the Aquaculture Fund, with the Fund proposed to be applied to two additional purposes, namely research and development relating to the aquaculture industry, and removing or recovering aquaculture equipment, stock or lease markers should that action be required to be taken under the Act.

To further enhance the environmental management of aquaculture activities conducted in South Australia, the Bill deems the Minister to be an administering agency for the purposes of the *Environment Protection Act 1993* and enables the Minister to appoint fisheries officers (who currently have the power to administer and enforce the *Aquaculture Act 2001*) as authorised officers under the *Environment Protection Act 1993*. This is proposed so that powers under the *Environment Protection Act 1993* may be used by the Minister and those officers to enforce the general environmental duty and relevant environment protection policies in relation to aquaculture activities. These powers will only be used in the context of activities carried out on aquaculture lease or licence sites or activities prescribed by regulation.

To further enhance business certainty, the Bill clarifies succession arrangements, providing certain persons with powers to carry on aquaculture should a lessee or licensee die, become bankrupt or insolvent, or, in the case of a body corporate, become wound up or under administration, receivership or official management.

A confidentiality provision is included, making it an offence for persons engaged in the administration of the Act to divulge trade processes or financial information gathered in the course of official duties unless its use falls within the limited exceptions of the provision.

The Bill provides important enhancements to a unique and respected Act that has underpinned the sustainable development of the South Australian aquaculture industry. These enhancements will assist in ensuring the continued sustainability of the aquaculture industry in South Australia into the future.

I commend the Bill to the Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Aquaculture Act 2001*

4—Amendment of section 3—Interpretation

A new definition of *aquaculture equipment* is added to support new provisions relating to the removal of aquaculture equipment from sites on cancellation or suspension of a lease or licence and to support the exclusive occupation provision relating to an aquaculture lease. A new definition of *farming structures* is added for the purposes of the definition of aquaculture equipment and for use in connection with provisions relating to licence conditions and the regulation making power.

The new term *public register* is added to the interpretation section to support references to it added by clauses 24, 35, 36 and 45. The new scheme is intended to provide a level of security to financiers by allowing an interest in a lease or licence to be noted on the public register of leases and licences and requiring the consent of the person holding the interest to the transfer of the lease or licence. This scheme is similar to that applying to fishery licences.

The definition of *varying licence conditions* is required to accommodate the proposed improvement in flexibility when dealing with conditions.

5—Insertion of section 4A—Suitable person to be granted licence

The new section specifies the factors that may be taken into account in considering whether a person is a suitable person to be granted a licence, namely:

- any offence committed by the person, or, in the case of a corporation, by a director of the corporation, against the Act or any other law of this State or another State or a Territory of the Commonwealth relating to aquaculture, fishing or environment protection; and
- whether the person, or, in the case of a corporation, a director of the corporation, has held a relevant statutory authorisation that has been cancelled or suspended or has been disqualified from obtaining such an authorisation; and
- the financial and other capacity of the person to comply with obligations under the Act.

6—Amendment of section 7—Interaction with other Acts

The amendment disapplies the *Development Act 1993* to development within the area of an emergency lease for the purposes of carrying on the activities authorised by a corresponding licence.

7—Amendment of section 11—Nature and content of policies

This amendment is central to the removal of the concept of prospective aquaculture zone from the Act and to the inclusion of the new concept of a public call area within an aquaculture zone.

The reference to aquaculture emergency zones is removed. Because the site of an emergency cannot be predicted, it is proposed to remove the need to establish a zone before granting an emergency lease.

New subsection (3b) puts beyond doubt that if standard conditions of lease or licence are included in an aquaculture policy the conditions apply to all leases and licences regardless of when they were granted and that standard conditions imposed by an aquaculture policy prevail over other conditions of a lease or licence in the event of inconsistency.

8—Amendment of section 12—Procedures for making policies

This amendment makes it clear that plans or policies against which a draft policy must be assessed are those established under an Act.

9—Amendment of section 13—Parliamentary scrutiny

The period allowed for the Environment, Resources and Development Committee to pass a resolution relating to an aquaculture policy received by it is proposed to be adjusted so that the Christmas/New Year period and any election period is disregarded.

10—Amendment of section 14—Certain amendments may be made by Gazette notice only

The Minister is authorised to amend an aquaculture policy by notice in the Gazette if the Minister considers it necessary to amend the policy in consequence of an amendment to the Act or the making, amendment or revocation of the regulations or another aquaculture policy. For example, if this Bill is enacted, the removal of provisions dealing with aquaculture emergency zones from aquaculture policies may be effected by notice in the Gazette. The Minister is also authorised to amend an aquaculture policy by notice in the Gazette in order to designate, or revoke the designation of, an aquaculture zone as a public call area.

11—Amendment of section 16—Offence to contravene mandatory provisions of policy

An expiation fee is introduced for breach of any mandatory provision of an aquaculture policy. When initially enacted it was envisaged that mandatory provisions would involve serious breaches worthy of a significant penalty. However, that has not turned out to be the case and allowing for expiable offences will provide a greater level of flexibility at the level of policies.

12—Substitution of section 17—Requirement for licence

This clause is consequential on introducing a separate offence for breach of licence conditions (see new section 52(7)).

13—Substitution of section 19—Requirement for lease

This amendment elevates an exemption currently contained in the regulations to the level of the Act. It allows for the granting of an aquaculture licence in an area that is not the subject of an aquaculture lease to a person carrying on aquaculture on a navigable vessel as it operates within State waters. Out of an abundance of caution it also allows for the granting of a licence subject to conditions regulating the towing of farming structures containing stock by means of navigable vessel to or from the area of the lease and the feeding of the stock or the taking of other action in relation to the stock during the movement of the stock.

14—Substitution of section 20—Concurrence under Harbors and Navigation Act

Section 20 is amended so that concurrence of the relevant Minister is not required—

- for the substitution of an aquaculture lease following the division of lease areas into separate lease areas, or the amalgamation of lease areas, in accordance with the regulations; or
- for the grant of an emergency lease over an area that is not within a port or harbor within the meaning of the *Harbors and Navigation Act 1993*.

15—Amendment of section 22—General process for grant and renewal of leases and corresponding licences

This section is reworked so that it covers both the grant and renewal processes for leases and the process for application for a corresponding licence. A licence application is to accompany the lease application.

16—Substitution of sections 23 to 25

The deletion of sections 23 and 24 reflect the change in processes for applying for leases and corresponding licences. The provisions substituting for section 25 involve a reorganisation and expansion of the general provisions dealing with conditions, variation, cancellation and surrender of leases.

Lease conditions are currently dealt with in section 25. New section 25 expressly refers to the specification of performance criteria.

New section 25A deals with variation of lease or lease conditions on application by or with the consent of the lessee. It ensures that the variation will not include an increase in the size of the area leased. It makes more transparent the arrangements under which the area subject to lease may be varied. It also ensures that the consent of any person with a registered interest in the lease will be required.

New section 25B deals with cancellation of the lease if—

- aquaculture has not commenced or has ceased to be carried on in the area leased; or
- performance criteria specified in the regulations or the lease have not been met; or
- an amount has not been paid for or under the lease in accordance with its conditions.

New section 25C deals with surrender of a lease and protects the interest of any person with a registered interest in the lease.

New section 25D deals with a matter currently dealt with in section 54.

17—Amendment of section 26—Classes of leases

The reference to development leases is removed and a reference to research leases added.

18—Substitution of section 28—Granting of corresponding licence for pilot lease

Current section 28 is deleted because it dealt with pilot leases in prospective aquaculture zones (which are being removed from the Act).

New section 28 deals with the process for the granting of a corresponding licence for a pilot lease. As with other types of lease, public notice is required.

19—Amendment of section 29—Term and renewal of pilot leases

The amendment allows renewal of pilot leases for an aggregate term of 5 years—an increase from the current 3 years.

20—Repeal of Part 6 Division 3

Division 3 deals with development leases and is deleted because that type of lease is no longer to be available. Effectively, development and production leases are to be rolled into a single class of lease, the production lease.

21—Insertion of sections 34 to 36

Division 4 (Production leases) is reworked to give effect to the collapsing of development and production leases. The current arrangements are that a pilot lease may be converted to a development lease or a development lease directly granted and then that a development lease may be converted into a production lease. The new process involves the direct grant of a production lease or the conversion of a pilot lease into a production lease.

New section 34 (Granting of production leases limited to aquaculture zones) is the equivalent of the current section 32 in relation to development leases.

New section 35 (Granting of production leases and corresponding licences in public call areas) and the next section establish an entirely new process for the granting of production leases. This section governs the process if a public call is required. The Minister is to set the area or maximum area to be made available for lease and the criteria against which applications for leases will be assessed. The Minister may determine that the call is to be in the form of a competitive tender with monetary bids. The Aquaculture Tenure Allocation Board (ATAB) is to assess each of the applications received in response to a public call against the objects of the Act, the terms of the relevant zone policy and any applicable criteria and weightings that have been determined by the Minister. The assessment is to be carried out in accordance with the Minister's assessment guidelines. ATAB must then make recommendations to the Minister as to any applications that should not be granted and the order of merit of the remaining applications. The Minister is then to determine the preferred applications and can conduct negotiations to work out optimum arrangements for lease areas and the number of leases. The process for advertising corresponding licences and referring them to the Environment Protection Authority then comes into play (subject to the zone policy). If someone drops out or a decision is made not to grant the lease or licence, there is the potential for renegotiation with other preferred applicants.

New section 36 (Granting of production leases and corresponding licences if public call not required) provides that an application for a lease and licence in an area that is not subject to the processes set out in the preceding section is to be assessed by ATAB taking into account the object of the Act and the relevant zone policy. The assessment is to be carried out in accordance with the Minister's assessment guidelines. A recommendation is then to be made to the Minister as to whether or not the lease and corresponding licence should be granted. The usual process for advertising the application for the corresponding licence and referring it to the Environment Protection Authority applies subject to the zone policy.

22—Amendment of section 37—Conversion of pilot leases to production leases

This section is altered so that it governs conversion of a pilot lease (rather than a development lease) into a production lease. Currently an application for conversion is to be made not more than 60 days before the end of the term (or the last term) of the lease.

It is proposed to alter this to a window between 90 and 60 days before the end of the term in order to give the Minister time within which to determine the application.

An amendment is also made to ensure that the pilot lease continues if the application cannot be determined before the end of the term of the lease.

23—Amendment of section 38—Term and renewal of production leases

This amendment is consequential on the introduction into the Act of provisions that deal with cancellation of a lease.

24—Substitution of section 39—Transfer of production leases

This amendment ensures that a production lease may only be transferred with the consent of any person holding an interest in the lease noted on the public register.

25—Insertion of Part 6 Division 4A—Research leases

The new Division introduces a new class of lease—the research lease. A research lease can be granted in respect of any State waters (whether within or outside an aquaculture zone) and an application for such a lease may be made at any time (even if the area is a public call area). The usual process for advertising the application for the corresponding licence and referring it to the Environment Protection Authority applies subject to any relevant zone policy.

New section 39B provides that the maximum term of a research lease is 5 years. A research lease is renewable for successive terms but not, if the corresponding licence authorises the conduct of a particular research project, so that the term extends beyond the duration of the research project.

Under new section 39C a research lease is not transferable and under new section 39D only the lessee under a research lease may hold the corresponding licence.

26—Substitution of sections 40 to 42

This clause introduces a new scheme for the granting of emergency leases and corresponding licences. The requirement for an aquaculture emergency zone to be created before an emergency lease may be granted is removed. A lease may be granted on application of the holder of a pilot lease, production lease or research lease or on the initiative of the Minister. The Minister must be satisfied that circumstances of emergency exist such that the granting of the lease is warranted for the protection of the environment or the preservation of endangered aquaculture stock.

27—Amendment of section 44—Term and renewal of emergency leases

The amendment removes the arbitrary limit of 6 months as the maximum period for an emergency lease and allows the lease to continue for the period reasonably required for response or recovery following the emergency.

28—Insertion of section 44A—EPA and Minister to be notified of emergency lease

This amendment ensures that the EPA and the harbors and navigation Minister are informed of any proposal to grant or renew an emergency lease.

29—Amendment of section 47—Interference with stock or aquaculture equipment within marked-off areas

This amendment clarifies the scope of the offence and ensures that all relevant equipment of a lessee or licensee within a marked-off area of a lease is protected.

30—Insertion of Part 6 Division 7—Power to require or carry out work

The new provision is designed to ensure that on the cancellation or termination of an aquaculture lease, the Minister may take steps to ensure that the site is cleaned up as required by condition of the lease and that all stock and equipment is removed. Relevant directions may be given and, if not complied with, action may be taken and the cost of doing so recovered as a debt.

31—Amendment of section 49—Applications for licences other than corresponding licences

32—Amendment of section 50—Grant of licences other than corresponding licences

These amendments clarify that the scope of the sections is confined to licences other than corresponding licences. The processes for corresponding licences is dealt with in earlier provisions.

33—Insertion of section 50A—Term and renewal of licences other than corresponding licences

This matter is currently dealt with in section 53.

34—Substitution of sections 52 to 54

New section 52 applies to an inland licence and to a corresponding licence. It gives some examples of the matters that may be included in licence conditions. It also makes it clear that licence conditions may be varied on renewal of the licence or at least once each year in the case of a licence for a period extending beyond 1 year.

Licence conditions may also be varied with the consent of the licensee, as provided by licence condition or the regulations or if the Minister considers it necessary to vary the condition—

- in order to correct an error or make a change of form (not involving a change of substance); or
- in order to prevent or mitigate significant environmental harm or the risk of significant environmental harm; or
- in consequence of contravention of the Act by the licensee; or

- in consequence of an amendment of the Act or the making, amendment or revocation of regulations or an aquaculture policy.

The recent regulations standardised many of the requirements that were formerly in licence conditions and aquaculture policies and imposed the requirements in the form of regulations. As a consequence of this it was necessary to vary licence conditions. To the extent that the requirements were matters of environmental significance the current provisions enable variation of the licence conditions. Subclause (3)(c)(ii)(D) puts beyond doubt that all such consequential variations of licence conditions are authorised.

The requirement to refer the variations to the EPA is retained.

New section 53 deals with annual fees for licences.

35—Amendment of section 55—Transfer of licences

This amendment ensures that a licence may only be transferred with the consent of any person holding an interest in the licence noted on the public register.

36—Substitution of section 56—Surrender of licences

This amendment ensures that a licence may only be surrendered with the consent of any person holding an interest in the licence noted on the public register.

37—Amendment of section 57—Suspension or cancellation of licences

Under the current scheme contravention of a licence condition or of another law relating to aquaculture may lead to suspension or cancellation of a licence but contravention of a regulation is just dealt with as an offence. To facilitate enforcement of the scheme, a number of matters that have previously, or could be, dealt with as conditions of licence have now been included in the regulations in order to make contravention an expiable offence. However, logically, these matters should also, in appropriate cases, lead to suspension or cancellation of the licence. The amendment provides for this result.

38—Amendment of section 58—Power to require or carry out work

For the reasons set out in relation to the previous clause, section 58 is amended to ensure that contravention of a regulation that requires a licensee to take action may lead to the issuing of a direction for compliance and, if non-compliance continues, action by the Minister and the recovery of the costs of taking the action. Enforcement of this kind is suitable where it is important that the action be taken, for example, the taking of a benthic assessment recording as part of the overall scheme for environmental monitoring.

An additional ground for requiring work to be undertaken is added, namely, if on suspension of an aquaculture licence in respect of an area comprising or including State waters, the licensee fails to remove aquaculture stock, or aquaculture equipment, from the State waters.

39—Amendment of section 59—Reference of matters to EPA

These amendments are consequential.

40—Amendment of section 60—Appeals

New subsection (1) provides that there is no right of appeal in relation to an application for a production lease or a corresponding licence if the application is made in response to a public call for applications and the application was not an application determined by the Minister under the Act to be a preferred application.

41—Insertion of section 60A—Guidelines for ATAB assessment of lease and corresponding licence applications

New section 60A enables the Minister to gazette guidelines to be followed by ATAB in the assessment of applications under the Act, and requires the Minister to publish the guidelines on the internet.

42—Amendment of section 65—Membership of AAC

The amendment expands the Aquaculture Advisory Council by 1 member, being a person engaged in the administration of the *Harbors and Navigation Act 1993* nominated by the Minister responsible for the administration of that Act.

43—Amendment of section 73—Membership of ATAB

The amendment requires at least 1 of the members of ATAB to have knowledge of or relevant to the farming of aquatic organisms.

44—Amendment of section 79—Aquaculture Fund

The name of the fund is altered and the purposes for which it may be applied expanded to include research or development and taking action to remove or recover aquaculture equipment or stock, or equipment used to mark-off or indicate the boundaries of a marked-off area of a lease, in accordance with the Act.

45—Amendment of section 80—Public register

These amendments remove reference to the word "details" as this word has led to unrealistic expectations of what may be included in a public register that can be inspected at a website. Subsection (2)(e) is altered as a consequence of dealing with requirements for environmental monitoring reports in the regulations rather than in licence conditions. Subsections (2a) and (2b) are added to deal with notation of an interest in a lease or licence on

the public register of leases and licences. A person who holds an interest noted on the register is entitled to be informed if proceedings for an offence against the Act are commenced against the lease or licence holder or a notice of proposed suspension or cancellation is given to the lease or licence holder.

46—Amendment of section 82—Fisheries officers and their powers

This amendment applies Part 8 Division 1 Subdivision 5 of the *Fisheries Management Act 2007* in connection with the enforcement of the Act. This is a miscellaneous subdivision dealing with provisions relating to things seized and the offence of hindering an authorised person.

47—Insertion of Part 10A—Compliance with general environment duty and environment protection policies

New Part 10A allows the Minister to act as an administering agency under the *Environment Protection Act* for the administration of the general environmental duty and environment protection policies in relation to activities carried out or purportedly carried out under an aquaculture lease or licence or activities prescribed by regulation.

48—Insertion of section 82B—Death, bankruptcy etc of lessee or licensee

New section 82B deals with the situations that occur when a lessee or licensee dies, becomes bankrupt or insolvent or is being wound up or is under administration, receivership or official management.

49—Insertion of section 89A—Confidentiality

New section 89A makes it an offence to disclose information about trade processes or financial information obtained in the administration of the Act.

50—Amendment of section 90—Evidentiary

A new evidentiary aid is included so that if it is proved that aquatic organisms were present in the area of a licence at a specified time or date it will be presumed, in the absence of proof to the contrary, that the aquatic organisms were being farmed for the purposes of trade or business or research at that time or date.

51—Amendment of section 91—Regulations

These amendments—

- provide express support for regulations providing for the division or amalgamation of lease areas and licence areas;
- increase the penalties and expiation fees that may be imposed by regulation to amounts considered appropriate to the nature of aquaculture businesses;
- recognise that annual fees are to be dealt with at the level of the Act;
- expressly contemplate regulations about storing, maintaining, repairing or cleaning farming structures in State waters or towing farming structures containing stock.

52—Repeal of section 92

Section 92 provided for review of the Act and is spent.

53—Repeal of Schedule

The Schedule included transitional provisions that are spent.

Schedule 1—Revocation, transitional and validation provisions

The transitional provisions ensure that the range of activities authorised by existing licences is not unduly expanded without the opportunity to impose appropriate conditions.

The validation provisions ensure that all leases and licences under the Act are valid despite any lack of power or regularity affecting the grant, transfer, conversion, renewal or variation of the leases and licences.

Because copies of all relevant delegations under section 61 of the Act have not been able to be located, the provisions validate past acts of employees of the Public Service that should have been undertaken as delegate of the Minister.

The *Aquaculture Variation Regulations 2006* contain provisions about the division of lease areas and licence areas and the *Aquaculture (Standard Lease Conditions) Policy 2005* contemplates the substitution of lease areas. Out of an abundance of caution an express source of power for both these matters is included in the Act by amendments in this measure. The validation provisions ensure that the regulations and policy are to be regarded as having been made with those sources of power in place.

Debate adjourned on motion of Hon. T.J. Stephens.

ROXBY DOWNS (INDENTURE RATIFICATION) (AMENDMENT OF INDENTURE) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (11:21): 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.

Today is a momentous occasion for the State of South Australia. Just as mining projects at Broken Hill, Mount Isa and Kalgoorlie at the turn of the last Century helped transform the economic future of their respective States, so will the Olympic Dam expansion transform South Australia, by bringing unprecedented wealth and economic opportunity to the State well into the next Century.

Olympic Dam is certainly no ordinary project. It is a highly significant project for the State, being the world's fourth largest copper resource, fourth largest gold resource, and by far the largest known uranium resource. The proposed expansion project will unlock the full potential of the deposit to meet growing world demand for copper and uranium.

In March 1982, the State and project proponents of the time, entered into an Indenture to provide for the establishment and development of the initial Olympic Dam project. The Indenture was first ratified by Parliament through the *Roxby Downs (Indenture Ratification) Act 1982*. The Ratification Act, incorporating the Indenture, regulates the operations of the mine, associated treatment plant and transport facilities, related infrastructure and the municipality of Roxby Downs.

In response to the proposed expansion of Olympic Dam by BHP Billiton, the State agreed to amend the Indenture on the basis of the benefits which are expected to accrue to the South Australian economy and community, including royalty payments, increased workforce participation and development, local supplier participation, Aboriginal economic development and regional development.

As a result, the Roxby Downs (Indenture Ratification) (Amendment of Indenture) Amendment Bill 2011 (Bill) proposes enhancements to the *Roxby Downs (Indenture Ratification) Act 1982* to provide for expanded project components that were not envisaged under the original agreement. The revisions also change the way in which certain other Acts of the Parliament of the State apply to the revised Indenture to ensure its currency with relevant legislation.

The project expansion proposed by BHP Billiton will develop an open pit mine, processing facilities and supporting infrastructure that will operate simultaneously to existing underground mining operations.

This is certainly no ordinary mining project. Its size and scale for a singular mining project is unprecedented in Australia. Over a 40 year development period, the open pit is anticipated to extend more than 4 kilometres long, 3 kilometres wide and 1 kilometre deep, with annual production volumes expected to more than triple current capacity at full production.

Without doubt, the project will deliver considerable economic wealth to the State economy, with BHP Billiton estimating in its EIS that the project will contribute an incredible $45.7 billion in net present value to South Australia's Gross State Product (GSP) over a 30 year timeframe from the start of the expansion.

Furthermore, the expansion will generate considerable employment opportunities for the State. In its EIS, BHP Billiton estimate that the Olympic Dam expansion will generate up to 6,000 new jobs during construction, a further 4,000 full time positions at the expanded open pit mine and an estimated 15,000 new indirect jobs.

The broad-scale benefits achieved through the expansion of Olympic Dam will also substantially contribute to our latest Strategic Plan priorities, including Our Community, Our Prosperity and Our Environment, particularly through targets on total exports, minerals production and processing, regional population levels, and jobs to name just a few.

Such an expansion does not happen overnight and is not without inherent complexity and considerable investment risk. In progressing with the project, BHP Billiton is subject to high up-front costs and a long return on investment.

The State recognises that certainty is of key importance to BHP Billiton in light of the high risk of investment. In this context, the State's objective has been to maximise the benefits to South Australia through the Bill whilst applying effective and efficient regulation of the project and providing certainty to BHP Billiton where possible to secure the long-term investment viability of the project.

Key benefits of the project

Regional development is a key outcome of the expansion. The project touches many regional areas in the State, from Roxby Downs, Andamooka and Woomera, to the Upper Spencer Gulf and Eyre Peninsula, and will therefore generate considerable development opportunities in these regional areas particularly through wealth generation, increased employment opportunities, and use of local services.

The expansion includes a doubling of Olympic Dam's current smelting capacity and the Bill provides for BHP Billiton to process ore from other mines. This will not only generate value-adding opportunities to existing and future mines in the region, but also increase the total volume of minerals processing in the State.

Without doubt, increased employment opportunities are a win for the South Australian people, and particularly for our regional communities. To facilitate these opportunities, BHP Billiton will develop an Industry and Workforce Participation Plan that outlines initiatives to maximise opportunities for local industry, workforce and the use of local service providers. Particular emphasis will be placed on opportunities for employment and workforce development for Aboriginal people and support for aboriginal and regional economic development, which is of key importance to the State.

Key outcomes of the Bill

The Bill delivers several key outcomes that maximise economic benefit to the State whilst ensuring that the project is subject to our best practice regulation and environmental compliance regimes.

Whilst BHP Billiton may apply to the Indenture Minister for all other approvals, BHP Billiton is subject to the Environmental Protection Act for environmental authorisations for the project. In this way, the Bill recognises the full independence of the Environmental Protection Authority for environment approvals, licensing and necessary compliance action for Olympic Dam.

Another important revision to the Bill is the enhancement of compliance and enforcement provisions to ensure that the project achieves approved environmental outcomes and brings the existing Act into line with current legislation in the Mining Act and Environmental Protection Act.

As part of this, BHP Billiton will develop a programme for the protection, management and rehabilitation of the environment and will be subject to a strong compliance and enforcement regime. BHP Billiton will also incorporate a Greenhouse Gas and Energy Management Plan into this programme as a commitment to reducing its greenhouse gas emissions.

Furthermore, BHP Billiton will provide the State with rehabilitation security, in the form of a performance bond, to secure the performance of its rehabilitation obligations. This is a cornerstone agreement for the State, providing the State with guaranteed financial security against rehabilitation requirements at Olympic Dam.

Water continues to be a key concern for the State. In recognition of the value of this scare resource, BHP Billiton will pay the Arid Lands Natural Resources Management Board for water extracted from the Great Artesian Basin and saline wellfields for the purposes of its operations. Charges are based on the current levy but are capped at a maximum amount for 30 years to provide certainty to BHP Billiton of the charging regime in the medium term.

The project will also transition the township of Roxby Downs to a major regional centre, with BHP Billiton anticipating in its EIS a doubling of the residential population to approximately 10,000 people. This brings increased commercial opportunities for local and regional businesses both directly and indirectly related to the project. In addition to BHP Billiton's commitment to the provision of certain infrastructure and support, the State will continue to provide infrastructure support to Roxby Downs up to a township population of 9,000 people to facilitate the development of a long-term, sustainable township.

State commitments for project certainty

The State will provide BHP Billiton with an expanded Special Mining Lease (SML) of approximately 60,000 hectares. To provide certainty in the face of long lead times and high investment risk, the SML will be secured with an initial term of 70 years and ability to renew for a 50 year term. To facilitate further investment in the Olympic Dam area, the State has also provided BHP Billiton the opportunity to develop another project under the Indenture.

The State will also facilitate the provision of infrastructure and infrastructure corridors required for BHP Billiton's operations, including granting freehold title for certain project elements.

The royalty rates of the Mining Act will be applied to the project. BHP Billiton will not receive a concession on royalty rates payable and will pay the same rates as other existing mining operations. However, in recognition of the long lead times for development and need for certainty, the Indenture provides that current rates will be held for a term of 45 years.

The Olympic Dam expansion is one of the most significant development projects in South Australia. The provisions of this Bill strengthens the State's commitment to effective and efficient regulation of mining projects, whilst seeking to facilitate the long-term investment viability of the project for BHP Billiton and maximising the benefits that this project can bring to the State over the next Century.

I commend this Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause sets out definitions for the purposes of the amendment Bill.

4—Amendment provisions

This clause is formal.

Part 2—Amendment of *Roxby Downs (Indenture Ratification) Act 1982*

5—Amendment of section 4—Interpretation

This clause proposes the insertion of certain definitions into the Act.

6—Amendment of section 7—Modification of State law

The proposed amendment to section 7(2)(a) revises the names of the Acts listed in subsection (2). Other amendments are made to section 7 related to the modification of State law for the purposes of the Indenture.

7—Amendment of section 8—Licences etc required in respect of the mining and milling of radioactive ores

The proposed amendments to section 8 substitute references to 'Joint Venturers' with 'Company'.

8—Amendment of section 9—Application of Aboriginal Heritage Act to the Stuart Shelf Area and the Olympic Dam Area

Some amendments in this clause delete obsolete provisions. Other amendments are consequential or related, or update the scheme to conform with current provisions of the *Development Act 1993*.

9—Substitution of section 12

This clause inserts proposed section 12:

12—Special provisions in relation to local government

This section contains special provisions concerning local government related to the administration of the municipality.

10—Insertion of Parts 4, 5 and 6

This clause inserts proposed Parts 4, 5 and 6:

Part 4—Special provisions relating to Projects

13—Unlawful abstraction, removal or diversion of water

This section provides for an offence of unlawfully abstracting, removing or diverting water.

14—Protection of infrastructure and equipment

This section provides for offences relating to the protection of Desal Infrastructure and equipment.

15—Access to desalination plant land

This section provides for an offence for a person to access desalination plant land without authorisation from the Company.

16—Access to SML1 land

This section provides that the holder of a licence under the *Petroleum and Geothermal Energy Act 2000* will not be entitled to access any part of the area of a Special Mining Lease (or to be granted any such access) unless a statement of environmental objectives is in place in accordance with clause 19(13) of the Indenture.

17—Application of *Land Acquisition Act 1969*

The Minister may acquire land in accordance with the *Land Acquisition Act 1969*.

18—Approvals and declarations

Subsection (1) of this section relates to the validity of certain Project Approvals. Subsection (2) extends subsection (1) to project approvals given before the Ratification Date. Subsection (3) is a provision concerning the declaration made under section 46 of the *Development Act 1993* in relation to the Indenture on 21 August 2008.

Part 5—Authorised investigations

19—Appointment of authorised officers

The Minister may appoint persons to be authorised officers.

20—Authorised investigation

This section sets out the scope of an authorised investigation.

21—Powers of entry and inspection

An authorised officer may, for the purposes of an authorised investigation, enter and inspect land.

Part 6—Other matters

22—Water requirements

This section provides that any charges for the distribution of potable water or the provision of sewerage services within the town must comply with the requirements of clause 13(22) of the Indenture.

23—Supply of electricity

This section provides that any tariffs imposed by a power distribution authority must not, in respect of electricity supplied to consumers within the town, exceed the rates that apply under clause 18(16) of the Indenture.

Part 3—Variation of Indenture and SML1

11—Variation of Indenture

This clause provides that the amendments to the Indenture are ratified and approved.

12—Variation of SML1

This clause provides that the amendments to SML1 are ratified and approved.

13—Variation Date

This clause makes provision for the Variation Date, and prescribes procedures related to the extension of the Variation Date.

Schedule 1—Variation Deed

The Schedule contains the Variation Deed.

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

The PRESIDENT: Could we have some quiet in the chamber. The chamber has been pretty noisy this morning.

EDUCATION AND EARLY CHILDHOOD SERVICES (REGISTRATION AND STANDARDS) BILL

Adjourned debate on second reading.

(Continued from 8 November 2011.)

The Hon. K.L. VINCENT (11:23): I rise today to support the second reading of the Education and Early Childhood Services (Registration and Standards) Bill 2011 in its current unamended form. As a Dignity for Disability MLC, I believe that effective early childhood education is essential and, indeed, a basic right in modern functional society. This bill is far-reaching and, on some levels, groundbreaking in its scope and its impact.

I believe that there are many positive features and welcome innovations that acknowledge the importance of early support, intervention and structured play for the education of our children. I believe that early childhood education and care provided by qualified workers and educators is undervalued in our society, and any reforms that seek to increase the recognition, conditions and qualifications can only be a positive measure.

