LEGISLATIVE COUNCIL

Wednesday 15 February 2012

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

ANSWERS TO QUESTIONS

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

PUBLIC SECTOR EMPLOYEES

86 **The Hon. R.I. LUCAS** (30 June 2010) (First Session). For the period between 1 July 2009 and 30 June 2010, will the Minister for Education list—

1. Job title and total employment cost of each position with a total estimated cost of $100,000 or more, which has been abolished; and

2. Each new position with a total cost of $100,000 or more, which has been created?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): The Minister for Education and Child Development has been advised:

Between 1 July 2009 and 30 June 2010 positions with a total employment cost of $100,000 or more:

(a) Abolished:

PUBLIC SECTOR ACT EXECUTIVE POSITIONS:

Department/Agency	Position Title	TEC Cost
Department of Education and Children's Services	Director, Strategy and Innovation	$127,554

EDUCATION ACT POSITIONS:

Note: Education Act positions are salaried and not based on a total employment cost. The salary figure shown does not include superannuation or other on costs.

Department/Agency	Position Title	TEC Cost
Department of Education and Children's Services	Assistant Director, ICT Transition	$119,043
Department of Education and Children's Services	Manager, Technology School of the Future	$112,656
Department of Education and Children's Services	Senior Project Manager, Education Works	$108,323
Department of Education and Children's Services	Senior Project Manager, Education Works	$112,656
Department of Education and Children's Services	Senior Project Officer	$102,964
Department of Education and Children's Services	Manager, Restructure Coordination	$107,083
Department of Education and Children's Services	Principal, McDonald Park Junior Primary School *	$101,505 *

*McDonald Park Junior Primary School amalgamated with McDonald Park Primary School to form the new McDonald Park Primary School.

(b) Created:

PUBLIC SECTOR ACT EXECUTIVE POSITIONS:

Department/Agency	Position Title	TEC Cost
Department of Education and Children's Services	Director, Capital Programs and Asset Services (2)	$175,000 (2)

Department/Agency	Position Title	TEC Cost
Department of Education and Children's Services	Director, Finance and Investment (3)	$195,000 (3)
Department of Education and Children's Services	Director, Corporate and Business Services (3)	$185,000 (3)
Department of Education and Children's Services	Assistant Director, ICT Infrastructure & Support Services	$144,042
Department of Education and Children's Services	Program Manager, Business Intelligence	$147,753
Department of Education and Children's Services	Executive Leader, EB Implementation (1)	$185,000 (1)

(1) Specific purpose role put in place to follow through the implementation of the Teachers Award negotiated through the recently arbitrated decision of the IRCSA

(2) Creation of this position supported by the abolishment of Senior Project Manager, Education Works roles

(3) These positions result from a restructure of the Resources portfolio.

EDUCATION ACT POSITIONS:

Note: Education Act positions are salaried and not based on a total employment cost. The salary figure shown does not include superannuation or other on costs.

Department/Agency	Position Title	TEC Cost
Department of Education and Children's Services	Program Manager, Curriculum Renewal	$107,083
Department of Education and Children's Services	Project Director, ICANS and Mentoring	$119,715
Department of Education and Children's Services	Leadership Coach—SILA Pilot Project (3.0 FTE)	$112,656
Department of Education and Children's Services	Manager, Improvement & Accountability: Low SES (3)	$112,656 (3)
Department of Education and Children's Services	Leadership Consultant (2.0 FTE)	$107,083
Department of Education and Children's Services	Program Manager, New SACE Implementation (2.0 FTE)	$107,083
Department of Education and Children's Services	Program Manager, new SACE Stakeholder Relations	$107,083
Department of Education and Children's Services	Programs and Resources Manager Years 3-12	$107,083
Department of Education and Children's Services	Director, Literacy & Site Improvement	$128,000
Department of Education and Children's Services	Consultant	$101,505
Department of Education and Children's Services	Program Manager, Curriculum Services	$107,083
Department of Education and Children's Services	Program Director, School Improvement Frameworks	$123,805
Department of Education and Children's Services	Numeracy Coordinating Field Officer (3)	$101,505 (3)
Department of Education and Children's Services	Literacy & Numeracy National Partnership Manager (3)	$107,083 (3)
Department of Education and Children's Services	Literacy Coordinating Field Officer (3)	$101,505 (3)
Department of Education and Children's Services	Program Manager, Student Mentoring & Youth Development (3)	$101,505 (3)
Department of Education and Children's Services	Program Manager, National Partnership (3)	$112,656 (3)
Department of Education and Children's Services	Diagnostic Review Officer (6.0 FTE) (3)	$107,083 (3)

Department/Agency	Position Title	TEC Cost
Department of Education and Children's Services	Project Manager, National EC Reform Agenda (3)	$107,083 (3)
Department of Education and Children's Services	Regional Leadership Consultant (10.0 FTE) (3)	$107,083 (3)
Department of Education and Children's Services	Principal, Blair Athol North School B-7 (1)	$107,083 (1)
Department of Education and Children's Services	Principal, Glenelg Primary School (2)	$107,083 (2)
Department of Education and Children's Services	Principal, Flagstaff Hill R-7 School (2)	$101,505 (2)
Department of Education and Children's Services	Principal, McDonald Park School (2)	$107,083 (2)
Department of Education and Children's Services	Principal, Melaleuca Park Primary School (2)	$101,505 (2)
Department of Education and Children's Services	Principal, Woodville Gardens School B-7 (1)	$112,656 (1)

(1) The above schools are Educations Works initiatives where Principals have been appointed.

(2) The above schools are resultant from the Junior Primary School and Primary School forming one R-7 School.

(3) These positions are new positions funded through COAG National Partnership funding for specific projects.

SACE BOARD OF SOUTH AUSTRALIA POSITIONS

Note: The below positions were created as short term positions to assist in the implementation of the new SACE.

Department/Agency	Position Title	TEC Cost
SACE Board of SA	Manager, Support Materials	$105,449
SACE Board of SA	Manager, SACE Results	$104,491

GOVERNMENT CAPITAL PAYMENTS

93 The Hon. R.I. LUCAS (30 June 2010) (First Session). What was the actual level of capital payments made in the month of June 2010 for each Department or agency then reporting to the Deputy Premier—

1. That is within the general Government sector; and

2. That is not within the general Government sector?

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): The Attorney-General advised:

1. Capital expenditure for Attorney-General's Department controlled items was $533,000 during June 2010. This represents expenditure for the Department as a whole.

2. Not applicable.

GOVERNMENT CAPITAL PAYMENTS

101 The Hon. R.I. LUCAS (30 June 2010) (First Session). What was the actual level of capital payments made in the month of June 2010 for each Department or agency then reporting to the Minister for Education—

1. That is within the general Government sector; and

2. That is not within the general Government sector?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): The Minister for Education and Child Development has been advised:

The total capital investing payments made in the month of June 2010 was $91.528m and was incurred by DECS, which is a general government sector agency.

There were no capital payments made in the month of June 2010 for the SACE Board of South Australia.

CONSULTANTS AND CONTRACTORS

118 The Hon. R.I. LUCAS (30 June 2010) (First Session). For the year 2009-10—

1. Were any persons employed or otherwise engaged as a consultant or contractor, in any Department or agency reporting to the Minister for Families and Communities, who had previously received a separation package from the State Government; and

2. If so—

   (a) What number of persons were employed;

   (b) What number were engaged as a consultant; and

   (c) What number engaged as a contractor?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): I have been advised of the following:

1. The Human Resource Unit of the former Department for Families and Communities retained data on employees of the agency who accepted a separation package from June 2006. There is no data available prior to this date.

No persons previously reporting to the former Department for Families and Communities who accepted a separation package from 2006, were employed within the former Department for Families and Communities in any capacity, for the year 2009-10.

2. Not Applicable.

HEALTH EXPENDITURE

231 The Hon. R.I. LUCAS (7 July 2011) (First Session). Can the Minister for Health advise the actual level for 2010-11 of both capital and recurrent expenditure underspending (or overspending) for all departments and agencies (which were not classified in the general government sector) then reporting to the Minister?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations): The Minister for Health and Ageing has provided the following information:

For the portfolios of Health and Mental Health and Substance Abuse the following advice is provided:

1. In 2010-11 there were no departments or agencies outside of the general Government sector that had budgets that the Minister for Health was responsible for monitoring actual results against.

EDUCATION AND CHILD DEVELOPMENT DEPARTMENT

232 The Hon. R.I. LUCAS (7 July 2011) (First Session). Can the Minister for Education advise the actual level for 2010-11 of both capital and recurrent expenditure underspending (or overspending) for all departments and agencies (which were not classified in the general government sector) then reporting to the Minister?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): The Minister for Education and Child Development has been advised:

There were no agencies reporting to the Minister that were classified as non-general Government sector.

PUBLIC SECTOR EMPLOYEES

292 The Hon. R.I. LUCAS (7 July 2011) (First Session). For the period between 1 July 2010 and 30 June 2011, will the Minister for Education list—

1. Job title and total employment cost of each position with a total estimated cost of $100,000 or more, which has been abolished; and

2. Each new position with a total cost of $100,000 or more, which has been created?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers): The Minister for Education and Child Development has been advised:

Between 1 July 2010 and 30 June 2011 positions with a total estimated cost of $100,000 or more:

(a) Abolished:

PUBLIC SECTOR ACT EXECUTIVE POSITIONS:

Department/Agency	Position Title	TEC Cost
Department for Education and Child Development	Assistant Director, Learning Technologies (1)	$128,757
	Director, SA Aboriginal Sports Training Academy (1)	$129,690

(1) These positions were abolished due to a restructure within the units in which they were located

EDUCATION ACT POSITIONS:

Note: Education Act positions are salaried and not based on a total employment cost. The salary figure shown does not include superannuation or other on costs.

Department/Agency	Position Title	TEC Cost
Department for Education and Child Development	# Principal, East Adelaide Primary School	$105,565
	# Principal, Grange Primary School	$105,565
	# Principal, Highgate Primary School	$105,565
	# Principal, Magill Primary School	$111,366
	# Principal, Salisbury Primary School	$105,565
	# Principal, Swallowcliffe Primary School	$105,565
	* Principal, Enfield High School	$111,366
	* Principal, Ross Smith Secondary School	$117,162
	* Principal, Gepps Cross Girls High School	$111,366
	* Principal, Ferryden Park Primary School	$105,565
	* Principal, Mansfield Park Primary School	$111,366
	* Principal, Ridley Grove Primary School	$111,366
	* Principal, Reynella East High School	$128,757
	* Principal, Reynella East Primary School	$105,565
	Superintendent, Social Inclusion	$129,484
	Program Manager, Language Inclusion & Aboriginal Culture	$111,366
	Superintendent, Site Physical Resources	$129,484
	Leadership Consultant x 2	$111,366
	Project Manager, Education Works	$105,565
	Project Director, Trade School for the Future	$129,484
	Program Manager, Curriculum Services	$107,083
	Program Director, School Improvement Frameworks	$123,805
	Project Manager, Education Works	$117, 162
	Literacy Co-ordinating Field Officer	$105,565

(*) The above schools are Educations Works initiatives.

(#) The above schools are resultant from the Junior Primary School and Primary School forming one R-7 School.

(b) Created:

PUBLIC SECTOR ACT EXECUTIVE POSITIONS:

Department/Agency	Position Title	TEC Cost
Department for Education and Child Development	Assistant Director, Financial Accounting Compliance	$125,025
	Project Director, SA Smarter School NP Secretariat	$122,061

EDUCATION ACT POSITIONS:

Note: Education Act positions are salaried and not based on a total employment cost. The salary figure shown does not include superannuation or other on costs.

Department/Agency	Position Title	TEC Cost
Department for Education and Child Development	# Principal, East Adelaide School	$111,366
	# Principal, Grange R-7 School	$117,162
	# Principal, Highgate R-7 School	$117,162
	# Principal, Magill School	$122,960
	# Principal, Modbury West School	$105,565
	# Principal, Salisbury Primary School	$111,366
	# Principal, Swallowcliffe School K-7	$111,366
	* Principal, Roma Mitchell Secondary College	$133,946
	* Principal, Blair Athol North School B-7	$111,366
	* Principal, Woodville Gardens School B-7	$122,960
	* Principal, Morphett Vale Primary School	$105,565
	* Principal, Reynella East College	$133,946
	* Principal, Lake Windemere CPC-7 School	$117,162
	Program Manager, Industry Skills Program	$111,366
	Programs and Resource Manager, ESL	$111,366
	Program Manager, Standards Assessment & Reporting	$111,366
	Program Manager, General Capabilities & CCP	$111,366
	Manager, PPP Contract Administration	$117,162
	Project Program Manager, APY TTC	$105,565
	Assistant Director, Schools & Preschools ICT Strategies	$128,757
	Diagnostic Review Officer x 2	$111,366
	Manager Childhood Reform	$117,162

(*) The above schools are Educations Works initiatives.

(#) The above schools are resultant from the Junior Primary School and Primary School forming one R-7 School.

TOURISM COMMISSION

317 The Hon. T.J. STEPHENS (27 July 2011) (First Session). Can the Minister for Tourism advise the total operating cost of the Rugby Sevens including set-up and disassembly costs?

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): I have been advised of the following:

1. The South Australian Tourism Commission was a sponsor of the Rugby Sevens Adelaide and was not responsible for the operational costs or overall budget for the event.

LEGISLATIVE REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:20): I bring up the 1st report of the committee.

Report received.

PAPERS

The following papers were laid on the table:

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

Reports, 2010-11—
Murray-Darling Basin Authority
National Environment Protection Council
South Eastern Water Conservation and Drainage Board
Teachers Registration Board of South Australia

GM HOLDEN

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) (14:21): I table a copy of a ministerial statement from the Premier, Hon. J. Weatherill, on the topic of the economic contribution of GM Holden.

QUESTION TIME

SOUTH AUSTRALIAN TRAVEL CENTRE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:24): I seek leave to make an explanation before asking the Minister for Tourism a question about the visitor information centre.

Leave granted.

The Hon. D.W. RIDGWAY: In what the tourist industry, a major $4 billion a year enterprise in this state, regards as a dumb and illogical move, the government moved a popular, well-sited visitor information centre from its highly visible King William Street location to an underground bunker in Grenfell Street. The building in Grenfell Street was owned by a man known as Bob Foord.

The move from the new building to the old, and the outsourcing of the tourism information visitor centre to a private company, was initiated by the then chair of the South Australian Tourism Commission, who is also called Bob Foord; they are one and the same gentleman. It gets more interesting. The Grenfell Street premises were run by a company called Holidays of Australia. Mr Foord has a family connection with this company through his son-in-law, Mr Ben Mead. When all of this inconvenient truth came out, Mr Foord denied any wrongdoing.

It next emerged that Mr Foord had reorganised his business-cum-family affairs so that his son-in-law, who had been chief executive of the Foord's Proud Australia company, became the chief of Holidays of Australia. Mr Foord then stretched my imagination by claiming the deal had been, and I quote, 'handled with great probity. I did not know as chairman that my son-in-law was even bidding'.

On 22 June 2011, the Deputy Premier and then tourism minister, the Hon. John Rau, announced an inquiry. Mr Rau said that it would be probed by the Auditor-General. On 26 July 2011, Bob Foord tendered his resignation to John Rau, still denying any wrongdoing and claiming the successful outsourcing of the travel centre would be 'hindered' if he remained as chairman. The results of that investigation have never been released. There has been no announcement from Mr Rau or the current minister that the inquiry has been completed, what it found and what it has recommended. My questions to the minister are:

1. How long does it take to conduct an investigation?

2. Is eight months long enough?

3. If it is, why has the inquiry not released its findings?

4. Have you seen the results of the inquiry?

5. Will you now do the decent thing and share that with us?

6. Do you repudiate Mr Weatherill's mantra for open and transparent government?

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) (14:26): I thank the honourable member for his important questions. From 1 July 2011, Holidays of Australia, an existing holiday travel business which packaged South Australian and Australian holidays, commenced a licensing agreement to also operate the South Australian Travel Centre. The Travel Centre answers inquiries and facilitates travel bookings for walk-in visitors and

consumers who telephone. The Travel Centre also responds to various inquiries and bookings generated by SATC's website.

The decision to relocate this service to HOA was part of the budgetary savings measures put forward by Tourism. As we know, savings were required to be made across all agencies, and Tourism was required to contribute its share of those savings. This was a strategy where they believed that locating the service to an existing holiday service and expanding that to provide the broader statewide services was a good option.

A tender process was conducted by the chief executive and the tender that won that outcome was, as we know, Holidays of Australia. I understand that SATC undertook the tender process and made the assessments at that time. It then came to light that Mr Foord was a board member and at the time—

The Hon. D.W. Ridgway: He was the chairman: he wasn't a board member.

The Hon. G.E. GAGO: He was the chair, I should say, of the SATC board at the time. He took it upon himself to resign. He was not asked to, but he believed it was in the best interests at that time to stand down. At the time I believe the Attorney-General, then minister for tourism, referred the matter to the Auditor-General for investigation, and I am advised that the Auditor-General is yet to report to the commission.

However, the previous minister for tourism referred the circumstances surrounding the grant of the licence to the Crown, as well as the processes that were used. The Crown has investigated the Travel Centre matter, and I have seen that advice. I have also received advice from the agency and, as I indicated yesterday, had a number of meetings with members.

Obviously I considered that advice very carefully, and my conclusion is that I believe a very sound, structured process was followed. However, some deficits—mainly administrative—were found, and I have since written to the SATC board asking it to ensure that certain processes and issues were addressed. Amongst the issues I asked it to address were the adequacy of the induction program for board members; ensuring board processes and regular maintenance of a conflicts register; adherence to contracting processes, including statutory government processes to execute documents and authorisations; and also adequacy of communication lines between commission employees and management.

I have sent that correspondence, and I have since met with both the current chair of the board and the chief executive and been advised that these matters are well on the way to being resolved. I am absolutely assured that, regarding the matters that led to the situation of the chair hearing a recommendation from the chief executive about a tender process that involved a family member, those administrative matters that needed tightening up have been tightened up. As I said, those problems are well on the way to being addressed.

SOUTH AUSTRALIAN TRAVEL CENTRE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:32): I have a supplementary question. When does the minister expect that the Auditor-General will report to the parliament on this particular issue?

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): The honourable member would be better asking that question of the Auditor-General. As we know, the Auditor-General has a set of priorities and works very hard. He progresses matters in as timely a way as he possibly can. He has not given me an indication but, as I said, it is a question best directed to the Auditor-General.

SOUTH AUSTRALIAN TRAVEL CENTRE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:33): As a further supplementary, does the minister support the relocation of the office from a main street location to a side street, underground location?

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) (14:33): The issue of this type of service is one of access and visibility. We have worked very hard, and HOA has worked very hard, to address those issues and I believe they are continuing their efforts to address those issues.

SA HEALTH ALCOHOL AWARENESS CAMPAIGN

The Hon. S.G. WADE (14:33): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the SA Health alcohol campaign.

Leave granted.

The Hon. S.G. WADE: SA Health is running a 'Drink too much, you're asking for trouble' campaign. The campaign uses television advertisements and posters to graphically depict the negative impacts of drinking too much alcohol in terms of health, safety, legal and social harms. One advertisement and poster set, entitled Friends, depicts a scene where an intoxicated woman is sitting crouched over a toilet bowl. Under the image of the woman is the slogan, 'Drink too much, you're asking for trouble.' The trouble referred to is not specified. In the TV advertisement it could be implied that the trouble is workplace bullying but in the poster there is no such context.

I remind the minister of the government's commitment to make clear that women who are the victims of sexual assault are not responsible for the crime committed against them. They are not asking for trouble. Further, the government is moving to legislate against humiliating and degrading images. As a matter of principle, whatever the form of abuse—workplace, sexual violence or other—it is important that we do not excuse perpetrators by saying that victims were asking for trouble. When one hit can kill, nobody was asking for it.

The Health website says the 100 males aged 18 to 29 and the 100 females aged 18 to 29 participated in focus groups that helped shape the campaign. Focus group participants fed back that the campaign needed to 'tell it how it is'. My concern is that telling it how it is with alcohol abuse does not undermine the way we want things to be in terms of other forms of abuse.

I ask the minister: will the minister take steps to ensure that this advertisement is reviewed, including with focus groups, to ensure that it does not undermine other public health and safety messages, particularly violence against women?

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) (14:36): I would be very happy to do that. I have actually not seen the advertisement—no; you do not need to give it to me now. I will see it. We don't need dramas in the chamber that are in breach of standing orders.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: They are in breach of standing orders.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: Well, if he wants to seek leave to table it, he can. The point is that I have said that I would be most willing to review those. I have not seen them, and I would be happy to have a look at them. From what the member describes, a woman—anybody, for that matter—vomiting into a toilet bowl with a sign that says, 'Don't drink too much, you are asking for trouble' suggests to me that if you drink too much you are asking to be sick. That is what that sign says to me.

If the wording in that particular poster, or any other communication, is suggesting something broader than that—certainly a woman vomiting into a toilet bowl does not suggest sexual violence to me—as I said, I am happy to have a look at that series of posters and other messages, because I certainly and absolutely do not support sending confused messages to members of the public; and victims of any form of violence should not be portrayed as perpetrators in some way. So, as I said, I am more than happy to have a look at those and, if I need to take action, I certainly will.

SA LOTTERIES

The Hon. R.I. LUCAS (14:38): I seek leave to make an explanation prior to directing a question to both the Leader of the Government and the minister representing the South Australian Lotteries Commission on the subject of the South Australian Lotteries Commission.

Leave granted.

The Hon. R.I. LUCAS: On 23 February last year and again on 29 July last year, I asked a question of the Leader of the Government, as the minister in charge of SA Lotteries, a series of questions about her knowledge of the decision of officers in her ministerial office to privatise the

Lotteries Commission. Also, I referred to some work that had been done by ABN AMRO in relation to a valuation of the Lotteries Commission in a series of questions asked on 29 July. Unsurprisingly, those questions remain unanswered.

Mr President, as you are aware, the government last year announced its decision to proceed with the privatisation of the South Australian Lotteries Commission. That decision has been met with considerable anger by people in the community but, in particular, newsagents. In recent weeks, newsagents in both metropolitan and regional areas have been receiving telephone calls and letters from the Lotteries Commission threatening them with a potential loss of their agency agreement to sell Lotto products.

Some newsagents who had only expressed the mildest of criticisms in the media—one who just indicated he had concerns about the government's decision—have received these particular threats. A story in a regional newspaper, the Mount Barker *Courier*, stated:

> Several newsagents contacted by the Courier declined to comment saying SA Lotteries had threatened to strip them of their lotteries licences if they did so.

There is a further quotation from one particular unnamed newsagent who did go on to express his or her concerns about the decision by the government to privatise.

A number of these newsagents not only received telephone calls but also received official warning letters from the Lotteries Commission claiming that any media comment at all was in breach of SA Lotteries policy and of their agency agreement with the Lotteries Commission. The warning letters quote the following clause from the agent procedure manual:

> Agents are not authorised to comment to the media with respect to SA Lotteries or its products. Any media request must be immediately referred to public relations.

My questions to the Leader of the Government and to the minister are:

1. What discussions, if any, have there been between the South Australian Lotteries Commission staff and officers in the minister's office about stamping out dissent from any newsagents about the government's decision to privatise the South Australian Lotteries Commission?

2. Since January 2002, and up until the time of the decision announced by the government to privatise the South Australian Lotteries Commission, were any newsagents ever warned about speaking to the media and sent official warning letters quoting this particular clause of the agent procedure manual and, if so, how many?

3. Will the Leader of the Government indicate why, for a period of 12 months now, she has persistently refused to provide any answers to the questions asked by me, originally in February of last year and again in July last year, about the decision to privatise the South Australian Lotteries Commission, and is the leader now prepared to indicate to the house that she will ensure that answers to these questions are promptly provided to this chamber?

