LEGISLATIVE COUNCIL

Tuesday 28 February 2012

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:17 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

82 The Hon. R.I. LUCAS (30 June 2010) (First Session). For the period between 1 July 2009 and 30 June 2010, will the Attorney-General 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. 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 is advised:

1. In relation to the Attorney-General's Department Business Units under my responsibility, details of each position with a total estimated cost of $100,000 or more, which were abolished between 1 July 2009 and 30 June 2010, are outlined in the table below.

Department/Agency	Position Title	TEC Cost
Attorney-General's Department	Project Manager	$203,776
Attorney-General's Department	Solicitor	$220,852
Attorney-General's Department	Outposted Lawyer	$109,027
Attorney-General's Department	Prosecutor	$109,027
Attorney-General's Department	Senior Assistant	$129,016
Attorney-General's Department	Redeployment	$105,191
Attorney-General's Department	Senior Solicitor	$109,027
Attorney-General's Department	Senior Solicitor	$109,027
Attorney-General's Department	Senior Solicitor	$109,027
Attorney-General's Department	Senior Solicitor	$129,016
Attorney-General's Department	Senior Solicitor	$129,016
Attorney-General's Department	Senior Solicitor	$129,016
Attorney-General's Department	Senior Solicitor	$129,016
Attorney-General's Department	Project Officer	$104,491
Attorney-General's Department	Manager Infrastructure & Services	$104,491
Attorney-General's Department	Principal Forensic Scientist	$106,529

2. In relation to the Attorney-General's Department Business Units under my responsibility, details of each new position with a total cost of $100,000 or more, which were created between 1 July 2009 and 30 June 2010, are outlined in the table below.

Department/Agency	Position Title	TEC Cost
Attorney-General's Department	Project Manager	$102,626
Attorney-General's Department	Project Manager	$102,626
Attorney-General's Department	Manager Procurement/Contract Management	$102,626
Attorney-General's Department	Manager Project Delivery	$102,626
Attorney-General's Department	Manager IT Security and Audit	$102,626
Attorney-General's Department	Prosecutor	$109,027
Attorney-General's Department	Prosecutor	$129,016
Attorney-General's Department	Prosecutor	$129,016
Attorney-General's Department	Prosecutor	$129,016
Attorney-General's Department	Prosecutor	$129,016
Attorney-General's Department	Prosecutor	$129,016

Department/Agency	Position Title	TEC Cost
Attorney-General's Department	Prosecutor	$129,016
Attorney-General's Department	Senior Solicitor	$129,016
Attorney-General's Department	Senior Solicitor	$129,016
Attorney-General's Department	Senior Solicitor	$129,016
Attorney-General's Department	Senior Solicitor	$129,016
Attorney-General's Department	Senior Solicitor	$129,016
Attorney-General's Department	Senior Solicitor	$129,016
Attorney-General's Department	Manager Operational Service Delivery	$104,491
Attorney-General's Department	Manager Pathology	$113,962
Attorney-General's Department	Senior Solicitor/Prosecutor	$188,842
Attorney-General's Department	Project Director	$190,000
Attorney-General's Department	Senior Prosecutor	$188,842
Attorney-General's Department	Senior Prosecutor	$188,842
Attorney-General's Department	Managing Solicitor	$188,842
Attorney-General's Department	Managing Solicitor	$188,842
Attorney-General's Department	Crown Advocate	N/A*
Attorney-General's Department	Strategic Program Manager	$137,914
Attorney-General's Department	Project Manager	$102,626

* The TEC of this position is greater than that of the Crown-Solicitor but less than that of the Solicitor-General and reflects the incumbent's skill and status in the legal profession.

GOVERNMENT CAPITAL PAYMENTS

103 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 Families and Communities—

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): I am advised:

The former Department for Families and Communities made $4.2 million of capital payments in June 2010.

In relation to the South Australian Housing Trust (SAHT), capital payments made during June 2010 amounted to $53 million. SAHT is a Public Non-Financial Corporation and is not within the general Government sector.

HomeStart Finance is a Public Financial Corporation. Its capital payments in June 2010 were $131,000.

CONSULTANTS AND CONTRACTORS

112 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 Attorney-General, 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. 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 is advised:

1. To the best of my knowledge, no persons in the Attorney-General's Department were employed or otherwise engaged as a consultant or contractor, who had previously received a separation package from the State Government.

2. Not applicable.

DEPARTMENTAL EXPENDITURE

228 The Hon. R.I. LUCAS (7 July 2011) (First Session). Can the Minister for Families and Communities 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): I have been advised:

In relation to the South Australian Housing Trust (SAHT), recurrent expenditure in 2010-11 amounted to $720.9 million, and was underspent by $82.6 million compared to the revised budget of $803.5 million. The largest factor responsible for this was an underspend of $92 million for donated assets expense. This was expected to be incurred in relation to the transfer to community housing providers of properties funded under the Commonwealth Government's Nation Building and Economic Stimulus Plan. However at 30 June 2011, the proper accounting treatment for this transfer was still under review.

Capital expenditure in 2010-11 amounted to $314.5 million, and was underspent by $30.5 million compared to the revised budget of $345 million. The largest factor responsible for this was an underspend of $33.8 million in relation to construction expenditure under the Nation Building and Economic Stimulus Plan, arising from delays to some projects caused by unfavourable weather conditions, as well as the retention of some funds by SAHT to reimburse the value of SAHT owned land that has been contributed to the program.

SAHT is a Public Non-Financial Corporation (PNFC) and is not within the general Government sector.

DEPARTMENTAL EXPENDITURE

254 The Hon. R.I. LUCAS (7 July 2011) (First Session). Can the Deputy Premier advise the actual level for 2010-11 of both capital and recurrent expenditure underspending (or overspending) for all departments and agencies (which are classified in the general government sector) then reporting to the Deputy Premier?

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 Deputy Premier has advised:

The 2010-2011 result for Attorney-General's Department controlled items was a favourable expenditure outcome of $0.4 million.

Investing expenditure was $2.3 million below budget in 2010-11.