There has been much talk in the recent week of the resources boom in this state following the government's ratified agreement with BHP Billiton on the Olympic Dam mine expansion. What I would hope is not forgotten is that the most important resource in this state is not actually a mineral we dig out of the ground but our people and our children. Our children are the future and early investment must be made in ensuring that they have a good start in life and are able to go on to lead meaningful lives in the future. As a politician elected to this place on a disability platform, I always consider the 20 per cent of our population who have a disability and how legislation created in this chamber impacts on them.

There is no time more important for a child with a disability than their early years. Every piece of research available points to early diagnosis and early intervention as being the most desirable outcome for a child's long-term development. The better the child-staff ratio for a child, the more chance that this can occur. The better educated and qualified in child education and development the staff are, the more chance that they can assist a child with a disability. From a disability perspective, the reforms contained in this bill amount to the absolute minimum we want to see occurring if we want to support our children, particularly our children with extra needs.

As we all know, being an adult with a disability is by no means an easy path through life, but being a child with a disability is particularly challenging. Imagine being a child with autism, for example. There is the sensory stimuli overload that this entails, the difficulty of relating to other people and the challenges with communication and language. It is hard enough to learn to interact with your peers at two years of age without adding this additional test to the equation.

Imagine your early educator being so overloaded with maintaining the needs of too many children that they do not notice that this is why you are withdrawn. It is not a pleasing scenario. Significant damage can be done to a child with autism if he or she is not diagnosed early and an adequate intervention program is not put in place. With the right support put in place initially, a child with autism can flourish. They can develop good language and communication skills; they can learn to socially interact in an appropriate manner; and they can even continue into mainstream schooling, with all the opportunities that this can mean for any child leading into their adult life.

Sure, there will be adverse events, challenges and failings along the way, but it is a far more preferable situation than the alternative of no diagnosis, no intervention and no resource support. Without early diagnosis and support, this same child could be seen by educators as immature, failing to thrive and badly behaved. By the time the child starts school at age five, they will be struggling to handle both the social and the intellectual demands placed on them in that environment. By the time they enter high school, they will probably have experienced harassment from their peers and they will often be friendless.

A child or young adult who has had inadequate support in their early years due to a disability is more likely to experience mental illness, have inadequate coping skills, and is probably on the way to being jobless. Our justice institutions, education options, training programs and mental health systems are ill-equipped to handle the additional layer of complexity that a disability such as autism provides to these government services. All in this chamber would agree that the first option is the path that we would hope for any child with a disability, be it autism or another. This is why the reforms in this bill are essential and must be put in place as soon as possible.

Whilst early intervention is ideal from a social perspective, it is also worthwhile considering the positive economic impact of quality early childhood education. It is far cheaper to spend money now and save on welfare dependency, the court system and healthcare providers later in life. It is a much better bang for your buck to spend the money in the first few years of life, rather than in the next 70 years trying to improve or make up for what could have been achieved earlier.

The World Health Organisation (WHO) have published clear recommendations on early childhood. Coupled with the United Nation's Children Fund their key fact states:

> Early childhood is the most important phase of overall development throughout the lifespan...Many challenges faced by adults, such as mental health issues, obesity, heart disease, criminality, and poor literacy and numeracy [skills], can be traced back to early childhood.

On the issue of brain development the WHO continues:

> The more stimulating the early environment, the more a child develops and learns. Language and cognitive development are especially important during the first six months to three years of [a child's] life. When children spend their early years in a less stimulating, or less emotionally and physically supportive environment, brain development is affected and leads to cognitive, social and behavioural delays. Later in life, these children will have difficulty dealing with complex situations and environments. High levels of adversity and stress during early childhood can increase the risk of stress-related disease and learning problems well into the adult years.

My office, as you can imagine, has been inundated with phone calls from both parents and childcare providers today and yesterday. They have strongly encouraged me to support the bill without delay and without amendment and point out many childcare centres with good practices which already meet or are close to meeting the new child to staff ratios. The parents have also indicated that they are happy to pay a few extra dollars to ensure that their child receives quality education when they are in the care of one of the state's care facilities.

There has been significant lobbying from some within the childcare sector to vote this bill down, or at least amend it. There has also been media attention from the against campaign. *The Advertiser* labelled it a 'Child Care Revolt'. I appreciate the change within any industry can sometimes be confronting and often challenging; however, I believe that the concepts promulgated by these providers amounts to pure and simple scaremongering.

These childcare centres claim that there will be a substantial increase (up to 20 per cent) in the cost of child care to these centres if the bill is passed in its current form. They believe that this will force closures of childcare centres and result in unregulated backyard care. They also claim that it will result in women having to quit work to look after their children.

I have not seen the basis for this modelling, but the federal childcare minister, Kate Ellis, recently refuted these assertions in last week's *Advertiser* article. She said that independent expert modelling shows increases would peak at $8.60 a day in 2014-15. I certainly do not think that a dollar a day increase in care for our children amounts to a prohibitive figure. Quality costs money

and never is quality more important than when it refers to the health and education we provide for our community and our children.

Yesterday morning, coordinated by United Voice, I met with several childcare providers and operators and people from peak childcare bodies in South Australia. They do not understand how the opponents' modelling of this bill can possibly be correct and neither do I. Naysayers on this bill have suggested that no consultation has occurred. However, I have been told by many stakeholders in the sector that consultation on this restructure began some five years ago.

To me, it seems that consultation on this has been indepth, comprehensive and inclusive. Those within the sector who are not aware of these changes have surely been living under a rock. If a stakeholder in this sector has not contributed their views to the longstanding consultation, I am not sure why as there has been plenty of opportunity to do so.

This morning I met with Pam Cahir, Chief Executive of Early Childhood Australia, and her colleague, Kate Ryan, President of the South Australian branch of the same organisation. Early Childhood Australia is the peak advocacy body for young children. She told me about the extensive round of consultation she has been engaged in for three years on these reforms. She has crisscrossed Australia several times on behalf of the federal government. She is based in Canberra but has been in Adelaide and several other locations—Port Augusta, Port Lincoln and Mount Gambier—sounding out the sector on these reforms.

Criticisms of the time lines have been raised with me in letters and emails by some of the bill's detractors. They claim that six weeks is not enough time to implement the required regulations; however, these imminent changes were actually notified back in December 2009—almost two years ago—and the ratio changes have been in the pipeline for, again, as I said, five years. I think this is certainly adequate time to put amendments into operation. The current legal requirement for toddlers in care is a one to ten ratio.

I do not have any children yet but, from my limited knowledge of this age group, I would not want to be trying to control and keep track of what 10 kids in this age group are doing at any given time. A far more manageable ratio of one to five from 2014 seems utterly sensible and the way forward.

The final disparaging comment I have heard from this bill's dissenters relates to the TAFE and university education systems and their readiness to deal with training further staff for accreditation in this area. I have been assured via the minister's office briefing that this is all in hand and that people already working in this area will receive recognition for prior learning where applicable and, where retraining or additional training is required, as long as staff are working towards attainment, they will be allowed to continue working.

I note that many TAFEs throughout Adelaide and regional Australia offer childcare qualifications, and that both UniSA and Flinders University offer specialist degrees in early childhood education so they are equipped to educate children from birth through to eight years of age. The fee/HECS-HELP concessions apply to early education degrees and will continue to apply. Students enrolling in these degrees pay lower fees post graduation if they work in a region or postcode of need in an attempt to encourage young people to work in this career path.

Reducing red tape and bureaucracy and ensuring all care providers sit within the same regulatory framework seems a fine aim and not something to panic about. Moving DECS from being a provider and a regulator to just being a provider seems perfectly logical to me. These reforms also account for a review in 2014.

We have 337 childcare centres in South Australia, and I would like to think that all of them will be operating under the provisions in the bill very soon. Given that these national reforms have been based upon sound research that highlight just how important early education and intervention is to the long-term health and well-being of our young people, I cannot see any need to filibuster on this matter. South Australia signed a COAG agreement on this some time ago, and for us not to support these would cause significant problems and, indeed, embarrassment for South Australia at a national level. With these comments and with the knowledge that these are well-resourced reforms, I indicate my support of this bill unamended to the council.

Debate adjourned on motion of Hon. R.I. Lucas.

NATURAL RESOURCES MANAGEMENT (COMMERCIAL FORESTS) AMENDMENT BILL

In committee.

Clause 1.

The Hon. I.K. HUNTER: At this stage I will put on the record some responses to questions and comments raised by the Hon. Michelle Lensink in the second reading processes. To her first question, I can say that it is important to consider the relative impacts of scale and intensity when comparing the water use of plantation forests and other dryland crops. It is acknowledged that, under dryland pasture, recharge to the aquifer is generally between 10 to 20 per cent of rainfall. Most of this 10 to 20 per cent then recharges underground water and becomes available for consumptive use, including forestry.

Forestry has an impact on the 10 to 20 per cent of rainfall that was destined to recharge the aquifer or flow as run-off into streams and water bodies. It is widely accepted that plantation forests intercept 100 per cent of this recharge and/or run-off. This can significantly impact on the availability of water resources. This can be exacerbated on shallow water tables. A more broad-based system for managing the water resource impacts of land uses is unnecessary as these uses do not affect water resources to the extent that commercial plantation forests do.

If other land uses are found to significantly affect water resources, they can be regulated as water affecting activities under the Natural Resources Management Act. In the specific case of lucerne, trees use more water than grasses or agricultural crops because of their deeper roots, longer growing seasons and greater height and roughness of canopy that tends to increase evaporation.

The Hon. J.M.A. Lensink: Lucerne has got long roots too.

The Hon. I.K. HUNTER: Not as long as trees. To her second question and point, I say that the unique nature of water interception and extraction by forests is reflected in this bill. This bill has been designed to recognise these differences and provides forest water managers with several risk management options that are specific to the forest industry. These include: no premature clear felling as a result of water policy, meaning for the existing plantation rotations; and, the ability for forest water managers to propose a management scheme to the minister to manage forest water impacts.

In addition, the bill also allows for the forest water impacts to be estimated in a way that reflects the longer time frames required to reach a mature crop ready for harvest. The science has shown that, although the absolute volume of water used by forests is lower during low rainfall times, the net impact on water resources can be greater as the forest water use is a higher proportion of the available rainfall. It is important to note that, if licences were applied in a region during dry periods, demand for irrigation water is usually higher and they may present an opportunity for forest water managers to trade surplus water to these users if appropriate.

In response to her third point, I say that both legislative tools provided for by the bill to manage forest water impacts, forest water licences and extended forest permits are required to implement the statewide policy framework 'Managing the water resource impacts of plantation forests'. This framework recommends the creation of both legislative tools so that they can be applied in response to regional conditions where appropriate.

The amendments that relate to the permit system in the bill clarify and simplify the operation of the permit system that can be used to manage the impacts of commercial forestry on water availability. The statewide policy framework does not detail how the permit system should be used to manage forestry. Details of how the permit system may operate in particular circumstances are determined in the natural resources management planning process for each region or water resource. The changes in the bill clarify the flexibility of the permit system to manage the water resource impacts of forestry in different circumstances. The bill does not prescribe or require that an application must be made for a new permit every time a plantation is replanted.

There are two amendments that relate to permits: one identifies commercial forestry as a water-affecting activity in the act, and the second provides that the permit system can operate independently of the development approval process with respect to specific activities. This is subject to a regulation being made. In many circumstances, this may not be necessary; however, there may be some regions where this is required to address a specific issue.

The clauses that relate to the improved forest permit system provide more flexibility to manage water resources through regional natural resources management plans and water allocation plans. In particular, passage of the bill would also allow the permit system adopted in the

Kangaroo Island Regional Natural Resources Management Plan to be activated, a region where permits are currently considered to be adequate to manage forest water impacts.

In response to the Hon. Michelle Lensink's fourth point, I say that if forest water licences are applied this policy would be about providing water entitlements to existing forests to underpin the security of the existing forest estate from a water resource perspective. This policy would provide clear and equitable market mechanisms for the forest industry to expand its operations and achieve an economy of scale objective. It is important to note that other agricultural activities have similar aspirations. This bill is about government not picking winners or losers.

In response to the honourable member's fifth comment, I can say that there is no legal requirement under the Natural Resources Management Act for a natural resources management board or the minister responsible for the act to adopt a new or revised water allocation plan within five years or any set time frame. The legal requirement is for the water allocation plan to be reviewed by the regional natural resources management board. All water allocation plans in the South-East have met this requirement. Provisions of a water allocation plan stand until amended and existing water management principles will continue until a new water allocation plan is adopted by the minister.

In response to the honourable member's sixth point, about it being a national first, I say that South Australia's forest water policy and legislation development has been developed under the NWI, which guides consistency across the states but with enough flexibility to allow each state to design approaches within its own policy and legislating frameworks. The National Water Commission recently highlighted South Australia's progress towards implementing this important reform in its 2011 biennial assessment.

In relation to the Hon. Ms Lensink's seventh point, I advise that currently, under a regulation specific to the South-East, change of land use to forestry requires authorisation, a water-affecting activity permit. In locations where a decline in the resource is identified, a water licence may also be required to offset the water resource impacts over the life of the forest. A key component of the policy associated with this regulation includes an agreement between government and industry in 2004 which allowed 59,000 hectares of additional plantation of forest expansion. This came to be known as the forest threshold expansion opportunity, and approximately 42,000 hectares currently remains.

Two key features of the policy are that the nature of the water right is a land use permit and the threshold is available for uptake in specified management areas where water is available and resource sustainability is not compromised. The government has always maintained the position that the threshold will be maintained as a right to the forest industry in accordance with agreement in 2004. However, given the forest water policy and legislation development in recent years, there is an opportunity for the threshold to be treated in a manner that reflects any new policy directions. Any proposed changes to the threshold will only be considered by government with support from the forest industry.

In relation to the Hon. Michelle Lensink's eighth point, I can advise that in late 2009 the Natural Resources Committee was provided with a copy of the 2009 version of the bill with 10 proposed government amendments. The then minister for the environment and conservation requested that the Natural Resources Committee consider holding an inquiry into the bill. The committee postponed its decision until after the 2010 state election and consequently, after the election, decided not to hold an inquiry.

In response to the Hon. Ms Michelle Lensink's comment No. 9, I can advise that many of the environmental, economic and social implications in relation to the bill relate to its application, not the actual mechanism that is created by this bill. A government task force has been working since early 2010 to support the development of a Lower Limestone Coast water allocation plan, through a review of science, development of policy options and consultation with key stakeholders.

The government task force prepared a draft policy issues discussion paper, designed to serve three broad purposes: first, to provide high-level policy guidance for the Lower Limestone Coast water allocation plan; secondly, to provide policy and operational details on how forest water licences, or an improved permit system, would operate; and, finally, to serve as a starting point for further discussions on how to manage localised areas of overallocation and/or of overuse of water resources in the region.

A stakeholders reference group, which includes representatives from peak industry bodies from the forestry, wine, dairy, potato and dryland farming industries, as well as the South Australian

Farmers Federation and the Conservation Council of South Australia, has met several times since September 2010 and has made a significant contribution to the draft discussion paper developed by the task force. The reference group has met 10 times in Mount Gambier and also has met with the Minister for Sustainability, Environment and Conservation in Adelaide at the beginning of this year.

To inform the discussion paper, the task force has also overseen the development of the following:

- The South-East water science review, managed by the University of Adelaide and incorporating scientific input from relevant leading authorities. It is one of the most comprehensive studies undertaken in Australia, and it is focused on the hydrology, hydrogeology, ecology and land-use capability. A groundwater model was development by Aquaterra for the Wattle Range area of the Lower Limestone Coast to predict groundwater responses under various forest management scenarios.
- A South-East regional profile, developed by the Department of Primary Industries and Resources SA, that outlines the relative economic contribution of various industry sectors and their likely growth prospects into the future. This assessment did not attempt to quantify the multiplier effects on the region, which has been the focus of other regional assessments for the forestry industry.

The task force, with input from the reference group, is considering feedback received during a four-week public consultation on the discussion paper, which closed on 20 April 2011. During this period, feedback was received from a range of individual landholders, forestry companies, peak industry bodies, unions, environmental organisations and local government councils, through 31 written submissions, as well as 17 targeted briefing sessions held in Adelaide and the South-East.

Once the Minister for Sustainability, Environment and Conservation has adopted the final policy principles, the South-East Natural Resources Management Board will prepare a draft Lower Limestone Coast water allocation plan for statutory and public consultation that is consistent with the final policy principles.

In relation to the 10th point raised by the Hon. Ms Lensink, the bill is not inconsistent with and does not affect requirements under the Groundwater (Border Agreement) Act 1985 because that legislation and agreement are relevant only to taking water through wells. Appropriate interim arrangements are currently being considered whilst the border groundwaters agreement is being reviewed. As this is a separate issue to this bill, a separate briefing can be provided.

In relation to the Hon. Ms Lensink's 11th point, I can advise that the bill defines the 'forest manager' as a person or company with effective control of a forest vegetation. I am advised that this means the entity with legal authority to control or direct the planting, growing and harvesting of trees and, consequently, the water impacts of the forest. As with most other property rights owned by a large commercial enterprise, the business and investment structures of a particular company will determine the person or company with effective legal control of the plantation forest.

To the final point, I can say that I have been advised that the Treasurer has indicated that the water, land and carbon rights will all remain the property of the South Australian government. The sale tender documents will make these arrangements clear to any potential buyer. The contract between the South Australian government and a potential buyer will make it clear who bears this risk.

Any reductions in water allocation could be offset by purchasing additional water within the management area or by proposing a forest water management scheme. Furthermore, as a prescribed wells area is not overallocated, any reductions are for that management area only and that water right could be transferred to another management area, and hence there would be no reductions in the overall forestry footprint at the prescribed wells area level. That completes my answers to the questions put during the second reading process.

Clause passed.

Clause 2.

The Hon. R.L. BROKENSHIRE: With your concurrence, Mr Chairman, and that of the council, given that I had an important matter that I had to attend to during the second reading

explanation, if I could spend a couple of minutes making some brief comments with respect to clause 2 and the bill generally for the benefit of colleagues and for the public record.

This has been an issue that has been hotly debated for several years with respect to the matter of whether or not forestry comes under a water allocation plan in the South-East. In fact, going right back through to my days with the Liberal Party, I had quite detailed and sometimes fairly diametrically opposed debate with some of my colleagues. I felt that forestry should be going into a water allocation plan and some of my former colleagues did not necessarily agree with that.

I place that on the record because this goes back years and years. The point I am on about is that there has been a lot of debate, a lot of discussion and a lot of consideration about this bill. I will put it up-front that it is the decision of Family First to support the government on this bill, as indeed it was the decision of Family First (after a lot of deliberation) to support the government opposing this going into a committee for further discussion and investigation.

I spoke to local forestry people about this matter when I was down in the South-East. It is no surprise that I have serious concerns about the privatisation of forestry, but I also have concerns about the sustainability of water availability, both for irrigators and the environment and sustainable water supply in the South-East. I spoke to some people involved in the forestry industry when I was down there and they indicated to me that they realised that sooner or later there was merit in the government of the day bringing in a bill which allowed for forestry to be considered as part of the water allocation plan.

Out of Canberra, I had several meetings with people from the peak forestry group who came to see me. In fact, I made quite a lot of time available to them. I understand, from discussions in my office as recently as this morning, that they believe I was going to recommend to Family First that I would support a committee. I never made an absolute commitment (from my notes and memory) to support a committee. In fact, in discussion with those people, I said that there was some merit and I understood that merit, based on my assessment as a chair of another committee, and I could understand the reasons why some might want to put it to a committee and that I would look at it.

I did not make a categorical commitment to support a motion to put it before a committee. In fact, from my recollection I do not believe that at that stage there was any absolute commitment to an amendment to put it to a committee. I think I am right in saying that the first absolute indication of a committee—that is, referral to the Natural Resources Committee—that I knew about was last week when the honourable Deputy Leader of the Opposition emailed us saying that she intended to move that it be referred to a committee. So, I want to put that on the public record.

Notwithstanding that, I also want to say that when I spoke to other key stakeholder groups, initially they were talking about the merits of putting this to a committee. In fact, as recently as a few weeks ago, some of those key stakeholder groups thought that it should go to a committee. However, as is always the case when you get to the pointy end of a bill and you get to the stage where we are today, you consider as an individual member of parliament the merits, the positives and the negatives, with respect to what you are going to do in your voting on the floor. That is a democratic right. In fact, I think it is fair and reasonable to say that there are many times when members of parliament finally make their mind up just before they go to vote.

Irrigators down there have very serious concerns about the amount of water that forestry is using. In fact, advice that I have says that up to possibly 30 per cent of all the water harvesting in the South-East is utilised by forestry. Other advice that I have says that, at best, there is about 2 per cent of unallocated water availability in the South-East. If you could get as definitive as 2 per cent—the fact of the matter is that you cannot quite scientifically get to that point—what it says is that it is fully subscribed.

I also have the understanding that there is no retrospectivity in this. The minister can correct me on this, and I would appreciate an answer when I finish on clause 2, but my understanding is that there is no intention of the government in any development of a new water allocation plan to see retrospectivity with respect to purchasing of water licences for forestry. Rather, it would say that for further expansion in forestry they would have to go through the same processes as the further expansion of an irrigator if they need more water. That is my understanding, and I seek a response from the minister on that.

I also understand that the local member has for some years had issues around the rights of dryland non-irrigated farmers and where they may want to utilise water in the future. I understand that they have what are called holding licences in the South-East. To my knowledge, the South-

East is the only area in the state where there are holding licences, that is, that people have a holding licence for potential water usage in an area where they are not utilising that water.

This has been an ongoing ideological debate for probably as long as I have been in this parliament. Both the former government and this current government—and it is not only this state, it is in other states—particularly until climate change issues came to be debated, have always said that what they needed to do was to free up what water was available for irrigators to grow economic opportunity in regions. Of course, we went overboard with the River Murray and now we have overallocation that has to be addressed. However, both governments, I believe, have always wanted to try to get economic growth out of the water availability.

I personally see a huge bonus in those holding licences for people who have the potential, or have had the potential, for water for irrigation but have not used it. I do not believe any other region of the state has that. I am not aware of any. Some farmers also said that they had concerns because, as agri-foresters, they had up to 10 per cent of their property as agri-forestry at the moment and that they would like the right to grow that to 20 per cent without having to purchase further water.

I looked into all of these matters. I listened to all the people who made representation. SAFF wanted to see the water allocation plan include forestry. The South Australian Dairyfarmers' Association—and I declare that I am a member of that association—for several years has been advocating that forestry should come into the water allocation plan.

In conclusion, I listened to the debate, as I always do. There was intense representation across the sectors. Some of the sectors were still making up their mind only in the last week or two as to whether or not they wanted to go to committee or to support the government's bill. At the end of the day, having democratically listened to all the representation, ultimately we have to make a decision. That is what we are elected for. Some people will like the decision and some people will not like the decision. That is how democracy works.

I want to reinforce that there was a lot of consideration and deliberation. I also want to say that, from my understanding of this bill, all this bill simply does—and the minister can correct me again if I am wrong on this point—is ensure at law that forestry comes into the water allocation plan. The water allocation plan then has to be drafted. There has to be consultation on that. That water allocation plan, when it is put out for the community to consider, then comes back to the minister to sign off.

So, when it comes to a situation where forestry wants to argy-bargy or agri-forestry farmers want to argue about whether they should be entitled to 20 per cent before they have to purchase water rights, rather than the 10 per cent that I understand it is at the moment, that will all be part of the water allocation plan and no different to any other water allocation plan. This, as I understand it, is not the water allocation plan. This is simply a conduit to ensure that in future water allocation plans developed in the South-East forestry will come into that plan.

There is still a lot of democratic process there for forestry, for agri-forestry and for others to make representation at that time, just as is the case at the moment with the eastern and the western Mount Lofty Ranges where deliberations and submissions go on. With those comments, I thank you again for your tolerance, Mr Chair. With respect to clause 2, I seek a response from the minister on the two points I have raised.

The CHAIR: Does the honourable minister want to respond?

The Hon. I.K. HUNTER: I will, sir, although there is not much need for me to do so. The Hon. Mr Brokenshire asked the questions and then answered them, I am advised, correctly. All this bill does is that it applies to forestry exactly the same processes as other industries whereby existing water use is respected.

The other matter is not a matter for the bill. The bill just creates the head powers, as the Hon. Mr Brokenshire said. The water allocation plan will be developed regionally and will be consulted on locally.

Clause passed.

Remaining clauses (3 to 24) and title passed.

Bill reported without amendment.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (12:07): I move:

That this bill be now read a third time.

Bill read a third time and passed.

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 November 2011.)

The Hon. A. BRESSINGTON (12:12): I thank members for their patience. I sought leave to conclude my comments on the last Tuesday of sitting, so I will pick up where I left off. I would like turn my attention now to the proposed reforms of parole arrangements for inmates serving life sentences, which have been necessitated by this government's capricious, inconsistent, populist and arbitrary use of the Governor's power to overrule the recommendation of the Parole Board to grant parole to life sentence inmates, whom I will refer to as 'lifers'.

Presently, prisoners sentenced to life imprisonment apply for parole as per other prisoners. However, unlike other inmates who simply must satisfy the Parole Board, for lifers the ultimate decision to grant parole is at the discretion of the Governor in Council.

Whilst other state jurisdictions have had such powers, all have removed them from their statutes when establishing independent parole boards. Presumably, they recognised that, to continue with such power, it undermined their parole board's independence, confidence of the citizens in their parole board system and that most fundamental principle of the separation of powers.

South Australia is the only Australian jurisdiction that has retained the executive rights to veto a parole application. However, prior to 2002, no South Australian government had exercised power to deny parole to an inmate. Since the Rann Labor government and the rise of the law and order politics, it is heralded. However, the Parole Board reported to me that less than 50 per cent of applications are actually granted by Executive Council.

My office requested further details of Executive Council's refusal of parole applications, and, while the details are limited due to not disclosing identifying detail, I was informed that since April 2002 the Governor has been directed by the executive to refuse parole on 21 occasions whilst granting parole to lifers on just 13 locations. It should be noted, however, that the 21 refusals related to only nine inmates.

However, these nine inmates represent only the tip of the iceberg due to what is known as the catch 22, that is, the Department for Correctional Services being reluctant to enable prisoners to participate in prerelease resocialisation activities—work, family, leave, etc.—despite the Parole Board being inclined to recommend parole due to it being foreseeable that the executive will ultimately deny parole.

Understandably, the department has been reluctant to release inmates into the community as part of resocialisation in preparation for parole when it was foreseeable that the executive would announce that the inmate is a risk to the public and not to be released. I met with Mr Peter Severin, Chief Executive of Corrections, and he expressed to me that he has concerns about this catch 22 situation as well and, also, was under the impression, or gave us the impression, that this issue would have been dealt with in this bill, and obviously it has not.

His concerns when we met with him were that there are a number of people who have overstayed their time in prison between six to eight years who want to know when they can be moved to prerelease and resocialisation programs. Also, that there is a level of tension that is growing amongst people who are well and truly over their sentence time because they do not see any end to their stay.

I think he was also frustrated with the fact that they basically are not able to follow through on directions of the Parole Board to move people into prerelease. They are able but they do not because they second-guess that the Executive will actually refuse parole. So, they have people stuck midstream. I know that it is not a popular issue and that people do not really have very much sympathy for people who are serving life in prison, but I would see that as more of a criticism of our system.

If we are successfully rehabilitating people and getting them to take responsibility and the Parole Board is satisfied that they meet the criteria for parole, it is a cruel joke really to have them work towards that for many years in prison—and some of them do actually strive to improve themselves and get a handle on what life was before and make inroads into that—only to find that, at the end of the journey, they are going to be locked up indefinitely.

I am aware of at least half a dozen inmates who have been unable to progress their parole applications due to the catch 22, an example being Mr Derek Bromley, whose case has been raised in this place previously by myself and the Hon. Dennis Hood. Put simply, despite numerous recommendations by the Parole Board in their reasons for refusal to release in accordance with section 67(9) that Mr Bromley undertake resocialisation—I think the catch 22 that people do not get is that if they do not do the resocialisation they are then not eligible for parole; so the Parole Board can recommend it, corrections then says, 'No, because we're sure that the executive isn't going to approve it,' so they are not moved into prerelease or resocialisation and their parole application falls over, which is just a never-ending circle for them—Mr Bromley is yet to be given the opportunity due to the department foreseeing his parole being vetoed by the executive.

This is presumed, for while the department is more than willing to talk of the catch 22 generally, it declines to demonstrate its application to individual inmates. Utilising this power to veto parole has made the release of lifers highly politicised, with the government using the denial of parole to some inmates to bolster its law and order credentials.

As an example I quote a media release by the then attorney-general, the member for Croydon, entitled, 'Libs back lawyers and shun victims', dated 13 January 2010. I quote:

> If Isobel Redmond's Liberal Party had its way, convicted murderers and such as Stephen Wayne McBride, James Early, David Andrew Millar, Steve Eger, Peter Michael Webb, Anthony James Brady and David James Watson would be back in society, Mr Atkinson said.

I note the Peter Michael Webb one. The Attorney-General clearly made an error when referring to Michael Peter Webb, not Peter Michael Webb, an error subsequently repeated by the former police minister and others. Members may recognise the name Michael Webb from the recent *Today Tonight* story by producer Graham Archer, which revealed that Mr Webb's co-accused, Ms Veronica Hay, whom in sentencing the trial judge, Judge Debelle, described as equally culpable of the vicious murder in 1991, had been released following the expiration of her nonparole period in December 2005, while Mr Webb remains incarcerated some six years later.

Despite a minor variation for time served, both Mr Webb and Ms Hay received equal sentences and, hence, became eligible for parole in the same period. Both applied to the Parole Board and both were recommended for parole to the executive. Upon receiving their applications, the prisoners, who were equal in every way, including in their prison conduct, ceased to be equal, with Ms Hay granted parole while Mr Webb was denied. On being informed by Mr Webb of his continued incarceration, Judge Debelle took the unusual action of writing to the Parole Board and, upon learning that responsibility lay with the Executive Council, then writing to the then minister for correctional services, the Hon. Carmel Zollo MLC.

While that letter, which was provided to me by Mr Webb, has been read out in another place by the member for Bragg (without knowledge, I might add), for the benefit of members in this place I will quote it in full:

> Dear minister,
>
> I was the trial judge in R v Webb & Hay. That is why I probably received the attached letter from Mr Webb. Mr Webb and Ms Hay were jointly charged with the murder of Mr L.E. Patrick at Mt Gambier in 1991. Both pleaded not guilty. Both were convicted of the crime of murder after trial by jury. Both were equally culpable. Ms Hay was sentenced to a non-parole period of 20 years imprisonment. Mr Webb was sentenced to a non-parole period of 19 years and nine months. The difference of three months resulted from the fact that Mr Webb had already been in custody for a longer period of time than Ms Hay.
>
> As you can see from his letter, Mr Webb is aggrieved by the fact that his co-accused, Ms Hay, has been released on parole but he has not. The circumstances of this murder do not provide any basis for discriminating between the culpability of Mr Webb and his co-accused. I have asked the Parole Board whether there was any reason for the discrimination between Mr Webb and Ms Hay. Ms Nelson QC, the Presiding Member of the Parole Board, has informed me by letter dated 9 March 2006 that the board had recommended the release of Mr Webb on parole, but Executive Council had not accepted its recommendation.
>
> In a letter Ms Nelson describes the situation as 'completely unfair'. I enclose a copy of her letter. I respectfully suggest that the situation is not only unfair but is also unjust. I repeat that the circumstances of this crime provide no basis for discriminating between the culpability of Mr Webb and Ms Hay. It certainly does not justify

releasing Ms Hay before Mr Webb. The fact that Ms Hay was ordered to serve a slightly longer term than Mr Webb only serves to emphasise the unjustness to Mr Webb.