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) (14:42): I thank the honourable member for his important questions. I remind the honourable member that the government is not privatising lotteries. We are entering into a lease arrangement; we retain ownership of intellectual properties and also the royalties back to South Australians, so he is quite mischievous there. I am happy to refer those questions to the Minister for Business Services and Consumers in another place and bring back a response.

SA LOTTERIES

The Hon. R.I. LUCAS (14:43): By way of a supplementary question, is the minister prepared to ensure answers to the questions I put to her in February and July of last 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) (14:43): They are now the responsibility of the current Minister for Business Services and Consumers.

AUSTRALIAN YEAR OF THE FARMER

The Hon. G.A. KANDELAARS (14:44): I seek leave to make a personal explanation before asking the Minister for Agriculture, Food and Fisheries a question about the Year of the Farmer.

The Hon. J.S.L. Dawkins: A personal explanation?

The PRESIDENT: I brief explanation, I think.

The Hon. G.A. KANDELAARS: Yes, a brief explanation.

Leave granted.

The Hon. G.A. KANDELAARS: As a member of the council, I am aware that some professions do not get the attention or accolades they deserve; indeed, some fields of endeavour are unsung, despite their importance to the community. One such occupation is farming. Can the minister inform the house about the activities planned for 2012, the Year of the Farmer?

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) (14:44): I thank the honourable member for his most important question, and I have the pleasure of meeting many people and the great privilege of representing the whole state and not just a portion of it. Indeed, the great synergies generated by the various portfolios I hold mean that I, more than most, have an opportunity to visit quite a wide range of different parts of our wonderful state to see firsthand a range of endeavours.

Farming is certainly an iconic occupation in Australia and the source of much of our national mythology and pride, and also our economic prosperity and social prosperity. There are, of course, good reasons for this event, such as the 1890s shearers' strike which helped in the formation of the labour movement—

The PRESIDENT: Hear, hear!

The Hon. G.E. GAGO: That is right, sir—and inventions such as the stump-jump plough which have kept us at the forefront of agricultural development and, of course, farmers play a vital role in feeding and clothing all of us. The Australian Year of the Farmer 2012 is a year-long celebration in recognition of this very vital role.

It is an Australia-wide event to celebrate the contribution of farming in Australia run by a private company with a board of directors sourced from across the country with a variety of agricultural backgrounds. This event aims to raise our consciousness and recognise the contribution which farmers make to sustain our way of life and economy. Agriculture has always played a key role in Australia's prosperity, and I understand that each year farm and farm-related industries inject more than $405 billion into our economy. That is 27 per cent of Australia's GDP.

Farm Facts 2011, published by the National Farmers' Federation, lists South Australia as having 12,868 farms and that our three largest commodities by gross dollar value are wheat at $618 million, fruits and nuts (excluding grapes) at $504 million, and vegetables at $476 million. As well as the contribution to GDP, farming and agricultural activities have helped create our rural and regional communities.

Infrastructure such as roads, ports and jetties were often originally created to support farming activity so that produce could be delivered and transported to market for sale. Regional towns have sprung up to service the needs of outlying properties to supply the groceries to support shearers' significant calorific requirements and to supply farmers with seed, farm machinery, medical services and schools. It is a proud history, and the development and progress of agriculture in South Australia is set to be showcased in an updated website during the year.

PIRSA is the administrative arm of the South Australian government working most closely with the agricultural sector. It will also be promoting the role of farmers through its internal and external communications throughout the year. It is working with a range of partners, including Adelaide City Council and the Royal Agricultural and Horticultural Society, to develop feature events that will be held in the heart of Adelaide in Rundle Mall. These events will be able to point to the myriad ways in which farming and farmers touch and enhance our lives, whether through fibres such as wool, or food such as flour and wheat for pasta, or fruit and vegetables, and of course our grape and wine production.

This year I am advised that the Australian Year of the Farmer Ltd has confirmed that it will conduct a range of roadshow events in South Australia, including some at other iconic rural life and agricultural shows from Kangaroo Island, Angaston, Maitland, Mount Barker, Kapunda—there are a number. These events, like the recent advertising feature on agricultural careers in *The Advertiser*, will help to highlight the wide range of careers and opportunities for young people in this diverse industry.

My agency will partner with the Agricultural Societies Council of South Australia to help promote the role of young farmers and their participation in agricultural shows through the Rural Ambassador Awards. These awards, which are expected to attract entrants from country shows and rural associations lead to state finals, before a male and female rural ambassador winner is then chosen at the Royal Adelaide Show in September 2012.

I am advised that our farmers are amongst the best and most efficient in the world. This is one of the greatest stories never told and I hope that this will get the message out. This cohort of farmers is very good at what they do and we all benefit from this productivity and innovation. Obviously members in this place are very aware that farming is not an easy occupation, and certainly in recent times, with the succession of droughts and then floods, for a lot of those on the land it has not been easy, not to mention the locusts, mice and goodness knows what else.

Despite these tribulations, I can report that in my interactions with those on the land, the farming communities remain strong and very resilient. I have commented previously in this place on that resilience but it is a quality that should never be taken for granted. Obviously we have recently had a food scorecard and the statistics help to demonstrate the importance of agricultural and horticultural sectors not only to South Australia and our regional communities but to the nation as a whole. I clearly commend the Year of the Farmer 2012 to the chamber.

AUSTRALIAN YEAR OF THE FARMER

The Hon. J.S.L. DAWKINS (14:51): A supplementary question. Will the minister indicate the level of financial support the government has given to the Australian Year of the Farmer Ltd. to conduct the celebrations in South Australia?

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) (14:51): We will be contributing financially. I do not have the figure with me today but there will be some up-front monetary cost, but probably more important than that is the great deal of in-kind costs that our staff will be contributing to assist in a range of events and assisting in promoting material through our website and also through our other communications. There is a great deal of in-kind support as well.

HOUSING SA TENANTS

The Hon. R.L. BROKENSHIRE (14:52): I seek leave to make a brief explanation before asking the Minister for Communities and Social Inclusion a question about social housing.

Leave granted.

The Hon. R.L. BROKENSHIRE: I have received allegations from constituents that on occasions in the past and possibly also at this time members of outlaw motorcycle gangs are either living in Housing SA properties for which their spouse or domestic partner are the tenants or are indeed the tenants themselves. My questions are:

1. Does the minister know how many OMCG members are living in Housing SA properties?

2. Will the minister establish a protocol with SA Police so they can access public housing data to locate OMCG members?

3. Can the minister explain why outlaw motorcycle gang members live at taxpayer expense in public housing when at last count 22,760 were on the waiting list to get into these homes?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:53): I have to say at the outset that we do not ask housing trust tenants or applicants when they apply for a housing trust property whether in fact they are a motorbike rider, whether in fact they are a member of an outlaw criminal gang, whether in fact they are stevedores or whether in fact they are members of the Port Adelaide Football Club. These are not things that we ask people when they come to see us and apply for a housing trust property. They are not things that are put on the application form and, quite frankly, even if we did ask if they were members of an outlaw motorcycle club, it is highly likely that they would not tell us.

LOCAL GOVERNMENT DISASTER FUND

The Hon. CARMEL ZOLLO (14:54): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the local government disaster fund.

Leave granted.

The Hon. CARMEL ZOLLO: I understand that several regional councils have made applications for financial assistance under the local government disaster fund guidelines. Can the minister please provide the chamber with further information on this matter?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:54): I thank the honourable member for her very important question. I am pleased to advise that as part of the Mid-Year Budget Review the government approved $15.5 million to be drawn down from the Local Government Disaster Fund to help regional councils affected by the natural disasters that have occurred in the past 15 months.

Storms in December 2010 and February 2011 over the northern, mid-north and western regions of South Australia caused extensive wind and flood damage to local government infrastructure in a number of adjoining councils, including Goyder, Flinders Ranges, Clare and Gilbert Valleys, Barossa, Light, Orroroo, Carrieton, Northern Areas and Peterborough. An additional application was received from the Corporation of the City of Whyalla for damages sustained to their foreshore seawall as a result of a king tide surge in May 2011.

I recently visited the Light Regional Council, the Regional Council of Goyder, Mid-Murray Council, the District Council of Peterborough, the Whyalla City Council, and the Clare and Gilbert Valleys Council, and personally informed the representatives of each of these councils of the payments approved by cabinet.

Members may be aware that the fund was established in 1990 to assist local governments when faced with the cost of repairing or replacing uninsurable infrastructure. The fund was originally expected to self-generate top-ups through interest on the capital. They were originally funded by a percentage of the Financial Institution Duty which was abolished when the GST came into operation back in the 1990s.

The government, in partnership with the LGA and the local government sector, will undertake a comprehensive review to ensure the fund's ongoing viability. The terms of reference for the review are currently being drafted and will be announced shortly. The review, with input from the Department of Treasury and Finance and SAFECOM, will look at avenues for restoring the fund's capital base.

I think it is important to realise that when the FID was abolished, through the introduction of the GST, it really was incumbent upon the government of the day (now the opposition) to actually find a way of replenishing that fund. Over the years, as a number of disasters have occurred, it has left the fund vulnerable. It has also left the council—

Members interjecting:

The Hon. R.P. WORTLEY: The best time to actually fix up a problem is when it first arises. The best time to fix this problem when they did away with the FID was to find some other source of income to replenish the fund. I can assure you that I, as minister, and the Treasury and the Local Government Association will certainly be looking at ways of fixing up the problem created by those now on the opposition benches. The substantial financial commitment of $15.5 million is an example of this government's willingness to step up to the plate and assist local governments and our regional communities.

COMMUNITY AND HOME SUPPORT SA

The Hon. K.L. VINCENT (14:58): I seek leave to make an explanation before asking the Minister for Disabilities questions regarding incompetence in the office of Community and Home Support SA.

Leave granted.

Members interjecting:

The Hon. K.L. VINCENT: Which one do you think? Incompetence most certainly. It's probably both. As Mr President is no doubt aware from previous speeches I have made in this

place, there are more than 1,000 South Australians with disabilities who are currently on a government waiting list for accommodation. That is more than 1,000 South Australians with disabilities who this government acknowledges are homeless or at risk of homelessness. Given this high figure, and the huge cost in terms of human tragedy it represents, one would think that the government would have its best and brightest working on this crisis. However, I regret to inform the chamber that recent experiences related to my office indicate otherwise.

In one example, a client of Disability Services who has an intellectual disability was told by the disability organisation that provides her accommodation that she would need to find a new home as they intended to sell off her current house. The organisation also imparted this information to the department no less than eight months before the property needed to be vacated. Despite this, the department has failed to rehouse this constituent before the vacancy date.

In fact, even when the client's family found a suitable place for her to live which met Disability Services requirements, the department took so long to approve this application that the property was given away to another tenant. This is, of course, just a glimpse of the blunders made in this case; there are far too many to fully list here. But the important thing to note is that the department's inability to do its own job of rehousing this woman within an eight-month period has left her at imminent risk of homelessness.

Another example: a client with complex physical disabilities and mental health problems has been waiting for an accommodation placement for no less than a year and a half. He had spent that year and a half languishing in a hospital bed, with poor quality of life. Recently, he was called to a meeting about a potential placement in supported accommodation, but he was, of course, seriously disheartened when he learnt that the placement was unsuitable for someone who needed mental health support.

This is frankly ridiculous. Why would Disability Services organise a meeting about an accommodation placement which was plainly unsuitable for a client? This kind of mistake is a waste of taxpayers' money and it also places a cruel burden of anxious confusion on top of the worries already faced by vulnerable clients with disabilities. My questions are:

1. What consequences are there in place for Disability Services staff who perform their job with such incompetence that the life of people with disabilities is made significantly worse, not better, by their actions?

2. Given the multiple layers of bureaucracy present in the Disability Services system, how can the minister identify areas where staff are not providing adequate services?

3. Will the minister take responsibility for the multiple examples of incompetence in his department listed in this question?

4. Will the minister take responsibility for the stress and worry this incompetence creates in the life of people with disabilities who rely on his department for essential services?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:02): I thank the honourable member for her very important questions about waiting lists and accommodation for people with disability.

An honourable member interjecting:

The Hon. I.K. HUNTER: I think the honourable member asked her question, and I will answer it in the way I wish. The honourable member raised the issues relating to a couple of people. It is not going to be my habit in this place to respond to the personal cases of people—they have privacy that we should respect—but I will talk in generalities as best I can in this regard.

One of the issues she raised, in fact, is the responsibility of Julia Farr Association. It was the landlord of the person, I am advised; it was their role to advise the tenant about its intentions for the home it owns. But my agency, I have been advised, has been meeting with the family regularly. Options have been offered to the family which, at this stage, the family has not found suitable, but my department has assured me that it will continue to work with the family involved and that it will not leave that person in the lurch; appropriate accommodation will be found for that person.

SHARK FISHING BAN

The Hon. J.M.A. LENSINK (15:03): I seek leave to make a brief explanation before directing a question to the Minister for Agriculture, Food and Fisheries on the subject of the shark fishing ban.

Leave granted.

The Hon. J.M.A. LENSINK: Yesterday, the minister announced a daylight ban on shark fishing from metropolitan beaches, which is something that we on this side of the house support. What she did not mention, like in many such announcements, is how the government is going to afford to police the ban. The financial year 2010-11 for PIRSA showed that it is several million dollars in the red. My questions are:

1. Will this mean that another levy is placed on the state's fishing industry, which is already copping huge increases through cost recovery, or will it be done through some levy on recreational fishers?

2. Does the minister concede that when a government cannot balance its books to find the money to provide a basic service, when it has cut the industry grants and subsidies, it has well and truly lost control of its budget?

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) (15:04): I thank the honourable member for her questions. Indeed, I believe that she is up to mischief—a great deal of mischief—suggesting that we are going to license recreational fishers, which is simply not so; we currently have no intention of doing that. In effect, it is a ban on shark fishing. What it is is a ban on the utilisation of hooks of a certain size and wire traces that are used and needed to catch sharks of a certain size. I have to say that we have been met with overwhelming support for this ban. Members of the public have been crying out for this for some time.

The Hon. A. Bressington interjecting:

The Hon. G.E. GAGO: Well, they have. The Hon. Ann Bressington gasps but—

The Hon. A. Bressington: Oh, I know that you wrote a letter over the Christmas break saying there was no problem

The PRESIDENT: Order!

The Hon. G.E. GAGO: That's just an outrageous comment. This has been an ongoing problem on which we have been doing a great deal of work for some time. What we needed to do (and the Hon. Ann Bressington is a proponent of this, she advocates it) was consult with and involve key stakeholders in decision-making—and that's exactly what we did, the Hon. Ann Bressington.

We spent that time—indeed, many months—involving the appropriate stakeholders to land on agreement and support for this initiative, so that is why it did take us some time before we could actually announce the details of this. I know that the Hon. Ann Bressington and a number of members of parliament who have been genuinely interested in this topic and these concerns have written to me, but they wrote to me at a time when I was not able to divulge the details of the considerations.

The Hon. A. Bressington: Why not?

The Hon. G.E. GAGO: Because we consult with key stakeholders before announcing decisions. We actually involve the key stakeholders in the decision-making, which is exactly what we did. For instance, we involved the Australian Recreational Fishing Advisory Council, the peak body representing recreational fishers. I have a fishing council that comprises fairly significant fishers, key stakeholders, and I involved them as well and asked them to consider the issue. I have held numerous discussions with numerous individuals and groups over a long period of time. It was most important that we tried to get key stakeholders in this industry involved in the decision-making, and then we announced a decision that has support and has been agreed to—and that's exactly what we did.

Although we have received overwhelming public support for this, I am aware that there is a group of rec fishers that is not happy with this. They enjoy shark fishing. They like to fish for shark off our jetties and our beaches (but usually jetties), and they are not happy, and I can understand

that. It does not affect commercial fishers because commercial fishers obviously go much further out for their catch. It certainly does not affect rec fishers at night, so a really keen rec fisher who wants to fish for shark can fish off the jetty during the evening.

We know that members of the public are outraged and appalled at the sight of sharks being hauled up onto shore or hauled up onto jetties close to or on swimming beaches where families and kids want to enjoy the beaches. The sight of those sharks in close proximity is very frightening to the general public, and it is not surprising that they have raised concerns, so we have listened and we have taken action.

In terms of the costing of this initiative, the costs will be borne within the existing budget of Fisheries. We already have a number of inspectors who work not only to get out there and help provide information and education to fishers but also to take action when there are clear and blatant breaches of fishing provisions. We also have our wonderful Fishwatch network, who I would like to acknowledge. They are a group of volunteers, amazing people, who are fishing enthusiasts and who understand the important balance between managing sustainable fish stocks while still enjoying fishing. These volunteers not only help us provide information to fishers, because they are out there every day, but they also provide a vital information network in terms of providing alerts back to the department when they see breaches of the provisions.

I have to say that the general knowledge, awareness and interest of the general public has also increased with time; they remain vigilant and are not shy about giving the department a ring, either, when they see something untoward happening. Police have powers, and local councils have the provision to make bylaws if they believe that is warranted in their particular area.

We know that sharks are a natural part of our marine environment. There are populations out there regularly—they follow the school fishes, the snapper and others—and are part of our marine environment. However, we also know that there has been an increase in the number of shark sightings, not only by our own inspectors and agencies. I have recently been over in the west, speaking to the abalone industry, for instance, and its members have also indicated an increased sighting of sharks by its divers as well.

So, probably for a range of environmental reasons—good environmental reasons around conservation and suchlike—there do appear to be more sharks in the area, although those numbers have not been confirmed. Certainly, sightings of sharks are up, and it is important that we take action. Those who want to flout this new regulation face a first offence fine of $315 and up to $21,000 for further breaches, so it could be a very expensive exercise.

SHARK FISHING BAN

The Hon. A. BRESSINGTON (15:12): I have a supplementary question. Given that the minister has told us about the wide consultation, is she aware that Surf Life Saving SA requested that fishing off these jetties in populated areas be made a criminal offence because of the danger posed to children in the water as well? Also, how many jetties will need to be policed and how many inspectors will be available to police those jetties and respond to reports in a timely manner?

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) (15:13): I did indicate that there is a wide range of stakeholders and interested parties in relation to this issue. What we attempted to do was consider the whole range of those points of view and come to an agreement on a particular action.

That is what we have done. We believe that the position we have taken is a balanced one and one that has general support. Surf Life Saving SA has come out and spoken highly of this initiative; they may have preferred some other elements, but they have been very supportive of this, which I am very pleased about.

I remind honourable members that this is a trial for 12 months. We will assess the outcome of this, as well as the public's response and the recreational fishers' response. If we need to make further changes later on I will be happy to review this then.

SHARK FISHING BAN

The Hon. D.G.E. HOOD (15:15): The minister mentioned the penalties in her answer. To clarify, is the first offence to be dealt with in the way of an expiation notice and, if so, how will subsequent offences be dealt with?

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 understand that, yes, it is in the form of a fine of $315, and further offences are a fine of $21,000.

MEDICAL HEATING AND COOLING CONCESSION

The Hon. J.M. GAZZOLA (15:15): My question is to the Minister for Communities and Social Inclusion. Will the minister inform the council about the Medical Heating and Cooling Concession scheme?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:15): I thank the honourable member for his very important question and advise him that I would be delighted to answer his question about the medical heating and cooling scheme.

On 1 January of this year, the medical heating and cooling concession came into operation. This new energy concession is designed to assist South Australians on a fixed or low income who have a medical condition which requires the frequent use of heating or cooling in the home to prevent the severe exacerbation of their condition.

People living with medical conditions such as multiple sclerosis, Parkinson's disease, lymphoedema, fibromyalgia, tetraplegia, post-polio syndrome, motor neurone disease, systemic lupus erythematosus and muscular dystrophy commonly face symptomatic deterioration during extreme hot or cold weather, leaving them little option other than to regulate their climate at home with heaters and air conditioners. Typically, these people are also the members of our community who can least afford to pay high energy bills, struggling to get by on low incomes.

The South Australian government introduced the medical heating and cooling concession to assist people living with these specific medical conditions with their energy costs. The medical heating and cooling concession is administered by the Department for Communities and Social Inclusion and provides $158 per year, increasing to $165 per year on 1 July 2012, to assist eligible people with their energy costs. The concession is available to South Australians who are receiving either an eligible Centrelink or Department of Veterans Affairs pension or allowance or who hold an eligible card and have confirmation from their doctor of their need for heating and cooling as a result of their medical condition.

To date, there have been approximately 1,750 telephone inquires and over 600 applications received. There have been many people calling for this type of concession for a number of years, and I thank them for raising this issue. I would like to give particular credit to the Multiple Sclerosis Society of Australia, which has been actively campaigning in the community for this policy. I also acknowledge that there was support for this type of concession from all parties represented here in this place and from former members. This new concession is one very practical way that the government can help support community members who live with significant medical challenges, and the feedback I have received so far has been quite positive.

FISHERMAN BAY SHACKS

The Hon. J.A. DARLEY (15:17): I seek leave to make a brief explanation before asking the Minister for Communities and Social Inclusion, representing the Minister for Sustainability, Environment and Conservation, a question regarding shacks at Fisherman Bay.

Leave granted.

The Hon. J.A. DARLEY: I was recently contacted by a number of constituents who hold life tenure leases for crown shack sites at Fisherman Bay, located at Port Broughton. These constituents are concerned because the rent for the shack sites has recently skyrocketed—in some cases by 400 per cent. In many circumstances, these shacks have been there for over 50 years and have been a base for annual family holidays. Shack owners along the Coorong also faced a similar situation in 2009 when rent for shack sites dramatically increased, based, in my opinion, on a flawed and incomplete valuation report.

In both circumstances, shack owners were advised by the Department of Environment and Natural Resources that they were able to apply to the department for a reconsideration of their rent. However, shack owners were not made aware of their rights to apply for a ministerial review of the rent or a further review by the Valuer-General as outlined under sections 65 and 66 of the Crown Land Management Act 2009. My questions are:

1. Given that section 65 and 66 reviews were discussed during the conversation about shack rents along the Coorong, why was no mention made of these review rights to Fisherman Bay shack owners recently?

2. Does the minister intend to inform shack owners of their rights in the future?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:19): I thank the honourable member for his very important question about shacks at Fisherman Bay and, particularly, rental prices for shacks on crown land. I undertake to take that question to the Minister for Sustainability, Environment and Conservation in another place and bring back a response.

MIGRATION AND WORKFORCE DEVELOPMENT PROGRAM

The Hon. J.S. LEE (15:20): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about the cut to the skilled migrants program.

Leave granted.

The Hon. J.S. LEE: Employers in regional South Australia no longer have support to access skilled migrants following the Labor government's decision to cease funding to the Regional Migration and Workforce Development Program. The Regional Development Australia Board has expressed its frustration with the process, which provides no reassurance for the program or attraction of professional staff to fulfil the role and also requires specific knowledge and training support.

As reported in the *Regional News* edition of December 2011 by Regional Development Australia Whyalla and Eyre Peninsula, there is clear evidence that many companies are presently looking at sourcing additional skilled employees with both E&A Contractors and Link Engineering, seeking a combined total of 70 skilled fabrications and welding personnel. *Regional News* stated that the board will continue to lobby for reinstatement of the program, which will greatly assist businesses in sourcing additional skilled labour. My questions to the minister are:

1. With the government cutting the Migration and Workforce Development Program, how does the Minister for Regional Development believe this will economically help regional South Australia to prosper and grow?

2. With companies seeking skilled employment for growing workforce demands in the area, what information and statistics persuaded the government to cut the program?

3. With regional businesses unable to fill local positions and source internally skilled employees, what sources will the state government provide to ensure regional businesses can survive, despite the cut and lack of government support?

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) (15:22): I thank the honourable member for her most important question. A skilled workforce will be critical to the future prosperity of this state and this country, particularly in relation to the mining and resources development boom. We know that one of the key planks to that will be to make sure we have the adequate skills available to be able to work in and service those developments. That is no mean feat.