CONSULTANTS AND CONTRACTORS

299 The Hon. R.I. LUCAS (7 July 2011) (First Session). For the year 2010-11—

1. Were any persons employed or otherwise engaged as a consultant or contractor, in any Department or agency reporting to the Deputy Premier, 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. 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 Deputy Premier has advised:

1. For the year 2010-2011, to the best of my knowledge, no persons were employed or otherwise engaged as a consultant or contractor, in any Department or agency reporting to me, who had previously received a separation package from the State Government.

2. Not applicable.

CONSULTANTS AND CONTRACTORS

303 The Hon. R.I. LUCAS (7 July 2011) (First Session). For the year 2010-11—

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 am advised:

1. The Human Resource Unit of the former Department for Families and Communities (DFC) retained data on employees of that Department who had accepted a separation package since June 2006.

During 2010-11, no persons previously employed by the former Department for Families and Communities, who accepted a separation package since 2006, were employed within that department in any capacity.

2. Not Applicable.

PAPERS

The following papers were laid on the table:

By the President—

Mallala District Council—Report, 2010-11.

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

Office of the Public Advocate—Report, 2010-11
Regulations under the following Acts—
Primary Industry Funding Schemes Act 1998—Grain Industry Fund—General
Public Corporations Act 1993—Land Management Corporation—Dissolution and Revocation

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

Electricity Industry Superannuation Scheme—Report, 2010-11
Regulations under the following Act—
Food Act 2001—Disclosure of Information

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

Report on the Operation of the Climate Change and Greenhouse Emissions Reduction Act 2007, dated December 2011
Regulations under the following Act—
Housing and Urban Development (Administrative Arrangements) Act 1995—Urban Renewal Authority
Review of the Climate Change and Greenhouse Emissions Reduction Act 2007, dated December 2011

PARLIAMENTARY STANDARDS

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) (14:20): I table a copy of a ministerial statement relating to parliamentary standards made earlier today in another place by my colleague the Hon. J.W. Weatherill.

QUESTION TIME

REGIONAL VISITOR GUIDES

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

Leave granted.

The Hon. D.W. RIDGWAY: A ministerial bungle means that South Australian tourism operators are paying to advertise high profile events a full year after they were held. If minister Gago had walked down Rundle Mall to the information booth, or could even find the visitor and travel information centre in Grenfell Street or if, like me, she had been at the caravan and camping show at Wayville on the weekend she would have been able to pick up last year's regional guides.

The Yorke Peninsula guide advertises the Cornish Festival of 10 months ago, the Eyre Peninsula guide advertises the Port Lincoln Festival that has been and gone for 13 months, the Kangaroo Island guide has a feature on Tourism for Tomorrow written a year before yesterday, the Barossa guide advertises the tourism award winners for 2010, the Adelaide Hills guide advertises the dates of last year's Tour Down Under, and the River Murray guide entices people to a music festival held on 8 January 2011. Every guide is a year out of date.

Last April the government called for tenders to produce a series of annual regional tourism guides. The government's brilliant idea was that a private contractor should sell the advertising and print the guides, keep some of the profits and pay the government up to $500,000 for the privilege. Previously the guides would have appeared regionally and the profits ploughed back into the local tourism industry, but the government thought it would be simply marvellous to centralise production in Adelaide, even though that would break a long held, successful group of local connections.

Tenders closed in May. There was no mandatory requirement for tenderers to comply with the draft contract agreement, to have mandatory business capability or capacity or even mandatory experience in producing consumer publications containing industry advertising. In fact, it was not even mandatory for the winning tenderer to be experienced in advertising sales.

The advertising layout and graphic design for all guides had to be finished in October/November last year, and all guides were due to be launched at the beginning of January 2012. However, in September 2011 the government was still negotiating and no tender had yet been signed. The booklets had not been distributed in December for a January launch; they were not ready, and they are still not ready. My questions to the minister are:

1. Why are these guides a year out of date?

2. Will the advertisers who took out display advertisements on the assumption that they would get 12 months' exposure (which is now clearly impossible) have a claim against the government and therefore the taxpayer?

The PRESIDENT: The honourable minister should disregard the opinion in the question.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:27): That is about the whole question; I would have to sit down, Mr President.

The Hon. D.W. Ridgway: Just answer for a change.

The PRESIDENT: Order!

The Hon. G.E. GAGO: That is the calibre, the level of questions that come into this place. The South Australian Tourism Commission is an independent statutory authority that manages its own business, including the publication of brochures. As the minister, I know I am responsible for a lot of things, and I am very happy to stand up in this place and be absolutely accountable for those things that are my responsibility, but the publication of pamphlets from an independent statutory authority is an operational matter and a matter that I can hardly be held responsible for. It is

outrageous. This is the best question the honourable member can come up with after a week's break—

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: I can certainly express my disappointment that the visitor guides have been delayed but, as I said, the South Australian Tourism Commission is an independent statutory authority that is responsible for its own operational matters. That includes the publication of pamphlets. Nevertheless, I do have some advice, and the advice I have received is that the regional visitor guides are a very important part of the SATC's marketing campaign. It views the brochures very highly, and certainly consumers and tourism operators view them very highly as well.

In the past the regional tourism committees and the SATC have individually contracted suppliers to produce various components of the annual regional visitor guides. For this year SATC tendered for a supplier to produce collectively all the visitor guides, as well as the *Shorts* brochure, I have been advised. That was in an effort to enable efficiencies of scale, to ensure consistencies across all regional visitor guides. This partner was HWR Media. My understanding was that that was a position that the regions were looking forward to in an attempt to produce efficiencies. I understand there was a close relationship there.

I have also been advised that advertising rates were kept at the previous year's rates, despite increased production costs, and where regions provided discounted advertising rates to their members they were also honoured, which the regions were also pleased about. The delivery of the new guides was always going to be rolled out over a series of months, as the 11 visitor guides I have been advised were not planned to be printed and delivered in the same month under these new arrangements, so that was an understanding.