I ask that you consider the matter urgently and recommend to Executive Council that it revoke its decision and release Mr Webb at the earliest possible date. If that is not possible, I ask that you recommend that the Executive Council release Mr Webb on parole should he apply for release on or after 31 May 2006.

Yours faithfully, Justice Debelle.

That letter was dated 28 March 2006, and to my knowledge Justice Debelle did not even receive a reply. Despite the intervention of the trial judge, Mr Webb's subsequent parole application was again rejected by the executive, as it has been each time he has since applied.

Members may recall from the *Today Tonight* story that there are suggestions that a former member of this place, who led the relevant portfolios of correctional services and Aboriginal affairs and reconciliation, showed a particular interest in Ms Hay's parole application and, on numerous occasions, contacted the Parole Board to inquire and reportedly expedite its progress. I was informed of this by the highest authority and I know it to be true.

I have been unable to establish the reason for the former member's interest in the case. However, I suspect that, as Ms Hay is Indigenous and was and continues to be well known in that community, particularly in the South-East, and I believe had familial connections to prominent Indigenous organisations, may explain his actions. Further, exactly what influence a former member exerted when the Executive Council considered Ms Hay's parole application we will never know. However, it has been said as to me that the results speak for themselves. This example only serves to demonstrate why such decisions should not be the domain of less than impartial politicians who will gladly play with a man's life for political mileage.

Whilst I explored several options to bring greater accountability and transparency to the Executive Council's role—including drafting amendments to require the Governor to publish reasons for refusing parole, similar to the Parole Board—I ultimately concluded that rather than attempt to bring accountability to a discretionary and confidential decision the only option to address the issue I have raised is the removal of the executive's veto. Other than for the purpose of politics, there is simply no justification for the executive to have such a power.

As I mentioned, every other state was mature enough to recognise that such determinations were rightly the responsibility of their independent parole boards. It is time we did the same. This part of the legislation is over 100 years old. As I said, it was there before a parole board was established and we are the only state that has held onto it, and we have to ask ourselves why. Accordingly, I indicate to the council that I will be moving amendments to this effect.

In an attempt to counterbalance the removal of the executive's role and to ensure the public interest is served when considering parole applications, my amendments will create a new right for the state to appeal a decision of the Parole Board to release an inmate serving a sentence of life imprisonment. This gets back to the Hon. Mike Rann's rant and rave in the other place, when this issue was raised, about people like von Einem, that we would all be very happy for him, if we supported this, to be out walking the streets because he is two years or whatever over his sentence, as well.

The government or the executive will still have the right to appeal that. It is just that it will not be done quite so obviously and quite so often if there has to be some preparation involved and some sort of explanation as to why they are vetoing a decision of the Parole Board. This will be a merit review and, unlike a judicial review, will re-examine the parole application afresh and ensure that the competing considerations are given their proportionate weight. Such an appeal will also serve to ensure that the Parole Board is provided guidance on its determinations rather than its decisions simply being vetoed with no explanation.

Whilst a responsible and mature government would recognise that responsibility for the current catch 22 lay with the executive's power to deny parole and, hence, the value of my amendment, instead the bill attempts to address the catch 22 by enabling prisoners to undertake resocialisation following parole being granted by both the Parole Board and the Governor. It is a bit back to front; the cart before the horse.

Specifically, the bill at clause 42 amends section 68(1)(b) of the Correctional Services Act 1982 to enable the Parole Board to recommend and the Governor to approve that an inmate serving a term of life imprisonment reside for a period of up to one year at specified premises and undertake at specified places such activities and programs to assist in the reintegration of the prisoner into the community, as well as be monitored by the use of an electronic device.

The specified premises could, according to the bill, be either a probation/parole hostel or a prison. However, due to the negative backlash by the community to the notion of parole hostels when the idea was first floated publicly, this option is unlikely to eventuate. Instead, lifers will serve part of their parole period in the prerelease centre at Yatala. This, in itself, will create significant problems given the duration of the lifer's likely stay at the prerelease centre and the relatively few beds available which must service the entire prison population. I ask the minister whether there is an intention to expand the number of beds available at the prerelease centre or whether the government's attempt to fix a problem of its own making create yet more problems across the system.

The Law Society, in its submission to the bill, has opposed these proposed changes arguing that detention whilst on parole serves as an extension of the inmate's prison sentence, something only a court should be able to do. However, given my understanding of the problems created by the exercise of the Governor's discretion to deny parole to lifers, I am of the view that until the time that this power is relegated to the history books such amendments, whilst somewhat makeshift, are indeed necessary.

The Law Society's position can be contrasted with the position of other stakeholders, such as Chris Charles, senior counsel for the Aboriginal Legal Rights Movement, who wrote in a submission to the government's discussion paper, which preceded the Correctional Services (Miscellaneous) Amendment Bill 2011, as follows:

> The provisions of pre-release and re-socialisation activities from pre-release centres seem appropriate, subject to the major concern that life prisoners who have not been granted parole with the condition of re-socialisation because of the capricious refusal to give parole at all, will simply be subject to continued imprisonment.

I would add to this that, while this may assist some inmates about whom the Parole Board or, in lesser cases, the executive, has genuine concerns to gain parole, the proposed changes will do nothing to assist inmates from whom the government can gain political mileage from their incarceration.

As a further measure of addressing the catch 22, it has been suggested by Chris Charles and others, and supported by the head of the Parole Board, Ms Frances Nelson QC, that recommendations of the Parole Board should be binding on the department. Numerous constituents who have had their parole applications denied, received a recommendation that they participate in resocialisation and offender programs, yet the department has been unwilling to offer these services because it is foreseen that the executive will ultimately deny the inmate parole.

I again point members to the example of Mr Bromley. At present, the department, in second guessing the executive, is essentially ignoring the expressed recommendations of the Parole Board. While the department's position is understandable, such an amendment would make clear that the department's role is to give effect to recommendations of the Parole Board and not crystal ball the executive. For this reason, I will be moving an amendment to insert a new subsection 61(11) into the bill.

In conjunction with the proposed reform in the bill, the Department for Correctional Services is in the process of introduction a modified pre-release program for inmates serving a term of life imprisonment to undertake prior to parole being granted. This modified program will reflect the fact that community release (that is, day release, work release and family release) will occur following parole being granted while the inmate resides at the prerelease centre for up to a year.

Given the uncertainty that exists not just in the community but seemingly in the department and in the Parole Board, I ask that the minister, in either summing up or at clause 1, to explain in detail exactly how this modified prerelease will operate, that is, how it will be instigated and how it will interrelate to the proposed reforms in the bill. I indicate to the minister that my support for the bill is contingent upon this answer because, regardless of my amendments, if I am not convinced that the bill addresses the catch 22, I will not be supporting it. With that said, I look forward to the minister's answers and the committee stage.

The Hon. T.J. STEPHENS (12:34): I rise to speak to the Correctional Services (Miscellaneous) Amendment Bill, which has two distinct parts affecting prison management and the parole system. I would like to acknowledge the work of the Hon. Stephen Wade, who has already spoken on this bill on behalf of the Liberal Party as the shadow attorney-general. I thank him for his work and analysis of the bill. His expertise in combing through the legal minutiae is greatly appreciated, certainly on this side of house.

I will keep my contribution reasonably brief as I do not need to repeat what has been said previously. However, as the shadow minister for correctional services, I want to comment on the changes to the prison system as a result of this bill. While the changes may seem straightforward and largely uncontroversial, there are a few aspects of the bill that I would like to highlight. Many of the changes relate to the transfer of powers from prison managers to the chief executive of the Department for Correctional Services. This seems appropriate to provide consistency across the jurisdiction. The strengthening of the provisions for visitors is something that I also welcome. After the member for Bragg's amendment in the other place, this aims to protect minors under the age of 18 from child sex offenders. It is a shame that the government did not accept the following amendment to protect victims of domestic violence.

The legislating of the issue of weapons to correctional services officers and the use of correctional services dogs is supported, with a few concerns. My question to the government is: what will these weapons consist of? Are we talking about tasers and batons or shotguns? Is it best to leave this open-ended? The department already has issues with deaths in custody. I do not believe this is the best way to necessarily improve the situation. The use of dogs in prisons for drug detection should be put to much broader use in all correctional facilities in this state, particularly those of medium to high security.

I would like to note the section of the bill dealing with drug testing of prisoners. The quicker we can reduce the level of drug use and dependence in the prison system the better. The current level of one in five prisoners is completely unacceptable and the government should be doing all it can to reduce this figure. My office has been contacted by a number of concerned ex-prisoners who have made an effort to wean themselves off of illegal substances while in prison, only to be abandoned when released on parole. How has this been allowed to happen? Many of these parolees then turn back to crime to feed their addictions and perpetuate the recidivist cycle of drugs and crime.

I want to comment on one aspect of the parole side of this bill. The government intends to send parolees who breach their conditions back to gaol for the remainder of their sentence. While this seems appropriate for serious breaches, as parole is a privilege, where is the government going to send them? The capacity of our prison system is already at its maximum and is only going to get worse, given the stats on incarceration. The government is using bandaid measures such as shipping containers to stitch a patch over this particular problem.

As previously mentioned, the opposition is in support of the majority of this bill and our concerns will be addressed via amendments and questions during the committee stage.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (12:37): By way of concluding remarks, I thank all members for their second reading contributions to this debate. The bill seeks to improve community safety by increasing the security of our prisons, strengthening parole conditions in line with community expectations and ensuring that correctional services in South Australia are administered in the most modern, flexible and accountable manner.

I thank members for their substantial support for most of the bill and I am proud that the government has worked with other members to accept some appropriate amendments that have been proposed. Of particular note is the inclusion in the bill of provisions to quarantine prisoner compensation funds awarded to allow victims to make a claim on those moneys in the first instance. This is a very real example of government law-making action, where an opposition member worked with the government to move good amendments to the bill that could ultimately be accepted.

In the debate, the opposition raised some issues with the strengthening of parole positions and moved some amendments in that regard. I think it is important that we get this right. This is about the rights of victims, the safety of staff and ensuring that action can be taken before dangerous situations escalate. In many cases, it may help parolees stay out of prison by preventing further serious offending, and it ensures that the Parole Board is involved in decisions to cancel parole and return the parolee to prison.

This is not, as the opposition suggests, anything to do with disrespect for the Parole Board. In fact, some of the amendments moved by the government were as a direct result of what the Parole Board has requested. We want to make sure that the provisions are in the act to support tough decisions by the Parole Board for those parolees who continue to re-offend.

I thank the Hon. Robert Brokenshire and Family First for their support. I can reinforce with a great deal of certainty that numerous powers being invested in the CE in this bill are entirely intended to be appropriately delegated by the chief executive, a matter which the Hon. Ann Bressington also raised. I heard the Family First member's position in regard to postponing the bill's progress to incorporate any legislative change that might eventuate from the select committee currently in progress, but I feel there are enough important valid amendments contained in this bill as it is to progress it now. Strengthening the security of the prison system and parole provisions should be dealt with as swiftly as the parliament can allow, in my opinion.

As demonstrated in the course of this bill, the government is open to discussing and adopting improvements to our system, as suggested from a range of sources. We can and should provide mechanisms for a safer community now. We can and should revisit this vital matter as new information or recommendations become available. One does not have to exclude the other.

I also thank members who supported maintaining Executive Council in decisions for releasing life-sentenced prisoners on parole. This government firmly believes that this power should be kept and it is an important check and balance that would be best kept with the government. I appreciate the various views around the existence and use of this power. As the honourable members would be aware, it is a power that is used rarely and in the most serious cases and with utmost caution.

I move now to respond to some of the various specific questions raised by the Hon. Ann Bressington to do with the establishment of the prisoner amenities account. I think the member's questions are very good questions and I thank her for raising them as it allows us to clarify the proposal. The member has asked whether it remains the intention to impose an amenities levy. I am advised that there is no intention to impose a levy. The intention is to continue to recover costs associated with the sale of items to prisoners.

The proposed amendments make it clear that the chief executive shall set prices that reflect the costs associated with selling the item. The intention of this amendment is to have the legislation reflect that practice. It is not the intention to make a profit on the sale of items. Rather, it has been the practice to make available a component of the sale proceeds over and above certain direct and other costs associated with the canteen operations for the purposes of prisoner amenity items, such as sporting goods and items for prisoners.

In regard to reporting on the prisoner amenities account, I am further advised that all of the canteen sales and purchases are good for sale, and other items of expense associated with canteen sales are fully incorporated in the department's audited financial statements, with the balance of the prisoner amenities reserve account clearly observable on the audited balance sheet and relevant note to the accounts. Financial statements are of course published in the department's annual report.

I trust this satisfies the honourable member's questions and once again thank her for raising them. I thank members for their contributions. If there are any outstanding questions that the Hon. Ann Bressington or the Hon. Stephen Wade have made during their second reading contributions, I am happy to deal with those during the committee stage. I commend the bill to you.

Bill read a second time.

In committee.

Clause 1.

The Hon. S.G. WADE: In responding to the contribution of the Hon. Robert Brokenshire in relation to the delegations (basically, the focus of power in the chief executive with delegations), the minister, and I think the government briefings, indicated that the intention of the government is not to centralise power in the CE but, rather, to make the delegations more orderly. In that context, have regulations been drafted and, if so, are they available?

The Hon. G.E. GAGO: I have been advised no, not at this point. They will be done after the bill is completed and we will go through the usual process of consultation with appropriate stakeholders.

The Hon. S.G. WADE: In terms of policy decisions as to the direction of those delegations, are there any themes that the government could advise us of? For example, has a policy decision been made to shift delegations from the prison manager level to a head office based officer in relation to a certain class of matters? Are there at least principles the government

could advise us of? I take up the Hon. Robert Brokenshire's point that we do not really know whether this bill is a massive centralisation of power in the chief executive without seeing the regulation, so to have an idea of the direction might be helpful.

The Hon. G.E. GAGO: I have been advised that there is currently a schedule of delegations in existence that operates now. That whole schedule will be redrafted, pretty much, to reflect the scope of the current delegations that are available. It is certainly not a grab to ensure the centralisation of powers in the CE.

The Hon. S.G. WADE: You use the expression 'schedule of delegations', so it is not a regulation-based document. Is it an internal departmental working document?

The Hon. G.E. GAGO: I have been advised, yes, that is correct.

The Hon. T.A. FRANKS: It is proposed under this bill that SAPOL have the ability to arrest a parolee in order to prevent offences and that they will be required to notify the Department for Correctional Services' CE, or their delegate, to determine if a warrant is required, but they can detain this person for up to 12 hours in order to allow for that warrant to be issued. In this 12 hours will there be access to legal representation for that parolee?

The Hon. G.E. GAGO: I have been advised that currently parolees in police custody have these rights and there is nothing in this bill that changes the rights of parolees in that situation (or anyone in police detention), so it remains, in effect, business as usual.

The Hon. T.A. FRANKS: In this situation who will it be that makes the decision about what represents the 'serious threat to public safety'? What does this serious threat to public safety entail in terms of who makes that decision and on what grounds do they do it? I am basing this on some advice from Offenders Aid Rehabilitation Services, who have raised a concern about what will constitute that this arrest is properly prescribed and used only when there is indeed a risk of a breach of the individual's parole conditions rather than a serious threat to pubic safety? So, will it be about the parolee's breach of their own conditions or will it be used more broadly as a threat to public safety?

The Hon. G.E. GAGO: I am advised that this decision is entirely a police decision, but certainly the assessment of serious threat has in the past incorporated elements around the level of threat to public safety and also the level of threat or risk to the individual themselves.

The Hon. T.A. FRANKS: I have a few questions and I thought I would put them in debate on clause 1, because I thought it would be better to have them on the record before we proceed further. Also on this, can the minister give an indication of what guidelines are going to be provided to police to ensure that family and, in particular, children, have access after the arrest of a parolee who might actually be a primary career or care provider?

The Hon. G.E. GAGO: Again, I can reassure the honourable member that there is nothing in this bill that goes to those matters. So, the same provisions that exist currently will apply in the situation to which she refers.

The Hon. T.A. FRANKS: Moving further, it has also been raised with me by OARS again that it is not clear if correctional officers will have the lawful right to detain persons for searching, in which case a police officer would become involved in terms of the power of correctional services officers to search persons or vehicles in all areas of gazetted prison reserve, including car parks, prior to entering the prison. They want to know at which point police will be involved in that process, as opposed to Correctional Services officers. Just to assist you, because this will be my follow-up question, what education and information will be provided prior to the implementation of this?

The Hon. G.E. GAGO: I am getting some advice on that, but while I we are getting that, I will address one of the questions that the Hon. Ann Bressington asked about clause 42, amendment to section 68—Conditions of release on parolee. In response to the Hon. Ann Bressington's comments about how the proposed pre-release provisions might work, I can advise that the amendment will not change the current decision-making for release to parole for life sentence prisoners.

The Parole Board would still make a recommendation to the Governor and the Governor would still maintain the decision for release. The proposed amendment gives the Parole Board the option to include prerelease activities for up to one year at a designated site as a condition of the parole. Should the parolee not perform the reintegration activities satisfactorily, it would be deemed a breach of parole and the board could return the parolee to a higher security facility.

Applications for release to parole require a significant amount of consideration, particularly in relation to assessing risk to the community. The prisoner must have taken adequate steps to address their offending behaviour. The Parole Board forwards recommendations for life sentence prisoners' release to parole to His Excellency the Governor in Executive Council for consideration. His Excellency may, on receiving the board's recommendation, order that the prisoner be released from prison on parole for a specified period, or the Governor in Executive Council may refuse the application.

Life sentence prisoners who are not approved for parole transfer back to a high-security facility. To address this, the bill has an extra provision that enables the Parole Board to consider including a condition of the parole release that the prisoner participate in reintegration activities prior to release on parole to the community. The prerelease activities would occur at an appropriate facility operated by the Department for Correctional Services that can best facilitate such activities being undertaken, such as the Adelaide Pre-Release Centre.

This will address any concerns about expenditure of resources on prerelease activities if a life sentence prisoner is ultimately not released to parole and transfers back to a high-security facility. I am told that the department has drafted a policy for life sentence prisoners undertaking prerelease activities at the prerelease centre that would see greater liaison with the Parole Board about life sentence prisoners who have applied to the board for release to parole.

The policy seeks to ensure that decisions with respect to life sentence prisoners being transferred to the Adelaide Pre-Release Centre are made with more information at hand. The policy is only in draft and has not been implemented pending these amendments before parliament. It is intended that the policy be updated should these amendments be passed to wholly complement the provisions of the bill.

Just in response to the Hon. Tammy Franks, I have been advised that we are not changing search powers already under 85B in the act; we are merely extending those powers to include car parks and prison grounds. If a person refuses to consent to a search, they can leave the prison grounds. It is anticipated that this will further prevent contraband getting in to our prisons.

The Hon. T.A. FRANKS: Was there going to be an education process prior to the implementation of that, or will you just simply start it once it starts?

The Hon. G.E. GAGO: I am advised that correctional officers are already fairly well trained in those procedures and, if they identify any further needs, they obviously will be accommodated.

The Hon. T.A. FRANKS: I was not asking about the correctional services officers, I was asking about informing visitors prior to the implementation of this policy.

The Hon. G.E. GAGO: I am advised that visitors are always extremely well informed.

The Hon. S.G. WADE: I want to ask a question in relation to the answer given to the Hon. Ann Bressington. The minister mentioned that the Parole Board could place conditions that involved the Department for Correctional Services providing services before a lifer is released. Would the fact that the Parole Board had put those conditions on require the department to provide those services or, alternatively, would the Parole Board not put such conditions on without knowing that the department stood ready to provide those services?

The Hon. G.E. GAGO: I have been advised that the department will comply with conditions imposed by the Parole Board to undertake prerelease activities in accordance with the provision of the bill, so they will be required to comply.

Clause passed.

Progress reported; committee to sit again.

[Sitting suspended from 13:01 to 14:18]

PAPERS

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. G.E. Gago)—

Reports, 2010-11—
Director of Public Prosecutions

Review of the Execution of Powers under the Serious and Organised Crime (Unexplained Wealth) Act 2009
South Australian Classification Council

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

Reports, 2010-11—
Food Act
Health and Community Services Complaints Commissioner
Port Augusta Roxby Downs Woomera Health Advisory Council

By the Minister for Communities and Social Inclusion (Hon. I.K. Hunter)—

Reports, 2010-11—
Department for Water
Dog and Cat Management Board
Environment Protection Authority
Marine Parks Council of South Australia
Stormwater Management Authority
Upper South East Dryland Salinity and Flood Management Act 2002
Wilderness Advisory Committee (incorporating the Wilderness Protection Act 1992)

LIVESTOCK SLAUGHTER

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:19): I seek leave to make a ministerial statement.

Leave granted.

The Hon. G.E. GAGO: I would like to put on record clarification of the requirements for the slaughter of animals and correct some of the confusing statements made by the Hon. Tammy Franks.

All slaughter of animals Australia-wide is covered by a national standard, the Australian Standard for Hygienic Production and Transportation of Meat and Meat Products for Human Consumption, AS 4696:2007. The national standard, which South Australia supports, allows ritual slaughter. All abattoirs in South Australia are registered and required to adhere to the national standard. They must have in place procedures to alleviate unnecessary injury, pain and suffering of animals. Post stunning in humane circumstances is required by the standard and is an adopted practice for Islamic meat processing. A small number of abattoirs in South Australia process without pre-stunning—sheep and goats, and I have recently been informed, a small number of cattle. As I have said previously, I am advised that slaughter is carried out in compliance with the national guidelines and agreed welfare framework.

The Hon. Tammy Franks seems to have wilfully misled both the chamber and the public by stating that there are exemptions applying to ritual slaughter. In effect, she has repeatedly confused both the chamber and the public on this topic. Contrary to her repeated assertions, there are no exemptions from the national standards applying to the animals killed for human consumption in South Australia for particular religious groups, and that applies to the process of stunning. As I have committed in the chamber previously—

The Hon. S.G. WADE: Point of order, Mr President.

The PRESIDENT: Order! The Hon. Mr Wade has a point of order.

The Hon. S.G. WADE: If I heard the minister correctly, she suggested that the member had wilfully misled this chamber. If the minister is asserting that she should do so by substantive motion.

The PRESIDENT: The Hon. Mr Wade has a point of order; the honourable minister should stick to the—

The Hon. S.G. WADE: She should withdraw her allegation if she is not willing to move it.

The Hon. G.E. GAGO: Thank you, Mr President. I thank you for your guidance. As I have committed in this chamber previously—

The Hon. S.G. WADE: On a point of order, Mr President.

The PRESIDENT: Order! You should withdraw those remarks.

The Hon. S.G. WADE: Unless she wants to move it by motion.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: I am happy to move it by motion, so in the interim do I need to withdraw the statement—

The Hon. S.G. Wade: 'Wilfully misled'.

The Hon. G.E. GAGO: —that Tammy Franks seems to have wilfully—

The Hon. J.M.A. Lensink: The Hon. Tammy Franks.

The Hon. G.E. GAGO: —I beg your pardon—the Hon. Tammy Franks seems to have wilfully misled both the chamber—

The Hon. T.A. Franks interjecting:

The PRESIDENT: Order! The Hon. Ms Franks.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The Hon. G.E. GAGO: Do you want me to withdraw this or not, for goodness sake?

Members interjecting:

The PRESIDENT: Order! If you want it withdrawn, you should just sit there in silence. The honourable minister has been asked to withdraw it.

The Hon. G.E. GAGO: And I am seeking to withdraw the comment that the Hon. Tammy Franks seems to have wilfully—

The PRESIDENT: Just withdraw it, please.

The Hon. G.E. GAGO: Withdraw what, though?

The PRESIDENT: Just withdraw those comments. Unless you want to make a substantive motion.

The Hon. G.E. GAGO: I am not too sure what I am withdrawing, the whole statement or the statement that—

The PRESIDENT: No, just the words to say—

The Hon. G.E. GAGO: —the Hon. Tammy Franks seems to have wilfully misled both the chamber and the public.

The PRESIDENT: Yes.

The Hon. G.E. GAGO: That is the statement that I seek to withdraw.

The PRESIDENT: Withdrawing, thank you.

The Hon. G.E. GAGO: There are no exemptions applying to ritual slaughter as stated by the Hon. Tammy Franks. There are no exemptions that apply here in South Australia—so contrary to the Hon. Tammy Franks' repeated assertion, there are no exemptions from the national standard applying to animals killed for human consumption in South Australia for particular religious groups.

As I have committed in the chamber previously, my agency and I will continue to work for a nationally consistent approach, whilst also working with religious groups in South Australia to continue to improve the standards around the ritual slaughter of animals.

QUESTION TIME

SPEED LIMITS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:25): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about regional antidevelopment.

Leave granted.

The Hon. D.W. RIDGWAY: The state government, including the Minister for Regional Development, has cut the speed limit on 723 kilometres of roads in regional South Australia. Instead of 110 km/h, they are now 100 km/h. If it were possible to drive every one of those roads contiguously, the journey would now take almost an hour longer. The speed limit has been cut against the advice of many, including, among others, the Australian Driving Institute. The RAA now estimates that the backlog in road maintenance for our regional roads is some $400 million.

The very sensible 110 km/h speed limit has been in effect for years, probably since before the minister had a driving licence. Since then, cars have been equipped with one or more of the following: airbags, traction control, anti-lock braking systems, autonomous cruise-control systems, blind-spot information systems, collision avoidance systems, cornering brake control, crumple zones, driver drowsiness detection, electronic stability control, emergency brake assist, frontal protection systems, tyre pressure monitoring systems and wheel speed sensors. My questions to the minister are:

1. How many more safety innovations will need to be invented and built into cars before the government restores spending on regional roads or introduces the very sensible precaution, enshrined in legislation in the early days of horseless carriages over 100 years ago, of having a man walk in front of every single moving vehicle with a bell and a red flag?

2. When will the government accept its responsibility for regional development and start a program of upgrading the roads, instead of revenue raising by imposing unrealistic speed restrictions?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:27): I thank the Hon. David Ridgway for his most important questions, which is extremely disappointing to see, given that this initiative is about saving lives. I think the Hon. David Ridgway should be ashamed of himself that he is not prepared to take every possible measure to reduce the carnage on our roads and particularly the carnage on our regional roads. I think that I have been advised that almost one-fifth of road fatalities and serious injuries occur on regional roads. It is an absolute disgrace that he is not prepared to take every possible measure to save lives. I have been advised by the Minister for Road Safety—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order! The Hon. Mr Ridgway should suffer in silence.

The Hon. G.E. GAGO: —that the Commissioner of Highways has recently approved the reduction of speed limits on 45 sections of road within approximately 100 kilometres of Adelaide and Yorke Peninsula from 110 km/h to 100 km/h. I am advised that, by reducing the speed limit on these roads, we could save 12 casualty crashes per year. Importantly, these changes will be in place before the busy Christmas holiday period.

I understand that these figures are based on the impact that previous reductions in speed limits have had elsewhere, not only in this state, where previous reductions have had a significant impact on road fatalities and serious injuries, but also in other states—and these figures are well informed.

Unfortunately, I lost my younger brother to a road fatality. It was not on a regional road, even though we certainly did live in a regional centre. Probably each and every one of us in this room would have some personal experience, either directly or indirectly, with the tragedy associated with road carnage. I am particularly motivated to make sure that we do everything in our power to save lives on our roads. The Weatherill government is taking immediate action to achieve the community's target to reduce the road toll by at least 30 per cent by the end of the decade. This is outlined in the new road safety strategy Towards Zero Together and features prominently as part of our Strategic Plan.

I am advised that, over the past five years, more than $110 million has been invested into arterial roads, so we are indeed spending a great deal of money on our roads. In addition, around $371 million has been spent on road maintenance over the same period in rural South Australia—$371 million on rural roads—using a combination of both state and federal funding. Road safety infrastructure improvements are an integral of our road safety strategy, but we must be compliant with other measures. Reducing average speed limits, the data shows us, is the most effective way to reduce trauma and produce significant and immediate road safety benefits.

SPEED LIMITS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:31): I have a supplementary question arising from the answer. Could the minister provide to the chamber a breakdown of the roads and the projects where the $370 million was spent, and I think the $125 million she mentioned earlier in her answer, and a breakdown to the chamber, too, of projects and roads where that money has been spent?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:31): He is a disgrace and he is ashamed of himself. He is absolutely ashamed of himself. He is ashamed that he has got up in this place and advocated a point of view that is going to result in the loss of lives of South Australians. He is absolutely ashamed. So, now when I have showed him and put the figures on the table, he wants a list. He wants the figures broken down road by road, street by street and road shoulder by road shoulder.

I am sure that is available and I will pass it on to the minister for infrastructure and bring it back, but he is ashamed of himself. He is absolutely ashamed of himself and he is now trying to hide behind detailed facts and figures. He is scuttling off behind a rock, where he should stay, because he should absolutely be ashamed of himself for coming into this place with such an appalling position. We are out here trying to save people's lives.

SPEED LIMITS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:32): I have a further supplementary question. Given that I am so outrageous and I am hiding behind a rock, will the minister commit to providing the figures before we get up this year?

The Hon. G.E. Gago: Climb back behind your rock.

The Hon. D.W. RIDGWAY: Don't say 'climb back'. Will you commit to bringing those figures to this chamber before the end of the year?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:32): Climb back behind your rock. They will be made available when they can be made available.

SPEED LIMITS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:32): I have a further supplementary question. Is the minister saying that the figures are not available? If that is the case, where do you arrive at the figures of $371 million and $125 million?

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: Mr President, that is a reasonable question.

The PRESIDENT: The minister said they will be available when they can be made available. She did not say anything about them not being available.

FIREFIGHTING TANKS

The Hon. J.M.A. LENSINK (14:33): I seek leave to make a—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —brief and disgraceful explanation before—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.M.A. LENSINK: —directing a question to the Minister for State/Local Government Relations on the subject of mandatory firefighting tanks on residential properties.

Leave granted.

The Hon. J.M.A. LENSINK: The state planning requirements for firefighting tanks on residential properties are that they be 'non-combustible'. However, in one of the highest fire danger areas in the state, being the Adelaide Hills, the two councils in question have different standards. Mount Barker states that poly tanks up to 5,000 litres are acceptable, whereas the Adelaide Hills Council requires galvanised or concrete tanks. This is for the respective residential developments within medium bushfire zones. Will the minister investigate whether a standard is appropriate for safety and seek to communicate this to both these Hills councils?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:34): I thank the honourable member for her question. I do agree on one thing: it was a disgraceful question to ask me because that is not under my portfolio; it is a planning issue, but I think it is an important question. In the spirit of our bipartisanship, I will refer your question and ensure that you get an answer as soon as possible.