The government is very aware of this and has been working on a number of strategies to help deal with this. These are within a number of other portfolios. For instance, the particular migrants' portfolio the honourable member refers to is the responsibility of the Minister for Trade, and I understand that that minister made changes to that program as part of the budget cuts.

As we know, budget cuts needed to be made across all agencies, and that was one of the programs that I believe was affected by that, but that was minister Koutsantonis' responsibility. Certainly we have developed up a wonderful strategy, the Skills for All Strategy, which is the centrepiece for assisting us to identify where there is high growth and industry development and where businesses will be going in terms of identifying their future needs.

Skills for All is about trying to ensure we underpin the educational and training requirements needed to be able to meet our future needs. As Minister for Regional Development I have spent a great deal of time out in the regions, in particular speaking to a number of the mining

interests, and they are clearly articulating some of the problems that exist already in terms of their skilled labour force.

We are working with them, particularly minister Koutsantonis, to ensure that those interests are able to map out their future development needs and to be able to clearly articulate the skills and scope they will require so that we can ensure that we are feeding that information back into our education and training systems to make sure that we are growing those skills so that we are ready well in advance.

In terms of assisting with businesses, again, a great deal of work is being done, not just by me but also by the ministers for business affairs and mining, where we are liaising with mining and resource development industries and urging them to look at their development needs in terms of the supply chains that they might require right across the board from accommodation, hospitality needs, water and power.

We are particularly looking at and trying to break down supply chains. Wherever possible, from a regional development perspective, I am out there making sure that I bang the drum for local regional community partnerships into those supply chains. Obviously, this government as a whole is working very hard to make sure that South Australia's businesses and industries are forming real partnerships and engagements with these developments so that this state really does have a significant buy-in to the benefits that flow from the opportunities that lie ahead.

ANSWERS TO QUESTIONS

SAFEWORK SA

In reply to the **Hon. R.I. LUCAS** (10 November 2010) (First Session).

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations): I have been provided the following information:

In October 2010, three officials from Singapore's Workplace Safety and Health Council visited Adelaide to gain insight into South Australia's workplace safety initiatives and, in particular, our state's Safe Work Awards as well as the national Safe Work Australia Awards.

The visit included briefings with SafeWork SA officials on:

- the Safe Work Awards criteria and judging processes;
- the eAwards on-line registration system; and
- the agency's efforts to engage with industry to bring about changes in the way occupational health, safety and welfare is managed.

The Workplace Safety and Health Council Singapore, which is equivalent to our SafeWork SA Advisory Committee, also met with Mr Tom Phillips, Presiding Officer of the SafeWork SA Advisory Committee and Chair of Safe Work Australia.

In addition, the Singapore delegation attended our Safe Work Week events, including the 'Mock Industrial Court Trial' and the Safe Work Awards Dinner.

The travel and accommodation costs for the Singapore delegation were funded entirely by the Singapore Government.

As a gesture of hospitality, SafeWork SA invited the 3 international guests to a dinner and breakfast at a total of $160.00. Both occasions afforded an opportunity to exchange views and ideas on the effective administration of workplace health and safety laws.

The visit provided South Australia with a unique opportunity to showcase our successful Safe Work Awards program, while at the same time providing Singapore's Workplace Safety and Health Council with a first-class template for developing their awards initiatives.

NURSES AND MIDWIVES ENTERPRISE AGREEMENT

In reply to the **Hon. T.A. FRANKS** (22 February 2011) (First Session).

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations): I have been provided the following information:

1. As at 4 March 2011, all nursing and midwifery employees covered by the Enterprise Agreement had received payment of the new salary rates and allowances.

2. This is consistent with the commitments given to the Australian Nursing and Midwifery Federation during the dispute heard in the Industrial Relations Commission of South Australia. The Department of Health has provided a commitment to ensure that all subsequent salary increases under the Agreement are given effect to in accordance with the terms of the Agreement.

3. There is no entitlement to interest.

ILLICIT DRUG USE

In reply to the **Hon. D.G.E. HOOD** (24 February 2011) (First Session).

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations): The Minister for Mental Health and Substance Abuse has provided the following information:

The Government highlighted in its response of 23 February 2011 to the Controlled Substances (Simple Cannabis Offences) Amendment Bill that according to prevalence of use data taken from the 2007 National Drug Strategy Household Survey, cannabis use within the South Australian community did decline from 17.6 per cent of the population who had used cannabis in the previous 12 months in 1998, to 10.2 per cent in 2007. It was also pointed out that there was a downward trend shown in overall illicit drug use recorded in South Australia, down from 23.9 per cent to 14.7 per cent in the same period. The Government does not retract this statement.

The honourable member has indicated that more up-to-date data is available through the National Drug and Alcohol Research Centre, a 2009 South Australian Drug Trends Report, which indicate increases in frequency of use of illicit drugs in South Australia. This is not correct. I believe the honourable member is referring to 2009 data available in the South Australian report on the Illicit Drug Reporting System published in 2010. The data the honourable member has quoted is not population prevalence data but data from a national project that examines drug use patterns of existing illicit drug users.

The data quoted by the Government from the 2007 National Drug Strategy Household Survey is the most recent publicly available population prevalence data.

SALARY SACRIFICING

In reply to the **Hon. J.A. DARLEY** (8 March 2011) (First Session).

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations): I have been provided the following information:

The reasons for the differences in what can be salary sacrificed by public servants depending on which department they are employed with lie in the application of Federal taxation provisions.

All salary sacrifice arrangements, including SA Government Salary Sacrifice Arrangements (SAGSSA), must comply with the Federal Government Fringe Benefits Tax Administration Act (FBTAA), and Australian Taxation Office (ATO) rulings and guidelines.

When an employee chooses to salary sacrifice under SAGSSA, they select expenditure items from a list of SAGSSA approved benefits to enact their arrangement. This list includes some benefits that incur Fringe Benefits Tax (FBT) liability, including novated car leases, mortgage or rental payments, household utility bills and credit card payments, and others, such as superannuation contributions, which attract no FBT.

If an employee works predominantly for the Ambulance Service, exclusively in, or in connection with a public hospital, or Public Benevolent Institution (PBI) of which the Legal Services Commission is only South Australian public sector example, that employee may access a capped FBT exemption under Section 57A of the FBTAA. This means they may salary sacrifice benefits which, subject to a cap, would otherwise incur FBT, such as those listed above.

Effectively, other employees, who are not eligible for the exemption, cannot salary sacrifice these same benefits as to do so would incur a prohibitive FBT liability.

While all employees incur Fringe Benefits Tax for novated car leases, such a lease may be financially attractive to an individual, subject to car usage and other factors. FBT exempt items, such as superannuation, may be accessed equally by all employees.

In each case, the choice and the responsibility to salary sacrifice remains that of the employee, all of whom are strongly recommended to seek independent financial advice before undertaking salary sacrifice.

DEVELOPMENT ACT

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (9 March 2011) (First Session).

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations): The Minister for Planning has been provided the following information:

The Chief Executive has provided an explanation regarding the late tabling of the report. The Department of Planning and Local Government presented the Report to the previous Minister for Urban Development and Planning in the last sitting week of 2010. This did not provide adequate time for the previous Minister to consider and table the report.

With the swearing in of a new Minister on 8 February 2011, the report has been updated and the new Minister provided with the report for his consideration.

The Department of Planning and Local Government will put in place procedures to prevent a reoccurrence of this event. As Minister, I am satisfied that the matter will be rectified for future reports.

DESALINATION PLANT

In reply to the **Hon. M. PARNELL** (29 July 2011) (First Session).

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations): The Minister for Sustainability, Environment and Conservation has been advised that:

1. Development Approval required an outfall design to meet a dilution ratio of 58:1, which was achieved and demonstrated by AdelaideAqua. The Environment Protection Authority (EPA) operating licence criteria of 1.3 parts per thousand (PPT) was set after eco-toxicology studies, required by the EPA to be undertaken by AdelaideAqua, determined that the safe level for relevant local species was approximately 2.6—2.7 PPT above background levels. The EPA operating licence conditions are best practice and the most stringent in Australia. The limits are very conservative and set well below the level at which environmental impacts would be expected.

2. The South Australia community can be confident that the EPA licence requires continuous monitoring. Licence conditions include compulsory notification to the EPA and, if necessary, plant shut down, when certain monitored levels are reached. Monitoring results will be published on the EPA website. The monitoring will be independently verified, with SA Research and Development Institute (SARDI) testing the monitoring equipment accuracy. Initial background monitoring results are available on the EPA website.

3. Local geography means that conditions for one desalination plant may not be relevant to another and therefore the Port Stanvac Plant cannot be directly compared with other plants.

MIFEPRISTONE

In reply to the **Hon. D.G.E. HOOD** (14 September 2011) (First Session).

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations): The Minister for Health and Ageing has provided the following information:

1. Yes.

2. Treatment for the termination of pregnancy must be carried out in hospitals that are prescribed for the purposes of section 82A(1). The hospitals listed in Schedule 3 of the Criminal Law Consolidation (Medical Termination of Pregnancy) Regulations 2011 are prescribed hospitals for the purposes of section 82A(1).

MY TEHRAN FOR SALE

In reply to the **Hon. D.G.E. HOOD** (18 October 2011) (First Session).

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations): The Minister for the Arts has been advised that:

1. The total Government investment in the film was $150,000 from the Adelaide Film Festival Investment Fund and $250,000 from the South Australian Film Corporation. The total budget for the film, which included all flights, accommodation and living costs, was $858,850.

2. The Boards of both the South Australian Film Corporation and the Adelaide Film Festival were fully briefed on the proposed production, and made the funding decision based on the film's merits.

3. The former Premier wrote to the Minister for Foreign Affairs and Trade, the Hon Kevin Rudd MP, to request his urgent assistance in this matter. I am advised that Minister Rudd was fully appraised of the situation, has been very supportive and was in contact with the film's producers to ensure any statements and diplomatic applications made on behalf of the Australian Government were with the full support of the actress' family. I also understand that Minister Rudd has made a direct application to the Iranian government through suitable channels to request the freedom of actress Marziah Vafamehr's [pronounced Mar-zeer Vah-fah-mare].

On 28 October 2011 it was announced that actress Marziah Vafamehr was released from jail after a court appeal reduced the term of the imprisonment sentence.

LOCAL GOVERNMENT REFORM FUND

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (10 November 2011) (First Session).

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations): I have been provided the following information:

The increase in the grants and subsidies expenses was expenditure incurred by the Local Government Association of SA (LGA) for specific projects undertaken to support asset and infrastructure management and planning under the Local Government Reform Fund (LGRF) to improve the Asset and Financial Management and long term financial sustainability of councils.

The funds were provided to the Department of Planning and Local Government by the Commonwealth and transferred to the LGA to implement the projects under the 'National Partnership Agreement on Local Government and Regional Development—SA Implementation Plan'. Funding assisted all 68 councils in SA to undertake asset and financial management audits, obtain asset and financial management technical support and identify and build regional collaboration opportunities.

OUTBACK COMMUNITIES AUTHORITY

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (10 November 2011) (First Session).

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations): I have been provided the following information:

There are a number of factors contributing to the reduction in the Outback Communities Authority grant payments in 2010-11 compared to 2009-10:

- There were a number of one-off grants paid in 2009-10;
  - Payments made through the Regional and Local Community Infrastructure Program—$80,000,
  - Contribution to the Iron Knob Community Park project—$26,000, and
  - Community Drought Assistance payments—$9,000
- The manner in which municipal support payments were made to the Dunjiba Community shifted from grants to supplies and services in 2010-11. This resulted in a $65,000 reduction in grants.

MATTERS OF INTEREST

MULTICULTURALISM

The Hon. J.S. LEE (15:27): I rise today to speak about the many multicultural festivals and celebrations in Adelaide in the last six weeks. There is no doubt that 2012 has had a robust beginning with a stream of events happening across South Australia: the Blessing of the Waters ceremony; the annual Greek Festival at Glenelg; many Australia Day celebrations; Lunar New Year festivities celebrated by the Chinese, Vietnamese and Asian communities; and the Carnevale Italian festival that was held last weekend. All in all what a great showcase of multiculturalism and the wonderful diversity of our state!

I thank the Leader of the Opposition, Isobel Redmond, in the other place for appointing me as Parliamentary Secretary for Multicultural Affairs in December last year. This appointment has enabled me to expand my passion and involvement with the multicultural communities in this state. It is a great privilege to be invited by community organisations to their events. I take this opportunity to express my deep appreciation to all those who have invited politicians and welcomed me and other members of parliament to their functions.

Many honourable members know that the Chinese New Year is the longest and most important festival in the Chinese Lunar Calendar among Chinese communities across the world. It is celebrated for 15 days. I know we like to party sometimes, don't we? Due to the vibrant Chinese, Vietnamese and Asian communities living in South Australia, I had the great pleasure to attend many wonderful Lunar New Year events.

We are incredibly fortunate to be living in a multicultural society in South Australia where we share and embrace different cultures and traditions. I believe traditions are an important part of family and community life. How wonderful it is to see the Chinese, Vietnamese, Greek, Italian and so many rich cultural traditions being integrated and celebrated here in our state. I express my thanks and pay tribute to all the event organisers and community organisations for keeping their traditional cultures alive to enrich the wonderful diversity of the state.

When I look at the list of events I attended in the last six weeks, and also a citizenship ceremony I attended on Australia Day, I reflected on the values of being an Australian and what makes us great and, more importantly, what makes us proud to be Australians. Nothing better describes the commitment and contributions made by so many migrants than the second part of the second phrases of our national anthem. I would just like to state them here:

> For those who've come across the seas
> We've boundless plains to share
> With courage let us all combine
> To Advance Australia Fair.

Today, I am grateful to have the opportunity to speak about our vibrant multicultural state in the first week of a new parliament.

This year we welcome the 'Year of the Black Water Dragon'. According to Chinese astrology, this is going to be a fast moving year because of the flamboyant nature of the dragon. This will be advantageous times to begin new projects. The dragon gives happiness and success to all good and honest people—honest. This year will reward those who are enterprising and have great talent!

While the dragons are clever, bright and sharp people, they have big mouths and their words can overrun their thoughts. Very interesting. I think Premier Jay Weatherill might be a dragon. I think he said that. With those words of wisdom, I look forward to working with honourable members to advance South Australia and make the best of 2012.

BOLLMEYER, MR BILL

The Hon. J.M. GAZZOLA (15:31): I wish to bring to the attention of the council the passing of a Wallaroo stalwart and a Labor Party member, Bill Bollmeyer. Bill had a lifelong interest in the Labor Party, was president of the Goyder sub-branch of the ALP and an engaging public speaker, incisive, thoughtful and witty. A thoughtful, measured individual, Bill Bollmeyer was the epitome of 'old' Wallaroo, yet, at the same time, a guiding light for the 'new' Wallaroo. He savoured the best of the past, yet looked to the future of the town and the district.

Educated at St Mary's Catholic School in Wallaroo and Kadina High School, Bill put himself through matriculation after the age of 40, not because he needed to but because he relished the challenge. When Bill left high school, he joined the Australian barley board in Wallaroo as a regional officer, where he remained until retirement. During this period of 43 years, he saw the replacement of stevedores loading grain in hessian bags by bulk handling via conveyer.

Through Bill's employment the challenges within the community were wide and varied. He was elected to the Corporation of the Town of Wallaroo in 1973, serving a total of 16 years, six as mayor. Bill's other roles included being a delegate to the Local Government Association, a member and life member of the Wallaroo Apex Club, a member of the Wallaroo Hospital Board, including being chairperson from 1989 for five years, as well as being a staunch campaigner for the 'Save the Wallaroo Hospital' campaign.

Bill had many active and exciting interests. Bill's love affair with sailing and the sea saw him become a foundation member and multiple position holder in the Wallaroo Sailing Club, including that of commodore. At the time of his death he was a committee member, starter/timekeeper, publicity officer and author of the sailing club's popular newsletter *Scuttlebutt*. He built and sailed dinghies and sailed keel boats for many years, and in later life Bill sailed his Pion 30 footer *Amazing* all over Spencer Gulf, including Port Lincoln and Kangaroo Island. He was a competitive sailor for 40 years—and a damn good sailor, sir. Bill was also a champion local swimmer and a member of the Wallaroo swimming and rowing clubs.

His interest and energies in the area did not stop there. During the first Kernewek Lowender Cornish Festival in 1973, Bill became the publicity officer, helping the first event to a success that has laid the foundation of many memorable festivals ever since. As a member of the Wallaroo Town Development Working Group, Bill offered unstinting guidance and a steely resolve to see Wallaroo reach its full potential as an integral town within the District Council of the Copper Coast. He summed up his interest in the town in concluding that there was no place like Wallaroo, a view which was invariably prompted by the view of the towering grain silos as he came home via land or sea.

There is another picture of Bill Bollmeyer caught in history. In an unusual twist, a young, energetic Bill and his mate were captured in an iconic painting by artist Jeffrey Smart. It shows the two of them carrying Bill's canoe along the local 'slag beach' with the smelter stack in the background. On seeing this painting for the first time, Bill knew it was he and his mate in the painting. They carried the canoe from the Seaman's Mission, where it was stored, to the water's edge. This indelible stamp of the young Bill Bollmeyer against the significant historic backdrop is a unique and fitting tribute to the man who went on to offer so much to his community.

In closing, Bill is survived by his wife of 51 years, Claudia, and three sons, Nicholas, Guy and Matthew, and six grandchildren. I will miss Bill. Vale, Bill Bollmeyer.

LABOR PARTY CANDIDATES

The Hon. R.I. LUCAS (15:35): In recent weeks there has been some considerable controversy and publicity about public identity Deborah Hutton on the occasion of her 50th birthday and a photograph of her on the front page of the *Women's Weekly* which evidently had been airbrushed. I note that in recent weeks, in speaking of airbrushing, the political CVs of the Labor candidates Zoe Bettison and Susan Close had been politically airbrushed.

Like myself and, I presume, thousands of other interested South Australians, when we became aware that Zoe Bettison was to be the Labor candidate in Ramsay, went to the Labor Party website to see who this particular person was. Many of them, I am sure, were a bit like me and hoping that she was not just another factional Labor hack who had been preselected by the Labor Party to follow on from the former premier, Mike Rann.

In going to the Labor Party website for Zoe Bettison we see that they claim that she is a professional working mother, born in Whyalla and grew up in Gawler, etc. Then it refers to her general employment experience and states that she is currently a government relations manager in the tourism industry. Her first job was as a weighbridge clerk for the Kapunda silos. Then there is a brief sentence which states:

> Her employment experience includes industrial relations, ALP official [whatever that means] and public affairs.

What are the facts in relation to Zoe Bettison's employment history? The reality is that Zoe Bettison for almost 16 years has been a wholly-owned subsidiary of either the Labor Party or various organisations and unions associated or affiliated with the Labor Party.

She spent between six and seven years with the shoppies union here in South Australia from 1995 to 2001. She then became the secretary of the Australian Labor Party in the Northern Territory for almost two years and then was a ministerial adviser to two ministers in the Northern Territory, Syd Stirling and Kon Vatskalis. She then spent between seven and eight years as a director of the Labor spin doctoring firm Hawker Britton, known throughout Australia because of the infamous activities of Mr Bruce Hawker and others that he employed.

Then for a brief period of six months from June 2011 to December 2011 she became a government relations manager at Great Southern Rail so, indeed, it was correct to say that she was currently a government relations manager in the tourism industry when she went to the election. However, for the 16 years prior to that she had been, as I said, a wholly-owned subsidiary of either the Labor Party or associations and organisations closely affiliated with the Australian Labor Party.

Similarly, I went to see the CV of Susan Close. When one goes to the Labor Party website, again, it states that she is currently a senior manager in the environment department in South Australia and that she had previously worked at Adelaide University running student services. The facts are that, indeed, she did work at the Adelaide University from 1998 to 2002, so that is correct, running student services evidently, and for the last three years from 2008 to 2011 she has been a senior manager in the environment department.

However, what has been airbrushed from the political CV is a period of a couple of years approximately working as a spin doctor or ministerial adviser to the Hon. Gail Gago in that period between working for the university and coming back into the Public Service. The question is: why would these Labor candidates wish to hide a prominent part of their political CVs? Sadly, I think what we have here is that these two candidates have not been straight with the electorate and they have engaged in their own version of political spin. Sadly, in a political sense, Zoe Bettison is Rann-lite and, in a political sense, Susan Close is Foley-lite. They are relying on political spin and not being straight with the electorate in terms of at least fessing up to what their true political histories are, rather than politically airbrushing their CVs as they did.

Time expired.

AUSTRALIA DAY

The Hon. CARMEL ZOLLO (15:40): Over many years, in particular, on Australia Day, it has been a great pleasure to join the mayors of Campbelltown (more recently, Mayor Simon Brewer), elected councillors and CEO Paul Di Iulio of the Campbelltown City Council, in welcoming the city's newest citizens. I am pleased to attend as an MP, but I am also particularly pleased to be there because, apart from the fact that I am of a diverse cultural background myself (I am Italian born), I have lived in the City of Campbelltown for almost 40 years.

On each occasion, I am reminded of being at a similar function when I was a child and my parents took their oath of allegiance. I know that the concept of multiculturalism was not part of our vocabulary at the time; we all became 'new Australians'. What it meant for my family, and I am certain for everyone arriving since, is that all of us, within the laws of this great nation, can continue to celebrate our heritage, religion, language, customs and traditions. Indeed, we believe that, here in South Australia, we have shown the rest of the world how it should be done.

When my parents left an impoverished Europe post World War II, they wanted a better life, not just for themselves but for their family. They admired our stability, the Westminster system of democracy, job opportunities, our education and health institutions, and the freedom of choice. When it is all said and done, I am certain that it is for all of those reasons people still come to Australia.

Campbelltown City Council has the tradition of also naming their citizen of the year and young citizen of the year, and this year they were Ms Sue Jackson and Mr Cameron Forster respectively. This year, the community event of the year award went to the Rotary Club of Campbelltown Art Show. Mr Michael Keelan was a special guest, as Campbelltown's Australia Day ambassador this year, and he presented the winners with their award. Mr Keelan is, of course, well known by all as a horticulturist, editor, and radio and television presenter.

I think it is important to talk a little about the winners. Ms Jackson is one of those people all communities hope lives amongst them. She is an active volunteer at all levels at one of the local primary schools, Thorndon Park Primary. Indeed, part of her citation reads that 'her passion to increase money for the school to better resources and facilities for the students saw her volunteering close to 30 hours a week' during a particular period. She is also an active volunteer with the Little Athletics Club, and she has done some tremendous work in increasing the membership of the club so that it is no longer financially struggling.

Mr Cameron Forster, the young citizen of the year, who was also named the state's Young Citizen of the Year, said that he was 'genuinely humbled' by his awards. I understand that Mr Cameron was 16 when he joined Campbelltown's Youth Advisory Committee, and he is still involved. He has taken on many commitments and leadership roles since that time, in particular in relation to the environment. More recently, he was the team leader for the Northern Immigration Detention Centre, Darwin, as part of the Australian League of Immigration Volunteers. He is reported as describing that particular trip as a life-changing experience.

The winner of the community event of the year, the Rotary Club of Campbelltown Art Show, is deserving of enormous praise. The event is now an important annual fixture for both the service club and those who enjoy art. More importantly, it is a forum for both local and interstate artists to exhibit their works. The event has recently celebrated its 28th year, and this year attracted some 600 artists. The proceeds from the art show are used for Rotary Club projects within the council area. The event is also sponsored by the Campbelltown City Council and Paradise Motors. My congratulations go to all three very deserving category winners.

The Campbelltown City Council area is a great place to live, and has a rich tapestry of people from different cultures living within it. When we talk about nearly one-quarter of Australia's population either being born overseas or the children of either one or both parents born overseas, Campbelltown City Council serves as a great example of multiculturalism. I congratulate the council, under the leadership of Mayor Simon Brewer, on its many good works.