I have also been advised that an extended contract negotiation with HWR Media delayed the commencement of the visitor guide production, which I have been advised has resulted in a delay in the delivery of the 2012 visitor guides for most of the regions by up to two to five months from when they were historically launched, with the exception of the KI guide, which will be in the same month it normally is. This means that maybe the shelf life of the existing guides is required to be extended beyond the normal 12 months on which print runs are based.

Due to delays in the production, visitor guide stocks are obviously running low for five of the regions, I am advised, and would have run out in January without restrictions being imposed on reprints undertaken. The restrictions were a temporary measure and the SATC has reprinted enough guides to lift those restrictions in December for accredited visitor centres across South Australia, allowing them to order stock of any regional guide they require at their allocation levels.

It is extremely disappointing that SATC was not able to advance those new contractual arrangements, but like a lot of new arrangements there are often teething problems, which is not excusing them, but clearly they were attempting to create economies of scale and efficiencies. The prospect of improving efficiencies was embraced by the region. The printing of brochures is a matter for the SATC, which is an independent statutory authority, and is responsible for all operational matters, which includes the printing of brochures.

REGIONAL VISITOR GUIDES

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:34): By way of supplementary question, will the *Shorts* booklet be five or two months—how many months late will the *Shorts* booklet be?

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) (14:34): That is an operational matter.

REGIONAL VISITOR GUIDES

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:34): By way of further supplementary question, is there any financial liability incurred by the SATC in relation to the fact that the advertisers advertised thinking that they were getting 12 months coverage and now they will get maybe only seven months' coverage?

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) (14:34): Well, they have got a bigger bang for their buck, haven't they, with it staying out there longer than anticipated?

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:34): I seek leave to make a brief explanation before asking the Minister for Tourism a question about staff in the Tourism Commission.

Leave granted.

The Hon. D.W. RIDGWAY: Mr President, the industry has lost confidence in this minister, pointing to a litany of stuff-ups, like the Kangaroo Island surf carnival, the visitor centre fiasco, and the parachuting of Rik Morris—a Labor Party factotum, former press secretary to three failed ALP ministers, someone who lost his job when Mike Rann walked the plank, someone with no skills or experience in tourism—to the position of General Manager of the South Australian Tourism Commission. My questions to the minister are:

1. Does the minister have confidence in the Chief Executive Officer of Tourism SA, Mr Ian Darbyshire?

2. Is the minister planning to knife the CEO and have him replaced with Mr Rik Morris in a temporary role?

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) (14:35): Mr President, the honourable member has been nodding off over there on his front bench, dozing away and dreaming, rather than actually getting off his tail and doing any work or serious investigation or serious research. He sits there, nods off into noddy-land, and dreams up these concoctions.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: Absolutely dreams up concoctions. The employment of Rik Morris was done completely independently of government. As I have already indicated, the South Australian Tourism Commission is an independent statutory authority. The hiring and firing of their staff is completely managed by the South Australian Tourism Commission, other than the chief executive's position; there are statutory obligations there. In terms of the hiring and firing of staff, it is completely independent of government. I or any other government member had no input whatsoever into the decision of the SATC to employ Rik Morris.

As I said, it was done completely independently, and it was a usual process, conducted by the South Australian Tourism Commission. They have a particular protocol where they advertise, have a selection and appointment panel, and interviews are done, etc. My understanding is that the typical type of appointment and selection process was adhered to in the case of Rik Morris, and he was selected from a bunch of people.

As I said, it was a decision completely independent of this government so, in suggesting otherwise, he is away in la-la land, Mr President. The answer is quite simple: no. There is no plan to replace the Chief Executive with Rik Morris; no intention whatsoever, and no plan whatsoever to do so, so that answer is quite simple.

I have put it on record before that the current Chief Executive I believe has worked extremely hard in difficult circumstances. He works hard, he works in a very diligent way, he is incredibly passionate about his commitment to tourism and he should be acknowledged for the work that he does.

The PRESIDENT: The Hon. Mr Ridgway has a supplementary.

TOURISM COMMISSION

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:38): Do you have confidence in Mr Ian Darbyshire as Chief Executive of the South Australian Tourism Commission?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for Tourism, Minister for the Status of Women) (14:38): I have already answered, in glowing terms, Mr President.

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: In glowing terms, I have answered the question.

Members interjecting:

The PRESIDENT: Order! The minister can choose to answer the question, and the minister says she has answered the question.

CAVAN TRAINING CENTRE

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:39): I seek leave to make a ministerial statement on the Cavan youth training facility.

Leave granted.

The Hon. I.K. HUNTER: Shortly after 7pm last night, eight young offenders aged from 16 to 19 years of age escaped from the Cavan youth training centre. Police were immediately notified and engaged in a search for the escapees. Four of the offenders were recaptured last night. As of 12:45 today, another three offenders have been recaptured. Police are continuing to search for the remaining youth.

I have ordered a thorough investigation of the actions that led up to last night's escape. This has begun and is headed by the Manager of the Intelligence and Investigations Unit from Corrections. I am expecting a preliminary report will be provided to me on 9 March, with a final report expected on 23 March 2012. The events leading up to the escape, the responses to the escape and a review of the facility's security will form the key aspects of the review.

However, I can advise that the preliminary indication is that this was a well planned event and the youths involved had been preparing for the escape for some time. The youths were detained in two separate units at the time of the escape. It appears that they worked in collaboration to distract staff to facilitate their escape. They escaped through a hole cut in the courtyard fencing around each unit.

The appropriate staff ratios were in place at the time of the event. I am advised that, while some staff were upset by the events, no staff were physically injured. Staff who require support will be offered counselling. The maximum occupancy level of Cavan is 36 persons. The occupancy level at the time of the incident was 35, I am advised. I commend the police for their swift and professional response.

QUESTION TIME

CAVAN TRAINING CENTRE

The Hon. J.M.A. LENSINK (14:40): My question is to the Minister for Communities and Social Inclusion. Will he provide the council with details of the nature of the offences committed by the eight escapees and, in particular, the individual who is still at large?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:41): No.

CAVAN TRAINING CENTRE

The Hon. J.M.A. LENSINK (14:41): Supplementary question.

The PRESIDENT: Out of the answer? Good luck.