LIQUOR LICENSING

The Hon. S.G. WADE (14:34): I seek leave to make a brief explanation before asking the Minister for Disabilities a question relating to liquor licensing laws.

Leave granted.

The Hon. S.G. WADE: Today's *Advertiser* highlights the problem of people with disability being evicted from gaming venues because they appear drunk. The Adelaide Casino is quoted as saying that it wants liquor licensing laws changed to ensure that people with a disability such as cerebral palsy are not being mistakenly removed for drunkenness. This is an issue that was discussed in this council, having been raised by the Hon. Ann Bressington in October 2009 in consideration of the Liquor Licensing (Producers, Responsible Service and Other Matters) Amendment Bill.

The government assured this council that the law would not adversely affect people with disability and, to this end, minister Gago committed to: (1) a code of practice; (2) training requirements for industry staff; and (3) a new fact sheet. I am advised that now, two years later, none of these resources are available. My questions to the minister are:

1. As the Minister for Disabilities does he support a change to the Liquor Licensing Act given that it is now more than two years since these laws were passed by this parliament?

2. When will the resources to protect people with disability be put in place?

3. In the meantime, what will the minister do to ameliorate the impacts on people with disability?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:36): I thank the honourable member for his questions. The honourable member made some assertions which I, myself, am not sure about. I will have to check the validity of those comments before I respond to them in any detail.

The Advertiser article dated 10 November reports that the Casino wants the law on ejection changed to cover patrons who are intoxicated, rather than appearing to be intoxicated. The provision in question is not in the Casino Act. Rather, it is contained in the code of practice made by the Independent Gambling Authority under that act, and the IGA is of course not subject to ministerial direction.

I am informed that the IGA is currently reviewing the codes of practice. The Adelaide Casino has made a submission to the IGA recommending that clause 6(1)(a) be amended to replace 'to prevent a person who appears to be intoxicated' with 'to prevent an intoxicated person'. As I said, the IGA is not subject to ministerial direction in these matters. It is anticipated that the IGA will consider the submissions from the Adelaide Casino and other stakeholders on their merits.

I also briefly add that changing the law to reject only patrons who are actually intoxicated and not only appearing to be intoxicated is a positive step, but I understand there will be some

issues to be addressed in just how you would frame such legislation. I would, of course, personally support any changes that would prevent discrimination against people with disabilities, and I will await the outcome of the IGA's consultations.

SOUTH AUSTRALIAN TOURISM AWARDS

The Hon. G.A. KANDELAARS (14:37): I seek leave to make a brief explanation before asking the Minister for Tourism a question about the Tourism Awards.

Leave granted.

The Hon. G.A. KANDELAARS: The minister is no doubt pleased with her new array of portfolios which very strategically brings together regional portfolios with the very important tourism portfolio. Given how important tourism is to South Australia and particularly to our regional communities, can the minister tell the chamber about the recognition of outstanding tourism experiences?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:38): I thank the honourable member for his most important question. I was delighted to attend the South Australian tourism industry gala awards on Friday night, the night that the tourism industry sets aside each year to recognise and celebrate its greatest achievers. I am very pleased to inform the chamber that record entries for the South Australian Tourism Awards were received in 2010 and this has certainly been equalled this year with 150 submissions entered across 28 categories. I believe that this willingness and enthusiasm to take part in the awards process shows that the tourism industry is proud of what it is doing and confident about where it is going.

In a challenging global environment with Australian outbound travel at all-time records, there is solid data from South Australia from which the tourism industry can certainly take encouragement. I am advised that South Australia continues to outperform the nation in international expenditure growth and continues to outperform the nation in attracting visitors staying overnight, particularly in our wine regions.

There is always more to do to ensure that our tourism industry is strong. This year has seen the South Australian Tourism Commission undertaking a number of very bold initiatives aimed at growing the local, domestic and international markets. These included the launch of a new fully interactive southaustralia.com website, a concerted campaign to reconnect South Australians with their own state's holiday experiences and redirect moneys into progressive, strategic, direct-to-consumer marketing and advertising campaigns that showcase the state's regions and holiday experiences.

Major events continue to be an important tool in attracting visitors to South Australia, and the Festival State continues to enjoy a well-earned reputation for putting on unique, energetic and memorable events. At the awards night I was very pleased to announce a new category—Excellence in tourism by local government—which I had the honour of presenting to the City of Onkaparinga. This category is open to all local government authorities in South Australia and recognises excellence in tourism services.

I also put on the record my congratulations to the Santos Tour Down Under, which was admitted into the South Australian Tourism Awards Hall of Fame after winning its category—the Major Festivals and Events Award. It did so for the third consecutive year at Friday night's awards. Events and operators who win across three consecutive years are automatically rendered into the Hall of Fame, and I am advised that the Tour Down Under in 2011 attracted record crowds of more than 780,000 and injected more than $43 million into the local economy.

In addition, the Santos Tour Down Under recently gained national recognition after the 2011 event was crowned Australian Event of the Year and Best Tourism Event of the Year at the Australian Event Awards. The other award winners include Getaway's reservation service and the Yorke Peninsula Visitor Information Centre and the Sebel Playford Adelaide.

CLEAN ENERGY FUTURE

The Hon. A. BRESSINGTON (14:42): I seek leave to make a brief explanation before asking the Minister for Social Housing a question about the government's intention in relation to the clean energy supplement.

Leave granted.

The Hon. A. BRESSINGTON: I have been contacted by a number of concerned citizens about the clean energy supplement because earlier this year this government encountered severe criticism from pensioners and members of our community in receipt of government payments for increasing the rent for government social housing, which, in effect, stole the long-overdue and hard-fought-for increase in their pensions. For years we heard of the continual struggles of pensioners to afford just the basic necessities, with many forced to go without or delay the purchase of medications, avoiding heating or cooling their homes and giving away loved pets because they were unable to afford them.

Finally, in 2010, the federal government recognised this hardship and announced an increase in the pension. Despite promising pensioners and the federal government that this increase would be quarantined, this state government—the Rann government—to the dismay and criticism of all promptly backflipped and increased the rent on public housing, absorbing the pension increase. Now that the package of carbon tax bills have been passed by the federal parliament—and members are well aware of my view on that—pensioners and others in receipt of government payments are being promised from May next year a clean energy advance and later a clean energy supplement to the tune of $218 per year to assist in meeting the cost of this pointless tax.

Constituents are fearful of the true cost of the carbon tax and whether their budgets will extend to cover the increases in cost of everyday items, even with the promised supplements. Those pensioners living in public and community housing have also expressed their concerns to me that the meagre assistance promised may very well be stolen from them, just as was the 2010 pension increase, by what we believe to be a greedy and callous state government. On behalf of these constituents my questions to the minister are:

1. Will the minister assure pensioners in state housing that the government will not increase housing rents to steal away the meagre supplement promised to them to help cover the cost of the carbon tax?

2. Will the minister provide the number of people who have been unable to pay their power bills in South Australia in the past 12 months?

3. Is the government intending to increase the energy concession to assist pensioners and low income earners to meet the spiralling cost of electricity and other utilities?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:44): I thank the honourable member for her most important question. Whilst I have not been briefed exactly on the topic that she has just raised, it is my understanding that increases to tenants or members of the public who are in our Housing Trust tenancies or who are receiving some federal assistance, if that increase is paid as a supplement as opposed to an increase in the pension that it will be quarantined from being assessable for Housing Trust rental.

LOCAL GOVERNMENT MANAGERS AUSTRALIA

The Hon. CARMEL ZOLLO (14:45): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Local Government Managers Australia awards and recognition program.

Leave granted.

The Hon. CARMEL ZOLLO: I understand that the Local Government Managers Australia (LGMA) represents professionals working in local government in South Australia. The LGMA runs various programs, including the LGMA Management Challenge, the Partnerships for Growth award and the award for Excellence in Advancing the Status of Women within local government. My question to the minister is: can he please outline to the chamber how the state government supports the LGMA in delivering these important programs?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:46): I thank the honourable member for her question and also acknowledge her long-term interest in this issue. As the honourable member indicated, the LGMA SA represents professionals working in the local government sector in South Australia. Most local government chief executives and a number of senior managers and staff are members of the LGMA.

The LGMA's main role is to encourage professionalism and involvement in policy decision-making, provide a forum for discussion and networking and to pursue the professional and educational development of its members. The LGMA provides a range of professional development activities and support networks, including training and development seminars, conferences and regular communiqués.

The LGMA also runs the Leadership Excellence Awards to recognise outstanding and innovative leaders and managers in the local government sector. The overall aim of the program is to: raise the standard and quality of leadership and management in the local government sector; create public awareness of the level of expertise and excellence in local government; and recognise excellence demonstrated by individual staff members, teams and councils as a whole.

Twelve awards will be presented as part of the 2011 program, including: Leadership and Management Excellence—Metropolitan Councils; Leadership and Management Excellence—Rural Councils; Emerging Leader of the Year; Excellence in Advancing the Status of Women; Excellence in Sustainability within Local Government; and Management Challenge.

I am pleased to advise the council that the state government has provided funding of $12,000 for both the Management Challenge and the Partnerships for Growth award. Furthermore, $3,000 of funding is being provided for the award for Excellence in Advancing the Status of Women within local government for 2012. The annual awards dinner will be held in April of next year and I look forward to meeting the nominees and winners of the various award categories.

I am pleased that once again the state government is able to support the LGMA Leadership Excellence Awards. This important initiative recognises the outstanding and innovative leaders, managers and their councils and contributes to the advancement and improvement of local government as a sector.

BRANCHED BROOMRAPE

The Hon. J.S.L. DAWKINS (14:48): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about branched broomrape eradication.

Leave granted.

The Hon. J.S.L. DAWKINS: Branched broomrape is a parasitic weed of a wide range of broad leaf crops in the Mediterranean, Europe, Central Asia, the Middle East, South Africa and Northern Central America. Broomrapes are root parasites that extract all their nutrient requirements from their host plants. We have had a significant issue with branched broomrape in the Murraylands, where a very large area was identified as having infestations of this parasite.

About 10 years ago, a program was established to work towards the eradication of branched broomrape in South Australia. Funding for the program has a national component and a state component and has been over $4.2 million per year, of which the national component was $2.5 million. There has also been involvement from local government and from landowners.

The imminent loss of commonwealth funding support for the Branched Broomrape Eradication Program and this Labor government's policy of full cost recovery threatens to add an unreasonable cost burden to individual farmers in the affected area. The threat this weed represents to agricultural production and export markets goes far beyond those farming in the affected area. My questions to the minister are:

1. How does the government propose to continue the branched broomrape program?

2. What financial contribution is it expecting from the South Australian agricultural industry?

3. Who in particular will be asked to contribute those funds?

4. Will the government guarantee its contribution to the program past June 2012?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:50): I thank the honourable member for his important question. Indeed, branched broomrape is a plant parasite which has been managed under the national eradication program since 2001. A review of the program was released in May this year, and the technical review panel concluded that the eradication of this weed was no longer technically feasible.

This funding was accepted by the national management group for weeds, the body responsible for oversight of this nationally funded program. National funding of $2.6 million and the state's initiatives of $1.95 million continue until June 2012 to support necessary elements of the current program and provide for transition to another management program for this weed.

A national steering committee that has been chaired by PIRSA with members from the commonwealth and state government agencies, an important link to industries through Plant Health Australia, is currently preparing a new management plan for implementation in July 2012. The steering committee is working on scenarios for management that range from controlled containment to product quality assurance and the potential to pursue property freedom. The steering committee is working closely with exporters of an at-risk product to re-establish the relative importance of the weed and guide the form of the new program.

The community focus group and the ministerial advisory committee are obviously going to play a very important part in the preparation of any proposal, and the aim is to have the plan ready by the New Year so that farmers and affected industries can prepare for the 2012 production year, knowing what the new operational mechanisms are going to be.

The spring discovery and market assurance survey that provides for open marketing of produce from the quarantine area is well underway, I am advised, and, obviously, seasonal conditions were unusual and also ideal for the growth of branched broomrape, and this is being reflected by survey results which show that a little more of the weed is emerging than would have been desirable previously.

As honourable members know, all funding considerations have to undergo a budgetary process. This is an important initiative. It is important to our primary industries. The funding allocation will be considered through that process.

BRANCHED BROOMRAPE

The Hon. J.S.L. DAWKINS (14:54): Given that the containment only policy put forward by the commonwealth is not seen in the community of the Murraylands as feasible, will the minister commit to the provision of necessary funding to allow the aim of eradication to be continued?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:54): I have just answered the question. I said that we need to now put together a new model for the management of branched broomrape, that eradication is no longer seen to be scientifically or technically feasible.

The Hon. J.S.L. Dawkins: That's the commonwealth view; it's not shared in this state.

The Hon. G.E. GAGO: Yes, but it is based on pretty sound advice. As I said, we are looking to develop another model to manage branched broomrape. We are making sure that we consult very closely with all relevant stakeholders, and work has commenced and is well underway. As I said, we are planning to have that released close to the end of this year—

The Hon. J.S.L. Dawkins: You said early in the new year, so which is it?

The Hon. G.E. GAGO: What did I say? Soon anyway, Mr President.

Members interjecting:

The Hon. G.E. GAGO: I cannot remember whether it was the end of this year or early next year. It will be ready by the new year is what I said; ready by the new year. I did say 'by the end of this year', and that is pretty close to 'by the new year'. As I said, I believe I have answered the honourable member's question.

BRANCHED BROOMRAPE

The Hon. R.L. BROKENSHIRE (14:56): I have a supplementary question. Given that the minister has said that the policy at the moment is containment, what is the contingency if branched broomrape is discovered outside the containment area?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:56): That is what the model we are putting together will deal with. Those are the sorts of matters that will be addressed within this particular model. As I said, we are consulting very

closely with all key stakeholders and an announcement will be made soon. The information will be made available shortly.

APY LANDS, FAMILY WELLBEING CENTRES

The Hon. T.A. FRANKS (14:56): I seek leave to make a brief explanation before asking the Minister for Communities and Social Inclusion a question on the subject of APY lands family wellbeing centres.

Leave granted.

The Hon. T.A. FRANKS: I understand that the family wellbeing centres will be established with money that was originally provided for the Umuwa courthouse and administration centre, in the original plans under the Mullighan recommendations. I also understand that these will be, if you like, under the control of the Department for Communities and Social Inclusion. Minister Macklin and former minister for Aboriginal affairs and reconciliation Portolesi recently announced these wellbeing centres in a joint press release, where they indicated that the detailed plans for the construction of the centres would be completed by the end of October. Accordingly, my questions are:

1. Can the minister confirm the location of the three centres and, in each case, indicate whether a new building is to be constructed or an existing facility either upgraded or modified?

2. Can the minister indicate when each centre is expected to be operational and the likely operating hours?

3. Can the minister provide a list of the programs and range of services that will be based at each centre?

4. Can the minister provide an outline of the expected capital and operational costs for each centre?

5. Can the minister indicate whether the centres will include any dedicated spaces or services for women and children escaping family violence?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:58): I thank the Hon. Ms Franks for her very important question. The commonwealth government has proposed an alternative use of funding that was originally committed to the construction of an administration and court complex at Umuwa. The state and commonwealth governments recently proposed redirecting funding originally committed through the response to the Mullighan APY report for the establishment of family wellbeing centres at Mimili, Amata and Pukatja.

It is intended that there will be a new facility at Mimili, the Amata substance misuse centre will be adapted for this new purpose, and potentially additional infrastructure provided in Pukatja. Commonwealth funding of $4.5 million, excluding GST, will meet the capital cost. The amount expended on each centre will depend on the final infrastructure plans.

The current plan is for the building work for the centres in Amata and Pukatja to be finalised by July 2012 and the Mimili centre to be completed by December 2012. It is envisaged that the centres will be open each day of the working week, and at this stage it is planned that the range of services provided in or from the centres will include early childhood programs, health service provision, family and community programs, disability programs, youth programs and, of course, administration. The project will provide new facilities to deliver existing services that are already funded by the responsible agencies. Operational costs are currently built into the budgets for the delivery of these services.

The family wellbeing centres will provide a location for the NPY Women's Council to provide counselling and support services to women and children experiencing family violence, and a number of formal and informal programs delivered by a range of government and non-government agencies for women and children.

The department has committed additional funds to augment the services of the Coober Pedy Safe House and provide additional funding to the NPY Women's Council to increase case management services available to women and children experiencing violence on the APY lands.

UNITINGCARE WESLEY

The Hon. J.M. GAZZOLA (15:00): My question is to the Minister for Youth. Will the minister advise the council of the government's latest addition to family support services and help for young homeless people?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:00): I thank the honourable member for his very important question. This year the capacity of UnitingCare Wesley's Therapeutic Youth Service (often referred to as Rubys) has been quadrupled. This unique service, founded in Thebarton in 1993, provides both residential support and outreach counselling to families who are struggling to stay together. Since it opened, more than 700 families have used the service, with around 70 per cent of those families reuniting. There are great social and, indeed, financial benefits in families staying together.

Now the service has four homes to deliver vital counselling and support services. Homes are now open in Thebarton, Mount Gambier, Enfield and Edwardstown, accommodating up to 21 young people at any time. The expanded service is a direct result of this government's delivering more from the federal government's economic stimulus package and our new National Partnership Agreement with the commonwealth.

Everyone who knows any teenagers knows how difficult it can be as young people grow and change. Asking for assistance when your family is struggling is an extremely courageous thing to do, and I really admire those parents and their children who have been brave enough and open enough to seek help. One story I can share about Rubys is about two women: a mother from one family and a daughter from another who have been supported at Rubys. In both cases, the young people were referred after contact with the Women's and Children's Hospital. In both cases the help began with counselling and later included the children staying in the residential service.

The residential services are not just houses, they are homes. There are carers on site at all times and the young people have to go to school, do chores and attend counselling services. The new houses even have gardens where they help to grow the food that they eat. Interestingly, neither case resulted in the young person going back home permanently but in both situations the family relationships were mended and the parents, children and siblings could support each other into the future.

Christine, the mother, said, 'Without that service, I don't know if my family would have existed.' Helen, the young woman involved, is now studying law at university and stays in contact with her family who live in a regional area. Rubys new services are on top of Ladder at Port Adelaide and the new 30-place service that will be part of the UNO apartment building on Waymouth Street. These are just two of the 700 stories that Rubys has written so far and, with the government's expanded and ongoing support, there will be many hundreds more to come.

PUBLIC HOLIDAYS

The Hon. R.I. LUCAS (15:03): My question is to the Minister for Industrial Relations. Given the government's announcement that it intends to declare Christmas Eve and New Year's Eve from 5pm to midnight as public holidays, and given that the minister is the minister responsible for the Holidays Act, is it the minister's intention to issue a proclamation every year for these public holidays or does he intend to bring in legislation to amend the Holidays Act or, as with many other things, does he have no idea?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:04): I thank the member for his partly very good question. I have always been a proud member of the Labor Party and also a proud member of this cabinet but there comes a time when an opportunity arises for me to get up and speak about an issue which I think is a spectacular reform in this state, and it gives me much pleasure to do so.

The government has now declared that Christmas Eve and New Year's Eve will be public holidays. The reason it has done that is that, while people are at home or out enjoying themselves on these very special occasions, there are people out there who are serving us and looking after us—nurses, firefighters, police, people serving us drinks in hotels and the like—and we believe that they deserve penalty rates if it is in accordance with their awards and agreements, of course. It is something that is a true Labor thing to do. We are developing a discussion paper for the Holidays Act and, hopefully, that will go out soon. We will then be able to discuss the way in which it will be introduced with the various—

The Hon. R.I. Lucas interjecting:

The Hon. R.P. WORTLEY: If that is probably the best way of doing it, yes. But we have a discussion paper to come out, and I will not make any ironclad guarantee how it is going to be done until we have proper consultation with all the parties involved.

PUBLIC HOLIDAYS

The Hon. R.I. LUCAS (15:06): I have a supplementary question arising from the minister's answer. When does the minister intend, having issued the discussion paper, to introduce legislation? Will that be in the February session, or will it be later next year?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:06): I cannot give any indication right now as to when I am going to introduce the appropriate legislation. I think there is a process we have to go through in regard to consultation and, once that process has gone through, we will then consider all the submissions and we will make a decision then. But I would like to think that it will be done before next Christmas. We can assure you that, next Christmas, people will have their penalty rates if they are working Christmas Eve. We have a due process, and we have to go through that with proper consultation, and I will then make a decision.

RESIDENTIAL LAND RELEASES

The Hon. D.G.E. HOOD (15:07): I seek leave to make a brief explanation before asking the minister representing the Minister for Planning a question about residential land releases.

Leave granted.

The Hon. D.G.E. HOOD: It has come to my attention that the land release in the Lightsview estate in the inner northern suburban area of Adelaide has become very slow in recent times in terms of the number of lots that are being sold. Whilst it had a very successful start, it has certainly slowed down in very recent times.

It has also come to my attention that one of the reasons for that may well be that the prices being asked are extremely high by some estimates. In fact, one example I have become aware of is that a block of land with a 15-metre frontage and a total area of fewer than 500 square metres (I think, off the top of my head, it is 485 square metres) is being marketed at the price of $465,000, or just under $1,000 a square metre. I understand that that land was acquired for something like $150 a square metre.

An honourable member: Where is it?

The Hon. D.G.E. HOOD: In Lightsview, in an inner northern suburban area of Adelaide, just near the Oakden estate. My questions to the minister are:

1. What was the price the government originally sold that land to the developer?

2. What percentage of the price for that land is due to infrastructure costs; that is, what would be the true cost of that land as a cost-recovery exercise to the government?

3. What percentage of price increase is raw profit on that land, which the unfortunate homebuyer will have to repay over the 30-year mortgage, which they no doubt will have to take out in order to afford such high prices?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:09): I thank the honourable member for his most important questions. I will refer those questions to the Minister for Planning in another place and bring back a response.

PARLIAMENTARY SECRETARY

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:09): I table a copy of a ministerial statement relating to parliamentary secretary appointments made by the Premier, Jay Weatherill.

QUESTION TIME

FISHERIES COMPLIANCE

The Hon. G.A. KANDELAARS (15:10): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about fisheries and aquaculture.

Leave granted.

The Hon. G.A. KANDELAARS: The Department of Primary Industries and Resources South Australia (PIRSA) Fisheries and Aquaculture is a key management and economic development agency within the South Australian government. PIRSA Fisheries and Aquaculture is recognised as the deliverer of regulatory services to the fishing sector. Will the minister provide an update on the at-sea capability of fisheries compliance along the metropolitan coast?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:10): I thank the honourable member for his most important question. The South Australian fisheries are a very valuable natural resource. While they are accessed by a number of sectors with a diverse range of interests—including commercial, recreational and Indigenous—they require careful and considered management.

This government is committed to protecting the sustainability of South Australia's aquatic resources and facilitating the economic viability and profitability of the fishing and aquaculture industries. The government's strategic goals in delivering these services are to maximise the voluntary compliance of all fisheries across the state and to create effective deterrents for would-be offenders.

The purpose of the PIRSA Fisheries and Aquaculture compliance team is to provide a compliance service that does not compromise the integrity and sustainability of the state's fisheries resource. This is achieved by working in partnership with the industry and other stakeholders to design and implement practical and workable enforcement regimes. Locally, on the metropolitan coastline, recreational fishers make up the majority of fishing, more than anywhere in this state, along with a strong commercial fishing sector.

Last week it was fantastic that PIRSA was able to launch a new fisheries patrol vessel at the Adelaide jetty marina. The new 7.5 metre boat is named *Naiad* after the Greek water nymph, I am advised. The new vessel has been specifically designed to undertake core compliance activities in this region and will provide a significant boost to the capabilities of the fisheries officers. It is packed with the latest technological features, such as a navigational system that allows for more accurate navigation of the state's coastline.

The boat has a range of 200 nautical miles, allowing patrols to run from Port Adelaide to Cape Jervis and back. It is a robust inflatable vessel, which I am advised will withstand severe weather conditions. The *Naiad* is specifically designed to undertake compliance work not only across the metropolitan coastline but anywhere across South Australia. The new boat will complement PIRSA's current fleet of vessels that patrol the state's rivers, gulfs and other waters, which is vital. As you would expect, a large component of fisheries compliance work is conducted at sea. This new vessel will allow fisheries officers greater access to patrol areas that they could not previously reach, particularly during harsh weather and sea conditions.

The new vessel will provide a huge boost to the at-sea capabilities of fisheries compliance along the metropolitan coast. Successful fisheries management depends on optimal fisheries compliance. There is a high level of community expectation that our fisheries resources will be maintained at sustainable levels and that the aquatic habitat will be protected for future generations to enjoy. I believe the compliance team do a really wonderful job of achieving this goal and I am sure that this new vessel will be a useful tool in helping them in their endeavours.

AFFORDABLE HOUSING

The Hon. J.S. LEE (15:13): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about affordable housing in regional South Australia.

Leave granted.

The Hon. J.S. LEE: A report released on Monday 7 November by Australians for Affordable Housing stated that they are urging South Australians to campaign for more affordable housing. The report titled 'Housing Costs Through the Roof' states that over 46,000 households in

South Australia are in housing stress. After paying for housing costs, they are at risk of financial hardship and poverty. The campaign manager, Sarah Toohey, said that people in regional South Australia are struggling to cope with rent and mortgages. The Hon. Mark Parnell in this house also spoke about this important issue in his matters of interest speech yesterday.

Australians for Affordable Housing say research shows that Port Lincoln, Coober Pedy and Mallala are among the hardest-hit places, with nearly 16 per cent of the population facing housing stress. Other centres in the top 20 hardest hit include the Copper Coast, Peterborough, Port Pirie, Light and Wakefield. My questions to the minister are:

1. With regional South Australia facing increasing housing stress, what is being done to assist regional communities with the lack of affordable housing?

2. With the rising costs of living and regional families facing financial hardship and poverty, how will the government protect regional communities from this burden?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:15): I thank the honourable member for her most important questions. Indeed, there are many challenges faced by those communities living in regional areas, and the more remote they are, the greater the challenges, particularly around issues such as housing and the increased costs of housing associated with the tyranny of distance. It is very difficult to get goods delivered and it is very difficult to get tradespeople to do the work that is needed. Overall, this adds to a significant cost burden.

We have seen some examples of regional communities that have gone about some very innovative and creative ways of working on and addressing these sorts of issues. Previously in this place I have talked about one of the projects in Mount Gambier where they converted what was part of the hospital, the old nurses' home, into a set of apartments. That is one example and there are many others. It is important that local communities do work with their local councils and with the state housing department to work through these challenges to ensure that we do have adequate affordable housing in country areas.

One of the things that we are working very hard on at the moment—one element around affordable housing—is the issue of making sure that people have jobs. That single factor alone has a huge impact on how affordable housing might be. I have spoken in this place on many occasions about how one of the main priorities as part of my regional development portfolio is to ensure that the regions are able to maximise advantage and opportunity from the mining and resources expansion in South Australia.

I have talked in this place before about ensuring that we do not rely on some sort of trickle-down benefits effect from mining and resources development, that we work to enter into real partnerships, we enter into an engagement process that can involve real partnerships with local communities so that they can really derive some of those financial benefits in a long-term and sustainable way, because that is what it is about.

We know that subsidies are a short-term, short-lived thing. It is about forming real partnerships where local communities have maximum opportunity to take advantage of some of these developments.

LONSDALE RAILWAY STATION

The Hon. K.L. VINCENT (15:19): I seek leave to make a brief explanation before asking the minister representing the Minister for Transport Services questions regarding the safety of the Lonsdale train station.

Leave granted.

The Hon. K.L. VINCENT: On Tuesday afternoon of last week, 1 November, there was a tragic event at the Lonsdale train station. I have been contacted by a constituent who is a worker at Minda's Lonsdale packing facility about the occurrences on this day at the station's pedestrian crossing. I am told that a man with an intellectual disability, who worked at the nearby Minda furniture-making facility, was making his way home from work and, as I understand it, without realising that a train was approaching the station, the man went back on to the tracks to retrieve a bag he had dropped. In circumstances that I imagine were very distressing to all who witnessed it, the man was stuck by the moving train and killed. I am told that this is a situation that took some

time for emergency services and police to manage, and the station was hence closed for some hours.

The train station is a transport hub for many workers from Minda's two facilities located at Lonsdale. Given that many of these workers have an intellectual disability, I am left thinking of what safety measures may be of benefit to these commuters who frequent the station. I believe that several other pedestrian crossing stations on this line have automatic closing gates. This includes the crossing on Brighton Road within the minister's electorate of Bright. My questions to the minister are:

1. Given last week's tragedy and the demographic of the commuter population at Lonsdale station, what action has the minister taken to improve safety at this location?

2. To prevent this occurring again, will the minister as a matter of urgency install automatic gates at the Lonsdale train station pedestrian crossing similar to those in her electorate?

3. If the minister will not install automatic gates at the Lonsdale pedestrian crossing, will she concede that she prioritises the wellbeing of those in her own electorate above the safety of people with disabilities who would benefit from extra protective measures?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:22): I thank the honourable member for this important question. It truly is a very tragic event, which I think deserves the utmost attention. I will refer the question straight to the appropriate minister in the other place.

AGE MATTERS PROJECT

The Hon. CARMEL ZOLLO (15:22): My question is to the Minister for Industrial Relations. Will the minister provide the chamber with details of how SafeWork SA is addressing the issues surrounding an ageing workforce in South Australia?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:22): I thank the honourable member for her very important question and acknowledge her very keen interest in this particular issue. The question is particularly relevant to South Australians, given the knowledge that this state has the second oldest population and fastest ageing workforce in Australia. The South Australian government has recognised the need to utilise the skills of our older population to better position themselves in relation to income, health and social participation, as well as improving South Australia's productivity.

As such, the latest update of South Australia's Strategic Plan includes a new target, Target 48: Ageing workforce participation. This target is to increase the proportion of older South Australians who are engaged in the workforce by 10 per cent by 2020. Unfortunately, recent research has revealed that mature-age employees consider it difficult for them to obtain work in South Australia and feel that they had at times received unfair treatment from employers due to their mature age.

In response to these findings I am pleased to say that SafeWork SA's work-life balance strategy, through its Age Matters project, is playing a vital role in addressing the under-utilisation and discrimination that mature-age workers are experiencing in recruitment and employment in the South Australian workforce. The Age Matters project, funded by the Office for Ageing, promotes the social and economic arguments for supporting age diversity and flexible work for older workers. It is addressing the issues that mature-age workers are facing in recruitment and employment, such as aged-based bullying and being pushed towards retirement, promotion and training and the ability to make use of flexible work arrangements.

By raising awareness of the projected labour supply and encouraging workforce planning, the Age Matters project focuses on optimising mature worker participation in South Australia as part of their work-life balance strategies that promote age inclusive approaches within the workforce. To further raise awareness of this important issue, SafeWork SA has also partnered with the Committee for Economic Development of Australia to present the seminar focusing on South Australia's ageing workforce and its implications for the state.

The event, which is being held tomorrow at the Adelaide Festival Centre, will feature internationally recognised demographer Mr Bernard Salt, who will look at the profile of older workers in South Australia and the role of flexible work in future strategic responses. Focus group research conducted recently as part of the Age Matters project, in conjunction with the Office for Ageing, will also be presented at the event.