BAYSIDE CHURCH INTERNATIONAL

The Hon. R.L. BROKENSHIRE (15:44): I have pleasure putting into *Hansard*, and therefore on the public record, my appreciation of an invitation in August last year to attend the 'Appreciation Sunday' and the opening of the new Bayside Church International at Victor Harbor. I certainly did especially appreciate the invitation from Chad and Jaye Mansbridge, who are the lead pastors of the Bayside Church.

Before talking more about that, I met Chad several years ago when I went to one of the early schoolies week preparations with the volunteers known as Encounter Youth who do such a superb job down at Victor Harbor. They did that last year during schoolies week and, whilst I was always concerned at the impost that these thousands of young people have on the Victor Harbor community, I congratulate the Victor Harbor community because the absolute majority of them do embrace and recognise that it is going to continue and support, wherever they can, schoolies week, albeit that it does have quite a significant detrimental effect on the day-to-day environs and enjoyment of Victor Harbor for the local residents.

One of the reasons why schoolies week in South Australia is exemplary compared to any other schoolies week around the nation is to do with Encounter Youth and the great leadership work also in supporting Encounter Youth that Christian leaders like Chad and Jaye provide to the development, planning and day-to-day support of Encounter Youth during schoolies week.

The Bayside Church is an example of a growing church in the Victor Harbor area, and it is very important due to the growth of population now and projected in the South Coast region, and particularly in Victor Harbor. It is an independent non-denominational Christian community that, as I said, is overseen by Chad and Jaye Mansbridge as the lead pastors. It came about as a combination of two other churches: Impact Church and Coastlands.

One of the important things about this church is that it provides so much opportunity for a cross-section of the community within Victor Harbor. It is located in an industrial area, which in itself is interesting. It makes sense. It allows that church to be able to integrate with workers and business owners on a day-to-day basis, and on the weekends when car parking is sometimes an issue with churches the industrial area is pretty much vacant, and that allows for a good fit with church activity such as Bayside.

I want to congratulate the businesses and the members of the church who donated so much volunteer time, and also goods and services, to enable this church, which was actually built out of an industrial shed, but when you go into it it is like any other modern church. It was through volunteer support and commitment that they were able to provide this very important facility for Victor Harbor.

Importantly, because of the isolation in Victor Harbor and the lack of public transport, it is difficult for young people to engage in a lot of activities that people in the city do. Even though Victor Harbor is only about 80 kilometres from the city, it is quite isolated and it could be 800 kilometres from the city for that matter, but they have specifically designed an upstairs facility to provide for youth activities on Friday nights and at other times. I know that this will be very much utilised by a broad cross-section of the young people in the Victor Harbor region.

Also, they have not forgotten young mums with their children and have been able to provide a very well-structured crèche facility for them so that they can bring their whole family along to church and other activities that are provided within the church facility. Even middle-aged people like myself, and older people, obviously interact and integrate very well.

It is a relatively new church. It is a church with an exciting future. It offers great opportunities for the people of Victor Harbor. I was certainly pleased and privileged to be able to attend. I congratulate all of those at the Bayside Church International for their commitment to ministering to the people of Victor Harbor and surrounding districts.

FAMILY AND COMMUNITY DEVELOPMENT PROGRAM

The Hon. G.A. KANDELAARS (15:49): On Sunday 18 December, the Treasurer (Hon. Jack Snelling), and the Minister for Communities and Social Inclusion (Hon. Ian Hunter) announced the reinstatement of $2 million for the Family and Community Development Program. The announcement was made at a function conducted by Community Centres SA at Glandore Community Centre. Community Centres SA ran a very successful and respectful campaign, titled 'Don't go breaking my heart', seeking the restoration of this funding to Families and Communities funding. The announcement restores the funding to $9 million per annum, which will be shared amongst 100 organisations across South Australia.

The funding was originally proposed to be cut in the 2010-11 state budget, and the original decision would have cut more than 20 per cent from the program, with the first cut to take effect in 2012-13. However, the government recognised the need to reverse that decision, and the announcement was an indication that the Weatherill Labor government had listened to community concerns regarding the proposed cuts to the Family and Community Development Program.

The Family and Community Development Program provides funding to around 70 non-government organisations, as well as local councils, to deliver services to more than 100,000 people across the state. The program also currently helps fund more than 40 neighbourhood and community centres across Australia. A review of the program, first initiated by the previous families and communities minister, is continuing, and the minister has said that the fund has not been reviewed since the early 1990s and that 'it is appropriate to continue that review to make sure that the funding is being directed to where it can do the most good'.

I recently spoke to Rille Walsh OAM, the Chair of Community Centres SA. Rille has been the manager of the Wandana Community Centre in Gilles Plains for over 10 years and has worked in the community services sector for approximately 28 years. Rille was thrilled and relieved at the government announcement, as it will allow community houses and other organisations to get on with some of the critical services they provide.

As members may be aware, I was heavily involved with two local community centres in the Torrens electorate when I was a Community Liaison Officer in that electorate working for Robyn Geraghty. Those centres, the Hillcrest Community Centre, which houses the North-East Community House, and the Wandana Community Centre, provide a wide variety of programs that are an example of the programs that community centres run, such as patchwork quilting, community gardens, and various health programs catering for all ages, such as Zumba, hip-hop dancing, walking groups, women's fitness groups and seniors' fitness groups. The centres also hold weekly lunches, which are extremely affordable, costing between $5 and $7.

These are but a few of the activities these community centres provide to our local communities, and most of these services are provided through a network of volunteers who work tirelessly on behalf of and in support of our community. Some of the services being provided

through the program include $20,000 to the Mari Yerta Men's and Young Men's Aboriginal Corporation to employ an Aboriginal youth worker for one year in partnership with CIC Northgate. This will allow the group to coordinate social, sporting and cultural activities for Aboriginal people in the north-eastern suburbs.

As I said earlier, the Family and Community Development Program funding delivers services to more than 100,000 people across the state, and I commend the minister and the Treasurer for their efforts to restore the $2 million to this important program.

ACCESS TO INFORMATION

The Hon. M. PARNELL (15:54): I rise today to speak about an issue that should be of concern to all South Australians, that is, the unnecessary secrecy that prevents the community being able to meaningfully engage important government decisions, especially in relation to planning and the environment. The reason this is an important topic is that access to information is the starting point for any meaningful engagement by citizens in decision making.

Let's start with planning, in particular, the idea of rezoning land or changing the rules against which individual development applications are assessed. This is the process commonly known as a DPA (Development Plan Amendment). Despite some improvements recently, it is still very difficult to access background information and very difficult to access the submissions and reports from government agencies, and even from independent statutory bodies. These submissions are not published and, generally, the only way to get them is through freedom of information or off the back of a truck.

So: why are they kept secret? Why should the public not know, for example, what the EPA has had to say about rezoning of land for housing adjacent to industrial land? One answer is that this information can be embarrassing. We know from evidence presented to the Select Committee on Land Uses on Lefevre Peninsula recently that the EPA's advice is not followed in 70 to 80 per cent of cases in relation to ministerial DPAs. The EPA does fare a little bit better with local council DPAs, with about 75 per cent of their suggestions taken up.

The point is that all of this happens behind closed doors. No doubt, the view in government is that, if they are going to ignore the experts, they may as well keep that fact a secret. The situation is much the same if you are trying to get information about individual development applications. Despite provisions in the Development Act and the development regulations about registers of applications and the ability for people to access and get copies of documents, the reality is that secrecy still reigns supreme.

I think it is outrageous that local councils or the Development Assessment Commission are allowed to withhold plans and other documents that contain important information and details about proposed developments because, if you do not know what is proposed, it is very difficult to make an informed assessment about the impact of the development on your local environment. I had the experience last week of visiting the Development Assessment Commission to try to get copies of the current application for the subdivision of Torrens Island for industrial development.

I should say at the outset that, on those occasions I do venture over to Roma Mitchell House seeking documents, I am always very courteously and professionally received, usually by a senior staff member, and they try to satisfy my requests. However, like all bureaucracies, they have developed their own practices and procedures and their own systems, and they have worked out their own interpretations of the legislation, and, in my experience, they err on the side of secrecy rather than disclosure, especially in relation to development applications that have not been advertised.

What that means is that I can get a copy of the covering letter in relation to the Torrens Island application, but I cannot get a copy of the plan itself and I cannot get a copy of the comments from the various agencies, including the Coastal Protection Branch, native vegetation and SA Heritage. I know that if I lodge a freedom of information application I will get those documents, because that is what I did last time, but the question is: why should I, or any member of the public, have to jump through those hoops to find out what is going on?

Local councils, on the whole, are actually worse than the Development Assessment Commission, because the developers often browbeat staff to make sure that they do not disclose plans or documents. They use excuses such as 'intellectual property' to prevent the public knowing what is going on. I will give the example of the recent Surf Music Festival and pro surfing event held at Vivonne Bay recently.

This does not relate to a planning application, but this was an important event: it has been raised recently in relation to the bailout. It took me many requests to get a copy of their environmental management plan, and I still could not get it. I sent emails and made phone calls in person. I had to lodge a freedom of information application. When it came back it had this rider attached to it. This is what accompanied the Vivonne Bay environmental threat management document. It says:

> In releasing this document, I would like to take the opportunity to remind you that the document is the property of Surfing South Australia and should not be further distributed or copied to any person or organisation without the written consent of that organisation.

What a load of rubbish! What a load of codswallop! I tell the Department of Environment now that I will be giving a copy to the Wilderness Society, I will be giving a copy to ecoACTION and I will be giving a copy to the Conservation Council. The government really needs to lift its game in relation to making information available to the public.

Time expired.

ASSISTED REPRODUCTIVE TREATMENT (EQUALITY OF ACCESS) AMENDMENT BILL

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (16:00): Obtained leave and introduced a bill for an act to amend the Assisted Reproductive Treatment Act 1988. 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) (16:00):

I move:

> That this bill be now read a second time.

Today I rise to introduce the Assisted Reproductive Treatment (Equality of Access) Amendment Bill 2012. This amendment bill contains the same amendments I moved in this place in July 2009, and again in September 2011, and seeks to remove the inequity that currently exists in South Australian law.

This bill is also based on recommendations made by the Social Development Committee's 2011 report into same-sex parenting. The Assisted Reproductive Treatment (Equality of Access) Amendment Bill 2012 seeks to amend section 9 of the Assisted Reproductive Treatment Act 1988, which currently prevents some single women and some women in same-sex relationships from accessing some IVF services in South Australia.

Current South Australian law requires a woman to be diagnosed medically infertile in order to access assisted reproductive treatments. This, of course, has significant implications for same-sex couples in that it specifically excludes couples who may not have any medical impediment to achieve pregnancy but whose sexual orientation prevents them from conceiving without some form of assisted reproductive treatment. This bill seeks therefore to broaden the criteria used to define infertility consistent with the provisions contained in the Victorian legislation, which I have taken as model legislation.

In December 2011, I had the pleasure of announcing the proclamation of the Family Relationship (Parentage) Amendment Act 2011, an act which received overwhelming support in this place and was moved by the Hon. Tammy Franks. The effect of that act was to recognise both females in a lesbian relationship as parents of a child conceived through assisted reproductive treatment.

The bill which I introduce today seeks to correct the lunacy of the current situation that we now face, a situation where both members of a lesbian relationship are recognised under law as the parents of a child conceived through assisted reproductive treatment, but one where those same couples are unable to access that treatment in this state, except in very limited circumstances.

I will not belabour the chamber with any further debate at this stage. I am on record previously twice now with all the arguments in favour. I suspect, though, that the stronger argument we have today before us is the fact that this chamber and the other place overwhelmingly passed the previous legislation about birth certificates and has created now the situation where lesbian couples can get onto birth certificates if they use IVF, but they cannot access IVF in this state. I commend the bill to the house.

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

CHILDREN'S PROTECTION (LAWFUL SURRENDER OF NEWBORN CHILD) AMENDMENT BILL

The Hon. A. BRESSINGTON (16:04): I move:

That the Children's Protection (Lawful Surrender of a Newborn Child) Amendment Bill be restored to the *Notice Paper* as a lapsed bill pursuant to section 57 of the Constitution Act 1934.

Motion carried.

INDEPENDENT COMMISSION AGAINST CORRUPTION BILL

The Hon. S.G. WADE (16:04): I move:

That the Independent Commission Against Corruption Bill be restored to the *Notice Paper* as a lapsed bill pursuant to section 57 of the Constitution Act 1934.

Motion carried.

SUBORDINATE LEGISLATION (MISCELLANEOUS) AMENDMENT BILL

The Hon. S.G. WADE (16:05): Obtained leave and introduced a bill for an act to amend the Subordinate Legislation Act 1978. Read a first time.

The Hon. S.G. WADE (16:05): I move:

That this bill be now read a second time.

The Subordinate Legislation Act 1978 regulates the making, printing and publishing of certain subordinate legislation. Subordinate legislation, of course, is legislation made by a body other than this parliament under authority granted to that body often by an act of parliament. Subordinate legislation must be tabled in both houses within six sitting days of being made and can be disallowed by either house within 14 sitting days of tabling.

On 14 October 2009, the Hon. Robert Lawson MLC introduced a private member's bill in this place to address four weaknesses in the current arrangements for subordinate legislation. The problems he identified are as follows. Firstly, if either house of the parliament disallows a regulation, the executive can make the same regulation straight after the disallowance and repeatedly do so. This creates unnecessary uncertainty in the community.

Secondly, either house has only the power to disallow the whole of a regulation. Parliament does not have the power to disallow part of a regulation; therefore, while to deal with a problem in a regulation it may only be necessary to remove one part, the parliament is forced to disallow the whole of the regulation or allow the regulation as a whole to proceed unamended.

Thirdly, either house of the parliament does not have the power to amend regulations. Fourthly, section 10A of the act provides that regulations will commence four months after they are made but the minister can allow early commencement if it is considered necessary and appropriate. Over time, almost all regulations are said to be necessary and appropriate for early commencement.

On 12 May 2010, the Hon. Robert Brokenshire introduced in the Legislative Council a bill identical to what I will call the Lawson bill. This bill—the Subordinate Legislation (Miscellaneous) Amendment Bill 2012, which I have just tabled—is identical to the Lawson bill except in one respect which I will address later. The bill seeks to remedy the problems outlined in the following ways. Firstly, section 10(6a) is to be inserted which provides:

If a regulation is wholly or partly disallowed by resolution of a House of Parliament, no regulation of substantially the same effect as the disallowed motion, or the disallowed part of the regulation, may be made within 6 months after the disallowance unless that House of Parliament resolves to allow the making of the regulation.

If a regulation is made in contravention to that subsection, the regulation would be void. Provisions limiting the re-enactment of subdelegated legislation operate in the commonwealth, New South Wales, Tasmania, Northern Territory and the Australian Capital Territory.

Secondly, a regulation could be wholly or partly disallowed by resolution of either house of parliament and will cease to have effect to the extent of that disallowance according to this bill. The parliaments of New South Wales, Victoria, Western Australia and Tasmania can disallow a piece of subdelegated legislation in whole or in part.

Thirdly, our parliament may vary or substitute regulations under proposed section 10B. Western Australia has a similar provision but does not require the concurrence of the other house. Fourthly, for the regulation to commence in less than four months, the minister would need to certify that:

> commencement on the specified date, or at the specified time, is required due to the exceptional circumstances specified in the certificate

The bill deals with that in proposed section 10AA.

The bill does vary from the Lawson bill in one respect. The most innovative element is the third reform of proposed section 10B in allowing either house to amend the regulation without the concurrence of the other house. The bill requires concurrence of both houses. While the concurrence of the other house effectively provides the executive with a veto, the executive has a veto anyway as it has the right to revoke an amended regulation following amendment by a house. As an amended regulation under section 10B is not subject to tabling and disallowance in its own right, there would be a risk that the executive might use such a provision to amend its own regulations in the House of Assembly to subvert parliamentary scrutiny.

I commend the bill to the council and indicate, as always, that I would be delighted to explore the bill and the issues it raises with any honourable member, including members of the government, to make this the best bill that it can be.

Debate adjourned on motion of Hon. J.M. Gazzola.

SUMMARY OFFENCES (USE OF PUBLIC ADDRESS SYSTEMS) AMENDMENT BILL

The Hon. S.G. WADE (16:11): Obtained leave and introduced a bill for an act to amend the Summary Offences Act 1953. Read a first time.

The Hon. S.G. WADE (16:11): I move:

> That this bill be now read a second time.

This bill, the Summary Offences (Use of Public Address Systems) Amendment Bill 2012, would be familiar to most members of the council. In fact, it is almost identical to the Summary Offences Act amendments contained within the Statutes Amendments (Public Assemblies and Addresses) Bill 2011 passed by this council last year. However, this bill differs from its predecessor in one respect. The bill removes the amendments to the Public Assemblies Act contemplated by the previous bill so that those matters can be considered separately.

I would stress that we have not stepped back from our view that those public assembly amendments are well founded and necessary, but given the government's reluctance about those specific provisions, we have introduced a bill which only contains provisions which have only been the subject of general agreement. This should allow the bill to be dealt with expeditiously. Members have all cast considered votes on this legislation previously. Indeed, during debate at that time, the Minister for State/Local Government Relations (Hon. Russell Wortley) said:

> I have given an undertaking to the Hon. Mr Wade that I will work with him for 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.

That was said on 9 November 2011. The commitment to develop further legislation was reiterated on 10 November 2011.

As anticipated, since the model by-law regulation was passed by this parliament and the by-laws implemented by the council, disturbances have continued between rival protest and preacher groups in Rundle Mall and elsewhere. We have heard media reports of street preachers going to the Feast Festival, the Pride March, Victor Harbor over the new year, being on trains, and plans for preachers to engage at Holdfast Shores. There have been previous reports of amplified preaching outside Paradise Church. All these events demonstrate the need for further reform that comprehensively addresses community concerns.

I would remind honourable members in this context that the council by-law that we put in place only deals with pedestrian malls, and the Adelaide City Council is the only council that I am aware of that has actually adopted that model by-law. The provisions in this bill are not simply to manage problems raised by recent events. The street preachers may be the focus of conflict and controversy today but it could just as easily be that another group is a focus of concern tomorrow. This bill is about managing the right to free speech in a respectful way that respects the rights of citizens to non-interference.

I would stress that the provisions in this bill are complementary to the current Adelaide city by-laws governing amplification use. They are necessary because the by-laws hailed as the silver bullet by the government are limited to pedestrian malls and limited to those council districts which have adopted the model by-law. As I said, Adelaide is the only council I am aware of that has done so at this point. The provisions in this bill are not intended to replace the by-law power but, instead, to provide a means for similar problems to be managed across the state in a complementary way with any by-laws that may exist in that particular district.

At present, the powers of the police to enforce respectful free speech are limited, and this bill gives police a clearer power and a clearer authority to control the misuse of amplification. The bill would empower police to direct a person not to use a public address system in a prescribed area where relevant authorisation had not been granted. It would give police the power to confiscate a public address system if a person fails to comply with such a direction. The public address system would be returnable to the person on the payment of a prescribed fee. It would empower police to request the name and address of a person to whom a direction is issued, and it would be an offence to refuse to provide those details to a police officer.

The bill would empower police to charge a person with an offence under the act if they breached a direction issued to that person, unless the person has a relevant authorisation. 'Relevant authorisation' is defined in the bill as an authorisation by the landowner or occupier, the Commissioner of Police, or the local government authority in that area. Authorisation would only be required by one of the relevant authorities to avoid an effective veto by one party over the others.

In mid-January, the honourable minister (Hon. Russell Wortley), the member for Adelaide (Rachel Sanderson) and I met with the police commissioner to discuss the management of Rundle Mall and public assemblies more generally. In relation to the proposal to change the Summary Offences Act to give the police amplification control powers, the police commissioner was generally supportive of those reforms. I would like to take the opportunity to thank the minister for his participation in that meeting and his support in addressing the issue and for making himself available to meet with the commissioner.

The minister has previously committed to a bipartisan approach, and we hope this spirit of collaboration will continue. I would also like to acknowledge the advocacy of my colleague in the House of Assembly, the member for Adelaide, Rachel Sanderson. She has been an active representative of her constituency and relentlessly pursued solutions to this problem for Rundle Mall traders and other users and residents of the CBD. I commend the bill to the council.

Debate adjourned on motion of Hon. J.M. Gazzola.

STATE SOVEREIGNTY

The Hon. S.G. WADE (16:18): I move:

That the Legislative Review Committee inquire into and report on processes for consideration by the parliament of schemes of inter-jurisdictional legislation and that a message be sent to the House of Assembly requesting its concurrence thereto.

In the first two years of this parliament there have been several pieces of legislation that have raised the issue of schemes for inter-jurisdictional legislation, a legislation that we often refer to as national law. In particular, I doubt if members need reminding of the Health Practitioner Regulation National Law Bill 2010, the Statutes Amendment and Repeal (Australian Consumer Law) Bill 2010, the Occupational Licensing National Law Bill 2011, the Controlled Substances (Therapeutic Goods and Other Matters) Amendment Bill 2011, and a cluster of energy-related bills.

The Legislative Council has increasingly demonstrated its significant scepticism towards such schemes and amended a number of these bills. In response to the activity of the Legislative Council on Wednesday, 9 March 2011, the Minister for Health in another place moved the following motion in government business:

That the Legislative Review Committee—

(a) inquire into and report on an agreed process for all parties and Independent members in the South Australian parliament to follow that will enable issues of sovereignty to be considered by the parties and Independent members where the parliament is considering a bill that seeks to apply the law of another state, territory or the Australian government to South Australia; and

(b) consider a process that enables the parties and Independent members to consider the issue of sovereignty separate to any other debate on a bill, thereby avoiding unnecessary debate on this issue in parliament and instead enabling the debate to focus on the purposes and content of a bill.

There are a range of legislative structures relevant to the issue of uniformity in legislation. As these national laws may not involve all states and territories or the commonwealth, I will use the term 'interjurisdictional legislation'. The government motion focuses on one form of interjurisdictional legislation, that is, legislation which I would call 'applied legislation': one jurisdiction enacts the main piece of legislation, with other jurisdictions passing acts which do not replicate but merely adopt that act and subsequent amendments as their own.

The commonwealth often uses its funding discretions to coerce state governments to commit their parliament to legislation. Other structures of uniform legislation also raise issues of state sovereignty or, more to the point, healthy federalism. I consider that any reference to the Legislative Review Committee should look at processes for the range of schemes for interjurisdictional legislation, not simply applied legislation.

In my view, schemes of interjurisdictional legislation raise a range of issues beyond state sovereignty that should be considered through any discussion of an agreed process. First, interjurisdictional legislation raises the issue of state/federal balance: does the bill involve a significant abdication of state legislative or administrative power or is it primarily an area of commonwealth legislative competence and the state is merely helping the commonwealth provide comprehensive coverage?

Secondly, there are issues related to the balance between the executive and parliamentary wings of our system of government. The issues that arise are such as whether the bill involves an inappropriate involvement in the legislative process by the executive, particularly in subsequent amendments and whether the federal executive/state executive ministerial councils or committees of advisers take an inappropriately controlling role in the process.

In that regard also, we need to consider how regulations are proposed to be considered. Are regulations, for example, to be tabled in each jurisdiction and disallowable by those jurisdictions? Also, we need to consider the conduct of commonwealth and state reviews and whether any reviews are tabled in one or more parliaments.

The third overarching issue, in my view, is the citizen's access to the law. It makes it difficult for citizens to know the law and be sure that they are complying with the law if they find it difficult to access. To open up the South Australian statute book and for it to tell you that it operates with reference to an act in Queensland makes it all the more difficult for citizens to know what the law requires of them.

While the government motion envisaged that the Legislative Review Committee would devise a process, I think it is important that we be frank about what that process might involve and the challenges that it creates. The government, no doubt, is envisaging a process whereby issues in relation to interjurisdictional legislation are considered shortly before a bill is considered by the parliament but, according to minister Hill's motion, quite separately.