The Hon. J.M.A. LENSINK: Is that because the minister does not have the information or because he refuses to provide it to parliament?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:41): Most people in this chamber would be aware—I am sorry the Hon. Michelle Lensink isn't—that

under the Youth Offenders Act we should not be talking about the young people involved, nor about the offences they committed or for which they were tried. That is out of order under the Youth Offenders Act.

CAVAN TRAINING CENTRE

The Hon. J.M.A. LENSINK (14:41): Further supplementary: is there at any stage going to be any public information made on this matter?

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Sorry, I ask the honourable member to re-ask her question.

The Hon. J.M.A. LENSINK: Sorry, you didn't hear? Will that information be provided in a public manner at some point 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) (14:42): I am not planning to.

The PRESIDENT: The Hon. Mr Brokenshire has a supplementary question derived from the original answer, which was no.

CAVAN TRAINING CENTRE

The Hon. R.L. BROKENSHIRE (14:42): Given the reports from SAPOL today that these eight escapees were dangerous—

The PRESIDENT: This is a question? This is your—

The Hon. R.L. BROKENSHIRE: Yes, this is a supplementary to this. The question is: was the minister satisfied that these eight escapees were in adequate security—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.L. BROKENSHIRE: —within the precinct of the Cavan—

The PRESIDENT: Order! If you want to ask that question, you ask it when it is your turn.

CEDUNA

The Hon. CARMEL ZOLLO (14:42): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about Ceduna.

Leave granted.

The Hon. CARMEL ZOLLO: Infrastructure to allow regional economic activity to occur is one of the cornerstones of regional development, and creating these building blocks can often be a cooperative effort. Can the minister inform the chamber about recent developments to progress the creation of a fishing harbour at Ceduna?

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): I thank the honourable member for this important question. The honourable member is correct, that large projects often require more than one player to commit to help bring them to fruition. One such project, which I am really happy to tell the chamber about today, is the District Council of Ceduna's multimillion dollar fishing harbour development proposed near the existing port of Thevenard.

The Ceduna council has made application for assistance to develop this infrastructure for the fishing industry, which has long been placed in these very clean waters on the West Coast. It is a very beautiful coastline, too. The Great Australian Bight commercial fishing industry operating from Ceduna currently uses the port of Thevenard—

The Hon. D.W. Ridgway: Have you been there, Gail?

The Hon. G.E. GAGO: I have been there. However, the fishing vessels, as those who have visited the port of Thevenard would recall, are not the only ships using the port. The port is used for bulk grain and fertiliser shipments, as well as increasingly being used by the mining

sector. These activities mean the port, which is not set up for commercial fishing, becomes extremely congested at times.

As Thevenard is Flinders Ports' second largest port for tonnes exported, ships taking export products take priority for those berths. This means that fishing vessels which use the port for a range of activities—including fish unloading, refuelling, obtaining supplies, crew changeovers, and maintenance—are not able to stay berthed for as long as they might need to be. Fishing vessels have to work around export ships using the port and this has led to overcrowding at the port and, at times, some fishing vessels have to wait to berth.

Having a purpose-built facility will enable the fishing fleet to operate securely from the port, knowing that it will meet their specific needs. As a solution to overcrowding, the District Council of Ceduna is proposing to build a new commercial fishing unloading facility as an expanded spur to the existing Thevenard slipway.

I am pleased to be able to announce the state government's commitment of almost $1.5 million ($1.497 million) from the Regional Development Infrastructure Fund (RDIF) to the Ceduna council as part of its nearly $9 million project proposal for this new fishing harbour. While committing over $1.7 million, the council has submitted an application to the federal government under round two of the $1.1 billion Regional Development Australia Fund for the bulk of the funding required to complete the project. The Ceduna council considers the creation of this new safe harbour for the fishing fleet to be a solution to port overcrowding, and the project is obviously of strategic economic importance to the region.

When completed, the port is expected to enable the fishing and aquaculture industries to operate viably and grow as the mining and grains industries expand. The contribution by the state government is to assist with the cost of dredging works needed to create the new harbour. Should the council's application to the federal Regional Development Australia Fund be successful, it expects that the substantive project could be progressed so that the necessary development approvals and commercial agreements with other port operators, such as tug companies, are reached. Construction could begin in the third quarter of 2012, with a completion date of June 2013.

The RDIF has played a really important role in the implementation of South Australia's strategic plan by helping to meet targets for regional jobs, investments and export earnings. Applicants may seek up to 50 per cent of relevant infrastructure costs for developments which support economic development.

METHADONE TREATMENT

The Hon. D.G.E. HOOD (14:48): I seek leave to make a brief explanation before asking questions of the Minister for Industrial Relations, representing the Minister for Mental Health and Substance Abuse, about methadone treatment in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: In these questions I will use the word 'methadone' to include drugs that have a similar effect to methadone and the word 'heroin' to include opioids that have a similar addictive effect to heroin. My questions are:

1. What is the annual cost to the state government of methadone treatment for heroin addicts in South Australia?

2. How many heroin addicts have had state government funded treatment in South Australia on an annual basis for the last three years?

3. Is there a policy of reducing the methadone dose over time such that heroin addicts become drug-free effectively over a period?

4. On an annual basis, how many heroin addicts who have had methadone treatment are rehabilitated so as to no longer require regular methadone treatments?

5. Of those who are rehabilitated in that way through treatment, what percentage require further treatment for heroin addiction within 12 months of their rehabilitation?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:49): I thank the member for his very important questions. I will take them on notice and refer them to the appropriate minister for an answer.

MINING AND QUARRYING INDUSTRIES

The Hon. G.A. KANDELAARS (14:49): My question is to the Minister for Industrial Relations. Will the minister provide the house with details of the recent launch of a series of DVDs that address safety in the mining and quarrying industries?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:49): I thank the member for his very important question. I also acknowledge the many years that the Hon. Mr Kandelaars spent looking after the health issues of his members. On 24 February 2012, I had the pleasure of launching the Mining and Quarrying Occupational Health and Safety Committee's safety series of DVDs for the mining industry.