I commend SafeWork SA and its work-life balance team for its work towards promoting workforce participation amongst an important section of our community and the benefits this can have for all South Australians.

LIVESTOCK SLAUGHTER

The Hon. T.A. FRANKS (15:25): I seek leave to make a personal explanation.

Leave granted.

The Hon. T.A. FRANKS: I would like to put on the record clarification of remarks made about the ritual slaughter of animals in South Australia. The national standard for the slaughter of animals for human consumption is the Australian Standard for the hygienic production and transportation of meat and meat products for human consumption, AS 4696:2007. The national standard, which South Australia supports, does in fact permit ritual slaughter under clause 7.12, as I stated yesterday.

It is this clause which effectively exempts a small number of abattoirs in South Australia from the requirement to pre-stun animals, which is required in all other establishments not practising ritual slaughter. This standard, however, entails a number of provisions. In the case of bovines it includes the following:

- a method of restraint to ensure the animals remain standing in an upright position and do not thrash during the slaughter process;
- a method of head restraint during the slaughter process;
- procedures for stunning the animal immediately after the throat is cut that must involved at least two slaughtermen, one to cut the throat and one to stun. Stunning must be achieved with the use of a captive bolt pistol, with a second pistol immediately available where the first malfunctions.
- corrective action procedures to immediately stun an animal to render it unconscious in any case where the animal becomes distressed during the ritual slaughter process.

In addition, it states that controlling authorities must ensure that arrangements for ritual slaughter are approved based on the above requirements, and that compliance with these requirements is monitored and enforced in support of AS 4696:2002.

The RSPCA, the charity tasked with the enforcement of the Animal Welfare Act in South Australia—

The PRESIDENT: Order! The honourable member is supposed to be making a personal explanation, not debating or explaining or visiting where you have already been.

Members interjecting:

The PRESIDENT: Order! It is supposed to be a personal explanation where you are explaining—

The Hon. T.A. FRANKS: I am getting to that, Mr President.

The PRESIDENT: Well, hurry up, or I will sit you down.

The Hon. T.A. FRANKS: The RSPCA, the charity tasked with the enforcement of the Animal Welfare Act in South Australia, has placed on the record its strident opposition to the practice of ritual slaughter, calling it a 'brutal practice that should be banned'. The RSPCA has stated:

> It is unacceptable to cut the throat of an animal or sever blood vessels while the animal is fully conscious.

I draw the minister's attention to the fact that the RSPCA does not have free and unfettered access to establishments that practise ritual slaughter, and requests to identify those establishments have been rebuffed by PIRSA on the grounds of being commercial-in-confidence and specifically citing the Primary Produce (Food Safety Schemes) Act 2004.

So, I would draw the minister's attention to the fact that the RSPCA does not have this access, that we do, in fact, have ritual slaughter in this state where there is an exemption to the stunning of these animals, that yesterday you claimed—

The Hon. G.E. Gago interjecting:

The PRESIDENT: Order!

The Hon. T.A. FRANKS: On the radio this morning you claimed that no cattle in South Australia were subject to this—

The PRESIDENT: Order!

The Hon. T.A. FRANKS: —and yet you have now admitted that that is true. It is sheep, goats and cattle. We have four slaughterhouses—

The PRESIDENT: Order!

The Hon. T.A. FRANKS: —with an exemption and a total of nine—

The PRESIDENT: Order! The Hon. Ms Franks will get to the explanation.

The Hon. T.A. FRANKS: —potentially able to use this exemption under ritual slaughter, and you do not have the RSPCA having free and unfettered access to ensure that this process is being undertaken appropriately.

The PRESIDENT: Order! The Hon. Ms Franks—

The Hon. T.A. FRANKS: I have finished, Mr President.

AUDITOR-GENERAL'S REPORT

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (15:30): I move:

That standing orders be so far suspended as to enable the report of the Auditor-General for the year ended 30 June 2011 to be referred to a committee of the whole and for ministers to be examined on matters contained in the report for a period of one hour.

Motion carried.

In committee.

The Hon. D.W. RIDGWAY: I refer to the Auditor-General's Report 2011, Volume 4, page 1,426, DTED regional development financial assistance grants:

Grant recipients must fulfil certain obligations specified in the grant agreements...Last year's audit noted a large backlog in overdue obligations...At 30 June 2011 there were 44 with 13 being over 60 days late.

Can the minister advise what action the department is taking to ensure that the backlog of obligations is being processed and, indeed, make certain that all obligations are met within time frames as per the funding criteria?

The Hon. G.E. GAGO: I have been advised that the department recognises the importance of monitoring outstanding obligations and it reports on obligations outstanding for more than 60 days to the department's Budget and Finance Executive Committee on a monthly basis. The date that grant obligations are recognised is the period end date for which the obligation relates, unless specified otherwise in the agreement. For example, a report due for the year ending 30 June 2010 would be due on 30 June 2010 unless specified otherwise. The department will therefore always have outstanding obligations. For this reason, the department reports on and monitors obligations outstanding for more than 60 days.

As at 30 June 2011, the department has reduced the number of obligations outstanding to 44, 13 of which are greater than 60 days, and continues to follow up all outstanding obligations. The 13 obligations greater than 60 days relate to four progress reports. One of the projects has since been terminated, with a repayment invoice being issued.

Seven annual reports relate to a review of performance, which is currently in draft, and negotiations are continuing with the review consultant to finalise. A final report relates to a regional project, which is currently under negotiation with the business unit to finalise, and one acquittal relates to the sponsorship with the university.

The Hon. D.W. RIDGWAY: You have given reasons why they are outstanding, but have you taken any action to reduce the number of obligations that are going beyond their time frame and still outstanding?

The Hon. G.E. GAGO: We attempt to follow up each and every one of them, and I have given an outline of some of the circumstances surrounding some of them being late and what action has been taken.

The Hon. D.W. RIDGWAY: My next question relates to Volume 4, page 1427. The net cost of providing services fell by $9 million in the 2010-11 year due to decreases such as $2 million in grants and subsidies, reflecting lower than anticipated implementation of some grant programs intended to develop businesses in the Riverland and industries in the state. Can the minister provide an update on the allocation of regional development funding, including the Riverland Sustainable Futures Fund, the Regional Development Infrastructure Fund and the Enterprise Zone Fund?

The Hon. G.E. GAGO: I have been advised that the Regional Development Infrastructure Fund (RDIF), the Riverland Sustainable Futures Fund (RSFF) and the Upper Spencer Gulf and Outback Enterprise Zone Fund programs are structured to assist sustainable economic development in South Australia's regions through leveraging investment in regional projects by providing up to 50 per cent of eligible project costs.

There was a delayed start in the futures fund program as a result of the timing of the state budget (September 2010) and the former DTED restructure (January 2011), arising from savings identified by the Sustainable Budget Commission as well as changes in ministerial responsibilities. There were also issues around finishing the prospectus, as well as the road map, which, as I have said in this place before, provide the framework to help guide and inform people in terms of suitable projects going forward. All those things had to be completed as well.

However, since these delays, a number of projects have been approved: in March $620,000 to AgriExchange; in May, $447,500 to Island Fresh; June, $250,000 to GMA Engineering; September, $245,000 to Biological Services; and October, $499,500 to Red Earth Farms. There is a significant lead time in relation to fund acquittals for projects, as payment to project proponents is made upon completion of elements of the project. In some cases that can take up to several months, and I am advised that proponents cannot always meet their time frames and require additional time as well.

The RDA is responsible for assisting the government's implementation of the Riverland Regional Prospectus at the local level and for assisting prospective applicants to develop proposals, and the RDA has been supported with new funding to fulfil that role in addition to the significant funding support it receives from three levels of government. All underspends from the futures fund have been approved as carryovers in the forward estimates, ensuring that the election commitment is maintained over the forward estimates period.

The Hon. D.W. RIDGWAY: The minister has outlined reasons why the net cost of providing services fell by $9 million. Are we likely to see an improvement or an increase in spending now that we do not have the restructures and all the other issues she has raised?

The Hon. G.E. GAGO: As I have indicated, there were a number of factors operating, some of which we have control over and some we do not. Certainly, with the reset of the forward estimates, our plan is to achieve that. As I also indicated, there are elements when a proponent is, for whatever reason (it might rain, it might not rain), not able to fulfil their time frames and that throws their project out. Obviously we cannot control that, and we are not likely to withhold any further funding just because their project is delayed a little. Certainly, though, our aim is to meet those deadlines wherever we possibly can.

The Hon. D.W. RIDGWAY: I refer again to Volume 4, page 144, and commonwealth funding to the RDAs. Can the minister provide an update on the status of commonwealth funding to RDAs in South Australia and outline what representation she has made to the federal government, especially the federal minister for regional development? That is the last regional development question I have.

The Hon. G.E. GAGO: I did provide a lot of information yesterday on round 2 but I am happy to provide that again in just a moment.

The Hon. D.W. RIDGWAY: I only have one question on tourism. Unfortunately, the Hon. Terry Stephens, our shadow minister, is absent this afternoon due to illness, but I do have one question that I would like to ask. It refers to page 1337, point 29, Disclosure of administered items. The report shows that the SA Visitor and Travel Centre did not return a profit when it was under government administration, yet the government has made it clear that it was crucial to

tourism operators in securing bookings. Now that the centre is privately run and, therefore, must turn a profit to remain viable, can the government guarantee that all operators are being served fairly and equally?

The Hon. G.E. GAGO: I have been advised that, yes, you can be reassured that fair treatment is being assured by SATC. It ensures that fairness by overseeing that conditions are in place between the licensees and operators.

The Hon. D.W. RIDGWAY: So are you saying that the centre can turn a profit without the use of preferential agreements and commissions from tour operators?

The Hon. G.E. GAGO: I have been advised that the short answer is yes. It is a commercial operation but, as I have outlined, the fairness to operators is ensured through agreement between the licensee, which is Holidays of Australia, and operators.

The Hon. D.W. RIDGWAY: Was the guarantee of fairness a condition of the contract with Holidays of Australia?

The Hon. G.E. GAGO: Obviously the details about the contract are commercial-in-confidence but I have been advised that there is a provision in the contract that looks to keep commissions at market value.

The Hon. D.W. RIDGWAY: That is the end of the tourism question.

The Hon. G.E. GAGO: The next is PIRSA. In relation to the RDAs, I have been advised that Simon Crean will launch round 2 of RDAF funding, providing a further $200 million to support priority projects in regional Australia. They received constructive feedback from local government not-for-profit RDAs following round 1 of the RDAF, and also the state government provided some feedback as well. They have revised and refined the guidelines to encourage stronger investment-ready applications that have a clear benefit to the region. The key changes to the guidelines include:

- a two-stage application and assessment process, including a short-paper expression of interest;
- a stronger role for Regional Development Australia committees;
- applicants can submit one EOI and application for a single project;
- a maximum grant of $15 million;
- preference for applicants to demonstrate a partnership funding of one-to-one for grant requests of $5 million and less and at least a 50 per cent partnership funding must be reached; and
- not-for-profit organisations must have a minimal annual income of $1.5 million.

I know it is a favourite of a number of members in this place, because they have raised concerns about this previously, and that is projects located in capital cities must demonstrate how the proposed project will benefit the broader region and other parts of regional South Australia. Also included is the provision of guidance on content and mandatory documents, and there is an extensive process, which I have outlined, and it is in yesterday's *Hansard*.

The Hon. J.S.L. DAWKINS: I refer to Part B, page 935, under Audit Findings and Comments, Fisheries licensing revenue 2010-11. Audit dot point 1 identified certain reconciliations were not performed on a timely basis. First, what were the consequences of the untimely reconciliations and when will the new procedure be implemented?

The Hon. G.E. GAGO: I am advised that a number of improvements have been put in place. These include the reconciliation process between the Primary Industries Information Management System (PIMS) to Masterpiece accounts receivable system; secondly, the appropriate delegated authority for adjustments to licence invoices; and, thirdly, the independent review of the reconciliation of cash receipts to the revenue system. I have been advised that all these matters have been fully reconciled to date so that there are no outstanding matters.

The Hon. J.S.L. DAWKINS: Further to that issue, dot point 2 refers to licence invoices being authorised in excess of delegated authority. Were license holders obliged to pay those invoices despite the fact that they were not properly authorised and have proper authorisations since been given?

The Hon. G.E. GAGO: I have been advised that PIRSA certainly has addressed the issues to deal with the authorisation of delegations and strengthening the current control arrangements with updated procedures and has already amended authorised delegation limits to correspond with current business requirements. And, yes, they will still be required to pay those accounts.

The Hon. J.S.L. DAWKINS: In relation to dot point 3, have the cash receipts for the revenue system that were not properly reviewed since had proper scrutiny? Were any serious anomalies found and, if so, what were they and how were they addressed?

The Hon. G.E. GAGO: The answer to the first question is yes, and the short answer to the second part is that, no, there were no significant implications.

The Hon. J.S.L. DAWKINS: If I can clarify that: there were serious anomalies found?

The Hon. G.E. GAGO: No, there were no serious implications found.

The Hon. J.S.L. DAWKINS: Finally on that matter, will the failure to raise giant crab entitlement fees result in a shortfall of budgeting income for 2011-12 and, if so, by how much?

The Hon. G.E. GAGO: I have been advised that Fisheries and Aquaculture will investigate raising the outstanding giant crab fee entitlement for the 2010 financial year, in conjunction with the next year's 2012-13 fees, obviously following extensive industry consultation.

The Hon. J.S.L. DAWKINS: I will now change tack a little bit. I refer to page 960 and intergovernmental grants and external grants spending on the plague and locust control program of about $1.4 million. In doing so, I also refer to former minister O'Brien's speech in the House of Assembly on 15 September 2010 that $12.8 million would be expended in an emergency response to the largest locust plague in 40 years. Was the $1.4 million the only money spent on the locust intervention?

The Hon. G.E. GAGO: I have been advised that in fact we ended up spending $11.5 million on the emergency response to locusts here. Of that, $1.4 million was a series of special grants.

The Hon. J.S.L. DAWKINS: To clarify that, of the $12.8 million that the minister talked about, $11.5 million was spent?

The Hon. G.E. GAGO: Yes.

The Hon. J.S.L. DAWKINS: Moving on to page 958, given the Auditor-General's ruling has changed from last year regarding executives earning more than $100,000 to now executives earning above $127,500—I understand, minister, if you have to take it on notice—how many employees and what is the breakdown of those within the department earning between $100,000 and $127,499?

The Hon. G.E. GAGO: I will have to take that on notice and provide an answer in the future.

The Hon. J.S.L. DAWKINS: Referring to page 959, can the minister detail the two consultancies in 2011 over $50,000 that resulted in $470,000 spent, with information such as who ordered the consultancy, what was the purpose of the consultancy and how much was paid in each instance and, subsequently, who completed the consultancy and has the work produced as a result been released?

The Hon. G.E. GAGO: I have been advised that the main consultancies during 2010-11 were for two organisational reviews. Namely, the whole-of-PIRSA Nous organisational review, which was $0.309 million, and the Rural Solutions South Australian organisational review of $0.161 million.

The Hon. J.S.L. DAWKINS: At page 965 there is reference to an increase in doubtful debts. Will the minister detail what that relates to?

The Hon. G.E. GAGO: I have been advised that the types of matters that doubtful debts could include are, where people just refuse to pay or pay very late (the most obvious), where work that has been undertaken by the agency might be in dispute by the other organisation and the dispute needs to be resolved, and also areas where a company has gone into liquidation.

The Hon. J.S.L. DAWKINS: Would you clarify at what point a debt becomes doubtful? One understands that you do not expect a debt to be doubtful when you first undertake that matter.

The Hon. G.E. GAGO: I have been advised that a doubtful debt exists where the contractual elements have been fulfilled and completed, or our agency believes that it has been fulfilled and completed, and moneys have not been forthcoming within the time period agreed to; also, in the case where a company has gone into liquidation and it is highly unlikely that we will receive those full funds, or perhaps receive only partial funds.

The Hon. J.S.L. DAWKINS: I have a couple more questions and then I will defer to my leader. In Part B, on page 932 under Audit findings and comments and Expenditure, in the last dot point it says 'delegations of authority were not accurately recorded in Basware'. Has there been a review of transactions processed before the department addressed the matter and, if not, would she explain why not? If so, were any transactions found to be questionable or inappropriately authorised?

The Hon. G.E. GAGO: I have been advised that the audit identified an instance where the delegations of authority were not accurately recorded in Basware, resulting in an asset purchase exceeding the officer's recorded delegation at that time. In this instance the person had changed to a temporary position to assist in the plague locust emergency response program within PIRSA. The Basware system administrator was not notified in order for the system to be updated to reflect the new arrangement prior to the acquisition. However, since then the matter has been fully and completely resolved, I have been advised.

The Hon. J.S.L. DAWKINS: Finally, I presume (although I have learnt not to presume things) that what the minister has just said means that this has tightened the delegation process—that is probably the best way of putting it.

The Hon. G.E. GAGO: The short answer is yes.

The Hon. D.W. RIDGWAY: I have two or three questions on forestry. I refer to Part A, paper 5, under the heading Net lending, first paragraph, last sentence. This point refers to 'expertise required to maximise the realised value of these public assets'. The commentary by the shadow minister was that 'this expertise will come at a substantial cost to taxpayers and does not of itself guarantee a positive outcome'. In referring to the sale of the forestry assets, in the event that a sale is not made, that is, that the government does not reach its reserve price, will the cost of the consultants and other experts engaged to advise the government on the sale process be passed back to the forestry industry in keeping with the government's cost recovery policy?

The Hon. G.E. GAGO: That is a matter for the Treasurer, given that he is managing all of those processes. I will refer the matter to the Treasurer and he no doubt will answer if he sees fit.

The Hon. D.W. RIDGWAY: Could the minister take that on notice and could she also provide the chamber with an answer from the Treasurer on the actual cost of those consultants and experts who are advising the government on the sale? Another question on logging: Part B, page 1088, under Audit findings and comments, Communication of audit matters, paragraph 2. What has been done or is being done to ensure the appropriate documentation of the key control processes for the forest logging system and what has been done or is being done to strengthen controls over the forest logging system payments?

The Hon. G.E. GAGO: Issues raised by the Auditor-General in relation to the forest logging system are related to documentation of policies and procedures. A program to document the key internal control processes associated with the forest logging system is being implemented and is targeted for completion by May 2012, I am so advised. Payment review and approval process, which was the second issue: the relevant senior managers have been briefed on the need to undertake a broader review of the reasonableness of FLS system payments and those authorisations are to be appropriately dated. I have been advised that this has now been fully implemented.

The Hon. D.W. RIDGWAY: They are the only two questions I have on forestry. I have a few questions for the Hon. Russell Wortley on state/local government relations. On page 835, under the heading Expenses, it states:

> Grants and subsidies expenses have increased by $1.5 million reflecting increased payments to the Local Government Association in respect of the National Partnership Agreement to support local government and regional development.

Is there any detail on how that $1.5 million was disbursed (or spread) across South Australia, and were any conditions placed on the disbursement to ensure that regions received a fair proportion?

The Hon. R.P. WORTLEY: This money is provided by the federal government to the LGA and the department of local government. The whole idea is to use this money for infrastructure. We could probably provide you with a breakdown and much greater detail, if that is okay. I will make sure you get that as soon as possible.

The Hon. D.W. RIDGWAY: Flowing on from that, on the same page—that was under the heading Expenses—under the heading Income, it states:

Advances and grants have increased by $1.6 million principally due to increased revenues from the Commonwealth for the National Partnership Agreement to support local government and regional development.

There is a gap of $100,000. Under the heading Expenses it is $1.5 million, reflecting commonwealth payments, and then under Income it is $1.6 million. It seems strange that there is a $100,000 difference.

The Hon. R.P. WORTLEY: My advice is that there are other issues that come into the payments. What we will seek to do is highlight those figures and get them to you as soon as possible.

The Hon. D.W. RIDGWAY: Just a couple more questions. I refer to page 850, Employee Benefit Expenses. Were any TVSPs allocated to the staff from the Office of State/Local Government Relations and, if so, how many and from which office?

The Hon. R.P. WORTLEY: There was one position and that was for a principal policy officer.

The Hon. D.W. RIDGWAY: I refer to the table at the bottom of page 850, Remuneration of Employees. Are any staff from the Office for State/Local Government Relations or the Boundary Adjustment Facilitation Panel represented in this table and, if so, how many?

The Hon. R.P. WORTLEY: Yes, there is one and it is the director.

The Hon. D.W. RIDGWAY: I have a final question on local government at page 867, Grants and Subsidies. What is the reason for the reduction to the Outback Communities Authority from $779,000 in 2010 to $567,000 in 2011?

The Hon. R.P. WORTLEY: One of the problems we have here is that we have far too much information. We are trying to go through it all. We want to be thorough, so we are going to get that answer for you very shortly.

The Hon. R.I. LUCAS: If the minister has far too much information, I am happy for him to take this question on notice. Either the head of SafeWork SA or the head of the department would have received management letters during the 12 month financial period from Auditor-General staff which outline the concerns of audit staff about the operations of, I guess, Premier and Cabinet, in particular relating to SafeWork SA. There is a brief reference in the Auditor-General's Report to one of those. Can the minister take on notice what concerns audit staff expressed to the minister's agency and what were the responses from the minister's agency to those concerns?

The Hon. R.P. WORTLEY: SafeWork SA receives revenue from fees associated with licences required under the legislation it administers. Regulations made under the Occupational Health and Safety Welfare Act 1986, the Explosives Act 1936 and the Dangerous Substances Act 1979 allow for licence fees to be levied to duty holders to allow for administration of the licence and verification of compliance with licence conditions.

The Auditor-General has raised the lack of management control over debtor recovery with regard to regulatory revenue. Management control over debtor recovery and improving SafeWork SA's collection processes over outstanding debts is an important consideration for the agency. Notwithstanding the financial implications associated with the outstanding debt, improved debtor recovery and collection processes will improve legislative compliance, helping South Australia meet its Strategic Plan targets, in particular Target 21: Greater Safety at Work—Achieve a 40 per cent reduction by 2012 and a further 50 per cent reduction by 2020.

SafeWork SA has implemented improved business processes to more effectively monitor and manage its debtor recovery and improve its collection processes over outstanding debts. Key processes include:

- the revision of standard operating procedures to more clearly define administrative processes for recovery of outstanding debts;

- further training for licensing staff;
- monthly reporting on outstanding debts;
- escalated audit activity by an inspectorate to ensure compliance with licensing requirements; and
- an annual review of standard operating procedures for financial transactions of each licence type.

As a result of the Auditor-General's findings, SafeWork SA has undertaken a review of the administrative processes to further improve and enhance its management control procedures for debtor recovery and the collection process over outstanding debts.

Notwithstanding the measures outlined above, as from 1 January 2012 new systems and processes, including smart form technology and notification systems, will be implemented as a result of the introduction of nationally harmonised occupational health and safety laws. It is expected that these new systems and processes will further improve collection processes for outstanding debts.

The Hon. R.I. LUCAS: I understand that, but were there any other issues that audit staff raised in relation to the agency? If there were, is the minister prepared to take on notice what they were and what response the agency made?

The Hon. R.P. WORTLEY: I will take that on notice.

The Hon. D.W. RIDGWAY: That concludes the questions for the Hon. Mr Wortley. I would like to complete the hour with some questions for the Hon. Mr Hunter. I think we will start with families and communities.

I have some questions provided by the shadow minister in another place. The first refers to page 429 in Volume 2, and identifies that the department has told the Auditor-General that there is a projected shortfall in funding for the new youth training centre at Cavan which may require a change to the project scope or funding arrangements. What is the reason for the projected shortfall?

The Hon. I.K. HUNTER: The reason the scope of works is out is basically because it is a projection at this stage. We are constantly reviewing the scope to bring it back within budget. It is possible, of course, to reduce that if we amend the scope of works.

The Hon. D.W. RIDGWAY: Has the sale of more land than originally budgeted at Strathmont been looked at as a way of funding this particular shortfall?

The Hon. I.K. HUNTER: Our preference is to bring the budget back into scope, if we can.

The Hon. D.W. RIDGWAY: The minister says the preference is to bring the project back into scope, so no other options have been considered; it is just to bring it back into scope. If it is out of scope now I assume you have to find somewhere that will do the work at a cheaper price or change the scope of the project.

The Hon. I.K. HUNTER: As I said, our preference is to bring the scope of works within budget but there is the contingency of land at Strathmont and there is also the contingency of a parcel of land at Cavan, if needed.

The Hon. D.W. RIDGWAY: Have any of those contingency options been taken to cabinet at this stage?

The Hon. I.K. HUNTER: Obviously, we do not want to comment on cabinet discussions but our preference, as I said earlier, is to bring it back into scope. However, if we do need to look at those contingencies we will obviously take it to cabinet.

The Hon. D.W. RIDGWAY: I am still a bit confused about how you bring it back into scope. Is that to find additional revenue or additional money to come in on budget? Which part of the scoping are you changing—the size of the project or the size of the budget?

The Hon. I.K. HUNTER: I am advised that the budget will stay the same and we will try to bring the project in on budget. That might mean looking at quotes, for example, and pushing them a little harder but there is always the potential of reviewing the scope of works and perhaps going for a different style of fencing or a different quality of fittings.

The Hon. D.W. RIDGWAY: The next question relates to page 454. There is $194,000 of unspent funding associated with the Magill Training Centre sustainment. What funding was required to repair the damage caused during the riot at Magill in July and did this come from the sustainment program or general maintenance?

The Hon. I.K. HUNTER: We do not have those figures at this stage so we will have to take it on notice and bring it back to you. In terms of the underspending, it shows that we have not spent that money in the year and we have sought carryover.

The Hon. D.W. RIDGWAY: So you are carrying over the $194,000 of unspent funds?

The Hon. I.K. HUNTER: Correct.

The Hon. D.W. RIDGWAY: What is the expected date for the shutting down of the Magill centre?

The Hon. I.K. HUNTER: Obviously, the dateline will be pushed back by issues such as the timing of the new build and the time taken to decommission the old site. There will also be time to transition staff and clients. The planned time was July/August of next year but I think I should say that, at this point in time, we are planning for the latter half of the calendar year 2012.

The Hon. D.W. RIDGWAY: July/August is clearly in the second half of next year. My reading between the lines, it will be November/December next year. So, in the fourth quarter?

The Hon. I.K. HUNTER: I understand the leader's question. In relation to the issue of decommissioning, there will always be lag in the timing of the transition to the new building. As I said, the projected timing is July/August of next year. Decommissioning will happen some months after that.

The Hon. D.W. RIDGWAY: The Auditor has made a number of comments over a number of years in a row concerning problems with grant payments made by the Department for Families and Communities. Page 419 of Volume 2 identifies instances where payments do not match agreements or were made without the required authority. Who were these payments made to and what amounts were they for?

The Hon. I.K. HUNTER: I am advised that processes and policies are in place to ensure grant payments are made within the required authority and as per the agreement. The risk of error is minimised by having independent officers checking agreements. The Funding Grants Management System holds a record of the total budget awarded to each organisation. The department performs a reconciliation to ensure that the budget existing on 30 June for a particular organisation rolls forward at the same value to commence the new funding year.

In relation to the second part of the question, the department has advised that finance officers sign invoices for payment to indicate services invoiced are in accordance with the contract. It is considered that no further authority is required to make a payment. Audit did not agree with that view as the payment process is a manual process of reviewing invoices to contracts, which requires an informed assessment. The officers should have payment or disbursement delegation, as required by Treasurer's Instruction 8.15. DFC advised its intention to review this approach and, if necessary, provide finance officers with sufficient authority to authorise that payment, and we have now done this.

The Hon. D.W. RIDGWAY: Page 419 also identifies instances where service agreements were signed significantly after the services commenced. What were these service agreements for?

The Hon. I.K. HUNTER: I am advised that many of the grant agreements funded by the Department for Communities and Social Inclusion are for not-for-profit organisations with limited cash flow. Grant agreements may be the subject of a dispute over pricing and such issues as indexation. The department has procedures in place that allow for payments to be made prior to finalisation of grant agreements if emergencies arise and to ensure that services continue to be delivered to vulnerable clients. Sometimes, the department is in negotiation with NGOs that need to be completed, and we do not want to stop the services they supply to their clients just because of those negotiations. These are usually NGOs the department has a longstanding partnership with, where we have a deal of trust, and they are not considered to be risky procedures at all.

The Hon. D.W. RIDGWAY: I think this is my final question. The bottom of page 449 refers to consultancy payments. Who were the three payments greater than $50,000 made to and for what services were those payments made?

The Hon. I.K. HUNTER: My advice is that consulting payments went to Armstrong Muller Consulting, Hokjok and Woodhead International.

The Hon. D.W. RIDGWAY: How much were each of those consultants given, given they were over $50,000? Can the minister give us some details?

The Hon. I.K. HUNTER: Given there is confidentiality around commercial issues in naming individual companies, what I might do instead is provide you with the total expenditure for those three companies, which was $238,741.

The CHAIR: I conclude the examination of the Auditor-General's Report.

LOCAL GOVERNMENT (MODEL BY-LAWS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 9 November 2011.)

The Hon. S.G. WADE (16:32): I rise to speak on behalf of the opposition on the Local Government (Model By-Laws) Amendment Bill 2011. I have only been in this council for five years, but this is certainly the first time that I have experienced what we are experiencing with this bill, which is notice given one day, tabled the next and given passage through this council on another. I do note, though, that in this case the council is united in facilitating that. It will mean that there is less scrutiny given to this bill than would normally be given.

It is in that context that I spoke to the minister and sought some undertakings in relation to the bill. First of all, that the council as a whole would agree to progress. I understand that that has been forthcoming. Also, that the bill not progress in the House of Assembly until the next sitting week, which will allow some more scrutiny. Finally, if there are any other issues that arise, that the government would favourably consider amendment in the House of Assembly. I thank the minister for those undertakings. We as the opposition appreciate the need for the by-law and therefore the bill to facilitate the by-law.

Currently, section 250(4) of the Local Government Act 1999 prevents a council from adopting a model by-law and exercising the powers under it until the 14 days of the disallowance period under the Subordinate Legislation Act 1978 have passed and the model by-law has not been disallowed. We understand that this bill does not significantly reduce the scope for scrutiny. It still allows for disallowance by either house in that 14-day period.

The minister quite rightly highlighted the similarity to the early commencing process under the regulation-making power. This council is concerned about the overuse of the early commencing regulations power but it is becoming increasingly standard practice in South Australian governments, and I do not blame this government in particular. It is a trend by executives not only in South Australia but elsewhere. The minister was quite right that, with an early commencement certificate, a regulation would take effect from the day that it is made and would be active for the disallowance period. In that sense this model by-law process is similar.

I would suggest to the council that this process is still better than the early commencement regulation process because not only would the minister need to get the model by-law approved by cabinet, the relevant council would also need to sign off, so you have two different bodies giving the model by-law scrutiny. We think that in the context of that interaction it is a relevant process. After all, whilst the minister indicated that this is the first model by-law since the model by-law process was established in the year 2000, that does not mean it will be the last.

As the minister indicated and obviously the house is well aware, this bill is primarily to facilitate the early implementation of a model by-law for the management of pedestrian malls gazetted on 13 October this year. In his second reading explanation the minister said:

> The disallowed by-law was drafted prior to the judgement of the Full Court, invalidating these words, by reason of the infringement of the implied freedom of political communication.