In that regard, I would indicate scepticism, but it is actually possible to consider, if you like, the merits or other content of the bill in separation from the appropriate legislative framework. It is often through the debate on the objects and operations of the legislation that it becomes clear whether or not it is something that lends itself to, shall we say, a less directive process.

For example, one of the issues the opposition parties are mindful of when we are considering interjurisdictional legislation is how important is quick consistency. For example, in relation to an electrical wiring regulation, you might want it to be quickly and universally enforced across Australia, with little doubt about its consistency across states. It is through considering legislation like that that this opposition would be more likely to accept a more, if you like, coercive uniform legislation process.

By way of general comment, I think that minister Hill is not being realistic in suggesting that the two processes—the processes of the bill and the processes of the form of national law—can be considered separately. However, it may be appropriate for the parliament to be engaged before the executive makes any commitments to legislate in certain ways. Proposals for legislation and draft agreements could be the subject of notification requirements to parliament, members of parliament or a parliamentary committee, and major work by the bureaucracy may need to be the subject of a motion of the parliament. Too often we have ministers coming back from ministerial councils saying, 'We committed in a ministerial council.' Too often we have ministers going to ministerial councils saying, 'Our bureaucrats have spent years on this. We've got to follow through.'

Parliamentarians across jurisdictions could be engaged through advisory committees which parallel the ministerial councils. After inter-jurisdictional legislation has been developed, it could be considered by a parliamentary committee. I note that the Western Australian Legislative Council has a Standing Committee on Uniform Legislation and Statutes Review which receives references on national law under the standing orders of the Legislative Council. I should stress that none of those options are options that the opposition is advocating. I simply raise them as an indication of the sorts of measures that could be taken to try to address some of the issues that have been raised in relation to uniform or national law.

Minister Hill's motion sought an agreed process. From a parliamentary perspective, I am concerned to ensure that any agreed process does not abrogate from the prerogatives of parliament and of each parliamentarian in the parliament. A parliament cannot abdicate its legislative function where this is conferred by a higher law. State legislative power is not only granted by the state constitution acts but is also derived from section 107 of the Commonwealth Constitution and section 2 of the Australia Act 1986. It cannot be removed by the state parliament. Thus, an attempt to limit legislative power by providing the legislation may only be introduced in the parliament if approved by a specified body or in a certain way is likely to be legally ineffective.

I would be open to a convention or amendments to the standing orders, or amendments to the Parliamentary Committees Act, if referral to a parliamentary committee was to be part of any process. However, I would strongly oppose putting the process in other legislation as such a law could be construed as a law relating to the constitution or the powers or the procedures of the parliament and thereby could be subject to the manner and form requirements of section 6 of the Australia Act.

Effective manner and form provisions change the manner and form in which legislation must be enacted, requiring future parliaments to comply with specific restrictive procedures for enactments to be valid. This can make amendment and repeal more difficult. The increased use of inter-jurisdictional legislation partly reflects the growing sophistication of inter-governmental cooperation within the Australian federation. However, it also reflects the long-term expansion of commonwealth power through judicial decisions and the shift in the fiscal balance between the states and the commonwealth.

The opposition concurs with the government that we need to better handle national law in terms of the relationship between the executive and the parliament. My motion is worded differently from the government's motion, but my understanding is that the goal is the same. I commend the motion to the council.

Debate adjourned on motion of Hon. J.M. Gazzola.

REGULATED TREES

The Hon. J.M.A. LENSINK (16:28): I move:

That the regulations under the Development Act 1993 concerning regulated trees, made on 17 November 2011 and laid on the table of this council on 22 November 2011, be disallowed.

I have spoken several times on this particular issue, so I will not repeat all those remarks but just provide an update to members as to the process of regulated trees. We have had the bill, which became an act, and then the regulations. We have a DPA on which, coincidentally, the public meeting consultation is this evening at the Grosvenor at 7pm, and I commend all honourable members to attend, as I will be, and to listen intently to the submissions made by a number of organisations. Since the regulations came into effect the DPA has also been promulgated and, while they are separate instruments, the policy changes are complementary, and therefore the DPA is also germane to this discussion.

Several stakeholders and I met a number of times over the Christmas break, most notably Mr David Lawry OAM of TREENET, the National Trust, a representative from the LGA at one of the meetings, the South Australian Association of Arborists, and Dr Bob Such, who has a long-standing interest in the protection of trees and who is, indeed, a board member of TREENET. We met to discuss what the issues were that we wanted to raise with the government, and a meeting took place a couple of weeks ago. I was not able to attend because there were only a couple of business days' notice and I had to be in the country; however, I understand Dr Bob Such did a terrific job leading a delegation and putting those concerns to the minister.

A number of the issues those stakeholders discussed were: whether councils should be able to nominate their own species for inclusion within their own development plans; the 10-metre

rule, which means that any tree within 10 metres of a dwelling or a pool can be removed; the 20-metre rule, which applies in bushfire areas; whether trees should have their own register of culturally significant trees; dead trees, which do provide some habitat; the list of exemptions for trees (that is, the hit list of anything that can be removed because of its species and the list of things that cannot be removed because of their species); the amount to be paid into the tree fund; and the bushfire zone.

Dr Bob Such made a written submission to the minister, and I think some of those issues were relatively well received. We have also had public commentary from the planning department saying that there may be some alterations to the laws that need to be made, and those are positive signs. I would like to see the colour of the government's money before I withdraw this disallowance motion—

An honourable member: The whites of their eyes.

The Hon. J.M.A. LENSINK: The whites of their eyes, my colleague interjects. It is out of order; nevertheless, it is worth including. Since the laws came into effect on 17 November I think a number of councils, and indeed community groups, have been outraged at the level of activity taking place with chainsaws throughout the metropolitan area. I think there is good reason for concern that a number of trees will now be removed because these new laws are incredibly developer friendly—they would say they are not quite friendly enough. My colleague the Hon. David Ridgway and I met with them, and I think there are some issues on which we will agree to disagree.

A number of organisations have made submissions, and I would be interested to see what they have to say in writing. However, they include the Conservation Council, Save Our Suburbs, St Peter's Residents' Association, and the Blackwood/Belair and District Community Association, just to name a few who have made submissions. Issues that each of those organisations have raised are very similar to those I have placed on record before and which the coalition of TREENET and so forth made submissions on as well.

We did have the incident at The Avenues Shopping Centre on Australia Day, and I note that the former premier, who likes to consider himself some sort of environmental warrior, has been complaining about those. The great irony is that those trees would not have been able to be removed were it not for the decisions of his government, so I find it somewhat hypocritical that he makes any protest at all about that taking place. I think he changes his tune, depending on who he thinks is listening.

The Hon. D.W. Ridgway: No, surely not.

The Hon. J.M.A. LENSINK: My colleagues interject again that they are shocked. I do hope in good faith that the new Minister for Planning will take on board a number of these concerns and not just in some sort of tokenistic 'meet us part way'. I have moved this motion again because I think it is a very important issue for the amenity of the metropolitan area to retain a lot of our significant trees and, indeed, for the habitat that they provide.

Professor Chris Daniels, who is very well versed in the habitat within our urban environs, advises that there is not much of it left and that some of the most significant habitat resides within people's backyards. I think it is worth bearing in mind that if we want to continue to see birds, butterflies, lizards and so forth, we need to protect the trees as well. With those comments, I commend the motion to the house.

Debate adjourned on motion of Hon. J.M. Gazzola.

WIND FARM DEVELOPMENTS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:36): I move:

1. That a select committee of the Legislative Council be established to investigate wind farm developments in South Australia, with the following terms of reference:

   (a) separation distances between wind turbines and residences or communities;

   (b) the social, health and economic impacts of wind generators on individual landholders, communities and the state;

   (c) the need for a peer-reviewed, independent academic study on the social, health and economic impacts of wind generators;

   (d) the capacity of existing infrastructure to cope with increased wind power;

(e) the cost of wind power in South Australia;

(f) the environmental impacts of wind generators;

(g) the siting of wind generators in South Australia;

(h) the approval process of wind farms in South Australia;

(i) the preparation of the Statewide Wind Farm DPA; and

(j) any other matter the committee deems relevant.

2. That standing order 389 be so far suspended as to enable the chairperson of the committee to have a deliberative vote only.

3. That this council permits the select committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the committee prior to such evidence being presented to the council.

4. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

Members of parliament have been made well aware that South Australians do not want to live too close to industrial-scale wind generators. We know that we have more wind generation in this state than any other state. In fact, we have one of the highest penetrations of wind power in the world, and we have more than half of Australia's installed wind power in South Australia.

It is interesting, when you look at the geography of the state, that nearly every electorate that has wind generators is held by the Liberal Party, with the exception of, I think, the seat of Mount Gambier, represented by Mr Pegler, and the seat of Frome, represented by Mr Brock. However, none of the government—

An honourable member interjecting:

The Hon. D.W. RIDGWAY: I do not believe that there are any in the electorate of Giles. There could be, but I do not think there are any either in or proposed in the electorate of Giles. So, it is because the people the Liberal Party represents, the constituents in the electorates of the local members Peter Treloar, Stephen Griffiths, Dan van Holst Pellekaan, Ivan Venning, Tim Whetstone, Mark Goldsworthy, Adrian Pederick and Mitch Williams, have raised concerns for some considerable time, and that is why we felt it was important we establish this select committee to give an opportunity for some sensible and informed debate. We know that wind power generation is seen to be totally friendly and green, but really there is turbulence building over the cost, the health effects and the aesthetics.

Community opposition to industrial-scale wind generation is increasing. At the same time the Labor government is planning to approve more and more wind farms closer to homes, villages and schools. Neighbouring homeowners and primary producers want to be protected from encroaching wind farms. With the statewide ministerial DPA that has been imposed, the Labor Party, the government, wants to remove the third party appeal rights. It just seems un-Australian to do so. This move by the government almost came out of nowhere in the dying days of premier Rann's reign over this state or his party. I think it was on the Tuesday of that final week, so probably 18 October, that this was launched.

The Hon. R.L. Brokenshire: Who said that? They don't even acknowledge him any more.

The Hon. D.W. RIDGWAY: Well, they don't acknowledge him any more; he is a forgotten beast of the past, I suspect.

The Hon. J.M. Gazzola: You don't acknowledge Brokey—he was a member of the Liberal Party.

The Hon. D.W. RIDGWAY: I acknowledge the people who deserve recognition, but I won't be recognising you today.

The Hon. J.M. Gazzola: Or Brokey.

The Hon. D.W. RIDGWAY: The Hon. Robert Brokenshire was a very important member of a former Liberal government and a cabinet minister—something you will never be.

The PRESIDENT: Order!

The Hon. J.M. Gazzola: In a Liberal Government I won't be, that's for sure.

The Hon. D.W. RIDGWAY: And you won't be in a Labor government.

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: So the South Australian Liberals have been called upon to protect the residents and communities from wind farms being built too close to their homes and villages. This includes protection against economic loss caused by restrictions on things such as aerial spraying, fire fighting, mustering and the like. It only occurred to me when I visited a group of landowners on Yorke Peninsula, where our local member Stephen Griffiths had alerted me to a group who were wanting to meet with the shadow minister for planning, that aerial spraying of crops is a particular concern.

I guess I have always come from the fundamental view that you should be able to do whatever you like on your property, provided you do not impact on the way the neighbours go about their daily business. Neighbours and adjacent land owners' farm management practices and rights must not suffer because of a Labor government approved wind farm on another property.

Wind generated power is very expensive, but wind farms do not reduce the need for conventional generating capacity, because we still need to meet peak demand on hot or windless days. The Energy Retailers Association warns that we are footing the bill for both wind and back-up electricity generation, so we still have to pay for the infrastructure, even if it is not used.

Certainly I would hope that the committee resolves, when it is formed (and I hope the Legislative Council supports the motion to form the select committee), that we look at getting some witnesses from the National Electricity Market, the Australian Energy Regulator and all of them so that we can actually get some really good technical evidence given to us on exactly how wind fits into the national grid, because I have heard anecdotally from somebody who works for the Australian Energy Regulator that they do not even consider wind power as a serious player, even though we have so much of it. They really do not factor it in when they are doing the allocation of power and the bidding process that it all goes through.

I am interested very interested to get some evidence not just from wind farm proponents and those in the community who want them and like them and those who feel they suffer from them, but also we need to ensure that we get some high level advice on exactly where they fit in our market and what the long-term place is for it.

There is also a cost to individual homeowners. Homes and properties are often devalued by having these turbines nearby and in the line of sight. We have heard some evidence that has presented to the opposition that experts assess the loss of value in excess of 30 per cent and sometimes up to half of the value of the property. I suspect if they are very close to people's property and have a big impact on the aesthetics, especially in the Adelaide Hills or somewhere where people had a property because of the view, I could understand how that loss could be as much as 30 or 50 per cent.

The Liberals believe that wind farms must not be improved on sites where they create negative economic and social effects, so that is why some time ago in late December we launched a policy of having a moratorium on new wind farms being built closer than two kilometres from existing homes or five kilometres from a town, village or settlement. This mirrors the policy in Victoria and to an extent the guidelines in New South Wales. I hope it is something the committee will look at—national guidelines in relation to whether they are a sensible way to progress. It is something that the opposition thinks is sensible but this is an opportunity for other members of this chamber and the witnesses to try to develop some national guidelines regarding the separation distances and noise emissions.

Clearly, if we are to be in a national electricity market and if there are any adverse effects from these particular installations, then our community should not be put at greater risk or carry a heavier burden than other communities. Likewise, if there is no detrimental effect, then there should not be any reason not to have national guidelines because, at the end of the day, we have to make sure that this is all developed on an even playing field.

It is interesting to note that despite a recent Senate inquiry much about the South Australian wind farm situation remains unknown. Where should wind farms be built and where not? Should we allow wind farms right across the ridge of the Mount Lofty Ranges, in national parks, across the Coorong or iconic tourist areas like the Barossa, Clare Valley and McLaren Vale? There is also the question of health, the so-called wind turbine syndrome. Some people living over a kilometre from an industrial wind turbine say they suffer from sleep disruption so severe that it

affects their day time functioning and mental health. The Clements Gap and Waterloo wind farms can be heard up to three kilometres away and many people report sleep disruption and nausea.

The Hon. R.L. Brokenshire interjecting:

The Hon. D.W. RIDGWAY: The Hon. Robert Brokenshire interjects, 'Up to 10 kilometres.' It could be that wind turbines affect some people and not others, a bit like car sickness. You and I, Mr President, could be in the back of a car; you could feel sick and I could feel fine. Of course, if it was the Hon. John Gazzola, we would probably all feel sick. It could be a bit like car sickness, so this is something I would like the committee to have a closer look at, if it is established. The supporters of wind farms think it is rubbish that they make people ill. The people I have seen and read about that claim to be affected certainly appear to be affected.

One of the things I would ask the committee to do is spend a night sleeping in a house where one of these people is claiming to have their sleep disrupted. The committee members could take their sleeping bags and swags and spend a night or two right where these things are.

The Hon. R.L. Brokenshire: Right under the turbine, I reckon.

The Hon. D.W. RIDGWAY: The Hon. Robert Brokenshire interjects, 'Right under the turbine,' but I want to go right where the person's house is. I am not interested in sleeping under the turbine. I want to sleep where the people say they are affected because I think we will get a firsthand feel of it. Certainly one of the early things we would do is look for some houses or properties where people would be happy for us to come and sleep.

We must also investigate how turbines reduce the ability of aerial firefighting. Planes have to keep their distance from these turbines. I think the Aerial Agricultural Association of Australia's guidelines say that, if you are flying parallel to a line of turbines, you cannot be any closer than 500 metres; and if you are flying towards some turbines and having to turn before you get to them, there is a three kilometre safety zone which they do not wish their pilots to enter. If you look at where these things are located and if those guidelines are observed, it will certainly have a significant impact if the wind farm or the turbines are placed right on a neighbour's property.

We want to have a close look at not only the impacts on aerial spraying and farming but also aerial fire bombing, because on an extreme day it is not only the immediate property that is under threat but towns, other communities and other private property. Even in November last year, the Southern Fleurieu CFS was called to a fire at the Starfish Hill wind farm near Cape Jervis. The CFS officers could do little but watch the blaze from a kilometre away when WorkSafe deemed it was too dangerous to approach.

I have had a close look at this and it is quite interesting to note that WorkSafe said that it was too dangerous to approach and they had a one kilometre exclusion zone. If you had a wind turbine near a major highway or a major transport route and for whatever reason it caught fire or there was a problem with it, WorkSafe would close down that area which would not only impact on the landowner whose property the turbine was on but the local community and potentially the broader community if it was on a major transport route or a regional road. I think that is something that the committee should also look at.

I also hope that we will look at some research. The divisive issue in the whole wind farm debate is the lack of a peer-reviewed independent study. The proponents of wind farms say that they welcome it. We do not have an independent study and the wind farm proponents and the people in the community who support wind farms say, 'Great, bring it on. Get some research and show that there is no effect on the health of people from these installations.' Likewise, the people who believe that there is a problem and that it has a detrimental affect on their health say, 'Bring it on. Let's have some quality independent research.' I am hoping that the committee will look at that.

I should not pre-empt the committee's findings, but I am hopeful that the committee would recommend that the government supports a South Australian university study, a peer-reviewed study, into the effects of industrial wind turbines on nearby residents and communities. After all, if South Australia is to be Australia's leading wind generation state, we should be a national leader in academic research into the industry.

Given former premier Rann (the person we do not hear much about anymore) was so passionate about wind farms and so passionate about having South Australia and Adelaide as a university city—and we have a huge number of overseas students here and I think we all support having high quality higher education in South Australia—I am a bit bemused that he did not see this as an opportunity to have that independent peer-reviewed study based in Adelaide to settle this

issue once and for all: is there a problem or is there not? As I said earlier, I think it could possibly be a little like car sickness, but certainly the people who feel unwell and feel affected by these things genuinely believe there are some problems.

The other thing about which I have nothing other than anecdotal evidence is the impact on farm animals. I had a dairy farmer contact me—and I know the Hon. Robert Brokenshire has expressed interest on being on the committee and being a dairy farmer he might understand this—with some written evidence that dairy cattle underneath a wind turbine have a lower butterfat yield, lower fertility rates and lower growth rates. I do not know whether that is true, but if it is, then let us look at the evidence. It is worth investigating.

On my very first parliamentary study trip I went to the Netherlands. I went to look at wind generation and euthanasia. That was in late 2002, so it is nearly 10 years ago. It is interesting to note that there was a big shift from having wind turbines on land in Europe to offshore installations, where they were beyond the horizon and where people could not see them. They are very expensive to install and service, and I understand that it is probably cost prohibitive, but clearly the community was concerned. I do not know whether their concerns related to the visual impact or the health impacts. Right across the world, there have been a number of concerns.

It is certainly my view that the committee could look at this issue and recommend having a statewide zoning plan setting out where these things would be prohibited. This means no wind farms in inappropriate, sensitive or visually and culturally iconic parts of the state like Ramsar sites and places on heritage registers. I think there are areas of the state that we need to say are off limits. We will have the Arkaroola bill before us, I suspect, tomorrow and I think there are areas where these things probably should not be. I would like the committee to look at some of the areas so that we can come up with a list of areas to be part of the recommendations.

I would like to think that the committee would also have a look at the background to the ministerial DPA and the renewable energies paper that was released in the last couple of days of the former premier's time. We have a new Premier who says, 'We are going to engage and consult. We are not going to announce and defend.' Yet this decision was, we assume, a cabinet decision. We assume that cabinet signed off on it and yet it is very much an announce and defend decision.

I think the community would like to understand how that was formulated. There was no consultation with the community. Was there consultation with the wind industry sector? I think there is a whole range of answers and we would like to get the departmental people before the committee to answer some of those questions. With those few remarks I commend the motion to establish a select committee to the Legislative Council and look forward to support from the members.

Debate adjourned on motion of Hon. J.M. Gazzola.

SOUTH AUSTRALIAN HOUSING TRUST (MISCELLANEOUS) AMENDMENT BILL

The Hon. R.L. BROKENSHIRE (16:56): Introduced a bill for an act to amend the South Australian Housing Trust Act 1995. Read a first time.

The Hon. R.L. BROKENSHIRE (16:58): I move:

That this bill be now read a second time.

To a large extent this bill replicates the bill that lapsed due to the proroguing of parliament. I will not repeat what I said before about the bill, and I confirm the reasons for the bill are even more relevant than when I first introduced it. There is, however, one significant change to the bill and I will speak briefly about that. It states:

If the South Australian Housing Trust becomes aware that a tenant of the South Australian Housing Trust is a member of a declared organisation—

unlike the minister I am not talking about Port Power: I am talking about a declared organisation—

within the meaning of the Serious and Organised Crime Control Act 2008, the South Australian Housing Trust must give the tenant a written notice requiring the tenant to vacate the house being let to the tenant within 28 days of receiving the notice.

In light of allegations my office has received, and also with respect to the answers given by the minister today in question time about the question of bikies living in public housing, Family First believes that it is in the public interest, if not their expectation, that there should be no members of

outlaw motorcycle gangs living, at taxpayers' expense, in public housing when 22,000 law-abiding, decent South Australian citizens are denied the opportunity of that housing.

We want Housing SA to give SA police access to Housing SA databases and records; for that matter, other public agencies should open up data to fight organised crime. Data matching is an important part of combating organised crime. Under this bill, if SAPOL detects Housing SA tenants or sub-tenants who are OMCG members, they will be required to vacate the premises.

I do not intend to delay the house expanding on the merits of this bill; there will be other times for that. It should be plain; it fits perfectly within the government's own bills on tackling organised crime heading this way. This is a very tough policy, singling out members of OMCGs and driving them out of crime gangs, or otherwise out of this state. I look forward to the debate and, I trust, support on this element of the bill. I commend the bill as a whole to the house, and I look forward to input from my colleagues.

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

AUSTRALIAN YEAR OF THE FARMER

The Hon. J.S.L. DAWKINS (17:02): I move:

That this council:

1. Notes that 2012 is the Australian Year of the Farmer; and
2. Acknowledges the contribution that farmers and all others involved in primary production make to both feeding our nation and to sustain Australia's economy.

I am very pleased to bring this motion to the Legislative Council today. Certainly, the Australian Year of the Farmer is something that has been getting an increasing amount of publicity in recent months, but I think we need to make sure that more and more people are aware of the importance of the year and the importance of the subject matter of this organisation that has been created to celebrate the Year of the Farmer.

I certainly want to acknowledge the Hon. John Darley, who raised a question in this house last year about the government's support for the Australian Year of the Farmer. I note that today the Hon. Mr Kandelaars directed a question on similar lines to the minister in his own government. As a result of that, and a supplementary I asked, I look forward to getting more detail about the financial and in-kind support the government is providing to the Australian Year of the Farmer organisation.

Australian Year of the Farmer is a non-political, not-for-profit organisation set up to celebrate the hard work of everyone involved in producing, processing, handling and selling products from 136,000 farms across the country. Australian farms, and the industries that support them, generate more than $405 billion each year, which is 27 per cent of our GDP.

The celebration was conceived by Australian Year of the Farmer Ltd directors, Chairman Philip Bruem AM and Managing Director Geoff Bell, both from New South Wales. Geoff and Philip wanted more people to appreciate the fresh food and quality materials our farmers produce to keep us fed, clothed and sheltered, so the concept has grown into a national celebration, one which will reach every Australian, reminding us that our farmers sustain the Australian way of life and the economy, something which is important for us at this stage to recognise. I think that many people forget that, as well as Australian farmers providing all that food and shelter, etc. to Australians, a significant amount of what the farming sector produces in this country goes to other countries, and that export effort is a significant factor in our economy and always will be.

The member for Hammond in another place and shadow minister for agriculture Adrian Pederick and I met with Mr Bruem and Mr Bell late last year and we were pleased to add to the contacts that they had in South Australia as well as making some suggestions about how the year could be further promoted in this state. I commend them for making the trips that they have undertaken around a whole range of communities across Australia to get some local knowledge about how best to promote the range of events and activities in various communities.