As you know, South Australia has a rapidly increasing mining sector that is diverse in mineral types and mineral regions. There are $70 billion worth of mining and energy projects in the pipeline, while the proposed Olympic Dam expansion alone will generate up to 6,000 new jobs during the 11-year construction period and a further 4,000 full-time jobs when the mine reaches full production.

However, mining and quarrying are, by their very nature, hazardous industries. For this reason, the Mining and Quarrying Occupational Health and Safety Committee was established to promote and support initiatives to improve work health and safety in South Australia's mining and quarrying industries, with a particular emphasis on protecting workers from silicosis, which is a dust-related respiratory disease caused by exposure to crystalline silica.

The Mining and Quarrying Occupational Health and Safety Committee provides field services to the mining and quarrying industries, including: occupational health, safety and welfare training; plant and process safety; occupational health and safety audits; occupational health and safety management plans and procedures; training needs analysis; and mentoring those with site safety responsibilities.

These field services are complemented by the funding of research and other activities to identify preventive measures to improve workers' health and safety in the mining and quarrying industries. One such activity is the safety series of DVDs. The DVDs contain a series of short videos that promote safety and address major hazards of concern in the mining industry, such as safe access and egress, noise in the workplace, traffic management, dust and managing hazards.

The DVDs are designed to promote discussion at pre-start meetings, shift change meetings, or other operational forums where safety is the standing agenda item. The DVDs are available free of charge to the public and will provide an excellent educational resource, which will be of benefit to all workers in the mining industry. I would urge anyone interested in obtaining a copy of the MAQOHSC safety series of DVDs to visit the MAQOHSC website at www.maqohsc.sa.gov.au.

BORDERLINE PERSONALITY DISORDER

The Hon. K.L. VINCENT (14:52): I seek leave to make a brief explanation before asking the minister representing the Minister for Health and Ageing questions regarding borderline personality disorder.

Leave granted.

The Hon. K.L. VINCENT: In October of last year, I attended the first annual Borderline Personality Disorder Awareness Day luncheon at the Mental Illness Fellowship of South Australia at Wayville. I found it enlightening to learn about this under-diagnosed and often maligned mental illness from consumers, carers and experts in the field. Borderline personality disorder is a highly prevalent mental illness, with a lifetime suicide risk similar to that of schizophrenia or bipolar disorder, at around 10 per cent. It is thought that 1 per cent to 2 per cent of South Australia's population has BPD, with 75 per cent of sufferers being women. About 75 per cent will have had traumatic events of some kind during their childhood.

Many mental health professionals, including emergency room doctors and nurses, and even psychiatrists, avoid diagnosing people with the disorder, such is the lack of relevant treatment once people do have this diagnosis. People with this diagnosis attached to their file will often be poorly treated or dismissed in emergency rooms and other health care facilities around the state. My understanding is that there used to be a day clinic at the Glenside campus which was suitable for treating BPD but that this shut down in the mid 1990s.

Whilst I note and congratulate the recent state government campaign on television that aims to reduce the stigma associated with mental illness, I am still very concerned by the traumatising shame that seems to be attached to BPD. This looks to occur even within sectors of the community such as health care, when we would hope that there would be more enlightened views on this matter.

Since I first learnt more about BPD last October, I have toured facilities at Craigmore and Christies Beach run by disability service providers that work specifically with clients who have borderline personality disorder, together with a mild intellectual disability. I was very impressed with the success of these programs and the extraordinary insight these clients with an intellectual disability have about their mental illness and the steps they were taking to improve their daily lives. It leads me to wonder why more comprehensive programs are not available to the rest of the BPD consumers in this state who lie outside of disability services. My questions to the minister are:

1. Is the minister aware of the rate of borderline personality disorder in South Australia?

2. Will the minister establish a specialist clinic or ward within Adelaide for the treatment of BPD given the high prevalence of it within South Australia?

3. What information and resources are available to health professionals in general, and mental health professionals specifically, on treatment of BPD in this state?

4. What training programs does the minister provide to clinicians on borderline personality disorder within the health department in South Australia?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:55): I would like to thank the honourable member for her very important question, and I will take it on notice and refer it to the appropriate minister for an answer.

CAVAN TRAINING CENTRE

The Hon. S.G. WADE (14:55): I seek leave to make an explanation before asking the Minister for Communities and Social Inclusion a question with respect to the Cavan youth training facility.

Leave granted.

The Hon. S.G. WADE: The last Auditor-General's Report indicated that the department advised that there is a projected shortfall in funding for the new youth training centre at Cavan which may require a change to the project scope or funding arrangements. The Minister for Communities and Social Inclusion told this house on 10 November 2011:

> ...the budget will stay the same and we will try to bring the project in on budget. That might mean looking at quotes...and pushing them a little harder but there is always the potential of reviewing the scope of works and perhaps going for a different style of fencing...

First, can the minister assure the council that security measures at the current youth training facility—staffing or otherwise—have not been reduced; and, secondly, can the minister rule out any reduction of security measures in the new youth training facility project, in particular security fencing?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:56): I thank the honourable member for his very important question. Can I say at the outset that the question was asked of me by the Hon. Mr Ridgway I think in terms of the questions relating to the Auditor-General's Report. He was asking about contingency options and he was asking about the scope of works and how they might be managed. My answer to that was that:

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

In no way did I suggest at any time that there will be any compromise on safety standards or that there will be any compromise on security measures. I can assure the house that there will not be.

The Hon. R.L. Brokenshire: Do you know they lost a quarter of the prisoners in one night?

The PRESIDENT: Order!

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order! The Hon. Mr Wade has a supplementary, I take it.

CAVAN TRAINING CENTRE

The Hon. S.G. WADE (14:57): I seek the minister's assurance that there have been no secret security changes at the current youth training centre that have been reduced recently, staffing or otherwise.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:57): I have no knowledge of any such reduction in security provisions at the training facility.

HOUSING SA

The Hon. J.M. GAZZOLA (14:58): My question is to the Minister for Social Housing. Minister, will you advise the council regarding the Housing SA's building of UNO Apartments at Waymouth Street in the city?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (14:58): I thank the honourable member for his very enlightened question and his continuing interest in housing issues in South Australia. Housing SA began the process to build the UNO Apartments after cabinet approved construction on 14 December 2009. A report was provided by the Public Works Committee on 3 February 2010 which recommended that the project go ahead.