I appreciate that the minister said that on advice, and it is technically correct. The minister was referring to the reference to the Full Court of the Supreme Court of South Australia which was handed down in August 2010. The by-law was promulgated in February 2011, three months after the District Court judgement. The District Court judgement was Corneloup v Adelaide City Council. It was a judgement of His Honour Judge Stretton on 25 November 2010. At paragraph 163 it says:

> Accordingly, that part of paragraph 2.1 which bans haranguing, canvassing and preaching, and paragraph 2.8, are invalid.

The by-law that was previously disallowed by this council had the word 'preaching' in it. It was promulgated after that District Court judgement. I stress that I appreciate that the minister would have been passing on advice from the council, but I humbly suggest to the house that the council was putting a spin on this one. I believe they should be more diligent in their by-law making processes. They knew in November that the courts found that phrase offensive, yet they promulgated it in a by-law in February. That was just to correct the record in terms of history.

The opposition does agree with the government that the by-law will assist in restoring order in Rundle Mall. We do not believe it will be sufficient, and that is why we put in another bill that provides other assistance to the council. In that context, I welcomed the comments of the minister last evening where he gave an undertaking to myself, and by implication to the parliament, that he is willing to work to 'the longer term to look at providing appropriate legislation if need be to fix up the problem in Rundle Mall if this does not work'.

I appreciate that the government is more hopeful that the by-law will resolve the issues in Rundle Mall than the opposition is, but I welcome the opportunity to work with the government on alternative tools. The minister is hoping that they may not be necessary and, if that is the case, so be it. However, if they are necessary, I do not think it hurts for the parliament to have done some thinking about what are appropriate tools to make available to councils to maintain public order.

With those comments I indicate that the opposition will support this bill. We do have a number of questions at the second reading stage, but they are by way of clarification rather than being conditional on our support.

The Hon. M. PARNELL (16:40): It is certainly out of the ordinary for us to be dealing with a bill in such a short time frame. However, I think the circumstances of this case do warrant urgent treatment. Yesterday the Legislative Council debated the Statutes Amendment (Public Assemblies and Addresses) Bill 2011, and I do not propose to repeat my comments of yesterday, but clearly it is the same topic that is before us today, and that is how to handle inappropriate expressions of free speech.

The bill before us seeks a quick fix to a problem that has now been evident in Rundle Mall for some months; that is, the problem of a group of people, commonly known as the street preachers, haranguing, harassing and berating passersby. As I said yesterday, I have been in Rundle Mall on a Friday night and I have seen what is going on. You have a range of people preaching through loudhailers, and the like, and you have a larger group of people trying to disrupt their activities. By the side I think I counted around 20 police, waiting to see if things get out of control and they need to step in. It is not an ideal situation.

The difficulty the Greens had with the bill before us yesterday was that we could see that it was open to abuse and that a wide range of areas could effectively be declared off limits for the use of public address systems. However, the bill before us seeks to provide an avenue for, if you like, the fast track introduction of model by-laws, and the one of interest to us today relates to pedestrian malls.

This bill does not suffer the same problems as did the bill before us yesterday, that is, that this bill is of more limited application. I said yesterday (because we had been given advance notice that this was coming before us today) that the Greens were likely to support this approach, but we were not ruling out the idea of more intensive legislative intervention over this problem. That is consistent with the approach the Greens have taken in this place. On a couple of occasions now I have introduced a protection of public participation bill, and we have done that because we do not have a clearly established regime of rights here in South Australia. We do not have a bill of rights, and therefore we often need do need to legislate on a case-by-case basis to ensure that our rights are preserved, including our constitutional right of free speech in relation to political matters.

Whilst we might be sympathetic to a legislative fix, that does not mean we will support any legislative fix, obviously. The one we had yesterday we did not think was quite up to the task, and we also need to keep open a suspicious eye because most legislation that comes through in this field is to diminish rights rather than to enshrine or increase them. For now the Greens are happy to be debating this bill as a matter of urgency. We are inclined to support it. We will get into committee and I will be interested to hear the debate there because the actual model by-law itself may not be as clear as it needs to be, but we can deal with that in committee. For now the Greens are happy to support the bill.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (16:44): I thank honourable members for their contributions to this

debate. I also thank the opposition and honourable members for agreeing to prioritise this important bill. I also thank the Hons Stephen Wade and Mark Parnell for their considered and informed second reading contributions.

The model by-law was developed at the request of the Adelaide City Council following its inability to control the activities of certain groups within the mall. I also thank the Lord Mayor, Mr Stephen Yarwood, for his assistance and hard work. I note that the government, the opposition, the Adelaide City Council and other honourable members want to see a solution to this matter and a balance to the expectations and interests of all mall users.

Passing this legislation today will enable the Adelaide City Council to adopt and implement the model by-law before Christmas of this year. Nevertheless, I am keen to work with the opposition, other honourable members and the Adelaide City Council in looking to develop a longer term solution to this matter. I have given an undertaking to the Hon. Mr Stephen Wade that if this model by-law does not seem to fulfil expectations then we will look at developing further legislation.

We will also make sure that we consult reasonably widely with the Adelaide City Council, the Law Society, civil liberties groups and the police so that we can develop appropriate legislation that will see an end to this. Hopefully, this will work, but we have to consider that when we are dealing with people like the street preachers, who are very litigious, you can only do what you can and hope that it will fix the problem. It is a real problem, and most of us have seen the issues there. Once again, I thank the council for their contributions and for their support in getting this bill prioritised.

Bill read a second time.

In committee.

Clause 1.

The Hon. S.G. WADE: I suspect that all of my contributions are on clause 1, Mr Chair. My question for the minister is: who drafted the model by-law?

The Hon. R.P. WORTLEY: The by-law, I imagine, would have been drafted through the Attorney-General's office. There would have been input from the Crown Solicitor's Office. It was endorsed by cabinet and then endorsed by the Executive Council.

The Hon. S.G. WADE: Were the Local Government Association and the police consulted in relation to the by-law?

The Hon. R.P. WORTLEY: I believe it was the Adelaide City Council, not the LGA or the police.

The Hon. S.G. WADE: Considering the concern that has grown about the police being either able or available to enforce council by-laws in areas such as smoking, littering, adults in children's playgrounds and now in relation to amplification controls, is the government committing the police to enforcing the model by-law?

The Hon. R.P. WORTLEY: We are seeking to have a meeting with the local commander of the precinct in which the Rundle Mall is in. We are looking at discussing this with the mayor, myself and hopefully the Minister for Police to try to set the guidelines about what support they will put into this. You have to remember that the police seem to be a little bit hesitant to some extent because of the litigious nature of this. I understand that a number of police have been sued personally, so this is why we think it is important that we meet with them to discuss this whole issue.

The Hon. S.G. WADE: I appreciate that the minister is the minister for local government and not the Attorney-General, but I do appreciate that he has had discussions with the Attorney-General about the state government appeal in the case of Corneloup v Adelaide City Council. My understanding, and I do not know if I heard this from a government source or a local government source, I could be wrong but my understanding is that the state government appealed to the High Court in relation to the Corneloup case.

It does not focus so much on the meaning of political and governmental communication, more in terms of the level of how explicit state laws and council by-laws need to be in recognising exemptions for political and governmental communication. So, it is not in terms of the content of the right as much as the construct of the statute. My question is predicated on that assumption. In that

context, I note that the Adelaide Hills Council has a new by-law 3, 9.14, which relates to canvassing. It provides:

Subject to clause 14, convey any advertising, religious or other message to any bystander, passer-by or other.

It says subject to clause 14. Clause 14 deals with exemptions, and the paragraph offering exemptions for canvassing relates to lawful communication on government and political matters. To me, that suggests that the Adelaide Hills Council, at least, is picking up this implication that, through the Cornerloup case, the Supreme Court expects a more explicit recognition of that implied constitutional right.

I know that my question is predicated on a few presumptions, but I did not see in the model by-law an express recognition of the implied constitutional right, so I wonder whether that was done deliberately, waiting for the possibility of a High Court appeal; or would it have been better to have taken a more conservative approach, which I think the Adelaide Hills Council has done?

The Hon. R.P. WORTLEY: I thank the member for his question. There are a number of issues that arise out of that. All I can say is that it was drafted through the Attorney-General's Office. What I can do is take that question on notice. This will not be debated in the lower house until then, so I will get the answers back to you prior to the debate in the lower house.

The Hon. S.G. WADE: I thank the minister. That may well need to be the case with a number of these questions. I appreciate that, as local government minister, he is coordinating matters in the area of the Minister for Police, the Attorney-General and so forth. This may be a question of a similar nature. Considering the constitutional sensitivity around these issues, did the government obtain constitutional or legal advice on the public assemblies bill that we discussed last night, or the model by-law that is related to today's bill?

The Hon. R.P. WORTLEY: We did have legal advice on the constitutional standing of the bill we debated yesterday. I went through that with you today. In regard to the model by-law, I will put that on notice and have the Attorney-General answer it prior to it being debated in the lower house.

The Hon. S.G. WADE: What was the legal advice on the bill last night? Was that from the Crown Solicitor's Office?

The Hon. R.P. WORTLEY: Yes, it was.

The Hon. S.G. WADE: I respect the minister's determination that this by-law be in place by Christmas—and I welcome that—but, of course, there is another step. If this bill is passed tonight, the council would need to endorse it. Do we know when the council would be in a position to do that, considering the progress of the house? The bill would not be able to progress through the House of Assembly until the week beginning 22 November, and I am not sure about council meeting schedules.

The Hon. R.P. WORTLEY: This house was probably the one that was going to take the longest to get this bill through. The intention was that, if it passed this council today, we would contact the Lord Mayor and the CEO of the Adelaide City Council, advise them of the appropriate date that we believe it will be debated and advise them to call a council meeting ASAP to endorse it.

The Hon. S.G. WADE: My attention was drawn to clause 3.5 of the model by-law. It was actually drawn by comments that the Hon. Gerry Kandelaars and the minister himself made. I think in the Hon. Gerry Kandelaars' case, it was in relation to yesterday's bill and, in relation to the minister, I think it was in his second reading speech on this bill. The relevant clause is 3.5 of the model by-law. It is part of a section of the model by-law that deals with prohibited activities. It reads:

3.5—Interference with Permitted Use

A person must not in a pedestrian mall or in the vicinity of a pedestrian mall interrupt, disrupt or interfere with any other person's use of the pedestrian mall which is permitted or for which Permission has been granted.

For the benefit of the *Hansard* I make the point that 'permitted' is with a small 'p' and 'Permission' is with a big 'P'.

An honourable member interjecting:

The Hon. S.G. WADE: Sorry? Capital. It reminds me of former premier Brown who described the URL as 'SA dot'. I do not have a pen licence. For fear of being ruled out of order, I will get back to my point. So that members do not lose the thought, the capital 'P' in 3.5 is with the word 'Permission' and the non-capital 'p' is associated with the word 'permitted'.

The Hon. I.K. Hunter interjecting:

The Hon. S.G. WADE: Lower case. The by-law does give a definition of (upper case P) Permission, which says that:

> Permission means the permission of the council or such other person as the council may by resolution authorise for that purpose given in writing prior to the act, event or activity to which it relates.

One presumes that the upper case 'P' is being used for a purpose and that the lower case 'p' is also being used for a purpose; I am just wondering what 'permitted' might mean in that context. To explain my logic, presumably if we are talking about 'Permission', with a capital 'P', relating basically to the permit activities—because section 2 is 'activities requiring Permission', and they are all permit-based activity—I am wondering about the activities that one can undertake in Rundle Mall which are 'permitted' but for which one does not require an upper case 'P' Permit.

The Hon. R.P. WORTLEY: You have me fascinated now. I will take that on notice and get back to you.

The Hon. S.G. WADE: I appreciate the minister doing that. In that context, I wonder if I might then put a series of questions on notice?

The Hon. R.P. Wortley: Yes.

The Hon. S.G. WADE: Ian is just keen to move us on. Ian wants to get another bill through; he has one bill through and now he thinks he is a legislator. Does the word 'permitted' in this clause refer to any activity that is not prohibited or does not need permission? Does this mean that a person who is in the mall, complying with all aspects of council by-laws, must not be interrupted, disrupted or interfered with in any way? For example, if shopping is permitted in Rundle Mall, does a person who hands a handbill to a person while they are shopping commit an offence under this by-law because they have interrupted, disrupted or interfered with them in any way? I know that Channel 7 will be interested, because they love their vox pops. Does a vox pop down Rundle Mall interfere, disrupt or interrupt a person doing an activity that is permitted?

Also, where two people have received Permission—and this is a capital 'P' Permission; in other words, two Permit carriers—and are undertaking activity that would otherwise be prohibited by the by-laws, and one interrupts the other, what would be the consequence? That is the end of my questions about small 'p' and capital 'P'.

This is a new question, not on notice. During his second reading explanation yesterday the minister raised the fact that the subordinate legislation act allows the minister to provide for the early commencement of regulations where the responsible minister signs a certificate of early commencement and gives reasons for it to the Legislative Review Committee. As the minister notes, no such power applies for council by-laws. My question is: did the government consider an early commencement certification process for council by-laws rather than the process included in the bill?

The Hon. R.P. WORTLEY: The process that was contained in the bill was seen to be the most appropriate course of action to take.

The Hon. S.G. WADE: I am wondering if the minister is aware of any proposals for any more model by-laws, other than the model by-law that was promulgated on 13 October.

The Hon. R.P. WORTLEY: There is nothing in my thought process to look at another model by-law, but that is not to say that if an issue arises and we believe it is necessary, naturally we will look at it.

Clause passed.

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

Bill reported without amendment.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (17:01): I move:

That this bill be now read a third time.

Bill read a third time and passed.

EDUCATION AND EARLY CHILDHOOD SERVICES (REGISTRATION AND STANDARDS) BILL

Adjourned debate on second reading (resumed on motion).

The Hon. R.I. LUCAS (17:02): I rise to speak to the second reading of the bill. I indicate that I think this is a very significant piece of legislation. One aspect of it has attracted a lot of attention publicly and in the media by way of lobbying and certainly in debate in the House of Assembly. However, I think there are many other aspects to the legislation that have slipped through, if I can use that colloquial expression, and have not attracted the consideration that should otherwise have been directed towards those significant provisions of the legislation.

It is my view—and I intend to outline that in my contribution—that I think there will be, over the coming years, very many unforeseen consequences of the legislation that we see before the council today. I do not think enough attention has been directed to some of the significant changes in it. The government, the bureaucrats in the department who advise the government, I think certainly the previous minister and, as in many areas, sadly, the now Premier have been asleep at the wheel in relation to South Australia's interest in relation to these issues. In one respect, to be fair to the former minister and to the government, I do not think, from my very limited discussions in the last 48 hours with some people, that some of the stakeholders who have signed off on the provisions of the bill really understand the potential consequences of some clauses in this legislation.

As I said, only time will tell, and it will be at some stage in the future, when there is a difficult issue and someone and, in particular, the board (and I will refer to it in a moment) looks at what powers it might have under the legislation and how it might use those powers to crack down on a particular school or education community, they will find that they have considerable powers and could wield them, in my view, in a fashion that would be potentially unfair to some of the individuals concerned and, in particular, the schools concerned, and certainly in a way different from what we have been used to in education in South Australia for many decades.

I must confess that it has been only in the 48 hours that I have appreciated the breadth and significant scope of the legislation. All the public debate has been about child care and staff to child ratios and qualifications and the like—and they are important issues, and I will address some comments to those later on in my contribution—but this legislation covers much, much more.

As I understand it, for the first time, this will register individual government schools. In South Australia, we have always had a system, through the Non-Government Schools Registration Board, where non-government schools have been registered, and that board has potentially significant powers over non-government schools. It certainly has considerable power to agree either to register or not register them in the first place. That is probably the most common example we have seen over the decades where the power has been exercised. It has been less so in relation to any ongoing monitoring or any ongoing role in relation to a deregistration of a non-government school, but there have been some examples and they have been controversial.

However, government schools, as a system, have been run by the department and the Minister for Education. Under this model, this new body, which is called the education and early childhood services registration and standards board of South Australia, will register for the first time individual government schools. I am looking forward to what the acronym for the new board will be within the education community, as the education community is a great one for acronyms.

As I will explore in my contribution today, and certainly when we eventually get to the committee stage of the bill, which I think is going to be quite complicated, and we look at the individual powers of the board and the registrar, we will see for the first time in legislation considerable powers in relation to individual government schools.

We are going to have a government schools registrar, which is the registrar for government schools, and we are going to have a scheme where complaints can be lodged by anybody if a government school does not meet certain criteria. This does not apply just to government schools, but I am looking at government schools at the moment. Cause for disciplinary action can be a whole of range of things, such as the school's registration was improperly obtained, the school has contravened a condition of its registration or the school has contravened or failed to comply with a provision of this act.

The two that I want to refer to are, firstly, the school has not provided adequate protection for the safety, health and welfare of students to whom it provides education services. There are a number of members in this house and in the other house who have lived large in the media in terms of the number of threats to health and safety of either individual students or teachers within schools. In particular, I am looking at government schools. There is a cause for disciplinary action here and a complaint can be lodged in relation to that—that is a government or a non-government school. The board can refer it to the school, but if it deems it to be serious enough it can, through the registrar, initiate its own inquiry.

Anyone who has had any familiarity with government schools will know that every week in a majority of schools there will be some complaint in relation to harassment or bullying, which is being interpreted in recent years as an occupational health and safety issue. We are going to have an issue in relation to all of those complaints. The board can refer those back to the school, in the first instance, or, with the more serious ones—and we have had a very serious example that has attracted a lot of publicity in the northern suburbs in the last 12 months—it can take charge or responsibility for investigating that.

When one looks at the powers of the board, the board also has the power to, in essence—again, I will return to this later on and certainly during the committee stage of the debate—deregister a school. I refer members to clause 62 of the bill, which is 'Inquiries by the board as to matters constituting grounds for disciplinary action', and subclause (4), which states:

> If, after conducting an inquiry under this section, the Board is satisfied on the balance of probabilities—

so it is a balance of probabilities test rather than the stronger test—

> that there is proper cause for disciplinary action against the respondent, the Board may, by order, do 1 or more of the following:

It can impose conditions on the registration, it can cancel any endorsement on the registration, it can suspend the respondent's registration for a period not exceeding a year, it can cancel the respondent's registration, or it can disqualify the respondent from being registered under the act. The latter two raise very interesting questions as it relates to government schools. My questions to the minister and his advisers will follow here. Hopefully we get a considered response to the second reading, but certainly I will pursue these issues during the committee stage.

I am assuming that what the government is asking us to do is to give this board the power to deregister a government school. For example, with Charles Campbell Secondary School, servicing the Campbelltown area, if the board makes a decision that there has been a breach of the code of conduct or that there has been a breach of their occupational health and safety regulations, of a serious nature (clearly not trivial), then ultimately that board can separately and independently deregister and close down Charles Campbell Secondary School.

If that is what the government is us asking us to do, it is certainly novel. As I said, it has only been in the last 48 hours, having discussed it with some people, that they have considered some of the potential ramifications of the legislation that the government is asking us to rush through the house. I know the minister in charge is very keen to get this bill through the house this afternoon, but what I intend to do is at least raise some questions, and I think we need to get some answers as to what the government's intent is in relation to this.

Is the government saying to this parliament that it wants the power of this independent panel—and it is actually a panel of the board; the board is about 13 people, but the panel can be three officers, including one lawyer—to recommend (and I assume the board would endorse), in essence, the deregistration of a school like Charles Campbell Secondary School? I am not picking Charles Campbell out for any reason other than it is just a school. It is clearly a significant school for the catchment area that it services. If it were to be deregistered for a year then there would be very, very serious implications for the students in that community. There would be very serious implications for the families needing to send their children to school.

I am sure part of the government's response, which I accept, will be, 'Hey, this would only be used in the most serious of circumstances.' However, in the past government schools have been treated as a system. There has been this view that the government is here to assist us, whether you accept that or not, and the Minister for Education is responsible (together with the well-armed army of bureaucrats in the department) for running the system and if there are problems they will be handled in a particular way.

On my reading that is being turned on its head in this legislation, and we are going to have this independent body. That is why I am seeking advice, because I have only come to the realisation in the last 48 hours of some of the potential implications of the bill. It would appear on the surface that that is, indeed, possible. Certainly, it is going to be possible for a non-government school; that is, this board has the power, and certainly on my recollection the old or the existing Non-Government Schools Registration Board would have that power anyway.

That sort of debate tends to occur in relation to small or potentially controversial schools. In other states there have been arguments about religious-based schools such as Islamic schools or schools that the Brethren has run in other states. Various sections of the media and the community have sometimes sought to target schools being run by the Brethren. Those types of schools tend to be the ones that in the past have attracted the attention of registration bodies—the equivalent of our Non-Government Schools Registration Board. We have at least been exposed to that particular argument.

However, it appears, at least on the surface of this bill, that this is now being opened up for all schools in South Australia. If that is the case it is well worth this parliament placing on the record that that is the government's policy position. It has endorsed that with its eyes wide open and it accepts that that is the potential consequence of the legislation that we are being asked to support.

It becomes even hairier. I was told today when I put the question to the minister that the functions of this board are to regulate the provision of education and early childhood services, and when you look at 'education services', as you would expect, it is the broadest possible definition. It says 'also to carry out other functions assigned to the board under this or any other act, or by the minister'.

I have had this argument with parliamentary counsel and the government before. Personally, I find it abhorrent to have this parliament endorse the functions of a board which allows the minister to unilaterally change the functions of the board without having to take anything to parliament or to seek any approval, and that is what we are doing here.

Parliamentary counsel and the government will argue, 'This has been done before.' Yes, it has, and sooner or later, hopefully at some stage, we might address whether or not as a parliament we are prepared to continue to endorse a situation where we say, 'Here are the functions of the board and, by the way, it's also any other function that the minister of the day happens to want to assign to it.' It would appear to be an abrogation of the responsibility of the parliament, particularly a board with the sort of powers that I have just outlined, and there are many others that I will outline in my contribution during the committee stage. It has enormous powers and we are, in essence, saying that the minister of the day can assign whatever other functions he or she might deem appropriate.

The other provision under the functions of the board is that 'the board has to prepare or endorse codes of conduct'. Earlier I outlined what was a cause for disciplinary action. There is a cause for disciplinary action if you contravene or fail to comply with the code of conduct applying to the school. I asked someone today, 'Okay, where can I see these codes of conduct—what are they?' The answer was, 'Well, none of us has seen those codes of conduct yet; we don't know what these codes of conduct are.' They know broadly what they are intended to be, but they do not know the details of the codes of conduct.

We are about to sign off on giving the board the power to, in essence, institute disciplinary action, including closure and deregistration, for a breach of a code of conduct when we do not know what the code of conduct for the various schools might happen to be. The other provision of clause 29(2) is as follows:

> A code of conduct prepared or endorsed by the Board cannot come into operation except with the written approval of—
>
> (a) the Minister; and—

I assume the current minister will do whatever the bureaucrats tell her to do—

> (b) a majority of the peak bodies prescribed by the regulations for the purpose of this subsection.

The obvious question to that is: who are these peak bodies? I asked that question today—and it is a question I put to the minister for his response at the second reading. The answer, we were told today, was: 'Well, nobody knows; we haven't been told yet who the peak bodies are.' The answer is that they will be prescribed by the regulation.

Will the peak bodies be different peak bodies for the government and the non-government schools? I suspect not. The way this is drafted it looks like it might be a nominated group of peak bodies. Does that include the AEU and does it include any and/or all of the various principals associations, government and non-government? The Hon. Ann Bressington will chuckle when I raise this: which parent groups does it include? Does it include SAASSO? Does it include SASPAC? Does it include the Federation of Catholic School Parents? Does it include the equivalent body within the independent schools in South Australia? What are the other stakeholder groups or peak bodies that will be prescribed by the regulation, because it will be critical?

This code of conduct needs the written approval of the majority of those particular bodies. My argument to the non-government schools would be: let's say that if the peak bodies just happen to be the AEU, a government school parent body and a government school principals' association and one or two non-government organisations, so that the non-government schools are in a minority, then are the non-government schools happy to accept that a majority view of the government school bodies, which may advantage the operations of government schools as opposed to non-government schools, will go into the code of conduct?

The minister's response will be that the Catholics and independent schools have urged support for the legislation without amendment. On the surface that is not an unreasonable response. My concern is that I do not believe that many within the non-government school sector have looked at the detail of the legislation and the potential implications of the legislation for their sector. I suspect that many in the government school sector similarly have not looked at the details of the legislation and the potential impact on government schools and government services.

As I said at the outset, it may well be that, for a period of time, a lot of these powers on the surface are not exercised. They remain there, they are extraordinary and could be applied, but in the end may not be applied. Ultimately, at some stage in the future, these powers, in my view, will be used. There will be something, a group, a non-government school group, a particular group of individuals or a particular school that is going to be targeted, and that will be when we understand the full implications of what we are doing at the moment in this particular parliament in relation to the legislation.

This is one of the problems with national legislation. I will not waste time today in this debate talking about national versus state, in terms of we in the states (particularly the smaller states) being overrun by the Eastern States in particular. My views on that are known. The concern I want to highlight is the problem you have when you rush off to these COAG meetings if you do not have an assiduous minister, and if you do not have a department charged with the intellect and capacity to argue passionately and prepared to stand up against the forces of the Eastern States, and Canberra in particular, because it is just so overwhelming.

It is a bit like this debate that we are going to have about work health and safety laws. Everyone wants harmonisation. Who is prepared to argue against harmonised laws? Big business wants it and everyone else says they want it. The problem is that when you look at the detail, all of a sudden you have people coming out of the woodwork saying, 'Hey, we didn't realise. Yes, it was a great thing.'

I am not going to debate that now, but it is the same thing in relation to this. On the surface of it, who is going to argue against, 'Well, if you have a qualification you should be able to move between the states and things like that'? No-one is going to argue about that general principle. To the extent that you can achieve that: terrific.

One of the problems you have when you go along to these COAG meetings is that everything sweeps over you in relation to the debates and the arguments. It is a bit like the national curriculum argument, where it was just swept over the former South Australian ministers (two of them). Some of the issues are coming home to roost now and some will come home to roost in the future, I am sure. This legislation, in my very strong view, is much the same; that is, not enough attention has been given to the potential implications of it by our state ministers, by the bureaucrats who advise the ministers and also by some within the non-government sector who provide advice to governments on these particular issues.

At page 21 of the bill, clause 4—it is not referred to in the bill but it is referred to in the explanation of clauses—it states that one of the regulated services in relation to the care of children will include babysitting services. My question to the minister is: can the minister indicate exactly what sort of babysitting services are going to be regulated by this legislation? All of us who have

had children and had them cared for have had them cared for by a range of people, from relatives to young and old people who do it for a payment in a sort of semi-professional way.

In my case, with my children, I had an older woman who made almost a living out of the provision of babysitting (or childminding) services in the home, probably not (in those days) constructed on a business model because it was pre GST and ABNs and all that sort of stuff. These days everyone seems to have one of those, so I am assuming that there will be people these days providing those sorts of services who, for a variety of reasons, do structure themselves in that particular way. So, not just the professional agencies operating out of an office somewhere providing babysitting services. I think the minister needs to indicate to us the type of babysitting services the government is intending to regulate and the extent of the regulatory powers that will apply to the babysitting services.

When we get to the committee stage, we will look at the power of officers to implement this act. They have considerable powers to enter premises, and a variety of other powers. One could argue that, in relation to a commercial operation in a commercial building somewhere, you need the power to go in and seize documents and the like, and we will debate that during the committee stage.

This government is saying that it is going to apply these regulatory powers to services such as babysitting services. I think the government needs to outline to us not only exactly the type of babysitting service that it says it is going to regulate, but, in particular, which of the considerable powers within the act can be applied to that particular babysitting service arrangement. Is there some provision somewhere which limits the extent of the considerable powers that officers are given under the legislation?

On almost every second page of the draft bill, one can see those sorts of obvious questions popping out. The definition of volunteer members, for example, is something I intend to pursue for the governing authority of a school. In particular, what, if anything, is the difference in terms of the legal capacity to get at a volunteer member of a governing council, and in what circumstances under this bill are we authorising the government to get at a volunteer member of a governing council? Is it different from the current circumstances that apply to volunteers sitting on a governing school council? It appears that it might be, but I seek the answer from the minister. I ask him to indicate publicly whether there is a greater capacity under this legislation to hold liable a volunteer member of a governing council for breaches of, for example, occupational health and safety issues or codes of conduct or a variety of other things like that—the causes for disciplinary action which I highlighted earlier.

There are other provisions as well where potentially a volunteer member of a governing council might be held liable. I think that is important, because our schools—government and non-government—are built on the back of parents generally and volunteers who willingly contribute to governing councils and in a variety of other ways in our schools. If through this legislation the government is widening the scope of circumstances that a volunteer member of a governing council can be held liable, and there is a wider power and greater penalties, I think the government should place on the record exactly what the changes are and the reasons why it supports those particular changes being incorporated into the legislation.

As I said, in relation to the operations of schools, there are many questions that I intend to pursue during the committee stage, but I think they are probably the main ones that I want to put on record at this stage.

I want to now address some comments to what has been the most publicly controversial aspect of the legislation in terms of media coverage and lobbying, and that has been, in essence, the issue of child care—the staffing ratios and the qualifications, etc. I have to say at the outset that I think some members in this council and in the other house have adopted the view that any reduction in staff-to-child ratios within child care is obviously a good thing. The bottom line is that, if we could afford it, a 1:1 staff per individual child ratio in every childcare centre in the state would be fantastic; it would be wonderful. Then if it were 1:2—obviously we are on a continuum here. If you can get 1:1—well, fantastic; it almost replicates perhaps what might occur in the home, or might have occurred in the home in the past (although families tended to be bigger then).

It is difficult to argue against that, but it is also difficult to argue against the fact that at some stage you know you cannot afford one-to-one and you know you cannot afford one-to-two. At some stage you have to draw the line in terms of what is actually affordable. What can we as a community, and what can the individuals who do not get any assistance, afford in terms of

childcare costs? Ultimately, we in the parliament and in government are being asked to make a judgement.

I can understand the view of some who say, 'Hey, anything that reduces it is terrific,' but generally they tend to be the ones who are not paying the bills for the cost of child care. The people who actually have to make the difficult judgements are the parents, the mums and dads or the single parents, who have to front up every week at a childcare centre and pay the bill.

With all the lobbying we have been receiving, the current averages in South Australia (I do not know about the other states) are clearly in the order of $70 or $80—I have seen mid $80s in some cases—per child per day for child care. The industry says that it would potentially be a $13 to $22 per child increase, and the federal minister and the state minister say, 'No, that's wrong; it's only $8.60 or $8.50 a day.' What sort of world do these ministers live in? 'It's only $8' in relation to the cost of child care. To the family who does not qualify for assistance but is still struggling in terms of making ends meet and making the difficult decision as to whether they can afford child care or not, every $8.50 per child extra cost is a significant impost.