As part of the Australian Year of the Farmer program a range of events, initiatives and educational programs are being rolled out across the nation throughout 2012. Highlights will include a nine-vehicle, One Country Roadshow travelling more than 56,000 kilometres to attend more than 300 events in an unprecedented Agricultural, Innovation and Technology Expo incorporating a Food of Origin Extravaganza. The extravaganza will promote the quality and origin

of Australian food products from wheat to bread and paddock to plate. The expo will also include a policy conference to bring together key stakeholders to discuss the issues of food security and skills in agriculture. While the Year of the Farmer is not a lobbying organisation, it seeks to facilitate greater stakeholder unity on these key issues that will affect the future of agribusiness in Australia.

Education is also a strong focus for the year, as are the many career opportunities available in the agribusiness sector. The program brings together the many excellent teaching resources available to provide inspiration and ignition points within wider subject or lesson plans. Children will explore the question, 'What does it take to feed Australia for a day?' in a range of subjects and mediums.

The Year of the Farmer will also include a photo competition and commemorative collectors' coins and stamps, as well as a TV program and One Country card. The Australian Year of the Farmer is about celebrating and enriching the connections between rural and urban Australia so the organisation has sought to create as many touch-points with people as possible.

It is worth noting that the Year of the Farmer has received a broad range of support from industry and government and is proud to have the patronage of Her Excellency Ms Quentin Bryce AC, Governor-General of the Commonwealth of Australia, and former cricket hero Glenn McGrath as ambassador for the year.

In continuing to comment about the range of activities and promotion for the events of this year, I note a special publication in many of the agricultural newspapers across this continent. I know it is not appropriate for me to use props but I do have on my desk, if anybody wants to have a look at it, a publication called *Our Farmers, Our Future*. I am also pleased that the roadshow that I mentioned earlier will be featured at many key events in South Australia this year including field days, country shows and, of course, the Royal Adelaide Show.

It is also important that the message be widely received in metropolitan areas of the country. It is important to highlight the importance of careers in agriculture and associated industries and the value of living in regional communities. I think it is also important to make sure that people with great leadership qualities remain in the agricultural sector, remain in regional communities and provide the direction and leadership that will make those industries and communities thrive long into the future. I commend Mr Bruem and Mr Bell for their initiative in getting this off the ground. It has enormous support across the country. If other members wish to obtain more information about this topic, they can look up www.yearofthefarmer.com.au.

I urge the government and other major organisations in this state to do all they can to assist the organisers throughout the year. The year will conclude in December with an exciting event in Melbourne, a showcase of agricultural innovation and technology set to be the largest of its kind in this country. It will take place in Melbourne from 6 to 9 December and showcase how Australian farmers are leading the world in farming techniques, innovation and technology. I commend the motion to the council.

Debate adjourned on motion of Hon. G.A. Kandelaars.

MARRIAGE EQUALITY BILL

The Hon. T.A. FRANKS (17:12): Obtained leave and introduced a bill for an act to provide for marriage between adults of the same sex. Read a first time.

CITIZEN'S RIGHT OF REPLY

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) (17:14): I move:

That, during the present session, the council make available to any person who believes that he or she has been adversely referred to during proceedings of the Legislative Council the following procedure for seeking to have a response incorporated into *Hansard*—

1. Any person who has been referred to in the Legislative Council by name, or in another way so as to be readily identified, may make a submission in writing to the President—

   (a) claiming that he or she has been adversely affected in reputation or in respect of dealings or associations with others, or injured in profession, occupation or trade or in the holding of an office, or in respect of any financial credit or other status or that his or her privacy has been unreasonably invaded; and

   (b) requesting that his or her response be incorporated into *Hansard*.

2. The President shall consider the submission as soon as practicable.

3. The President shall reject any submission that is not made within a reasonable time.

4. If the President has not rejected the submission under clause 3, the President shall give notice of the submission to the member who referred in the council to the person who has made the submission.

5. In considering the submission, the President—

   (a) may confer with the person who made the submission;

   (b) may confer with any member;

   (c) must confer with the member who referred in the council to the person who has made the submission and provide to that member a copy of any proposed response at least one clear sitting day prior to the publication of the response; but

   (d) may not take any evidence;

   (e) may not judge the truth of any statement made in the council or the submission.

6. If the President is of the opinion that—

   (a) the submission is trivial, frivolous, vexatious or offensive in character; or

   (b) the submission is not made in good faith; or

   (c) the submission has not been made within a reasonable time; or

   (d) the submission misrepresents the statements made by the member; or

   (e) there is some other good reason not to grant the request to incorporate a response into *Hansard*,

   the President shall refuse the request and inform the person who made it of the President's decision.

7. The President shall not be obliged to inform the council or any person of the reasons for any decision made pursuant to this resolution. The President's decision shall be final and no debate, reflection or vote shall be permitted in relation to the President's decision.

8. Unless the President refuses the request on one or more of the grounds set out in paragraph 5 of this resolution, the President shall report to the council that in the President's opinion the response in terms agreed between him and the person making the request should be incorporated into *Hansard* and the response shall thereupon be incorporated into *Hansard*.

9. A response—

   (a) must be succinct and strictly relevant to the question in issue;

   (b) must not contain anything offensive in character;

   (c) must not contain any matter the publication of which would have the effect of—

      (i) unreasonably adversely affecting or injuring a person, or unreasonably invading a person's privacy in the manner referred to in paragraph 1 of this resolution, or

      (ii) unreasonably aggravating any adverse effect, injury or invasion of privacy suffered by any person, or

      (iii) unreasonably aggravating any situation or circumstance, and

   (d) must not contain any matter the publication of which might prejudice—

      (i) the investigation of any alleged criminal offence,

      (ii) the fair trial of any current or pending criminal proceedings, or

      (iii) any civil proceedings in any court or tribunal.

10. In this resolution—

   (a) 'person' includes a corporation of any type and an unincorporated association;

   (b) 'Member' includes a former member of the Legislative Council.

This motion relates to the right of reply of any person who believes that he or she has been adversely referred to during proceedings of the Legislative Council. This is an identical motion to that which has been moved at the start at every session for a number of years now.

The original form of this right of reply motion commenced in the period when Trevor Griffin was attorney-general, with some modification following a couple of cases in which it had been

used. It has now been in the same format for the last five or six years, and I believe it is a worthwhile part of the procedures of this parliament. I move this motion as a sessional order and seek the support of the council to ensure that this right of reply continues for this session.

Motion carried.

CRIMINAL LAW (SENTENCING) (SENTENCING CONSIDERATIONS) 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) (17:15): I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

STATUTES AMENDMENT (CRIMINAL INTELLIGENCE) 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) (17:16): I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

STATUTES AMENDMENT (COMMUNITY AND STRATA TITLES) 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) (17:16): I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

SUMMARY OFFENCES (WEAPONS) 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) (17:17): I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

CORRECTIONAL SERVICES (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) (17:17): I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

WORK HEALTH AND SAFETY BILL

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (17:18): I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (17:18): I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

VOCATIONAL EDUCATION AND TRAINING (COMMONWEALTH POWERS) BILL

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (17:19): I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

WATER INDUSTRY BILL

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (17:20): I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (17:20): I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

ARKAROOLA PROTECTION BILL

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (17:21): I move:

That the bill be restored to the *Notice Paper* as a lapsed bill, pursuant to section 57 of the Constitution Act 1934.

Motion carried.

LIVESTOCK (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) (17:21): Obtained leave and introduced a bill for an act to amend the Livestock Act 1997. 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) (17:21): I move:

That this bill be now read a second time.

This bill was introduced in this place on Wednesday 30 November 2011. The bill I am seeking leave to introduce today is the same bill. As I do not want to waste the time of this chamber, I seek leave to insert the second reading explanation of the bill and clauses in *Hansard* without my reading it.

Leave granted.

This Bill is about improving the current operation of the *Livestock Act 1997*.

The current Act came into operation in January 1998 and represented the consolidation of eight Acts relating to the health of livestock in South Australia.

The Act incorporates support for a number of important national agreements, for example the National Livestock Identification Scheme (NLIS) and the national agreement for funding of emergency responses to exotic disease incursions, ensuring that South Australia is in harmony with livestock legislation enacted elsewhere in Australia.

The Act provides for registration requirements in relation to the keeping of livestock to ensure fast and effective tracing of livestock in the event of the detection of an emergency animal disease. There are also registration requirements in relation to artificial breeding centres and veterinary diagnostic laboratories. These requirements ensure that the minimum necessary standards are complied with for the protection and benefit of the State's livestock industries.

The Act provides the Government with the ability to investigate and control any animal disease or contaminant that may impact on the health of livestock, people or native or feral animals or, the marketability of livestock or livestock products.

The Act also provides for the establishment of livestock advisory groups, which advise the Minister directly on matters affecting the sectors that they represent. Currently there are seven advisory groups (sheep, cattle, pigs, goats, deer, alpaca and horses). These groups have greatly assisted the government in developing appropriate policy for their particular sectors of the livestock industries. The advisory groups representing those industry sectors that have Funds established under the *Primary Industry Funding Schemes Act 1998* also act as the consultative committee for the respective Funds, providing advice to the Minister in relation to the administration of the Funds.

Good governance requires continual legislative review to ensure that the regulatory framework meets the needs of the community without stifling endeavour or putting at risk the enviable health status of our livestock industries. It is recognised that this relatively contemporary piece of legislation can be improved with 'fine tuning' certain existing provisions, removing obsolete or unnecessary provisions and including new provisions that will give the livestock owning communities greater say in how animal health related diseases and issues are dealt with.

Amendment of the Act is proposed to enable recovery of costs from individuals who refuse or fail to take required disease control actions, beyond just the expenses incurred by inspectors. This is particularly aimed at the apiary sector where a significant amount of taxpayer and industry funds are used to clean up neglected and abandoned hives and hive material, which present a biosecurity threat to the bee and honey industries.

Specific provisions for the allocation of a Property Identification Code (PIC) to all properties with livestock have been developed to provide for more equitable penalty provisions for persons in breach of the requirements and to improve the current PIC system. The PIC is an essential component of the NLIS and provides vital information about livestock properties for use in disease emergencies and natural disasters. These new provisions will not change the current requirements and operation of the PIC registration system.

The amendments to improve operation of the Act commenced with the release, in August 2009, of a Discussion Paper that identified a number of issues of interest and invited comment from stakeholders on the working of the Act and the proposed amendments. Stakeholder comments were fully supportive of the proposed general amendments. The recent consultation reconfirmed that these amendments are still supported.

The proposed amendments to the Act to establish cost recovery of the Animal Health program are not being pursued at this time.

Following amendment of the Act, Biosecurity SA will be consulting with relevant industry sectors on developing any necessary consequential amendments to the regulations.

This Bill contains a number of enhancements that will benefit primary industry producers and I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Livestock Act 1997*

4—Amendment of section 3—Interpretation—general

A new pointer definition is inserted in relation to category 1, 2 and 3 offences, categories used in connection with maximum penalties and expiation fees (see clauses 7, 10 and 20).

The existing pointer definition relating to notifiable disease is altered so as to refer to a new category—notifiable (report only) disease (see clauses 5 and 16).

The definition of veterinary diagnostic laboratory is altered so that it does not include a place of business of a veterinary surgeon if the only samples or specimens that are tested or analysed come from livestock being treated (as well as diagnosed) by the veterinary surgeon in the ordinary course of his or her practice. Such a laboratory will not be required to be registered.

5—Amendment of section 4—Interpretation—notifiable condition and exotic disease

This amendment provides for designation by the Minister by Gazette notice of a notifiable (report only) disease.

6—Amendment of section 5—Interpretation—livestock etc affected or suspected of being affected with a disease or contaminant

This amendment contemplates the Minister by Gazette notice specifying conditions that will mean that there is reason to suspect that livestock of a class susceptible to a disease are affected with the disease. This power is proposed to be used as necessary in responding to particular disease control programs agreed nationally.

7—Insertion of section 6A—Categories of offences determining maximum penalties and expiation fees

New section 6A provides for regulations prescribing the offences that are to be regarded as category 1, 2 or 3 for the purposes of penalty. Category 1 is specified as the default category. See clauses 10 and 20.

8—Amendment of section 9—Functions of livestock advisory groups

This amendment enables an advisory group to act on its own initiative in raising with the Minister any issue directly related to the sector of the livestock industry that it represents (rather than only at the request of the Minister). It also removes an out of date cross reference to Part 2 Division 2.

9—Amendment of section 10—Terms and conditions of membership and procedures

This amendment enables the Minister to give directions relating to the procedures of an advisory group. This is designed to facilitate consistency between the groups.

10—Amendment of section 17—Requirement for registration to keep certain livestock

The penalty for keeping livestock when not registered as required is substituted, so as to provide for graduated penalties and for expiation fees.

11—Amendment of section 19—Requirement for registration to perform artificial breeding procedure

The offence of carrying out an artificial breeding procedure on or in connection with livestock without being registered is made expiable and subject to further exceptions for a person who carries out an artificial breeding procedure on or in connection with livestock owned by the person, and an artificial breeding procedure carried out on or in connection with livestock by an employee of the owner of the livestock in the course of that employment.

12—Amendment of section 23—Term of registration and renewal

The amendment enables late renewal of registration and provides a process for applications for renewal.

13—Insertion of Part 3A—Identification codes

New section 26A empowers the making for regulations for a scheme of identification codes for places where livestock may be kept or handled and for stock agents. It is an expiable offence not to have a current identification code as required by the regulations.

14—Amendment of section 30—Movement of livestock or livestock products affected with notifiable condition

15—Amendment of section 31—Supply of livestock or livestock products affected with notifiable condition

The offences created by sections 30 and 31 are made expiable in cases not involving exotic disease.

16—Insertion of section 32A—Exemptions for notifiable (report only) diseases

New section 32A gives effect to the new category of notifiable (report only) diseases by disapplying provisions that do not relate to reporting to diseases of that category. The diseases that will fall into this category are those which, for export purposes, Government authorities must collect data but which do not require further regulation (such as leptospirosis, toxoplasmosis, campylobacteriosis and trichomonisais).

17—Amendment of heading to Part 4 Division 2

This amendment ensures that the heading properly reflects the proposed content.

18—Amendment of section 33—Prohibition on entry or movement of livestock or other property absolutely or without required health certificate etc

This amendment extends the power to impose documentation requirements relating to entry of livestock by Gazette notice to movement of livestock within or out of the State. This is intended to enhance disease control measures, particularly when responding to an emergency animal disease event. The offence in subsection (5) is made expiable except in relation to exotic disease.

19—Amendment of section 37—Gazette notices

The offence in subsection (4) of non-compliance with a notice is made expiable except in relation to exotic disease. Police officers are given the powers and functions of an inspector for the purposes of the section.

20—Amendment of section 38—Individual orders

The penalty for non-compliance with an order is substituted, so as to provide for graduated penalties and for expiation fees. Non-compliance with a sign erected as required by an order is made expiable.

21—Amendment of section 39—Action on default

22—Amendment of section 41—Action where no person in charge and owner cannot be located

The reference to 'by an inspector' is deleted in each case so as to ensure that the costs and expenses that may be recovered include those attributable to engagement of the inspector.

23—Amendment of section 43—Limitation on destruction or disposal of livestock or other property

It is thought that the reference to the example of halters and rugs leads to the provision being read more narrowly than is intended.

24—Amendment of section 47—Establishment of Fund

25—Amendment of section 48—Application of Fund

These amendments update references to the types of agreements under which money is paid into the Exotic Diseases Eradication Fund.

26—Amendment of section 49—Claims for compensation from Fund

These amendments allow a claim to be made by the owner of livestock certified by an inspector as having been destroyed during a declared period on animal welfare grounds as a result of a prohibition against movement of the livestock in force for the purposes of controlling or eradicating a declared exotic disease. The animal may not have been infected with disease. They also require the amount of compensation paid to be reduced by the amount of the net proceeds of any sale of livestock carcasses or other property.

27—Amendment of section 68—General powers of inspectors

28—Amendment of section 72—Compliance notices

The reference to 'by an inspector' is deleted in each case so as to ensure that the costs and expenses that may be recovered include those attributable to engagement of the inspector.

29—Insertion of Part 8 Division 4—Public warning statements

New section 72A enables the Chief Inspector to issue a public warning or to erect signs at a livestock saleyard or other public place for the purposes of controlling or eradicating disease or contamination.

30—Amendment of section 85—Service

This amendment contemplates service of notices by email if an email address is provided to the Minister or Chief Inspector for the purpose.

31—Amendment of section 88—Regulations

This amendment expands the regulation making power relating to vaccines and diagnostic reagents to diagnostic assays used in relation to livestock or native or feral animals. This is designed to enable the regulations to prohibit unauthorised testing or vaccination for notifiable and exotic diseases.

Schedule 1—Transitional provisions

This provision transitions the regulations relating to identification codes into the new scheme contemplated by the insertion of Part 3A into the Act.

Debate adjourned on motion of Hon. D.W. Ridgway.

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) (17:23): 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) (17:23): I move:

That this bill be now read a second time.

This bill was introduced in this place on Thursday 10 November 2011. The bill I am seeking leave to introduce today is the same bill. To expedite passage this evening, I seek leave to insert the second reading of the bill and explanation of clauses in *Hansard* without my reading it.

Leave granted.

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.

The *Aquaculture (Miscellaneous) Amendment Bill 2012* (the 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, State marine water resources, whilst 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 on-going 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 from 17 December 2010 to 18 March 2011. During this time advertisements promoting consultation were published in newspapers across South Australia, public meetings were held in Ceduna, Port Lincoln, Adelaide, Kadina and Kingston SE. During consultation, meetings were also offered to key government agencies, including DTEI and DENR and with key stakeholder bodies.

A separate process has commenced for the review of the supporting *Aquaculture Regulations 2005* that are both consequential changes from the Bill, and other amendments Linked to regulatory improvements. This step will involve further consultation.

The Bill

It is important to state at the outset that the objects of the *Aquaculture Act 2001* (the Act) remain unchanged—namely ecologically sustainable development of marine and land-based aquaculture; maximisation of 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 only regulated 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 only be granted 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 lessee. 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 3 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 timeframe 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.

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. D.W. Ridgway.

BUSINESS NAMES REGISTRATION (TRANSITIONAL ARRANGEMENTS) 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) (17:25): Obtained leave and introduced a bill for an act to enact ancillary provisions, including transitional provisions, relating to the enactment by the Parliament of the Commonwealth of legislation relating to the registration of business names under its legislative powers, including powers with respect to matters referred to that Parliament for the purposes of section 51 (xxxvii) of the Constitution of the Commonwealth; to amend the Bank Merger (BankSA and Advance Bank) Act 1996, the Bank Merger (National/BNZ) Act 1997, the Bank Mergers (South Australia) Act 1997, the Building Work Contractors Act 1995, the Motor Vehicles Act 1959, the Partnership Act 1891, the Plumbers, Gas Fitters and Electricians Act 1995, the Security and Investigation Agents Act 1995 and the Travel Agents Act 1986; and to repeal the Business Names Act 1996. 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) (17:26): I move:

That this bill be now read a second time.

This bill supports the Business Names (Commonwealth Powers) Bill 2012, which adopts the commonwealth legislation and provides the commonwealth with the necessary constitutional power it requires for the implementation and operation of the national business names registration regime. This bill seeks to address the transitional and consequential issues arising from the change to the new national regime.

The Bill makes a number of consequential amendments to other South Australian legislation including amendments to ensure they will, where necessary, refer to the commonwealth legislation rather than the repealed South Australian law. There are also transitional provisions set out in the bill, including a provision dealing with the resolution of outstanding matters under the Business Names Act 1996.

As a precautionary measure to enable the ability to deal with unforeseen issues that may arise, there is a provision in the bill to allow the making of regulations of a saving and transitional nature. The existing Business Names Act 1996, which establishes the current system for registering business names in South Australia, is repealed by the bill. In repealing the Business Names Act 1996, we are contributing towards efficiencies for Australian businesses by creating a national regime for the registration of business names and ensuring a smooth transition for South Australian businesses into the new national regime. I commend the bill to members. I seek leave to insert the explanation of clauses without my reading it.

Leave granted.

Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms used in the measure.

4—Commission may provide information and assistance to ASIC

This clause enables the Commission to provide information and documents in the Commission's possession to ASIC in respect of ASIC's functions and powers under the *Business Names Registration Act 2011* and the *Business Names Registration (Transitional and Consequential Provisions) Act 2011* of the Commonwealth.

5—Limitation of operation of Business Names Act during transitional period

This clause allows the Registrar to refuse to exercise a power or function under Part 2 of that Act (the Part dealing with new registrations of business names and renewals of registrations) if the Commission thinks the matter would be better dealt with under the new Commonwealth scheme.

6—Continuation of registration of certain business names

This clause will allow the Commission to continue the registration of a small number of business names (being registrations expiring during the transitional phase in relation to which the Commission decides not to take action to renew) to the change-over day so that those registrations can be considered under the Commonwealth scheme.

7—Resolution of outstanding matters

This clause sets out how matters under the *Business Names Act 1996* that are outstanding at the time the Commonwealth scheme commences are to be dealt with. In particular, the Commission may continue to determine specified kinds of applications under that Act and then notify ASIC of the determination. The *Business Names Registration (Transitional and Consequential Provisions) Act 2011* of the Commonwealth sets out further provisions in respect of such notifications. The Commission may also continue to reinstate a registration that has been cancelled by mistake.

8—Immunity from liability

This clause provides no civil liability attaches to the Crown, the Commission or a person engaged in the administration of this Act in respect of the exercise or purported exercise of official powers or functions under this measure.

9—References

This clause clarifies references to the current *Business Names Act 1996* in instruments and documents etc will have effect as if it were a reference to the *Business Names Registration Act 2011* of the Commonwealth, or the corresponding provision of that Act.

The clause makes similar provision in respect of references to registered business names.

10—Evidentiary provision

This clause sets out evidentiary matters in relation to whether or not a particular business name was registered, and proving certain documents in the possession of ASIC or the Commission.

11—Regulations

This clause confers a power on the Governor to make regulations of a savings or transitional nature in respect of the referral of business names matters to the Commonwealth Parliament.

Schedule 1—Related amendments and repeal

This Schedule makes a series of related amendments to other Acts to change references to the *Business Names Act 1996* to the *Business Names Registration Act 2011* of the Commonwealth.

The Schedule also repeals the *Business Names Act 1996*.

Debate adjourned on motion of Hon. D.W. Ridgway.

BUSINESS NAMES (COMMONWEALTH POWERS) 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) (17:31): Obtained leave and introduced a bill for an act to adopt the Business Names Registration Act 2011 of the commonwealth and the Business Names Registration (Transitional and Consequential Provisions) Act 2011 of the commonwealth, and to refer certain matters relating to the registration and use of business names, to the Parliament of the Commonwealth for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth, and to provide for related matters. 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) (17:32): I move:

That this bill be now read a second time.

The Business Names Act 1996 establishes a system for registering business names in South Australia. The Corporate Affairs Commission is responsible for the administration of the act. On 3 July 2008, the Council of Australian Governments (COAG) agreed to the development of a single national system for business names registration. It was agreed to transfer responsibility for the registration of business names from the states and territories to the commonwealth. This is one of the priority areas agreed to by COAG as part of the National Partnership Agreement to Deliver a Seamless National Economy.

An intergovernmental agreement supporting the implementation of the new national business names registration regime was signed at the COAG meeting on 2 July 2009. The new national business names registration regime is expected to commence operation on 28 May 2012, and will be administered by the Australian Securities and Investments Commission. The new national business names registration regime has been the subject of extensive consultation with representatives from the commonwealth, states and territories, including South Australia. The new national regime will replace the current state and territory systems and has been designed to be simpler, save time and reduce costs for Australian business.