The budget for the project is $50.89 million and it is financed by money from The Nation Building—Economic Stimulus Plan which includes $2 million in federal government crisis accommodation program funds as a contribution towards the youth service component of this multistorey development.

In total the project involves construction of 116 residential apartments, a homeless youth administration facility, retail space on the ground floor and parking facilities for 36 cars within a single 17-level apartment building. It aims to provide a range of affordable living opportunities which includes occupancy and home ownership, as well as social housing tenancies in a single integrated community.

The groundbreaking development represents the largest single building project ever to be undertaken by Housing SA and demonstrates to the housing industry and to the wider community that mixed tenure developments of this type can be achieved with a high degree of market acceptance.

The building's configuration will comprise 30 bed-sit apartments for homeless and higher-risk youth which will be retained by Housing SA; 27 social housing apartments to be managed by Housing SA; 27 apartments for affordable rental programs funded by the National Rental Affordability Scheme; 28 affordable sales apartments to be sold to low and moderate income SA homebuyers under the HSA Affordable Homes Program; and, finally, 34 apartments sold on the general market. Work is progressing steadily, and the project is due for completion by June 2012.

SOUTH AUSTRALIAN TRAVEL CENTRE

The Hon. J.A. DARLEY (15:00): I seek leave to make a brief explanation before asking the Minister for Tourism questions regarding the South Australian Travel Centre.

Leave granted.

The Hon. J.A. DARLEY: Mr Bob Foord, former chairman of the South Australian Tourism Commission, was previously the Director of Proud Australia Holidays. I understand that Mr Foord's son-in-law, Mr Ben Mead, purchased Proud Australia Holidays from the Foord family and renamed the company as Holidays of Australia. I understand the Proud Australia offices were situated at 18 Grenfell Street, Adelaide. As recently reported, the South Australian Tourism Commission awarded the tender to run the South Australian Travel Centre to Holidays of Australia. I understand the South Australian Travel Centre was then relocated from King William Street to Grenfell Street. My questions to the minister are:

1. Was Holidays of Australia already occupying the basement accommodation at 18 Grenfell Street, which the South Australian Travel Centre was subsequently relocated to?

2. Was an allowance for a fit-out for the South Australian Travel Centre required and, if so, was this included in the rental charge to Holidays of Australia?

3. During rental negotiations, did the government seek advice from the Valuer-General with regard to the rental to be paid and whether it was in line with current market rentals in the area? If not, why not?

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) (15:01): I thank the honourable member for his questions. Last year the South Australian Tourism Commission made a decision to outsource the visitor centre. It went through a tendering process and Holidays of Australia won that tender, and the arrangement was to locate the centre in with Holidays of Australia services and to operate from there.

I do not believe that they were already occupying the building at the time or, if they were, it would not have been for very long, but I can check those details and I am happy to bring that back. In terms of the details of exactly what the extent of the fit-out was, I would have to take that on notice and bring that detail back, as well. I certainly know there were issues around disability access—a fit-out for a disability access that was part of the agreement—but, beyond that, I would have to check. As I said, I am happy to take those questions on notice and bring back a response.

TRADING HOURS

The Hon. T.J. STEPHENS (15:03): I seek leave to make a brief explanation before asking the Minister for Industrial Relations questions about the proposed public holidays over the Christmas New Year period.

Leave granted.

The Hon. T.J. STEPHENS: The October 2011 Shop Trading Hours Agreement between Business SA and the SDA which the government has rubber-stamped will, in effect, create two new periods where holiday penalty rates will need to be paid by employers. This will also affect government workers and, in particular, those who are on essential duties during the Christmas and New Year period—police and hospital workers, particularly nurses. My questions to the minister are:

1. How much consultation and discussion was had about these proposals with industry groups who have a vested interest?

2. What are the budgetary effects of this change: where will this extra money come from, given the level of debt the government has currently?

3. Is this at all related to the sale of the State Administration Centre?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:04): I thank the honourable member for his questions. On 7 November 2011 the Premier (Hon. J Weatherill) announced the South Australian government's intention to amend the Holidays Act 1910 and the Shop Trading Hours Act 1977 to allow stores of any size located in the central shopping district to open from 11am to 5pm on New Year's Day, Adelaide Cup Day, Easter Sunday, Easter Monday, Proclamation Day, the Queen's Birthday, Labor Day and after midday on Anzac Day, as well as to create part-day public holidays on Christmas Eve and New Year's Eve from 5pm until 12 midnight across the whole state.

The changes come as result of tripartite discussions and agreement between the government, Business SA and the Shop Distributive & Allied Employees' Association. The proposed arrangements will ensure that employees in the national system of industrial relations who are required to work from 5pm on Christmas Eve and New Year's Eve will have the right to reasonably refuse to work—

An honourable member interjecting:

The Hon. R.P. WORTLEY: Do you want to listen to the answer or not?

An honourable member interjecting:

The Hon. R.P. WORTLEY: That would be right. I understand that; don't get the information or the facts.

Members interjecting:

The Hon. R.P. WORTLEY: Yes; don't get the information or the facts.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The Hon. R.P. WORTLEY: Fine, but don't interrupt when I am giving the answer—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: That's the polite thing to do. If you don't want—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Stephens has a supplementary.

TRADING HOURS

The Hon. T.J. STEPHENS (15:06): Will the minister tell the chamber how much this particular agreement will cost South Australians? Where is it catered for in your budget?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:06): It is going to cost $5 million. The money will be found somewhere.

Members interjecting:

The PRESIDENT: Order!

TRADING HOURS

The Hon. T.J. STEPHENS (15:06): I have another supplementary question. So the minister is telling this chamber—

The PRESIDENT: Order! Honourable members should contain their excitement. The Hon Mr Stephens has a supplementary.

The Hon. T.J. STEPHENS: Minister, are you telling this chamber that there are no budgetary measures in place to actually cater for this, and that you are going to pull the money out of thin air?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:07): I have not indicated that fact. It is $5 million. The money will be budgeted for. You will have to wait until the budget comes out, and you will then find out where the money is coming from.