In the end the cost will probably end up being somewhere between what the ministers claim in terms of $8 and what the industry claims in terms of between $13 and $22, but it will still be a considerable increased cost for families, and if you have a couple of children then the cost is doubled. I am sure all members will agree that there are already some families that just cannot afford child care. They cannot afford child care under the current arrangements, and those families will not be able to afford child care under the new arrangements, and there will be another group that will not be able to afford child care as well. It is fine to say that of course it is better to have more and higher qualified staff, but if ultimately you are driving more and more families away from affordable child care, then what have you achieved?

We have seen the debate in relation to nursing and hospitals, and we are starting to see a kickback now in some other states already. From the industry there is this inevitable pressure for upgrading all the time the qualifications of the staff who are involved, and the requirements for the qualification. According to leaked cabinet documents, in Victoria they are starting to discuss the unaffordability of the health system, and they are looking at whether or not they can introduce a new system of, in essence, untrained helpers within hospitals rather than the system of everyone being a tertiary-trained nurse that we have moved to over the last 20 years or so.

Again, the argument was overwhelming over the past 20 or 30 years. There was a group who said, 'Hey, there is a role for the non-tertiary-trained nurse within hospitals,' but overwhelmingly governments, bureaucrats and others moved away from that, and we now have a system where, in essence, it is virtually unaffordable.

Now we have the same argument, the same debate going on, in relation to child care. For the last 20 years there have been those within the professional associations, the bureaucracies and the government who continue to say, 'We have to continue to upgrade the skill levels for all the staff within childcare centres.' There is no argument from me in relation to the argument which was agreed to 10 or 20 years ago about having trained staff with oversight of childcare centres. I have to say that my personal view is—and I do not say that it is my party's view—that there continues to remain a role in terms of trying to keep affordable child care, that whilst you have the professionally trained staff within childcare centres managing the education and learning programs of centres, there ought to be, if you want to achieve affordability, a role for much lower qualified staff, very basic qualified staff in relation to doing a lot of the work within our childcare centres.

I want to give an example of the point that I am making. I was approached in the street last week by a gentleman whose wife was working permanent part-time in a childcare centre. I know the family. They have successfully raised two children. The mother has terrific parenting skills in terms of having raised her own children. As her children grew older and left home she went back to work and the job that she has filled over a period of years (and filled successfully) was in the local childcare centre. She did not hold a diploma, she was not early childhood trained; she was a successful parent with good parenting skills. She worked under the direction of a professionally trained director at the childcare centre. As from January next year, with these changes, she is no longer going to have a job. The director has said to her, 'Look, under the arrangements that are coming in you don't have the qualifications,' so she is no longer going to be employed at that centre.

Part of this argument is going to be—and I think some members referred to this fact—are we going to be able to churn out enough TAFE trained people, etc., into the future? I think that is

going to be a challenge. To me, it just seems a shame for someone with the capacity to look after young children, babies and toddlers successfully—and give me a break, we have had four children so we have limited experience in terms of raising children.

I hear all the theories about education and learning and that you have to do this, that and whatever else, but a large part of looking after young children between nought and two and nought and three is actually just looking after them. There is not a huge amount in every day of the week going on in relation to education and learning. It is comforting them when they are crying. As their mum and dad leave in the morning and they are missing them, it is being able to soothe them and stop them from crying; it is being able to help them to eat; it is being able to help them to socialise; and it is comforting them when they fall over—all of those sort of parenting skills.

I have to say that personally—and again this is my personal view—particularly in relation to those people, as long as there is trained oversight of staff within the centre, I would much rather my children have a parent who actually has parenting skills and who has coped successfully. If I was given the choice of a parent with that sort of background or a younger person who has had no experience at all in parenting and comforting young children when they are upset, injured, tired, grumpy or grizzly, I know who I personally would have been happier with and would still be happy with in relation to my own children. I hasten to say that I accept that overall you have to have someone with the appropriate training to run the centres and to provide guidance to the lower-trained staff within those centres.

However, the inexorable path we are being forced to follow by legislation like this and others, which is being driven by ministers and bureaucrats and others, is to head down a path that is being outlined in this legislation on the basis that anything that reduces numbers and increases the skills is obviously better, whilst at the same time just throwing out the door this whole argument about who can actually afford the care that is being provided.

What is wrong with a system that actually leaves some choice within it, a system that says, 'Okay, here is the minimum level of standard in terms of the ratios and the quality of staff, etc., which gives you a reasonable level of care you can be comfortable with in terms of your own children,' and you can be charged for that? Then, if you want to pay more and get a higher level of care—a gold-plated service, for that matter—you can pay more, and the centres and services provide that.

In essence, that is what we have in our school system. We have a standard level of educational provision, which is provided through either government schools or low-fee non-government schools. Then, if you want to spend a fortune on a gold-plated service, you have a range of non-government options that you can go to if that is what you want. But we are not going down that path. I understand that there are federal funding issues that relate to this as well as decisions of the state.

But within child care, we are not going down that path at all. We are, in essence, gold-plating the service in every centre everywhere and saying, 'If you can't afford it, too bad.' Everybody is going to say—I have heard the argument already—'You are against having a gold-plated service for everyone.' If we could afford a gold-plated service for everyone and everyone could afford it, that is fantastic; I am all for it. However, the problem with the 'Let's have a gold-plated service for everyone,' is that a lot of people already cannot afford it and a lot more people will not be able to afford it under the proposed arrangements, and that is a question the government has no response to. In essence, the government says, 'Well, so be it.'

Then there is the other point I would make in relation to the staffing ratios issue, and we are having this debate about 1:5, 1:10, etc., in relation to years through to age five. People say, 'Well, I wouldn't want to cope with 1:5 at this particular age or 1:10 at this particular age,' or whatever it is, and the ratios we are talking about is one staff member per 10 children for that age group of three through to five. The reality is that, as soon as you turn five, you end up in a school. As soon as you turn five, your staff ratio is one staff member per around about 20 five year olds.

In the most disadvantaged schools in South Australia, I understand that the ratio may well be around 1:18. In the most advantaged schools, I understand the ratio might be one staff member to the low 20s. If you go to some non-government schools, let me assure you, for five year olds the staff ratio may well be 1: 25 or maybe up to 1:30 in certain circumstances. We are delivering and paying for a service that is arguing the toss about a 1:5 ratio and a 1:10 ratio and that we have to keep them at that particular level, yet two months later they move out of a 1:10 arrangement to

where it might be 1:20-odd. As I said, in some non-government schools it might be in the mid to high 20s in terms of the teacher-student ratio within those schools.

I have heard the response, 'Well, what we ought to do is reduce the teacher-student ratio in the junior primary to 1:12 or 1:15.' Again, terrific, but someone has to pay for it, and we are already struggling to pay for the school system and the education system, as we are struggling to pay for the health and hospital system as well. The argument about ratios in schools, as with the argument in relation to the degree of qualification within childcare centres, is a never-ending argument. In relation to the qualifications, I have already expressed my views on that argument, and we can explore a little more of that during the committee stage of the debate as well.

I indicate that I support the second reading of the bill, but there is much that needs to be explored in the committee stage. I have read press reports that the minister has conceded that she has listened to the concerns (according to *The Advertiser* on 5 November) and the government is going to give the childcare industry four more years to meet one of the key aspects of national early childhood reforms. She said that centres would now have until 2020 to fully meet the requirement to halve the ratio of children aged 24 to 36 months to a staff member from 10:5, and centres will need to achieve a ratio of one staff member to eight children in that age bracket from 2016.

My question to the minister is: where are the government's amendments to achieve this? As I said earlier, the minister is intent on trying to get early passage of this bill, but we certainly need to see the government's amendments, because the minister has made this commitment to the industry and to the public through the media. I am assuming she is going to move amendments to achieve that. My question to the minister is: when will see the amendments from the minister to meet the particular commitments that she has given?

In my view anyway, these delays just forestall what I think is bad policy, which will drive affordable child care out of the hands of more and more families. As I understand it, industry members—and they can answer for themselves—(or at least some of them) have indicated that they are prepared to support those particular changes or proposed amendments from the government. Certainly from our viewpoint, we need to see the details of those amendments so that we can look at them during the committee stage of the debate.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (17:53): I rise to conclude the second reading stage of this debate and I thank honourable members who have contributed to the debate so far. I also thank those who have indicated their support for this bill. I thank the Hon. Mr Lucas for his invitation to respond to his questions now, this evening, but with his indulgence I would prefer to do that during the committee stage.

I concur with the Hon. Mr Lucas when he said that this is a very significant piece of legislation. It represents significant reform for South Australia by amending both the Children's Services Act 1985 and the Education Act 1972 to lift the quality and standards of care and education in South Australia, and the government welcomed the opposition's support of this bill in the other place.

This bill has been an ambitious project; one that has been the culmination of much work and of an extensive consultation process with the education and early childhood sector over the past three years. It has been the subject of final intensive targeted consultation during the first half of this year, which has resulted in a number of improvements based on detailed contributions from stakeholders, particularly those from the independent and Catholic schooling sectors, early childhood service providers, Department for Education and Child Development, and the Non-Government Schools Registration Board, all of whom support the changes to our South Australian legislative framework that will be delivered by this bill. Indeed, there has been near universal support for the bill.

The bill creates a single act to regulate all education and early childhood services for children from birth to the end of schooling to best underpin South Australia's integrated service delivery approach. The bill ensures that providers who offer a range of services will be part of a streamlined and consistent regulatory approach, with a single body to relate to for any service they provide which is formally regulated, noting that different standards and requirements will apply to different service types, a change strongly supported during public sector consultation in South Australia.

It also maintains the state regulation of early childhood services which are not part of the new national system, while streamlining and improving the administration of the regulation of these

services. This bill establishes a single streamlined regulatory system in South Australia overseen by a single regulatory board whose membership includes sector representation which removes the department's role as both regulator and provider of services, a change long lobbied for and strongly supported during public and sector consultation in South Australia.

Provision of the right foundation for children and young people has always been a priority for those on this side of the house, and I think for most of us here. There is a substantial body of Australian and international evidence that clearly demonstrates the importance of the early years and the role that high-quality care and education services can have on a child's brain development and on their future intellectual and social potential. To use the words of the member for Unley in the other place:

> I believe that no longer can we sit back and say that early childhood centres are simply about minding children. There is an opportunity to invest in the children's future from the very early stages.

This is why so much of the sector supports this bill, because those who work with children know how important the early years are in their development. They know that the quality of care provided to children is extremely important. They know that families, together with the wider community, want the best for their children.

There has been some criticism of this bill in terms of the costs that these reforms will bring about. I remind the council that an independent analysis of the costs associated with improving quality has been undertaken. I am advised that Deloitte Access Economics has undertaken a thorough review of the cost implications of these reforms as part of the regulatory impact process. The report of their findings is publicly available as published in the Council of Australian Governments' Decision Regulatory Impact Statement released in December 2009.

This independent analysis determined that there would be increased costs associated with improving the quality of care and education provided to children, but clearly once the Australian government's childcare benefit and childcare tax rebate subsidies are taken into consideration, these reforms will have a relatively small impact on the costs of child care, while helping to dramatically improve the quality of child care.

It is essential that members understand that this bill does not in itself bring in the new standards for early years which will be regulated at the national level. The proposed standards which some in this private childcare sector are worried about are not contained within this bill. They are in the draft national regulations.

There is nothing in the Education and Early Childhood Services (Registration and Standards) Bill 2011 that will drive up fees or that should force the closure of centres. This is a national system cooperatively entered into by all states and territories, and the Australian government. As committed to by South Australia and all jurisdictions, the standards which will apply to nationally regulated education and care services (the overwhelming majority of which are already in South Australia's current childcare regulations) will be contained in the draft national regulations which under this bill will come into operation when they are made at a national level.

These national regulations will contain all the detail that all service providers nationally will work to. These national regulations contain specific chapters for each state and territory that will enable the move from the current requirements to full implementation of a consistent national standard by 2020. Any matters concerning transitional arrangements for South Australian or other jurisdictions' standards and the time frame for when requirements must be met during the transition period will be appropriately detailed in the national regulations.

It would be inappropriate for individual jurisdictions to detail or make reference to regulatory or operational matters in an application act. The draft national standards provide for progressive managed change between 2012 and 2020. The new national quality system agreed by COAG provides for ongoing monitoring of the effectiveness and impact of the implementation of the changes, with a formal review of the national quality framework, including the national law and regulations, scheduled for 2014.

The concerns about implementation time lines, which some sections of the private childcare sector have, are not contained within this bill. The national regulations, when made, will be subject to parliamentary scrutiny and will be implemented with the support of the parliament. The early childhood sector understands that any changes will be implemented progressively, with specific transitional provisions proposed in the national regulations to support existing services as they move into the new system over the next eight years.

The draft national regulations contain many general transitional provisions that will support existing services as they move towards full implementation of any new standards in 2020. South Australia, as with other jurisdictions, has specific transitional provisions included in the draft national regulations, which pushed back the time frame for introduction of specific standards that might be of concern to providers. The national law and draft regulations also enable services to apply for an exemption if they are unable to meet a particular standard. This maintains the current arrangements under the existing South Australian regulations.

I am advised that the Minister for Education and Child Development recently met with members of the childcare sector to better understand their concerns about the implementation of the national standards. The Weatherill government will continue to work with the childcare sector to address any concerns about the draft national regulations. The Education and Early Childhood Services (Registration and Standards) Bill 2011 will give the sector and the broader South Australian community a better, cohesive regulatory system in this state that is in the best interests of our children.

The new system, which will be implemented by the Education and Early Childhood Services (Registration and Standards) Bill 2011 will also provide the legal framework under which registration and approval standards for all services can be developed. This framework has been developed following extensive consultation with the education and care sectors. This bill is also about more than just the early years. It is also about providing a legislative framework that supports the effective and efficient delivery of all services to maximise benefits for students across the schooling sectors. It provides for the establishment of a new education and early childhood services registration and standards board to achieve a single regulatory body for all education and care services in South Australia, which will assume the regulatory responsibility of the Non-Government Schools Registration Board, which will act as a single regulatory authority for all services, regardless of which standard or requirements they must meet.

The bill ensures that the new regulatory system managed by the independent board will replace the myriad of regulatory systems under which providers of education and early childhood services currently operate. Further, the bill's deeming provisions will support a seamless transition for providers and users of schools and early childhood services, where they will be taken to be automatically approved or registered. The bill will enable providers, services and individuals who work in them to move into the new system easily, without increasing the administrative burden.

I believe that the bill this council is considering today is a sound piece of legislation that should be supported unamended. The bill has benefited greatly, thanks to all those in the education and early childhood sector who provided feedback in the development of this legislation. The education and early childhood sectors have demonstrated their ongoing commitment in shaping this legislation and bringing these much needed reforms to fruition. I commend the bill to all members, who can be confident that it is the result of meaningful consultation and is in the best interests of our state and, most importantly, our children, their families and those who provide services to them.

Bill read a second time.

In committee.

Clause 1.

The Hon. J.M.A. LENSINK: I think it would be prudent for us to report progress. There has been considerable discussion amongst various parts of the sector in the last 48 business hours, and I think it would be beneficial for everybody if we could all go away, particularly the crossbenches, and consider any potential amendments to the bill in the cold, hard light of not being pressed by parliamentary sittings.

Progress reported; committee to sit again.

WATER INDUSTRY BILL

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

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (18:07): 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.

Water is a vital environmental and economic resource. With the onset of climate change and the prospect of major economic and population growth, it is clear that South Australia must continue to plan for its water security, as well as encourage more diverse water supplies from an increasingly sophisticated and diverse water services sector.

For these reasons, the Water Industry Bill 2011 will provide a new legislative foundation for a 21st century water industry. This is an industry in which increasing numbers of players will have the opportunity to drive more efficient and innovative service delivery for the long-term benefit of South Australian consumers.

This Bill repeals the outmoded Waterworks Act 1932, Water Conservation Act 1936 and Sewerage Act 1929. It represents another step forward in the Government's water reform agenda and complements a range of existing water, environment and public health legislation, including:

- the Natural Resource Management Act 2004;
- the Environmental Protection Act 1993; and
- the Safe Drinking Water Act 2011.

A draft version of this Bill was tabled in Parliament on 23 November 2010. This allowed for further consultation with experts such as Professor Mike Young and Chief Scientist Don Bursill, as well as stakeholders such as the Local Government Association, the Water Industry Alliance, the South Australian Council of Social Services, the Council of the Ageing Seniors Voice and the Plumbing Industry Association.

The Government has taken the feedback on board and has produced a Bill that balances local industry's need for a more level playing field with the community's need for water service delivery that is safe, reliable, affordable and environmentally sustainable. It is clear from the 36 submissions and the broader consultation process that stakeholders support the need for stronger planning frameworks and modernised legislation for the water industry.

This is why the Bill seeks to enshrine in legislation a framework for open, transparent and collaborative water demand and supply planning, one that provides for:

- an assessment of South Australia's water resources;
- an assessment of current and future demand for water, including for the environment; and
- policies, plans and strategies to ensure the state's water supplies are secure, reliable and sustainable.

These planning provisions build upon existing processes to provide a comprehensive and integrated approach to ensuring the state's long term water security. In particular, they complement the Government's adaptive approach to water management under Water for Good, in which the Minister for Water Security (now Minister for Water) can trigger an independent planning process where demand is at risk of exceeding supply.

The Bill lays an appropriate legislative foundation for an efficient, competitive and innovative water industry. A key element of this is the introduction of independent economic regulation for the industry, with the appointment of the Essential Services Commission of South Australia (or ESCOSA).

Independent economic regulation provides a transparent means of setting service standards and prices. Ultimately this is about protecting the long-term interests of customers and encouraging efficient investment in infrastructure.

Consistent with these aims, from 1 July 2012 the legislation will require the provision of retail water services or sewerage services to be licensed by ESCOSA. Licensees will be required to comply with industry codes to be developed by ESCOSA, related to matters such as standard contractual terms and conditions, minimum standards of service and limitations on disconnection.

ESCOSA will also be empowered to make final price determinations on retail prices for water and sewerage services, with the first determination for SA Water to be applied from 1 July 2013. The Government has heeded the advice of industry and local government on the need to encourage participation by alternative providers and for this reason ESCOSA will have a range of options for regulating prices and service standards.

The Bill has been developed with an aim to minimise the regulatory burden and costs. This means the cost of a licence will not be onerous and will be proportionate to the size and scale of the operator. The Bill also includes a number of pathways for exemptions from licensing to be granted either by ESCOSA, the Minister or through regulations. The Bill also clearly provides that irrigation service providers will be exempt from the legislation.

The goal of achieving a more level playing field for all industry participants is also reflected in provisions related to land and infrastructure, as well as technical regulation. Industry participants, including local government operators, will now be afforded much stronger operational powers in relation to land access and the protection of infrastructure—powers traditionally enjoyed only by SA Water.

Similarly, SA Water will cease to be responsible for the technical regulation of plumbing. The Bill provides for the appointment of an independent technical regulator responsible for the enforcement of technical and safety standards for plumbing. The scope of this body will initially be limited to plumbing in connection with SA Water's infrastructure, however, an expansion of this role is being explored in consultation with local government. Any

proposal to expand the role will be subject of continued consultation with the Plumbing Industry Association and will take account of national reforms in occupational licensing.

The Government has heard and responded to industry's wish for earlier action on third party access. Action 77 in Water for Good originally proposed the development of a State-based third-party access regime by 2015. However, the imperative for earlier action is reflected in the Government's commitment in the Bill to bring forward a final report to Parliament within 12 sitting days of 1 August 2012. The report will address procedures for seeking access and dispute resolution, access pricing principles and compliance with national competition principles. Importantly, it will also address key stakeholder concerns about the need to protect public health and the environment and to maintain safety standards. This is a significant piece of work which will require continued consultation with industry and other stakeholders.

While the reforms in this Bill are good for industry, they are also good for the broader South Australian community. It is South Australian consumers who ultimately will benefit from the proposals in the Bill to regulate the terms and conditions of service and to encourage stronger competition and drive further investment and efficiencies in water and sewerage infrastructure.

The Bill also introduces a number of other important protections and safeguards for the South Australian community, including its most vulnerable citizens. The Bill requires water industry entities to participate in an ombudsman scheme determined or approved by ESCOSA. It is proposed that the existing energy ombudsman scheme be extended for this purpose.

A matter raised during consultation related to the possible disconnection of sewerage services for non-payment. Such a practice would have unacceptable public health implications. Accordingly, the Minister can use powers under the Bill to direct ESCOSA to ensure that domestic sewer services can be disconnected only in emergency situations, but not for non-payment. More generally, a water industry entity would have the power to restrict flow or disconnect water services for non-payment, but only in highly restricted circumstances. This would be in accordance with ESCOSA's code or any other licence condition imposed on the entity.

A further social welfare element of the Bill relates to concession schemes. Licence conditions will require water industry entities to comply with any concession scheme approved and funded by the Minister. An exemption scheme, to be approved and funded by the Minister, will be introduced to cover those charitable or community organisations who currently receive statutory exemptions from paying rates. Existing statutory exemptions for SA Water customers would continue as a transitional measure until a scheme is developed and implemented.

As it is important to protect low-income and regional consumers, the Minister will retain the power to require the relevant industry codes to include hardship provisions to assist customers who may be suffering specified types of hardship. In this respect, it will be critical for customers to have a range of accessible payment options, irrespective of location.

Similarly, in undertaking its price regulation function, ESCOSA would be required to comply with the requirements of any pricing order issued by the Treasurer. This is essential to manage the transition to independent economic regulation and to avoid any unexpected price shocks to consumers. It also ensures that important State Government policies, such as state-wide pricing, can be continued. Such arrangements will complement the concessions scheme and hardship provisions under the Bill, and they will be critical for vulnerable consumers and small regional communities.

Consistent with action 73 in Water for Good, the Government also remains committed to a review of pricing structures for water and sewerage services in the medium term. This will be undertaken by ESCOSA, who will be asked to examine matters such as property-based charging.

This review, along with the proposed report on third party access arrangements, will inform the next phase of the Government's water reform agenda and both will be important complements to the proposals in this Bill. Again, as with the proposals in this Bill, these initiatives will be the subject of major consultation with all interested stakeholders.

As Members can see, this Bill represents significant reform for South Australia's water industry and for all South Australians. It has been the subject of extensive consultation with industry and with community and environmental organisations.

The Bill strikes a balance between local industry's need for a more level playing field and the community's need for water service delivery that is safe, reliable, affordable and environmentally sustainable. As the driest state in the driest continent, it is imperative that the South Australian water industry continues to lead in innovative and efficient service delivery. This Bill provides the legislative foundation for this.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

3—Objects

The objects of the Bill are—

- to promote planning associated with the availability of water within the State to respond to demand within the community; and
- to promote efficiency, competition and innovation in the water industry; and
- to provide mechanisms for the transparent setting of prices within the water industry and to facilitate pricing structures that reflect the true value of services provided by participants in that industry; and
- to provide for and enforce proper standards of reliability and quality in connection with the water industry, including in relation to technical standards for water and sewerage infrastructure and installations and plumbing; and
- to protect the interests of consumers of water and sewerage services; and
- to promote measures to ensure that water is managed wisely.

4—Interpretation

This clause contains definitions of words and phrases used in the Bill, including water industry entity, water infrastructure, water service, sewerage infrastructure and sewerage service.

5—Interaction with other Acts

This clause provides that the Bill is in addition to, and does not limit or derogate from the provisions of any other Act. The clause also provides that the Bill does not apply to or in relation to certain Acts relating to irrigation or any person providing irrigation services designated by the Minister, except to the extent prescribed by the regulations. Further, subclause (4) provides that the Bill does not apply to any person or entity, or any circumstance, excluded from the operation of the Bill by the regulations.

Part 2—Water planning

6—Water planning State Water Demand and Supply Statement, which, under subclause (4), must be comprehensively reviewed at least once in every 5 years. The clause also provides for procedures relating to the State Water Demand and Supply Statement.

Part 3—Administration

Division 1—Functions and powers of Commission

7—Functions and powers of Commission

This clause provides that the Commission has the licensing, price regulation and other functions and powers conferred by the Bill and any other functions and powers conferred by regulation under the Bill (in addition to the Commission's functions and powers under the Essential Services Commission Act 2002. Further, subclause (2) provides that if water industry entities are required by licence condition to participate in an ombudsman scheme, the Commission must, in performing licensing functions under the Bill, liaise with the ombudsman appointed under the scheme.

Division 2—Technical Regulator

8—Technical Regulator

There is to be a Technical Regulator appointed by the Minister.

9—Functions of Technical Regulator

This clause sets out the functions of the Technical Regulator.

10—Delegation

The Technical Regulator may delegate powers to a person or body or a person for the time being occupying a particular office or position.

11—Technical Regulator's power to require information

The Technical Regulator may require a person to give the Regulator information in the person's possession that the Regulator reasonably requires for the performance of the Regulator's functions. A person guilty of failing to provide information within the time stated in a notice may be liable to a fine of up to $20,000.

12—Obligation to preserve confidentiality

The Technical Regulator is under an obligation to preserve the confidentiality of any information gained in the course of administering the Bill that could affect the competitive position of a water industry entity or other person or is commercially sensitive for some other reason.

13—Annual report

The Technical Regulator must deliver to the Minister a report on the Technical Regulator's operations in respect of each financial year and the Minister must cause a copy of the report to be laid before both Houses of Parliament.

Division 3—Advisory committees

14—Consumer advisory committees

The Commission must establish a consumer advisory committee to provide advice to the Commission in relation to the performance of its licensing functions under Part 4 of the Bill and to provide advice to the Commission, either on its own initiative or at the request of the Commission, on any other matter relating to the water industry.

15—Technical advisory committee

The Technical Regulator must establish a technical advisory committee to provide advice to the Technical Regulator, either on its own initiative or at the request of the Technical Regulator, on any matter relating to the functions of the Technical Regulator.

16—Other advisory committees

The Minister, the Commission or the Technical Regulator may establish other advisory committees to provide advice on specified aspects of the administration of the Bill.

Part 4—Water industry

Division 1—Declaration as regulated industry

17—Declaration as regulated industry

This clause declares the water industry to constitute a regulated industry for the purposes of the Essential Services Commission Act 2002.

Division 2—Licensing of water industry entities

18—Requirement for licence

This clause provides that a person who provides a retail service without holding a licence authorising the relevant service or activity is guilty of an offence (Penalty: $1,000,000). The clause also provides that SA Water is entitled by the force of the clause to hold a non-transferable licence under the Part appropriate to the services, operations or activities provided, carried on or undertaken by it from time to time.

19—Application for licence

An application for the issue of a licence must be made to the Commission.

20—Consideration of application

The Commission has, subject to this clause, discretion to issue licences on be satisfied of certain factors (including, for example, the suitability of the applicant to hold a licence and that the water infrastructure or sewerage infrastructure to be used in connection with the relevant service is appropriate for the purposes for which it will be used).

21—Licences may be held jointly

A licence may be held jointly by 2 or more persons.

22—Authority conferred by licence

A licence authorises the person named in the licence to provide services or to carry on operations or activities in accordance with the terms and conditions of the licence. Any services, operations or activities authorised by a licence need not be all of the same character or undertaken at the same location but may consist of a combination of different services, operations or activities provided or carried on at 1 or more locations.

23—Term of licence

A licence may be issued for an indefinite period or for a term specified in the licence.

24—Licence fees and returns

A person is not entitled to the issue of a licence unless the person first pays to the Commission the relevant annual licence fee, or the first instalment of the relevant annual licence fee, as the case may require.

The holder of a licence issued for a term of 2 years or more must—

- in each year lodge with the Commission, before the date prescribed for that purpose, an annual return containing the information required by the Commission by condition of the licence or by written notice; and
- in each year (other than a year in which the licence is due to expire) pay to the Commission, before the date prescribed for that purpose, the relevant annual licence fee, or the first instalment of the relevant annual licence fee, as the case may require.

The annual licence fee for a licence is the fee fixed, from time to time, by the Treasurer in respect of that licence as an amount that the Treasurer considers to be a reasonable contribution towards prescribed costs.

Subclause (7) defines prescribed costs to mean the costs of administration of the Bill and the Essential Services Commission Act 2002 relating to the water industry, any costs associated with the development by the State Government of policies relating to the water industry and any other costs prescribed by regulation.

25—Licence conditions

This clause provides that a licence held by a water industry entity must be made subject to conditions determined by the Commission. For example, a licence will be subject to a condition requiring compliance with applicable codes or rules made under the Essential Services Commission Act 2002 as in force from time to time.

26—Third party access

This clause provides that the Minister must publish a report about third party access to water infrastructure and sewerage infrastructure services.

27—Offence to contravene licence conditions

There is a penalty of up to $1,000,000 if a water industry entity contravenes a condition of its licence.

28—Variation of licence

The Commission may vary the terms or conditions of a water industry entity's licence by written notice to the entity.

29—Transfer of licence

A licence may be transferred with the Commission's agreement.

30—Consultation with consumer bodies

The Commission may, before issuing a licence, agreeing to the transfer of a licence or determining or varying conditions of a licence, consult with and have regard to the advice of the Technical Regulator, the Ombudsman holding office under the industry ombudsman scheme and the consumer advisory committee under Part 3.

31—Notice of licence decisions

The Commission must give an applicant for a licence, or for agreement to the transfer of a licence, written notice of the Commission's decision on the application or affecting the terms or conditions of the licence.

32—Surrender of licence

A water industry entity may, by written notice given to the Commission, surrender its licence.

33—Suspension or cancellation of licences

The Commission may suspend or cancel a licence on certain grounds with effect from a specified date.

34—Register of licences

The Commission must keep a register of the licences currently held by water industry entities under the Bill.

Division 3—Price regulation

35—Price regulation

Subject to this clause, the Commission may make a determination under the Essential Services Commission Act 2002 regulating prices, conditions relating to prices, and price-fixing factors for retail services.

The Treasurer may issue an order (a pricing order) that—

- sets out any policies or other matters that the Commission must have regard to when making a determination contemplated by this clause;
- specifies various parameters, principles or factors that the Commission must adopt or apply in making a determination contemplated by this clause;
- relates to any other matter that the Treasurer considers to be appropriate in the circumstances.

In addition to the requirements of section 25(4) of the Essential Services Commission Act 2002, the Commission must, in acting under subclause (1), comply with the requirements of any pricing order issued by the Treasurer.

Division 4—Standard terms and conditions for retail services

36—Standard terms and conditions for retail services

A water industry entity may, from time to time, fix standard terms and conditions governing the provision of services by the entity to customers of a designated class.

Division 5—Commission's powers to take over operations

37—Power to take over operations

If a water industry entity contravenes the Bill, or a water industry entity's licence ceases, or is to cease, to be in force and it is necessary, in the Commission's opinion, to take over the entity's operations (or some of them) to ensure an adequate supply of water to customers or the proper provision of any sewerage service (as the case may require) the Governor may make a proclamation authorising the Commission to take over the water industry entity's operations or a specified part of the water industry entity's operations.

38—Appointment of operator

When such a proclamation is made, the Commission must appoint a suitable person (who may, but need not, be a water industry entity) to take over the relevant operations on agreed terms and conditions.

Division 6—Related matters

39—Ministerial directions

The Minister may give directions to the Commission in relation to any prescribed matter (which is defined in subclause (4)).