Registration under the new national regime will provide a single national business name. For businesses operating nationally it removes the need for multiple business name registrations under state and territory laws. The new national regime will enable businesses to register online at any time. The process has been developed to be simpler and to reduce costs for businesses, in particular those businesses operating nationally. Businesses that are currently registered under state and territory business names systems will be automatically transferred into the new national business name register.

I now turn to the specific purpose of the Business Names (Commonwealth Powers) Bill 2012. The object of this bill is to adopt the commonwealth legislation establishing the national business names registration regime and refer power enabling the commonwealth parliament to make amendments to the commonwealth legislation. The adopted laws are the Business Names Registration Act 2011 of the commonwealth and the Business Names Registration (Transitional and Consequential Provisions) Act 2011 of the commonwealth.

The bill is to be enacted for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth, which enables state parliaments to refer matters to the commonwealth parliament, or to adopt commonwealth laws that have been enacted pursuant to such referrals. The bill provides the commonwealth with the necessary constitutional power to implement and operate the national business names registration regime. The reference to support the enactment of the commonwealth legislation was provided by New South Wales by the enactment of the Business Names (Commonwealth Powers) Act 2011 of that state.

The bill also incorporates a reference of power enabling the commonwealth parliament to make amendments to the commonwealth legislation (referred to as the amendment reference). The amendment reference is subject to limitations specified in the bill, and the procedure to amend the commonwealth legislation set out in the Intergovernmental Agreement for Business Names 2009.

The content of this bill has been developed in consultation with all jurisdictions. There are certain provisions included to protect the interests of states and territories including provisions that restrict the amendment reference. To further protect states and territories, the bill also includes a provision which allows termination of the adoption and amendment reference. The significance of this bill is that it delivers on the COAG agreement and the priority to develop a seamless national economy.

I commend the bill to members. I seek leave to have the explanation of clauses inserted into Hansard without my reading them.

Leave granted.

Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines key terms used in the measure.

4—Continuing business names matters

This clause sets out what a *continuing business names matter* is. Those matters are referred to the Commonwealth Parliament under proposed section 6, and allow the Commonwealth to legislate in future about continuing business names matters by way of amendment of the national business names legislation.

5—Adoption of national business names legislation

This clause provides that the *relevant version of the national business names legislation* is adopted within the meaning of section 51(xxxvii) of the Constitution of the Commonwealth.

6—References of continuing business names matters

This clause sets out what is being referred to the Commonwealth Parliament under the *amendment reference*.

7—Amendment of Commonwealth law

This clause sets out how the national business names legislation can be amended, making it clear that the national legislation may be amended by provisions of national business names instruments, or by Commonwealth laws or instruments enacted or made on the basis of powers vested in the Commonwealth apart from any reference or adoption.

8—Termination of adoption and amendment reference

This clause will allow the Governor, by proclamation, to fix a day on which the adoption or the amendment reference, or both, will terminate. A day fixed for a termination must be not earlier than 6 months after the day on which the proclamation is published. Such a proclamation may be revoked by further proclamation (provided that the revocation proclamation is published before the day fixed in the earlier proclamation for termination of the adoption or reference, as the case may be).

9—Effect of termination of amendment reference before termination of adoption

This clause makes it clear that the separate termination of the amendment reference does not affect laws already in place. Accordingly, the amendment reference continues to have effect to support those laws unless the adoption is also terminated.

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

ADDRESS IN REPLY

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) (17:34): I bring up the report of the committee appointed to prepare a draft Address in Reply to His Excellency the Governor's speech:

May it please Your Excellency—

1. We, the members of the Legislative Council, thank Your Excellency for the speech with which you have been pleased to open parliament.

2. We assure Your Excellency that we will give our best attention to all matters placed before us.

3. We earnestly join in Your Excellency's desire for our deliberations to serve the advancement of the welfare of South Australia and all its people.

The Hon. CARMEL ZOLLO (17:36): I move:

That the Address in Reply as read be adopted:

As a member of the committee I add my congratulations to His Excellency Rear Admiral Kevin Scarce for his address on the occasion of the opening of the Second Session of the 52nd Parliament. Both His Excellency and Mrs Liz Scarce represent the state with distinction and diligence. Their public spirit sees them both committed to many good causes as patrons, as well as representing our state on the occasion of official functions with a high sense of duty. I know they are admired by all who meet them. I welcome the news that His Excellency has accepted the invitation of the Premier, the Hon. Jay Weatherill, to stay on as Governor of South Australia for a further two years.

I believe this is the first formal opportunity the chamber has had to welcome our new member of parliament who filled the vacancy left by the Hon. Paul Holloway on his retirement. The Hon. Gerry Kandelaars has, for lack of a better expression, simply slotted into his new career with a minimum of fuss and is already respected as a competent and hardworking individual. I wish him well in his future career in this place.

We have had a number of occasions to get up in the chamber for condolence motions, and I again extend my sympathies to the families of former members and distinguished South Australians who have passed away since the commencement of the last parliament.

I would like to take the opportunity to talk to some of the government's new initiatives, as well as the progression and completion of projects. His Excellency the Governor in his address talked about the seven primary areas of focus for action that this government has identified. I think it very appropriate, after 10 years of government, for us to comprehensively review where the state now stands and make those decisions about where our focus needs to be in the future. I know we all want a brighter future for our children and future generations.

The mining boom and its benefits is one of the identified areas. I think it is important to place on the record the passing of the Olympic Dam indenture legislation. The passing of the legislation late last year ratified the Roxby Downs Indenture Bill which allows BHP Billiton to begin its $1.2 billion initial works on the project. I think that, rather than try to rephrase or rebadge the Premier's words, I will quote from his media release of 29 November 2011, which states:

> The project will transform South Australia by bringing unprecedented wealth and economic opportunity to the state well into the next century.

It is hoped that the expansion will generate up to 6,000 new jobs during the 11-year construction period and some 4,000 full-time jobs then needed when the mine reaches its full potential. With an industry of this size, there will also be many thousands of further indirect jobs created in flow-on industries and services.

His Excellency in his speech outlined the government's commitment to establish a Future Fund so as to ensure that the benefits of our mining boom will be rightly shared amongst all South Australians for generations to come. Besides Olympic Dam we now have 19 mines in operation and it is an area which this government has worked hard to see greater prosperity for our state. We heard yesterday in the Governor's address that mineral exports are increasing at a rate unheard of in our history. Last financial year, they earned our state $4.22 billion, an increase from $2.85 billion only a year before. The future for mining as a whole is indeed looking bright.

Continuing on with the economic theme, I think it is also important to place on the record South Australia's strong growth over the past 12 months. Data released by the Australian Bureau of Statistics shows that in 2011 South Australia recorded its highest ever export numbers, coming in at $12 billion. This equates to a growth rate of 29 per cent for the year, more than double the growth rate for the nation and more than any other state. It is a testament to the hardworking people of South Australia, who continue to design, create and grow products of a truly international standard.

Another historical milestone that I believe should be placed on the record was the ability for South Australians to begin receiving desalinated water through their taps for the first time in mid-

October last year. The $1.83 billion project is on track for its overall completion by the end of December 2012.

The Hon. D.W. Ridgway interjecting:

The Hon. CARMEL ZOLLO: I know that in this chamber the desal plant has its detractors—indeed, the Hon. David Ridgeway, I guess, is just proving that—but the majority of South Australians are very pleased that our state has a secure water supply, completely independent of climatic conditions.

At this time, given our somewhat unusual cooler weather (although, not today, I have to say) and in some states regrettably very wet weather and the heartache that floods bring, the severe drought our state and the rest of Australia suffered recently might be forgotten; history, however, informs us differently. For those who are interested in the progress of the desal plant, there is a very good short article in the Water for Good 2012 Summer News, which explains the manner in which the treated water is stored and delivered.

The recent drought leads me to the next topic of grave importance to this state: the Murray-Darling Basin plan and Premier Jay Weatherill's commitment to grasp this once in a lifetime opportunity to secure the long-term health of the Murray-Darling Basin in a manner that does not disadvantage South Australia. Needless to say, South Australia is concerned that the 2,705 gigalitre figure in the draft basin plan is insufficient to achieve a healthy river system. We are seeing that debate occurring right now.

Minister Caica recently reminded us of some of the extraordinary measures we were forced to take to protect our precious ecosystems and aquatic life and prevent acidification of soils. I am sure honourable members will remember the government having to scope the possibility of building a weir to prevent the salinity contaminating the water supply for Adelaide and several towns. The idea was not without controversy and some healthy debate. I am certain that we do not want to be in that position again. The Premier has made it quite clear that South Australia will continue to fight for its right for its fair share of water.

The issue of General Motors has dominated the media for several months, and I believe that it needs to be placed on the record that this state government and the federal government are committed to keeping car manufacturing here in South Australia. Our state has had a long and proud association with the car manufacturing industry—

The Hon. D.W. Ridgway interjecting:

The Hon. CARMEL ZOLLO: In case you didn't notice, the state government did try to assist them as well—in particular, General Motors-Holden which, since 1931, has seen South Australia as an essential element of its Australian operations. This commitment was reinforced when the company centralised all its assembly operations to its plant at Elizabeth. Through its operations at Elizabeth, Holden directly and indirectly supports over 8,000 automotive sector jobs and many more flow-on jobs throughout the South Australian economy.

Additionally, a strong manufacturing industry also promotes a strong research and development sector within the state. These are skills and knowledge that would be lost if car manufacturing were to cease, causing negative flow-on effects for smaller manufacturers in this state, ultimately resulting in their moving operations out of South Australia. That is why the federal Labor government, in partnership with the South Australian government, is negotiating a package to enable Holden to become more sustainable in the long term. I urge those opposite to look at the big picture and support the government's bid to ensure that South Australia retains a strong car manufacturing sector and with it a strong manufacturing base here in South Australia.

As is to be expected, the state is continuing with its massive infrastructure build, and I would like to mention a couple of those projects—firstly, the Southern Expressway where work has commenced. The construction of the $407 million duplication of the Southern Expressway has begun, and it is expected that the expressway, to carry traffic in either direction 24 hours a day seven days a week, will be ready by mid-2014. Those living in the south and those of us visiting the south will benefit enormously. It is a tremendous boost for the southern region.

I also make mention of the state's first elevated road, the South Road Superway project, at a cost of $812 million. The new roadway will be elevated 17 metres above the existing South Road. Minister Conlon announced in his media release that, when complete in December 2013, the project will deliver a 2.8-kilometre elevated roadway, providing benefits for freight and commuter traffic, with excellent connections to the existing road network and a reduction in travel times of up

to seven minutes. It is a state and federal government investment and a tremendous example of joint infrastructure investment.

At long last, a world-class stadium will be available to South Australians on the redeveloped Adelaide Oval. Apart from bringing cricket and football to one smart site, the 50,000-seat venue will also be able to host a range of major events. I am certain that all will be looking forward to March 2014 when the redeveloped Adelaide Oval is scheduled to host its first AFL game. The rejuvenated Riverbank Precinct will be enhanced by the new Adelaide Oval and the Riverbank bridge that will link the two. I believe this redevelopment slots in well with another identified area of focus, bringing life to the centre of our city—a vibrant city for all to enjoy when we visit, no matter where we live.

I have had the opportunity to speak on the exciting new RAH build before, but it was great to see the official 'ground breaking ceremony' on the site in the second half of last year. The overwhelming majority of South Australians will welcome the provision of this world-class care for all South Australians. I also think that it is worthwhile reiterating that it is not just that South Australians are getting a brand-new Royal Adelaide Hospital but that the government is building up services and infrastructure in every metropolitan public hospital, as well as investing in country hospitals so that people are looked after as close as possible to their homes. For those whose conditions are complicated or acute, the RAH will continue to be there for them. All South Australians, no matter where they live, will benefit from a new-built RAH.

On top of the list of the focus for action was a 'clean, green food industry'. Initially as a parliamentary secretary, and since, I have had the opportunity at different times to be involved in several councils and committees representing the government in its endeavours to partner with the private sector to see a sustainable and viable food industry that the industry and all of us can be rightly proud of. We do have great credentials in terms of our produce and the clean and green pristine environment in which it grows. I could not agree more that we 'need to involve all sectors that intersect with our food production system'.

Following the last election, the planning minister, John Rau, announced that he would be bringing in legislation to protect the iconic South Australian districts of the Barossa and McLaren Vale. Consultations have occurred and are still occurring to ensure that these two districts are protected from other developments that could see these 'brands', for lack of a better expression, threatened as world-renowned food and wine regions.

His Excellency the Governor talked about the food industry sustaining our state from the earliest days of European settlement, and it continues to be an important industry, contributing more than $12.4 billion to our state economy and employing more than 135,000 workers or 17 per cent of the state's employed workforce.

Another focus that His Excellency mentioned was safe and active neighbours. In recent months I am sure all in this chamber have been well aware that the general public has been put in harm's way by an extremely public turf war between bikie gangs. It appears members of these gangs have very little regard for human life, especially that of innocent members of our community, and I am proud to be a member of a government that, since it was elected to office in 2002, has instituted a 'get tough' policy towards bikie crime, giving our law enforcement officers the tools to take on the bikie gangs.

However, as inevitably happens, these gangs find new ways to try to manoeuvre around the law. Attorney-General John Rau has reintroduced—or is in the process or introducing—legislation in the other place to crack down on bikie gangs, and I urge those opposite to stop playing games and support the government in its measures. I had the opportunity to read the Attorney-General's media release just before coming into the chamber. It stated:

> The anti-crime measures will strengthen existing laws to combat organised crime, create a series of new offences to damage the organisational capacity of crime gangs, and encourage and protect witnesses.

As I previously mentioned, the new legislation 'also repairs anti-association measures which were struck down by the High Court in two separate decisions, the most recent in June last year'.

In relation to the area of early childhood, this priority area is one that Premier Weatherill is passionate about and one that he has spoken of and focused on since becoming Premier. Child development now has its own portfolio. We would all be aware that 90 per cent of a child's brain development occurs in the first few years of life.

His Excellency outlined in his address that the government will bring legislation to parliament to articulate and entrench the importance that this government places on children and families. I am certain that none of us would disagree that investment in our youngest citizens should be of the highest priority, because it is only through that early investment that we will see lasting improvements in the lives of our citizens.

I would like to take this opportunity to pass on my best wishes to two former esteemed colleagues of mine, the former premier the Hon. Mike Rann and former deputy premier and treasurer the Hon. Kevin Foley. For many years they served us with dignity and distinction. They both fought hard for the economic well-being of our state, and regrettably making tough decisions can bring a price to pay. I wish them both well in their future endeavours.

In the next few weeks we will see the formal election, by way of declaration, of two new female members of the House of Assembly: Zoe Bettison, representing the electorate of Ramsay, and Susan Close, representing Port Adelaide. I have had the pleasure of knowing Zoe Bettison more closely for nearly 20 years, and I know she will bring to the parliament a personable, strong work ethic and a passionate commitment to her electorate. Indeed, both Zoe and Susan are intelligent and passionate women who will ensure that their constituencies are well represented in our parliament.

Members interjecting:

The Hon. CARMEL ZOLLO: It is really very amusing what those opposite have to say. I am sure that none of their candidates, when they present themselves for Liberal seats, are known to the Liberal Party; they must be totally anonymous to them. I congratulate both those women, and I am certain both will have long and distinguished careers.

I am very pleased to be a member of the committee for the Address in Reply, and I again congratulate the Governor, His Excellency Rear Admiral Kevin Scarce, for his delivery of the opening speech on the occasion of the opening of the second session of the 52nd parliament.

The Hon. G.A. KANDELAARS (17:53): I rise to congratulate and thank the Governor, His Excellency Rear Admiral Kevin Scarce, for his address on the opening of the 52nd parliament's second session. I take this opportunity to acknowledge the very many good works of our Governor and his wife, Liz Scarce. They have certainly endeared themselves to the South Australian community and have lent their support to many deserving causes. They represent this state and its interests with distinction. I am sure all members agree with the extension of the Governor's appointment to 2014.

I must also acknowledge and thank Uncle Lewis O'Brien, a Kaurna elder, for his welcome to country. I would like to acknowledge the expected election in the other place of Susan Close to the seat of Port Adelaide and Zoe Bettison to the seat of Ramsay. I am sure they will be outstanding members and represent their constituents well.

Yesterday, the Governor outlined the future vision of the Weatherill government, a future that is bright. The government has set out seven primary areas of focus in its action. They are: clean green food industry, the mining boom and its benefits, advanced manufacturing, a vibrant city, safe and active neighbourhoods, affordable living, and early childhood. I wish to comment on a number of these, the first being advanced manufacturing.

Back in the 1950s, the South Australian economy was largely based on agriculture. Tom Playford was determined to create a new manufacturing base for our economy underpinned largely on the car industry. Times were different, tariffs were high, and electricity, land and labour were all very cheap. The Weatherill government believes that the development of South Australia's advanced manufacturing will play a key role in our future prosperity.

Playford certainly succeeded in his work. The manufacturing that developed in South Australia underpinned South Australia's growth and prosperity for decades. If there is one thing that is certain in life and in politics, it is change. In the 1980s, Australia undertook massive reform to modernise and internationalise our economy. The burden of adjustment fell heavily on South Australian manufacturers. While many adapted, many did not, and the jobs went with them.

The Weatherill government is looking to attract investment that will once again transform the South Australian economy. This time, we will revitalise our existing manufacturing base to one based on advanced manufacturing. We will build on the skills, ambitions and enthusiasm of our local industry to create a manufacturing industry that is innovative and focused on high value products.

Our defence industries will be vital to this transformation. A vibrant defence sector is absolutely essential to the state's future. Already, South Australia is home to more than a quarter of our defence industries. Just to put that in perspective, we have around 8 per cent of Australia's population and our capital city of Adelaide is Australia's fifth biggest amongst seven state capitals. In fact, we are able to deploy the best of Adelaide and South Australia to build a great defence industry. Our size is our strength: it enables us to really focus on what matters most.

We are the home of the nation's most exciting defence industries—the Australian air warfare destroyer project, the APC3 aircraft maintenance contract and the Customs' Project Sentinel, the world's largest fixed-wing, civil maritime surveillance program. We have some of the world's biggest defence contractors in South Australia—BAE Systems Australia, SAAB Australia, Raytheon Australia and Lockheed Martin, just to name a few.

We also have many small specialist companies delivering world class products and services. This has not happened by accident. It is the result of a deliberative and assertive economic strategy to create advanced manufacturing capabilities in South Australia. Defence companies can work here with confidence: the government will support them and their investment. We know that more than 80 per cent of the defence platforms in Australia will need to be replaced in the next 15 years. Australia's naval fleet will require at least 48 new vessels over the next 30 years, in addition to two amphibious ships and three Air Force destroyers currently in production.

The government has made its own investment in our state's infrastructure and people. In 2010, the state government launched Techport, a world-class maritime building facility. Techport has already become Australia's naval industry hub, supporting the construction of the three air warfare destroyers. Techport is likely to be the base for the construction of Australia's next generation of submarines, a project that has the capacity to become Australia's largest ever defence project.

The $300 million investment in Techport—in state-owned infrastructure—is strong proof of the government's commitment to the future of defence industries in South Australia. Defence is already one of South Australia's biggest employers, and the government is planning for its continued growth.

In terms of training and development, $200 million has been set aside for a program called Skills for All. It will assist 100,000 South Australians to gain skills they need for good employment and industry to get the workforce it needs, but Skills for All is not an unprecedented investment in our workforce. It is a strategy that recognises that it is not simply to assist people into further educational training places: their efforts to learn new skills must be rewarded with jobs they can use.

It is recognised that industry wants people with the right skills for their business. In South Australia the government put in place a defence workforce action plan so that both the government and the defence industries know what demand for skills we will need now and in the longer term, so we can properly plan for the delivery of those skills. The government's investment in Techport includes the Maritime Skills Centre, which has been done to deliver the trade and technical skills needed for the air warfare defence project.

If we wish our state to continue to grow, then our future will be increasingly in industries that require a highly skilled and technically proficient workforce. South Australia has an exciting future ahead of it. Our defence industry is booming. We are on the verge of one of the world's great resource titans and our clean green technology and renewable energy sector is growing rapidly. We are poised to gain enormous expansion of our mining and resources sector. We could look at this expansion and feel that our job is done.

We could be satisfied that we set in motion a mining boom to rival Queensland and Western Australia that will make our state one of the world's great resource titans. It is the government's intention to make sure every South Australian benefits from mining. Mining is a catalyst for the transformation of our whole economy. We must ensure that every South Australian can share in this vision.

The 2011 major development directory lists $65 billion of investment in minerals and resources in South Australia. More South Australian mines are approved every year and exploration for new prospects continues to go at a great pace. In the 12 months to September last year expenditure on mineral exploration increased by nearly 70 per cent from the previous year.

When restrictions on exploration in the Woomera prohibited area are lifted, we can expect further increases, and now we are turning our enormous expansion in exploration into huge growth in mining. In the last financial year South Australian mineral exports were $4.22 billion, a massive increase from $2.85 billion only a year before, and more than triple the value of mineral exports at the turn of the century.

Late last year this parliament passed legislation to enable the expansion of Olympic Dam, which will be the biggest single investment in our state's history. There is nothing more important to South Australia than our mining and resource future. The enormous expansion in our resources is not due to luck: it is the result of carefully targeted investment by government and industry. It reaches back to the work undertaken by government in the early 1990s when a groundbreaking program used public funding to map our deep buried resources and stimulate exploration.

Twenty years ago we started making smart investments in mining resources and more recently we developed another innovative program that has opened the door to mining investment, the Plan for Accelerated Exploration (PACE). PACE built on the regulatory changes to turn South Australia into an internationally recognised leader in mining laws. I must recognise the Hon. Paul Holloway for his work in this area. Paul did some marvellous work here.

Over the last seven years the government has invested just under $31 million in PACE which has resulted in a net benefit of $300 million. It is a great example of how well-targeted government support can result in significant investment. If we are to realise the true value of mining, it must be as a driver for economic growth, not solely responsible for it. We cannot separate mining and resources from the rest of our economy. We need to truly integrate mining and resources into our whole economy. In particular, our manufacturing sector must be able to use the expansion of the resource sector as a springboard into products, new markets and long-term philosophies.

This integration starts with government. The government has brought resources and energy together with trade and manufacturing to make stronger links between the sectors that generate demand for advanced manufacturing with those that can supply it. An integral part of this new department is innovation because it is innovation that will drive advanced manufacturing—manufacturing that relies upon value, not cost, for its future.

We cannot simply expect mining companies to choose South Australian contractors and suppliers. The government can require mining companies to consider it, as we have done with BHP Billiton, but we cannot make South Australian businesses into suppliers of choice. Ultimately, it will be up to each company to put themselves in that position. What the government can do is make it possible for South Australian businesses to become suppliers of choice to companies like BHP. As we have done with the resource sector, we can make sure that our government structures and regulatory regimes support this. We can invest in the infrastructure and skills that are needed and use our procurement powers to help develop new ideas and link them to the wider market, starting with the resource industry right here in our own state.

On the issue of Adelaide, the vibrant city, I wish to make a few comments. I see the revitalisation of the city as crucial to our future. A new Adelaide Oval, a redeveloped Riverbank precinct and a new hospital are a few of the initiatives that the government is undertaking to revitalise our capital city. Another initiative is the extension of public holiday trading in the CBD. These and other initiatives are bringing a new lease of life to the centre of Adelaide. The government is committed to creating a truly vibrant city, a city that is both energetic and dynamic.

Before I conclude, I acknowledge the tremendous contribution made to this parliament by former premier the Hon. Mike Rann and former deputy premier the Hon. Kevin Foley. I am sure history will recognise the great role they have played in making South Australia a great place to live. When I look at Mike Rann I think that very few people would have survived as party leader for as long as Mike did. I think it was something in the order of 17 years. It is a true indication of his leadership qualities. In terms of Kevin, you always knew his view. He did not mince his words. Some would say it was one of his great strengths and others would say the opposite, but he was certainly a great treasurer. I wish both Mike and Kevin all the best in their new endeavours, as they have made a tremendous contribution to this state.