I would like to make the position quite clear. This arrangement is a historic arrangement. We have a situation where the chamber of commerce of South Australia (Business SA) and the representatives of the employees and retailers have got an agreement together to allow shopping on public holidays. It also allows for the creation of two part-public holidays on Christmas Eve and New Year's Eve. We are actually quite proud of this arrangement; we think it is the right thing to do.

We would not expect those opposite to ever do anything that would be of benefit to working people. On Christmas Eve at 10 to 9, when the vast majority of people are at home looking after their kids—putting them to bed ready for the next day, wrapping their presents—people out there are serving us, looking after our loved ones in aged-care homes and protecting the streets, as well as doctors and nurses looking after our health. They are all working when they would rather be home with their families on Christmas Eve, and we think it is right that they be given penalty rates.

There is also the issue that, by creating these public holidays, it allows people to be part of that national employment standard which allows them to choose not to work on Christmas Eve or New Year's Eve and spend time with their families, and it allows the people who do choose to work on those days to be compensated appropriately. So we are quite proud of these reforms.

There seems to be a lot of mocking of Business SA, but Business SA has been the spokes-organisation for business in this state for many years, and Peter Vaughan is very highly respected in the business community. What we have here is Business SA, which covers thousands of employers throughout this state, coming to an agreement to overcome the ideological

differences between employees and employers to cater for this historic policy measure and legislation.

It does fit beautifully and perfectly in line with our vision for this city, a vision which is not shared over there, a vision to revitalise this city, a vision which is all about having a city that is vibrant, somewhere that people want to come to work, play, live and the like. We are proud of this legislation: it is the right thing to do and it has widespread support throughout the community. There are people who oppose it, of course. You have Woolies and Coles opposing it. You have the hotel and pokie barons who oppose this. People do oppose it, but it has widespread support in the community.

It is a piece of legislation that will serve this state well decades into the future. It is something that has been a long time coming. I seek to give this information to members opposite, who have no vision for the city and no idea where they are going for the future. They are probably quite upset that we have found a solution for this trading hours issue.

TRADING HOURS

The Hon. T.J. STEPHENS (15:11): By way of supplementary question arising from the answer, can the minister tell us which states in Australia actually have these provisions, when starting to talk about national standards? Which other states or territories have these provisions you want to introduce?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:11): There are far greater deregulated shopping hours in—

The Hon. T.J. Stephens: No, no; this is about penalty rates and public holidays. Which other states and territories? The answer is none.

The Hon. R.P. WORTLEY: Qualify your question. You asked where else—do you want me—

The Hon. T.J. Stephens: Listen to the question, you fool!

The Hon. R.P. WORTLEY: Fool?

The Hon. T.J. Stephens: Absolute fool. You can't!

VIOLENCE AGAINST WOMEN

The Hon. CARMEL ZOLLO (15:12): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question on collaborations.

Leave granted.

The Hon. CARMEL ZOLLO: There are many challenges in working to reduce violence against women.

The Hon. J.S.L. Dawkins interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: Can the minister inform the chamber of new partnerships being formed to address issues that relate to 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) (15:12): I thank the honourable member for her most important question. Members may recall that on 2 December last year I launched the new phase of the South Australian government's women's safety strategy titled 'A right to safety'. This strategy recognises that partnering with the community is important if we are to address underlying causes of violence against women.

I can today advise that this partnership will take the form of violence against women collaborations, which will be established across South Australia to support and bring together service providers, advocates and interested organisations to develop regional approaches to respond to and prevent violence against women. We recognise that every region across South Australia has its own unique strengths and challenges, and the purpose of violence against women collaborations is to build community capacity to prevent and reduce violence against women in local regions through developing multi-agency regional approaches.

I am advised that in some regions this will involve work to support existing networks to focus on violence against women, while in others it will involve working with champions in the community to establish a network. Violence against women collaborations are different from the family safety framework, which has a focus on families at imminent high risk of death or serious injury due to domestic violence.

Violence against women collaborations are multi-agency partnerships that will develop regional alliance plans to identify and develop regional specific strategies to respond to and prevent all forms of violence against women, including domestic violence, rape and sexual assault. Possible partners include local government, business groups and service providers, as well as service clubs. By prioritising issues on violence against women through the development of regional alliance plans it is hoped that communities will develop a culture that does not tolerate any form of violence against women.

The types of strategies could include undertaking education awareness campaigns about violence against women, and may include items such as postcard distribution through local businesses and information stalls at local events, for example, show days. Another idea is creating a central directory of local services to improve appropriate referrals, and more integrated case management; also, undertaking safety audits as part of the planning for community events to ensure that all members of the community can participate in these events safely.

Another idea is supporting employer-based actions, which may include engaging men to promote positive masculinity characteristics (for example, positive fatherhood and respectful relationships), and encouraging gender equity and diversity tools to be employed in workplace policies and programs.

The Office for Women is working with the Department for Communities and Social Inclusion on its Homelessness Strategy to develop these collaborations through an across government reference group, and includes representatives from a range of different government departments. I have been advised that the work to implement violence against women collaborations has commenced, with initial meetings already held in western metropolitan Adelaide, southern metropolitan Adelaide and Port Lincoln. Work will shortly commence in the Limestone Coast, Cooper Pedy and Berri areas and be expanded to other areas across the state as soon as possible.

MOUNT BARKER DEVELOPMENT PLAN AMENDMENT

The Hon. M. PARNELL (15:16): I seek leave to make a brief explanation before asking a question of the Leader of Government Business, representing the Minister for Planning, about the fast-tracking of housing development in Mount Barker.

Leave granted.

The Hon. M. PARNELL: In July 2009, I applied under the Freedom of Information Act for correspondence between the developers and landowners behind the Mount Barker consortium, the planning minister at the time (minister Holloway) and the relevant department in relation to the proposed rezoning of land around Mount Barker for urban development. I was keen to discover, on behalf of the people of Mount Barker, what had convinced the then minister to fast-track these controversial plans at Mount Barker and Nairne, ahead of the broader planning process that was underway through the 30-Year Plan for Greater Adelaide.