Part 5—Powers and duties relating to land and infrastructure

Division 1—Water industry officers

40—Appointment of water industry officers

A water industry entity may, subject to conditions or limitations determined by the Minister, appoint a person to be a water industry officer for the entity. A water industry officer may only exercise powers under the Bill subject to the conditions of appointment, any limitations imposed by the Minister, and any directions given by the relevant water industry entity.

41—Conditions of appointment

A water industry officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position.

42—Identity cards

A water industry entity must give each water industry officer for the entity an identity card in a form approved by the Minister. A water industry officer must, before exercising a power in relation to another person, produce the officer's identity card for inspection by the other person.

Division 2—Management of land and infrastructure

43—Power to enter land to conduct investigations

A water industry entity may, by agreement with the occupier of land or on the authorisation of the Minister, enter and remain on land to conduct investigations or carry out any other form of work to assess the suitability of the land for the construction or installation of water/sewerage infrastructure. Procedures and matters related to investigations are set out.

44—Power to carry out work on land

An authorised entity may, at any reasonable time, enter and remain on land (including a road)—

- to construct, install, improve or add to any water/sewerage infrastructure; or
- to inspect, operate, maintain, test, repair, alter, remove or replace any water/sewerage infrastructure or equipment; or
- to lay pipes and install, operate or inspect pumps and other equipment; or
- to carry out other work in connection with the establishment or operation of any water/sewerage infrastructure or otherwise connected with any water service or sewerage service; or
- to obtain or enlarge a supply of water; or
- to protect, improve or restore the quality of water; or
- to protect any infrastructure or equipment connected with any water service or sewerage service; or
- to perform any other function brought within the ambit of this clause by the regulations.

The powers that may be exercised in the performance of a function set out above include—

- to dig, break and trench any soil or to excavate any land; and
- to remove or use any earth, stone, minerals, trees or other materials or things located on the land; and
- to sink wells or shafts; and
- to construct, make, maintain, alter, add to or discontinue any water/sewerage infrastructure; and
- to divert or hold any water; and
- to dig up, form or alter any road; and
- to construct workshops, sheds or other buildings of a temporary nature; and
- to undertake other activities or work as may be necessary or incidental to the performance of any such function.

Notice requirements, procedures and other administrative details relating to carrying out functions under this clause are set out.

45—Acquisition of land

A water industry entity may acquire land in accordance with the Land Acquisition Act 1969. However, a water industry entity may only acquire land by compulsory process under the Land Acquisition Act 1969 if the acquisition is authorised in writing by the Minister

46—Infrastructure does not merge with land

In the absence of agreement in writing to the contrary, the ownership of any infrastructure or equipment is not affected by the fact that it has been laid or installed as water/sewerage infrastructure on or under land (and so the infrastructure or equipment does not become a fixture in relation to the land).

47—Requirement to connect to infrastructure

A water industry entity involved (or proposing to be involved) in the sale and supply of sewerage services for the removal of sewage may apply to the Minister for approval of a scheme—

- that provides for the supply of sewerage services through the use of prescribed infrastructure; and
- that proposes that any owner of land adjacent to land where a designated part of the prescribed infrastructure is situated (other than owners (if any) excluded from the scheme) be required to connect to the prescribed infrastructure so as to become a customer of the water industry entity with respect to the sale and supply of the sewerage services under the scheme; and
- that has, in relation to the prescribed infrastructure, been approved by a prescribed body as being fit and adequate for the provision of services that are proposed to be offered under the scheme; and
- that complies with any other requirements prescribed by the regulations.

A scheme may—

- provide that any connection made by a person under the scheme comply with any requirements specified by the water industry entity after consultation with the Technical Regulator and the Health Department; and
- provide other requirements relating to the establishment, operation or management of the scheme that must be complied with by any owner of land adjacent to land where any prescribed infrastructure is situated; and
- provide for other matters specified by the water industry entity and approved by the Minister.

Administrative details and procedures relating to such schemes are set out.

Part 6—Protection and use of infrastructure, equipment and water and powers in relation to installations

Division 1—Protection of infrastructure, equipment and services

48—Encroachments

A person must not, without lawful authority—

- construct or place a building, wall, fence or other structure on or over any water/sewerage infrastructure, or create some other form of encroachment over any water/sewerage infrastructure (or any land directly associated with such infrastructure); or
- create any form of encroachment over any easement that exists for the purposes of any water service or sewerage service; or
- obstruct, fill in, close up or divert any water/sewerage infrastructure; or
- excavate or alter any land or structure supporting any water/sewerage infrastructure.

Procedures relating to encroachments are set out.

49—Protection of infrastructure and equipment

A person must not, without lawful authority—

- attach any equipment or other thing, or make any connection, to water/sewerage infrastructure; or
- interfere with the collection, storage, production, treatment, conveyance, reticulation or supply of water through the use of water infrastructure or the collection, storage, treatment, conveyance or reticulation of sewage through the use of sewerage infrastructure; or
- disconnect or interfere with any water/sewerage infrastructure, or any equipment associated with any water/sewerage infrastructure; or
- damage any water/sewerage infrastructure, or any equipment associated with any water/sewerage infrastructure.

Procedures relating to the protection of infrastructure and equipment are set out.

50—Notice of work that may affect water/sewerage infrastructure

A person who proposes to do work near water/sewerage infrastructure must give the relevant water industry entity at least 14 days notice of the proposed work if—

- there is a risk of equipment or a structure coming into dangerous proximity to water/sewerage infrastructure; or
- in the case of water infrastructure—there is a risk of the work affecting the quality of any water within, or reasonably likely to enter, the infrastructure; or
- the work may interfere with water/sewerage infrastructure in some other way.

If, in the circumstances of an emergency, it is not practicable to give the notice required above, and the notice is given as soon as practicable, a defence is available.

The regulations and a water industry entity may set out requirements for a person who does work near water/sewerage infrastructure to comply with. If a water industry entity suffers loss as a result of a contravention, the entity may recover compensation for the loss from a person guilty of the contravention on application to a court.

51—Duty to give notice before paving a road etc

Before beginning—

- to first lay the pavement or hard surface in any road; or
- to relay the pavement or hard surface in any road; or
- to widen or extend the pavement or hard surface in any road; or
- to alter the level of any road; or
- to construct or alter any footpaths, gutters, kerbing or water tables in any road; or
- to construct or alter any drainage work in any road,

in which there is any water/sewerage infrastructure, the person authorising or intending to do so must give the relevant water industry entity at least 14 days notice of the proposed work (being a notice that includes details of the nature and thickness of the pavement or hard surface proposed to be made or laid in any such work, and of any other work that is proposed to be undertaken).

The administrative details and procedures relating to work done under this clause are set out.

52—Unlawful abstraction, removal or diversion of water or sewage

A person must not, without proper authority—

- abstract or divert water from any water infrastructure; or
- abstract or divert any sewage from any sewerage infrastructure. (Penalty: $10,000 or imprisonment for 2 years).

A person must not install or maintain a pipe capable of conveying water beyond the boundaries of a site occupied by the person unless—

- the person is a water industry entity; or
- the person does so with the approval of a water industry entity that supplies water to the site; or
- the person is authorised under the regulations or is acting in any prescribed circumstances.

If a water industry entity suffers loss as a result of a contravention, the entity may recover compensation for the loss from a person guilty of the contravention on application to a court.

53—Water meters

A person who is supplied with water by a water industry entity must, if required by the water industry entity—

- allow a person authorised by the entity to enter land and fix a meter supplied by the relevant water industry entity;
- ensure that a meter of a kind specified by the entity is fixed and used for purposes of measuring water supplied to the person. (Penalty: $10 000 or imprisonment for 2 years).

A person may be required to fix or use a water meter supplied.

A person must not, without proper authority, interfere with, or bypass, a meter.

If a water industry entity suffers loss as a result of a contravention, the entity may recover compensation for the loss from a person guilty of the contravention on application to a court.

54—Discharge of unauthorised material into water infrastructure

A person must not, without proper authority, discharge any solid, liquid or gaseous material, or any other item or thing, into any water infrastructure. (Penalty: $25,000). If a water industry entity suffers loss as a result of a

contravention, the entity may recover compensation for the loss from a person guilty of the contravention on application to a court.

55—Discharge of unauthorised material into sewerage infrastructure

A person must not, without proper authority, discharge into any sewerage infrastructure any solid, liquid or gaseous material, or any other item or thing that is likely to damage the infrastructure (Penalty: $25,000).

A water industry entity may, in relation to any sewerage infrastructure operated by the entity, authorise the discharge of waste material, by a person (either on application or under a contract).

A person must not, without the authorisation of the relevant water industry entity, cause, permit or allow any rainwater, stormwater or surface water to flow into, or to otherwise enter, any sewerage infrastructure. (Penalty: $2,500).

If a water industry entity suffers loss as a result of a contravention, the entity may recover compensation for the loss from a person guilty of the contravention on application to a court.

56—Work to be carried out by owner at requirement of water industry entity with respect to sewerage infrastructure

In order—

- to provide for the proper treatment (including the deodorising) of waste material before it is discharged from land into a drain connected to any sewerage infrastructure; or
- to prevent the discharge of rainwater, stormwater or surface water into any sewerage infrastructure or to prevent the discharge into any sewerage infrastructure of waste material that has been prescribed as water material that may not be discharged into any sewerage infrastructure or that is, in the opinion of the relevant water industry entity, likely to damage or be detrimental to any sewerage infrastructure,

the relevant water industry entity may, by notice in writing served on the owner or occupier of the land, require the owner or occupier, within the time stated in the notice, to carry out work specified in the notice. A failure to comply with a notice under the clause attracts a penalty of up to $10,000.

The clause also sets out action that a person may be required to undertake under a notice, and administrative matters relevant to such action.

57—Power to disconnect drains or to restrict services

If a water industry entity has grounds to believe that material is being or has been (and that it is likely that a similar contravention will occur in the future) discharged from land into sewerage infrastructure in contravention of Part 6 Division 1, the entity may, after complying with any requirement prescribed by the regulations, close off or disconnect from the sewerage infrastructure 1 or more drains on the land that are connected to the infrastructure or restrict the provision of any sewerage service to the land. Before reopening or reconnecting a drain closed off or disconnected under this clause, the water industry entity may require the owner or occupier of the relevant land to pay the prescribed fee.

Division 2—Protection and use of water supply

58—Power to restrict or discontinue water supply

A water industry entity may lessen, prohibit or discontinue the supply of water (in accordance with subclause (3)) on certain grounds set out in subclause (1) (being grounds relating to matters such as the capacity to meet demand for water, standards relating to the quality or quantity of water supplied). The powers under this clause may only be exercised if justified in the circumstances. The clause also sets out administrative details and procedures relating to the exercise of such powers.

59—Power to require the use of devices to reduce flow

If a water industry entity believes on reasonable grounds that action under this clause is justified in the circumstances to supply water during periods of high demand, the entity may serve notice on the owner or occupier of land that is connected to water infrastructure operated by the entity. The clause sets out the things that a notice may direct an owner or occupier to do (and that a reasonable period for compliance must be set in the notice). If the requirements of a notice are not complied with, the water industry entity may install a flow reducing device to reduce the flow in the pipes on the relevant land notwithstanding that this reduction in flow will operate continuously instead of during the periods specified in the notice. A failure to comply with a notice attracts a penalty of $10,000 for a body corporate and $5,000 for a natural person.

60—Power to test and protect water

An authorised entity may, at any reasonable time, enter and remain on land—

- to test any water that constitutes, or is reasonably likely to constitute, water to be supplied in connection with the provision of water services under this Bill; or
- to avert, eliminate or minimise any risk, or perceived risk, to any water that constitutes, or is reasonably likely to constitute, water to be supplied in connection with the provision of water services under this Bill; or

- in the event that it appears that water that constitutes, or is reasonably likely to constitute, water to be supplied in connection with the provision of water services under the Bill, has been adversely affected, or is reasonably likely to be adversely affected, by any circumstance—to take action to address that situation.

For the purposes of this clause—

- testing under subclause (1)(a) may include taking samples of any water; and
- action taken under subclause (1)(b) or (c) may constitute such action as the authorised entity thinks fit, including by removing anything from any water or any other place; and
- action may be taken whether or not the water is located in any infrastructure.

The clause also sets out notice requirements and procedures relating to the exercise of powers under the clause, and powers that may be exercised in an emergency.

Division 3—Powers in relation to infrastructure and installations

61—Entry to land and related powers

A water industry officer for a water industry entity may, at any reasonable time, enter and remain in a place to which a water service or a sewerage service is supplied by the use of water/sewerage infrastructure operated by the entity—

- to inspect any infrastructure, equipment or other thing installed or used in connection with the supply, use or storage of water or the collection or removal of sewage (including on the customer's side of any connection point); or
- to read, or check the accuracy of, a meter for measuring the supply of water; or
- to install, repair or replace any infrastructure, meter, equipment or works (including where the infrastructure, meter, equipment or works have been installed by another person or are located on the customer's side of any connection point); or
- to investigate suspected theft of water; or
- to investigate whether there has been a contravention of Part 6 Division 1 or 2; or
- to see whether a hazard exists in connection with any infrastructure, equipment, works or other thing; or
- to take action to prevent or minimise any hazard in connection with the supply, use or storage of water or the collection or removal of sewage; or
- to take samples of any water or other material in any infrastructure, equipment or works, or on any land; or
- to exercise any other power prescribed by the regulations. Relevant matters to the entry of land under the clause are set out.

62—Disconnection etc if entry refused

If a water industry officer seeks to enter a place under Part 6 and entry is refused or obstructed, the water industry officer may, by written notice to the occupier of the place, ask for consent to entry by the water industry officer.

If entry is again refused or obstructed, the water industry entity may—

- if it is possible to do so—disconnect the supply of water to the place, or the collection of sewage from the place, or restrict the supply of services to that place, without entering the place; or
- if the above is not possible without entering the place—obtain a warrant under Part 10 to enter the place for the purpose of making a disconnection or restriction envisaged, and then enter the place under the warrant and take the relevant action.

A water industry officer may not enter a place under a warrant unless accompanied by a police officer.

The water industry entity must restore a connection if—

- the occupier consents to the proposed entry and pays the appropriate reconnection fee; and
- it is safe to restore the connection; and
- there is no other lawful ground for refusing to restore the connection.

63—Disconnection in an emergency

A water industry entity may, without incurring any liability, cut off the supply of water to any region, area, land or place if it is, in the entity's opinion, necessary to do so to avert danger to any person or property.

64—Special legislation not affected

Nothing in this Bill affects the exercise of any power, or the obligation of a water industry entity to comply with any direction, order or requirement, under the Emergency Management Act 2004, Environment Protection Act 1993, Essential Services Act 1981, Fire and Emergency Services Act 2005 or the Public and Environmental Health Act 1987.

Part 7—Technical and safety issues

65—Standards

The Technical Regulator may, by notice in the Gazette, publish standards—

- relating to the design, manufacture, installation, inspection, alteration, repair, maintenance (including cleaning), removal, disconnection or decommissioning of any infrastructure that is used, or is capable of being used, in the water industry, or any equipment connected to, or any equipment, products or materials used in connection with, any infrastructure that is used, or is capable of being used, in the water industry (including on the customer's side of any connection point); or
- relating to plumbing, including plumbing work or any equipment, products or materials used in connection with plumbing; or
- providing for any other matter that the Bill may contemplate as being dealt with or administered by a standard prepared or published by the Technical Regulator.
- if the above is not possible without entering the place—obtain a warrant under Part 10 to enter the place for the purpose of making a disconnection or restriction envisaged, and then enter the place under the warrant and take the relevant action.

A standard may—

- specify the nature and quality of the materials from which infrastructure or equipment must be constructed; and
- specify the design and size of any pipes or other equipment that may be connected to any infrastructure or used in connection with plumbing; and
- specify requirements in relation to the construction, installation or positioning of any infrastructure or equipment; and
- specify the number of pipes and other equipment that may be connected to any infrastructure or device; and
- specify the position of pipes and other equipment connected to any infrastructure or device; and
- specify requirements with respect to any products or materials used in connection with any infrastructure or plumbing; and
- specify the procedures to be followed when installing, inspecting, altering, repairing, maintaining, removing, disconnecting or decommissioning any infrastructure or equipment; and
- specify requirements relating to the operation, testing or approving of any infrastructure, equipment, products or materials; and
- specify examination and testing requirements; and
- specify performance or other standards that must be met by any infrastructure, equipment, products or materials (and, in doing so, specify methodologies or other processes or criteria for assessing compliance with those standards, including as to the efficiency, impact or effectiveness of any infrastructure, equipment, products or materials); and
- provide for any other matter prescribed by the regulations. The clause sets out procedural matters relating to standards.

66—Performance of regulated work

Any work to which subclause (1) applies (as specified by the regulations) must be carried out by a person with qualifications or experience recognised by regulations made for the purposes of this clause.

A person to whom subclause (2) applies (as specified by the regulations) who carries out specified work—

- in relation to any infrastructure that is used in the water industry; or
- in relation to any equipment connected to, or used in connection with, any infrastructure that is used in the water industry (including on the customer's side of any connection point); or
- in connection with plumbing (including on the customer's side of any connection point),

must ensure that—

- the work is carried out as required by a standard published under Part 7; and
- examinations and tests are carried out as required by standards published under Part 7.

A failure to comply with a notice under the clause attracts a penalty of up to $5,000.

67—Responsibilities of water industry entity

A water industry entity must, in relation to—

- any infrastructure used by the entity in the water industry; or
- any equipment connected to, or any equipment, products or materials used in connection with, any infrastructure used by the entity in the water industry,

take reasonable steps to ensure that—

- the infrastructure, equipment, products or materials comply with, and are used in accordance with, technical and safety requirements specified by standards published under Part 7; and
- the infrastructure, equipment, products or materials are safe and in good working order. (Penalty $250,000).

68—Responsibilities of customers

A customer who is supplied with a retail service must—

- ensure that any equipment located on his or her premises that is relevant to the operation of that service (being equipment located on the customer's side of the connection point) complies with any relevant technical or safety requirements and is kept in good repair; and
- take reasonable steps to prevent any water running to waste on the premises, or any waste material that should be discharged into a sewerage system to escape. (Penalty $2,500).

69—Prohibition of sale or use of unsuitable items

If, in the Technical Regulator's opinion, a particular component or component of a particular class is, or is likely to become, unsuitable for use in connection with the supply of water or the removal or treatment of sewerage, the Technical Regulator may—

- prohibit the sale or use (or both sale and use) of the component or components of the relevant class; and
- require traders who have sold the component in the State to take specified action (such as to recall the component from use and either render the component suitable for use or refund the purchase price on the component).

Procedures relating to a prohibitions and requirements are set out. A failure to comply with a prohibition or requirement attracts a penalty of up to $10,000.

70—Public warning statements about unsuitable components, practices etc

The Technical Regulator may, if satisfied that it is in the public interest to do so, make a public statement identifying and giving warnings or information about any of the following:

- components for any relevant equipment that, in the opinion of the Technical Regulator, are or are likely to become unsuitable for use and persons who supply the components;
- uses of relevant equipment or components for relevant equipment, or installation practices, that, in the opinion of the Technical Regulator, are unsuitable;
- uses of products or materials that, in the opinion of the Technical Regulator, are unsuitable;
- any other practices or circumstances associated with relevant equipment or components for relevant equipment.

Neither the Technical Regulator nor the Crown incurs any liability for a statement made by the Technical Regulator in good faith in the exercise or purported exercise of powers under this clause.

Part 8—Enforcement

Division 1—Appointment of authorised officers

71—Appointment of authorised officers

The Minister may appoint persons to be authorised officers, who may be assigned to assist 1 or more of the Minister, the Commission, or the Technical Regulator. An officer will be subject to control and direction by the Minister, the Commission, or the Technical Regulator under a scheme established by the Minister after consultation with the Commission and the Technical Regulator.

72—Conditions of appointment

An authorised officer may be appointed for a stated term or for an indefinite term that continues while the officer holds a stated office or position on the conditions stated in the instrument of appointment.

73—Identity cards

An authorised officer must be issued with an identity card in a form approved by the Minister. An authorised officer must, at the request of a person in relation to whom the officer intends to exercise any powers, produce for the inspection of the person his or her identity card (unless the identity card is yet to be issued).

Division 2—General powers of authorised officers

74—Power of entry

An authorised officer may, as reasonably required for the purposes of the administration or enforcement of the Bill, enter and remain in any place.

75—Inspection powers

This clause sets out various powers of an authorised officer who enters a place under

Part 6 of the Bill.

Division 3—Specific powers in relation to infrastructure and equipment

76—Disconnection of supply

This clause provides that if an authorised officer finds that water is being supplied or consumed contrary to the Bill, the authorised officer may disconnect the water supply. If a water supply has been so disconnected, a person must not reconnect the water supply, or have it reconnected, without the approval of an authorised officer

77—Power to make infrastructure etc safe

If an authorised officer finds any water/sewerage infrastructure or any equipment, product or materials unsafe, the authorised officer may—

- disconnect the supply of water to the place, or the collection of sewerage from the place, or give a direction requiring any such disconnection;
- restrict the provision of any service;
- give a direction requiring the carrying out of work necessary to make the infrastructure, equipment, product or materials safe before any reconnection is made.

Failure to comply with such a direction or to reconnect the water supply or sewerage infrastructure (as the case may be) unless the work required by the direction has been carried out, or an authorised officer approves the reconnection attracts a maximum penalty of $10,000.

Division 4—Related matters

78—Power to require information or documents

An authorised officer may require a person to provide information in the person's possession or produce documents relevant to the administration or enforcement of this Bill. Failure, without reasonable excuse, to comply with such a requirement may lead to a fine of up to $10,000.

79—Enforcement notices

An authorised officer may issue a notice (an enforcement notice) for the purpose of securing compliance with a requirement imposed by or under the Bill. The clause also provides for emergency enforcement notices, and sets out what may be included in a notice and relevant procedures relating to notices.

80—Self-incrimination

A person is not required to give information or produce a document under Part 8 if the answer to the question or the contents of the document would tend to incriminate the person of an offence.

However, if a person is required to give information or produce a document under this Part in circumstances prescribed by the regulations and the information or document would tend to incriminate the person of an offence, the person must nevertheless give the information or produce the document, but—

- if the person is a natural person, the information or document so given or produced will not be admissible in evidence against the person in proceedings for an offence (other than an offence relating to the making of a false or misleading statement or declaration); and
- if the person is a body corporate—
    - the information or document so given or produced will not be admissible in evidence against a director of the body corporate in proceedings for an offence (other than an offence relating to the making of a false or misleading statement or declaration); and
    - a director will not be guilty of an offence (other than an offence relating to the making of a false or misleading statement or declaration) as a result of the body corporate having been found guilty of an offence in proceedings in which the information or document so given or produced was admitted in evidence against the body corporate.

81—Warning notices and assurances

The Commission is authorised to issue a warning notice if it appears that a person has contravened a provision of Part 4 and the Technical Regulator is authorised to issue a warning notice if it appears that a person has contravened a provision of Part 7.

82—Injunctions

The District Court may, on the application of the Minister, the Commission, the Technical Regulator or any other person, grant an injunction (including an injunction requiring remedial action) if satisfied that a person has engaged or proposes to engage in conduct that constitutes or would constitute a contravention of this Bill.

Part 9—Reviews and appeals

83—Review of decisions by Commission or Technical Regulator

An application may be made to—

- the Commission by an applicant for the issue or variation of the terms or conditions of a licence under Part 4, or for agreement to the transfer of such a licence, for review of a decision of the Commission to refuse the application; or
- the Commission by a water industry entity for review of a decision of the Commission under Part 4 to suspend or cancel the entity's licence or to vary the terms or conditions of the entity's licence; or
- the Technical Regulator by a person to whom a direction has been given by the Technical Regulator or an authorised officer for review of the decision to give the direction; or
- the Technical Regulator by a person affected by the decision for review of a decision of an authorised officer or a water industry officer to disconnect a supply of water to a place, or the collection of sewage from a place, or to restrict the provision of a service.

The administrative details of implementing such an application are set out.

84—Appeals

The following rights of appeal lie to the District Court:

- an applicant for review under clause 83 who is dissatisfied with a decision as confirmed, amended or substituted by the Commission or the Technical Regulator; or
- a person to whom an enforcement notice has been issued under Part 8 Division 4.

The procedures of an appeal are set out.

85—Minister's power to intervene

The Minister may intervene, personally or by counsel or other representative, in a review or appeal for the purpose of introducing evidence, or making submissions, on any question relevant to the public interest.

Part 10—Miscellaneous

86—Minister's power to require information

The Minister may require the Commission, the Technical Regulator, a water industry entity or other person to give the Minister, within a time specified by the Minister (which must be reasonable), information in the person's possession that the Minister reasonably requires for the performance of the Minister's functions under the Bill.

87—Delegation by Minister

The Minister may delegate powers to a person or body or a person for the time being occupying a particular office or position.

88—Consultation between agencies

The following agencies must, insofar as they share common interests, consult with each other in connection with the operation and administration of the Bill:

- the Commission;
- the Technical Regulator;
- the Minister's Department;
- the Health Department;
- the Environment Protection Authority.

89—Seizure and dismantling of infrastructure

Water/sewerage infrastructure cannot be seized and dismantled in execution of a judgment (but this clause does not prevent the sale of infrastructure as a part of a going concern in execution of a judgement).

90—Water conservation measures

For the purposes of this clause, water conservation measures may do 1 or more of the following:

- prohibit the use of water for a specified purpose or purposes, or restrict or regulate the purposes for which water can be used;
- prohibit the use of water in a specified manner or by specified means, or restrict or regulate the manner in which, or the means by which, water may be used;
- in the event that it appears that water that constitutes, or is reasonably likely to constitute, water to be supplied in connection with the provision of water services under the Bill, has been adversely affected, or is reasonably likely to be adversely affected, by any circumstance—to take action to address that situation.

The Governor may, by regulation, introduce 1 or more water conservation measures, which may be declared to be for the purposes of taking action to provide for the better conservation, use or management of water (longer-term measures), or for the purposes of taking action on account of a situation, or likely situation, that, in the opinion of the Governor, has resulted, or is likely to result, in a decrease of the amount of water available within a particular area of the State (short-term measures).

The clause sets out procedures for regulations relating to water conservation measures.

91—Save the River Murray levy

This clause continues the Save the River Murray levy.

92—Save the River Murray Fund

This clause continues the Save the River Murray Fund.

93—Immunity

No act or omission undertaken or made by a designated entity, or by another person acting under the authority of a designated entity, exercising or performing a power or function under the Bill (including by discontinuing or disconnecting any service, taking action that may damage any land or property, or adversely affecting the use or enjoyment of any land or property) gives rise to any liability against the designated entity, person or the Crown.

Nothing done by a person in furnishing information to a designated entity in accordance with a requirement under this Bill—

- is to be regarded as placing the person in breach of contract or confidence or as otherwise making the person guilty of a civil wrong; or
- is to be regarded as placing the person in breach of, or as constituting a default under, any Act or other law or obligation or any provision in any agreement, arrangement or understanding; or
- is to be regarded as fulfilling any condition that allows a person to exercise a power, right or remedy in respect of or to terminate any agreement or obligation; or
- is to be regarded as giving rise to any remedy for a party to a contract or an instrument; or
- gives rise to any right or entitlement to damages or compensation.

94—Impersonation of officials etc

A person must not impersonate an authorised officer, a water industry officer or anyone else with powers under the Bill. (Penalty: $5,000).

95—Obstruction of officials etc

A person must not, without reasonable excuse, obstruct an authorised officer, a water industry officer, or anyone else engaged in the administration of the Bill or the exercise of powers under the Bill (Penalty: $10,000). Neither must a person must not use abusive or intimidatory language to, or engage in offensive or intimidatory behaviour towards, an authorised officer, a water industry officer, or anyone else engaged in the administration of the Bill or the exercise of powers under the Bill. (Penalty: $5,000).

96—Fire plugs

A water industry entity must, at the direction of the Minister, provide and maintain fire plugs, maintain various standards, and comply with any other requirements relating to the provision of water for fire-fighting purposes, in accordance with any scheme determined by the Minister for the purposes of the clause.

97—Obstruction of works by occupiers

An occupier of land must not—

- refuse to allow an owner of the land to enter the land and take action to comply with any provision of the Bill, or a requirement imposed under the Bill;
- without reasonable excuse, obstruct an owner of the land who is taking action to comply with any provision of the Bill, or a requirement imposed under the Bill. (Penalty: $5,000).

98—False or misleading information

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information furnished under the Bill. The penalty if the person made the statement knowing that it was false or misleading is $10,000 or imprisonment for 2 years. In any other case, the penalty is $5,000.

99—Offences

Proceedings for an offence against the Bill must be commenced within 5 years of the date of the alleged offence. The clause also contains procedures relating to offences and expiation notices.

100—General defence

It is a defence to a charge of an offence against the Bill if the defendant proves that—

- the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence;
- the act or omission constituting the offence was reasonably necessary in the circumstances in order to avert, eliminate or minimise danger to person or property

101—Offences by bodies corporate

If a body corporate is guilty of an offence against the Bill, each director of the body corporate is, subject to the general defences under this Part, guilty of an offence and liable to the same penalty as may be imposed for the principal offence.

102—Continuing offences

Provision is made for ongoing penalties for offences that continue.

103—Order for payment of profit from contravention

The court convicting a person of an offence against the Bill may order the convicted person to pay to the Crown an amount not exceeding the court's estimation of the amount of any monetary, financial or economic benefits acquired by the person, or accrued or accruing to the person, as a result of the commission of the offence.

104—Statutory declarations

A person may be required to verify information given under the Bill by statutory declaration.

105—Power of exemption

The Commission may, with the approval of the Minister, grant an exemption from Part 4, or specified provisions of that Part, on terms and conditions the Commission considers appropriate.

The Technical Regulator may grant an exemption from Part 7, or specified provisions of that Part, on terms and conditions the Technical Regulator considers appropriate.

The Minister may grant an exemption from any provision of the Bill, other than under Part 4, on terms and conditions the Minister considers appropriate.

The clause also sets out relevant matters relating to exemptions.

106—Application and issue of warrant

Application may be made to a magistrate for a warrant to enter a place specified in the application and the magistrate may issue one if satisfied that there are reasonable grounds for doing so.

107—Urgent situations

Application may be made to a magistrate for a warrant by telephone, fax or other prescribed means if the urgency of the situation requires it.

108—Evidence

This clause provides for evidentiary matters in any proceedings.

109—Service

The usual provision for service of notices or other documents is made in this clause.

110—Ventilators

A water industry entity may cause a ventilating shaft, pipe or tube for any sewerage infrastructure or drain to be attached to the exterior wall of a building, so long as the mouth of a shaft, pipe or tube is at least 1.8 metres higher than any window or door situated within a distance of 9 metres from its location.

111—Regulations

The Governor may make regulations for the purposes of the Bill.

Schedule 1—Appoint and selection of experts for District Court

This Schedule sets out provisions relating to the appointment and selection of experts for District Court.

Schedule 2—Related amendments, repeals and transitional provisions

This Schedule sets out related amendments to other Acts. The Sewerage Act 1929, the Water Conservation Act 1936 and the Waterworks Act 1932 are to be repealed. The Schedule also sets out various provisions addressing a number of transitional issues associated with the enactment of this new legislation.

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

At 18:08 the council adjourned until Tuesday 22 November 2011 at 11:00.