In conclusion, as a government we need to work together towards many goals, often simultaneously, and address many of the key concerns that face our modern society, including economic stability and growing advanced manufacturing, creating opportunities for our children,

tapping into the mining boom, marketing our clean green food, maintaining community safety and having a vibrant city.

These represent a core challenge, building the capacity to efficiently and seamlessly shift gear as circumstances change. To create this capacity, we must embrace the fact that our world is a system of opportunities, challenges and risks, and that it is dynamic rather than static. In the past we have relied on traditional structures, siloed portfolios and centralised policy advice to deal with the world that has changed in a different way and at a much slower rate. What we require is fundamental, long-term change to a system that is dynamic enough to seek and build new knowledge and experience, and absorb into it our operating structures. That concludes my remarks.

Debate adjourned on motion of Hon. D.W. Ridgway.

SESSIONAL COMMITTEES

The House of Assembly notified its appointment of sessional committees.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The House of Assembly appointed Mr Whetstone in place of Mr Venning.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

The House of Assembly appointed Dr McFetridge in place of Mr Marshall.

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDERS) 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) (18:14): I move:

That this bill be now read a second time.

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

Leave granted.

Recent events in South Australia, have thrown a spot light on the totally unacceptable behaviour of criminal gangs. The community wants action. So does the Government. Opposition obstructionism will be judged very harshly, should it continue.

The Government's commitment to remaining tough on organised crime has never wavered. We have, however, been thwarted in the last Parliament by the tactics of the opposition, who have blocked, deferred, referred to committees or dramatically changed several key Government Bills, introduced to tighten the noose around criminal gangs.

In order to combat the problem posed by serious organised criminal groups, the Government is again putting forward a suite of measures. Some of these measures are new, but many are Bills placed before the last Parliament. These are being restored or reintroduced. These measures do not stand alone, they are intended to form an interlocking web of complementary legislative initiatives that attack the basis of criminal organisations, the motives for their conduct and their capacity to intimidate and victimise those who would give evidence against them.

These Bills are the Statutes Amendment (Criminal Intelligence) Bill 2010, the Summary Offences (Weapons) Amendment Bill 2010, the Criminal Law (Sentencing) (Sentencing Considerations) Amendment Bill 2011, this Bill and the two Serious and Organised Crime Bills that have been introduced in the other place.

It is important to understand that, in aggregate, these Bills constitute a far more effective package than the sum of their parts.

It is vital to note that the Parliament has had full notice of all particulars of this legislation since the introduction of an identical Bill in the last parliament which was introduced on 18 May, 2011. Nobody can be taken by surprise.

When the Bill was last before the Parliament almost all of its operative provisions were effectively neutered in this place. The Government does not accept that this is a reasonable response and is determined to destroy the financial incentive at the heart of organised crime.

This Bill is an essential element of a package of measures directed towards organised crime and, as such, has an extremely high priority. Now that the Parliament has resumed, we see no reason why we should not commence immediately with this critical work.

Every day that this Parliament fails to pass these interconnected legislative measures, is a day that life for organised criminals in South Australia is much easier than it should be. None of us, as responsible legislators, can

possibly be content with this objectionable state of affairs being permitted to continue, when it is entirely within our power to bring it to an end.

The people of South Australia are watching this Parliament and look to us for strong support for community values and strong legislative support for our police, in the difficult task of combating organised criminal groups.

Prescribed Drug Offenders

The idea that all of the property of certain drug offenders (described in the Bill as prescribed drug offenders) should be confiscated, whether or not it has any link to crime at all and whether or not legitimately earned or acquired, originated in the Western Australian *Criminal Property Forfeiture Act 2000*. If a person is taken to be a declared drug trafficker under either s 32A(1) of the *Drugs Misuse Act* of that State or is declared under s 159(2) of the *Confiscation Act*, then, effectively, all of their property is confiscated without any exercise of discretion at all, whether or not it is lawfully acquired and whether or not there is any level of proof about any property at all. The two situations are a convicted drug trafficker of a certain kind and an absconding accused. The first category is the most general.

With respect to convicted drug offenders, there are two situations catered for. The first is the repeat offender. The second is the major offender (whether repeat or not).

The repeat offender is caught if he is convicted on a third (or more) offence for nominated offences within a period of 10 years. The nominated offences are: possession of a prohibited drug with intent to sell or supply, manufacturing or preparing; or selling or supplying, or offering to sell or supply, a prohibited drug; possession of a prohibited plant with intent to sell or supply, or selling or supplying, or offering to sell or supply, a prohibited plant; attempting to commit these offences; and conspiring to commit these offences.

The major offender is caught if the person commits any one offence at any time about a prohibited drug or prohibited plant that exceeds a prescribed amount. Those amounts are prescribed in Schedules to the Act (not regulations) and list, for example, 28 grams of amphetamine, three kilograms of cannabis, 100 grams of cannabis resin, 28 grams of heroin and 250 cannabis plants.

Section 159(2) says that a person will be taken to be a declared drug trafficker if the person is charged with a serious drug offence within the meaning of section 32A(3) of the *Misuse of Drugs Act 1981* and the person could be declared to be a drug trafficker under section 32A(1) of that Act if he or she is convicted of the offence, and the person absconds in connection with the offence, or dies, before the charge is disposed of or finally determined. A serious drug offence within the meaning of section 32A(3) of the *Misuse of Drugs Act 1981* means a crime under section 6(1), 7(1), 33(1)(a) or 33(2)(a) of that Act. The content of these crimes has been outlined immediately above.

The Northern Territory *Criminal Property Forfeiture Act* contains very similar provisions, obviously modelled on the Western Australian Act. However, the Northern Territory Act contains only the repeat offender version of the first category and extends to death and absconding. It does not contain what is described as the major offender category described above. No other Australian jurisdiction has anything like either of these Acts.

Under the WA scheme and its counterpart in the Northern Territory, all of the declared drug trafficker's assets are subject to forfeiture—everything. The Government has taken the view that it will ameliorate the harshness of the scheme by providing that the prescribed offender forfeit everything except what a bankrupt would be allowed to keep. These rules are to be found in r 6.03 of the Commonwealth *Bankruptcy Regulations 1996*. The lists are extensive, but the general principle is:

Subsection 116 (1) of the Act does not extend to household property (including recreational and sports equipment) that is reasonably necessary for the domestic use of the bankrupt's household, having regard to current social standards.

High Level or Major Traffickers

Whether or not a person can be presumed to be, in common usage, a high level or major trafficker will depend largely, but not wholly, on the amount of the drug with which he or she is associated. The S.A. amounts listed in the S.A. *Controlled Substances (General) Regulations* as indicating commercial activity are those prescribed as a result of a national consultative process fixing amounts on the basis of research across Australia on the actual activities of the illicit drug markets informed by police expertise. The obvious way to proceed is to fix on the amounts already settled.

Repeat Offenders

The legislation also attacks repeat offenders. The key to this category is setting the offences to which it applies - that is, what offences will attract the declaration if committed 3 or more times within a span of 10 years. The Bill says that the offences to which it should apply are serious drug offences that are indictable. These are those offences listed in that part of the *Controlled Substances Act 1984* under the headings 'Commercial offences' and 'Offences involving children and school zones'.

The Fund

The proceeds from the existing criminal assets confiscation scheme must be paid into the Victims of Crime Fund (after the costs of administering the scheme are deducted). It is proposed that funds raised by the application of this new initiative be devoted to another fund, to be called the Justice Resources Fund. This Fund will be devoted to the provision of moneys for courts infrastructure, equipment and services and the provision of moneys for justice programs and facilities for dealing with drug and alcohol related crime. Disbursements will not overlap with those

made from or eligible for moneys from the existing Victims of Crime Fund. The Government does not believe it to be proper that money from the Fund be spent on law enforcement or criminal investigation purposes.

Other Aspects of the Scheme

The Western Australian scheme has also been modified so that a court has a discretion to ameliorate the inflexible application of this scheme if the offender has effectively co-operated with a law enforcement agency relating directly to the investigation or occurrence or possible occurrence of a serious and organised crime offence. For these purposes, a serious and organised crime offence is defined in a way that mirrors the definition in the *Australian Crime Commission (South Australia) Act 2004*. Every encouragement should be given to serious criminals to inform on their co-offenders and any criminal organisations to which they belong or are party.

As is the case with the WA and NT legislation, a person is a prescribed drug offender where there is sufficient evidence to conclude that a person would have been liable to be a prescribed drug offender and the person either absconds or dies.

The Bill also adopts the Northern Territory innovation that the time period of 10 years in relation to the repeat offender does not run if and while the offender is imprisoned.

Pecuniary Penalty Provisions

The Bill also amends the pecuniary penalty provisions of the Act. The necessity for this amendment arose directly from the decision of the Full Court in the case of *DPP v George* [2008] SASC 330. The appellant George was convicted of an offence of producing cannabis. The subject of the charge was 12 mature cannabis plants and 20 seedlings with roots attached. The plants were being grown hydroponically in a shed on his residential property in Seacombe Gardens. He was also convicted of knowingly abstracting (stealing) electricity. He was fined $2,500 for both charges. Under the law applicable at the time the maximum penalty for this offending would have been 25 years imprisonment. Under current law, 10 plants is a trafficable quantity and he was over that, not counting seedlings, so there would be a presumption of sale.

The DPP intended to pursue the defendant under the *Criminal Assets Confiscation Act*. Accordingly, a restraining order was placed over the residential property. After conviction, the defendant applied for an order excluding the property from forfeiture. In the meantime, the DPP applied for a pecuniary penalty order forfeiting a sum of money equivalent to the defendant's interest in the property. The house was valued at $255,000 with a mortgage of $164,731. It follows that the pecuniary penalty would have been about $90,000. It can be accepted that the defendant would have to sell the property to pay the pecuniary penalty.

The question then arose whether the court had a discretion whether to impose a pecuniary penalty order or not. On the face of it, the legislation seemed to say that there was no discretion. The legislation says that the court must make a pecuniary penalty order about the proceeds of a crime or an instrument of crime. All had assumed hitherto that 'must' meant 'must' and that was that. The magistrate below had threaded a way out of what he thought to be an injustice by holding that the house and land were not instruments of crime. That was an ingenious argument and the Supreme Court on appeal divided 2/1 on the facts, holding that the property was an instrument.

But White J, with whom Doyle CJ and Vanstone J agreed on point, said that must did not mean must. There was a discretion after all. The key passage was:

Moreover, the construction for which the DPP and the Attorney-General contend has the potential to bring the administration of justice into disrepute. This is likely to engender a lack of respect for such proceedings and the authority of the courts conducting them is likely to be undermined. The DPP could, for example, take the attitude before a court hearing an application under ss 47 or 76 that its decision will be immaterial, and conduct the proceedings accordingly. It is inimical to proper respect of judicial authority for one party to an application before the court to be able to take such an attitude.

I referred earlier to the absence of any provision in the CAC Act which would enable a court to take account of, or to ameliorate, the harsh consequences of a PPO or the interests of others in the subject property. Nor is there any provision enabling the court to take account of the public interest in the way in which s 76(1)(c) requires in relation to statutory forfeiture. The absence of such provisions is stark if s 95(1) is construed as obliging a court, upon satisfaction of the specified matters, to make a PPO. It is difficult to identify any reason why Parliament should have considered provisions to that effect to be appropriate in relation to forfeiture orders, but not in relation to PPOs. Similarly, it is difficult to identify any reason why Parliament should have intended consideration of the public interest to be relevant in relation to applications for exemption from statutory forfeiture, but not in relation to PPOs. The absence of provisions permitting a court to ameliorate the harsh consequences of a PPO, or to consider the public interest, loses much of its significance however if s 95(1) is construed as vesting a discretionary power, rather than imposing an obligation. (emphasis added)

The lesson was plain. 'Must' does not really mean 'must' because of the harsh, arbitrary and unjust consequences it would bring. 'Must', said the Court, really means 'may'. The Act is amended to fix this. This State should not have on the books a law that is thought to be so unfair and unjust that a Court has to strain the ordinary use of language in that way in order to bring about a fair result. The amendment gives the court a discretion to impose a pecuniary penalty in relation to instruments of crime, just as it does in relation to the forfeiture of instruments of crime. That discretion is informed by an inclusive list of factors identical to those legislated in relation to the forfeiture of instruments of crime.

Restraining Orders

In the course of deciding the main issue in *DPP v George*, the court, (particularly the contribution of White J) points out another technicality that poses problems. In summary:

- The Act contains provision for what is known as 'automatic forfeiture'. The essence of the scheme is that property subject to a restraining order will be forfeited by operation of law after the expiry of a certain time period after conviction.
- The only way for a defendant (or any other interested party) to escape this process it to apply for and win an order excluding property from the restraining order.
- White J pointed out that a literal reading of the Act could say that the property will be automatically (and irretrievably) forfeited even though an application to exclude that property is on foot and has yet to be resolved. He regards such an outcome (with considerable justification) as unfair and unjust.

White J held that this problem deserved the attention of the Parliament. His Honour did not observe that the legislation permits a person in this position to apply to the court for an 'extension order', which has the effect of postponing the automatic forfeiture. But that omission is in itself telling. The system is just too complicated. And the necessity for a separate extension order is not obvious. If the applicant for an exclusion order knew about it, he or she would surely apply for it and, equally surely, a court would grant it routinely in order to avoid the injustice to which White J referred.

The problem is fixed in this Bill. The way in which it is done is to abolish what used to be called extension orders as a separate phenomenon and instead provide that any person may apply for the exclusion of property from forfeiture and, when that application is made, the forfeiture of property is subject to an extended period terminating when the application for exclusion is finally determined.

Other Amendments

South Australian Police and the DPP asked for an amendment to the Act so that a person who is the beneficiary of a discretionary decision to discount a sentence because of the consequences of forfeiture cannot also be the beneficiary of an amelioration of forfeiture for the same reason. In other words, the defendant cannot get the same benefit twice. This has been done, except for those who have co-operated with law enforcement in cases of serious and organised crime, who may get a sentence discount for their co-operation and also a discretionary form of relief from total forfeiture under the prescribed drug trafficker scheme contained in this Bill. The reason for that is good public policy - every encouragement should be given and every lever should be applied to those who are in a position to inform on serious and organised criminals.

The Bill makes minor amendments to clarify the provisions relating to the forfeiture of a security given by a defendant or other person on the making an application for an exclusion order.

I commend the Bill to Members and expect full support for this important legislative measure.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Criminal Assets Confiscation Act 2005*

4—Amendment of long title

This clause amends the long title of the principal Act to reflect the changes made by this measure.

5—Amendment of section 3—Interpretation

This clause amends section 3 of the principal Act to include, or to consequentially amend, definitions of terms used in respect of the amendments made by this measure. Of particular note is the insertion of new subsection (2), providing that a reference in the principal Act to an *indictable offence* includes an indictable offence of a kind that is required to be prosecuted, and dealt with by the Magistrates Court, as a summary offence under a provision of *any* Act, rather than the current limitation of an offence under Part 5 Division 2 of the *Controlled Substances Act 1984*. The definition of *extension order* is deleted consequentially to clause 20.

6—Amendment of section 6—Meaning of effective control

This clause makes an amendment of a statute law revision nature, to ensure consistency of language.

7—Insertion of section 6A

This clause inserts new section 6A into the principal Act. It sets out what is a prescribed drug offender, namely a person who is convicted of a commercial drug offence after the commencement of the proposed section, or who is convicted of another serious drug offence and has at least 2 other convictions for prescribed drug offences, those offences and the conviction offence all being committed on separate occasions within a period of 10 years. However, the 10 year period does not include any time spent in government custody. The proposed section makes procedural provision in respect of the convictions able to be used in the determining whether a person is a prescribed drug offender. The proposed section also defines key terms used in respect of prescribed drug offenders, including setting out what are commercial and prescribed drug offences.

8—Amendment of section 10—Application of Act

This clause makes a consequential amendment to section 10 of the principal Act.

9—Amendment of section 24—Restraining orders

This clause inserts new subsection (5a) into section 24 of the principal Act, which prevents a court from specifying protected property (the definition of which is inserted by this measure) in a restraining order unless there are reasonable grounds to suspect that the property is the proceeds of, or is an instrument of, a serious offence.

10—Amendment of section 34—Court may exclude property from a restraining order

This clause amends section 34 of the principal Act by inserting new subparagraph (ia), adding to the list of matters a court must be satisfied of before it may exclude property from a restraining order. The subparagraph is divided into parts dealing with where the suspect has, and has not, been convicted of the serious offence to which the restraining order relates.

The first such matter is that the court can only exclude property where the suspect has not, or would not, become a prescribed drug offender on conviction of the serious offence. Alternatively, the property may be excluded if the court is satisfied it is not owned by, nor under the effective control of, the suspect in the circumstances spelt out in the provision (even if the suspect is, or will be upon conviction of the relevant offence, a prescribed drug offender).

The power to correct an error in respect of the inclusion of the relevant property when making the restraining order is given to the court because the property restrained in respect of prescribed drug offenders is not necessarily proceeds nor an instrument of crime.

Subclause (2) makes a statute law revision amendment consistent with clause 6.

Subclause (3) prevents property being excluded from a restraining order on application by a person convicted of the offence to which the restraining order relates where the convicted person has had the possible forfeiture of the property taken into account in sentencing for the offence.

11—Amendment of section 46—Cessation of restraining orders

This clause amends section 46(4) of the principal Act to reflect the fact that restrained property may vest in the Crown under an Act other than the principal Act.

12—Amendment of section 47—Forfeiture orders

This clause amends section 47(1)(a) of the principal Act to include the fact that a person is a prescribed drug offender as a ground for the making of a forfeiture order under that section (provided that the relevant property was owned by or subject to the effective control of the person on the conviction day for the conviction offence).

13—Amendment of section 48—Instrument substitution declarations

This clause makes a minor amendment to section 48 of the principal Act to distinguish between forfeiture orders made under section 47(3) and those made under section 47(1).

14—Amendment of section 57—Relieving certain dependants from hardship

This clause makes a consequential amendment due to the amendment of section 47(1)(a) by this measure.

15—Amendment of section 58—Making exclusion orders before forfeiture order is made

This clause amends section 58 of the principal Act to provide that property sought to be excluded from a forfeiture order must not, in the case of a forfeiture order to which section 47(1)(a)(ii) applies (ie a prescribed drug offender order), at the relevant time be owned by, or under the effective control of, the prescribed drug offender (unless it is protected property of the person).

16—Amendment of section 59—Making exclusion orders after forfeiture

This clause amends section 59, consistent with clause 15, to provide that property sought to be excluded from a forfeiture order must not, in the case of a forfeiture order to which section 47(1)(a)(ii) applies (ie a prescribed drug offender order), at the relevant time be owned by, or under the effective control of, the prescribed drug offender (unless it is protected property of the person).

17—Insertion of section 59A

This clause inserts new section 59A into the principal Act. That section allows a person to apply for property to be excluded from a restraining order because the person has cooperated with a law enforcement authority in relation to a serious and organised crime offence, be it one that has occurred or may occur in future.

The mechanisms and procedures in relation to an order excluding the property are similar to other such provisions in the principal Act.

18—Insertion of section 62A

This clause inserts new section 62A into the principal Act. That provision provides that, if a court has taken a forfeiture of a person's property into account in sentencing the person, the person cannot then apply for an exclusion order or compensation order in respect of the property (unless the cooperation provision in proposed section 59A applies).

19—Amendment of section 74—Forfeiting restrained property without forfeiture order if person convicted of serious offence

This clause is consequential to clause 20.

20—Substitution of section 75

This clause substitutes a new section 75 of the principal Act, replacing the current 15 month extension orders with an extended period which will apply automatically when an application to exclude property has been made, but not finally determined, at the end of the period of 6 months after conviction (when automatic forfeiture would otherwise occur).

21—Amendment of section 76—Excluding property from forfeiture under this Division

This clause amends section 76 to broaden the range of people who can apply for an order excluding property (currently only the convicted person can apply), to ensure the provision works properly in relation to securities given under section 38 or 44 and to prevent exclusion of property owned by or under the effective control of a prescribed drug offender (other than protected property).

22—Insertion of sections 76A and 76B

This clause inserts a provision similar to the provision in clause 17 allowing for exclusion from forfeiture based on cooperation with a law enforcement agency and a provision similar to clause 18 providing that, if a court has taken a forfeiture of a person's property into account in sentencing the person, the person cannot then apply for exclusion of the property under this Division (unless the cooperation provision in proposed section 76A applies).

23—Amendment of section 95—Making pecuniary penalty orders

This clause substitutes subsections (1), (2), (3) and (4) of section 95 of the principal Act. New subsection (1) ensures that mandatory pecuniary penalty orders relate only to benefits derived from crime while new subsection (2) provides the court with a discretion to make such an order in relation to an instrument of crime. New subsection (3) sets out matters the court may have regard to when determining whether to make an order under subsection (2). Proposed subsection (4) ensures that the court is not prevented from making a pecuniary penalty order merely because some other confiscation order has been made in relation to the offence.

Section 95(7) is consequentially amended to apply only to benefits.

24—Amendment of section 96—Additional application for a pecuniary penalty order

This clause makes minor statute law revision amendments to simplify section 96.

25—Insertion of section 98A

This clause inserts new section 98A into the principal Act, which provides that, for the purposes of the Division, a court may treat as property of a person any property that is, in the court's opinion, subject to the person's effective control.

26—Amendment of section 99—Determining penalty amounts

This clause clarifies references in section 99 of the principal Act.

27—Amendment of section 104—Benefits and instruments already the subject of pecuniary penalty

This clause amends section 104 of the principal Act to include reference to instruments.

28—Repeal of section 105

This clause repeals section 105 of the principal Act and is consequential upon the insertion of section 98A into the Act by clause 25 of this measure.

29—Amendment of section 106—Effect of property vesting in an insolvency trustee

This clause amends section 106 of the principal Act to ensure it applies in relation to instruments as well as benefits of crime.

30—Amendment of section 107—Reducing penalty amounts to take account of forfeiture and proposed forfeiture

This clause amends section 107 of the principal Act to insert new subsection (2), setting out reductions to penalty amounts under pecuniary penalty orders that relate to instruments of crime where the instruments have been forfeited in relation to the offence to which the order relates, or where an application for such forfeiture has been made.

31—Amendment of section 108—Reducing penalty amounts to take account of fines etc

This clause amends section 108 of the principal Act to ensure it encompasses instruments of crime.

32—Amendment of section 149—Interpretation

This clause amends the definition of *property-tracking document* in section 149 of the principal Act, to refer, for the sake of consistency, to property owned by or subject to the effective control of a person, rather than simply the property of the person.

33—Substitution of section 203

This clause amends the structure of section 203 of the principal Act to reflect the changes made by this measure.

34—Amendment of heading

This clause is consequential to clause 36.

35—Amendment of section 209—Credits to Victims of Crime Fund

This clause is consequential to clause 36.

36—Insertion of section 209A

This clause provides for the establishment of the Justice Resources Fund, to be administered by the Attorney-General, and for the proceeds of confiscated assets of prescribed drug offenders to be paid into the fund.

37—Amendment of section 219—Consent orders

This clause makes a consequential amendment to section 219 of the principal Act to reflect changes made by this measure.

38—Substitution of section 224

This clause substitutes section 224 of the principal Act to reflect the changes made by this measure as they relate to prescribed drug offenders, and to include forfeiture, or pecuniary penalty orders, under the law of other relevant jurisdictions as matters to which a sentencing court must not (under new paragraph (b)) or must (under paragraph (c)) have regard to in determining sentence.

The clause also inserts new section 224A which regulates the release of sensitive information relating to cooperation with law enforcement agencies.

Debate adjourned on motion of Hon. D.W. Ridgway

At 18:15 the council adjourned until Thursday 16 February 2012 at 14:15.