After a very frustrating and lengthy journey via the department, the Ombudsman's office and, finally, the District Court, I finally received the documents that I sought, and what they show is quite extraordinary. Apart from some ludicrous claims by the developers, such as the development being 'carbon neutral', the documents also show that the planning firm of Connor Holmes, on behalf of members of the consortium, used as its main argument for the government to fast-track these plans the fact that the consortium might fall apart if it did not happen at a rapid pace.

The documents also show that the department's original advice to the minister was to not fast-track this development ahead of broader investigations of suitable land. A letter that was released to me, drafted by the department for the minister to sign—but was presumably never signed and never sent—says that the minister was not willing to 'prejudice the outcomes' of the growth investigations consultancy and the preparation of the 30-Year Plan by forging ahead with the premature Mount Barker rezoning.

The documents also show the contempt held by the developers for the local council and the community, and they argued that only a ministerial process would be 'free of any parochial,

conservative and/or emotional attitudes'. The documents also contain further evidence of the conflict of interest between Connor Holmes in its capacity working for both the government and the Mount Barker consortium at the same time.

Members should note that the firm of Connor Holmes had aggressively lobbied the minister and the planning department for many months on behalf of the Mount Barker consortium. The minister then appointed Connor Holmes to undertake work on behalf of the government to identify possible future areas across Adelaide for residential development and then—surprise, surprise—Connor Holmes recommended to the minister that the same land owned by the developers that they represented would be perfect for fast-track rezoning and development. Having given that advice to the government, the firm then continued to work for the developers to prepare the necessary rezoning documents. My questions to the minister are:

1. Why did the minister allow Connor Holmes to work on behalf of the consortium in preparing the rezoning documents, despite the department's and Connor Holmes' own acknowledgement that there was, at the very least, a perceived conflict of interest?

2. Is it correct that heads of agreement over infrastructure are yet to be signed and, if that is correct, does the government now accept that it can suspend the DPA and go back to the drawing board?

3. As the government has intervened previously to throw out bad planning decisions, such as Port Adelaide in relation to Newport Quays, why can it not do the same at Mount Barker?

4. As the current planning minister has admitted that mistakes were made at Mount Barker, will the government now fix up this mess and, if not, why not?

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) (15:20): I thank the honourable member for his questions. I will refer them to the Minister for Planning in another place and bring back a response.

DISABLED STUDENTS

The Hon. J.S. LEE (15:20): I seek leave to make a brief explanation before asking the Minister for Disabilities a question about the lack of funding for students with a disability.

Leave granted.

The Hon. J.S. LEE: The Gonski Review of Funding for Schooling released on 20 February 2012 revealed the disparity between support provided for students with a disability in South Australia and the rest of the nation. According to the review, the average funding for students with a disability in government schools in South Australia in 2009-10 was $4,808 per student, whilst in other states disabled students had eight times as much financial support.

For example, in New South Wales it was $13,244 per student, in Victoria it was $19,800 per student, in Western Australia it was $20,233 per student, and in Tasmania it was $41,817 per student. These figures were supported by the January edition of the Productivity Commission, finding that South Australia's general support for people with a disability is far less than the national average. My questions to the minister are:

1. With other states providing eight times as much financial support to disabled students in government schools, why has the South Australian government given such little financial support to disabled students?

2. How will the Minister for Disabilities ensure the disability sector is prioritised urgently in this year's budget?

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (15:22): This is a classic example of quoting statistics without the context behind them, giving you a false picture of what might actually be happening on the ground. This is an area where we should all take a lesson in stats, I suppose. South Australia has the second highest rate of students who receive disability support in the country—

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: My apologies, Mr President.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: There is a lot of mumbling on the other side of the—

Members interjecting:

The PRESIDENT: Order! You might want to listen to this so you get the statistics accurately from the minister. The honourable minister.

The Hon. I.K. HUNTER: Clearly—

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Order! The Hon. Mr Ridgway has finished? The honourable minister.

The Hon. I.K. HUNTER: Clearly, with the notable exception of one or two members on the opposite side, these people opposite have absolutely no interest in the area of disability and have no interest in my answer to the question, but I do thank the Hon. Ms Lee for her very, very important question.

The Hon. J.S.L. Dawkins interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: As I said, South Australia has the second highest rate of students who receive disability support in the country. Within our public school system, 9.1 per cent of children or about 15,000 students receive some form of disability support. This is much higher than most other states and territories and more than double the rate of states like Western Australia. This is because we recognise and support a broader range of disabilities than other states and territories. This is why it is so important for honourable members to understand the context of the questions they are asking and not to go for the cheap shot by not looking behind the statistics that they raise in this chamber.

This is also the case with my own agency, the disability services agency. We provide support to a greater number of people with disabilities than our counterparts in other states, because our definition of disability is so much broader. The Department for Education and Child Development spends an additional $124.29 million on specifically supporting students with disabilities. This is over and above the funding spent on students generally.

I am advised that that recent investment includes $54.8 million for the complete redevelopment of six special schools around the state—the biggest new investment in disability education in a generation. It includes another $9 million to develop six new special units for children with disabilities to ensure that those with special needs are provided with further options for their education and an additional $4 million in increased support to the non-government sector specifically for students with disabilities. This is an object lesson to honourable members: don't quote statistics and reports unless you know what you are talking about.

Members interjecting:

The PRESIDENT: Order! I remind honourable members that they should take the time to have a look at standing orders 108 and 109 as far as asking supplementary questions. Some of those offenders have left the chamber, but they might have a look at *Hansard* and get it.

ANSWERS TO QUESTIONS

PENSIONERS

In reply to the **Hon. T.A. FRANKS** (28 October 2010) (First Session).

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 am advised:

The former Minister for Families and Communities received correspondence from the Federal Minister and prepared a response which reinforced the decision announced in the 2010-11 State Budget.

The one-off increase to single pensioners was announced in May 2009 to be introduced in September 2009. As part of the 2010-11 State Budget, all spending and subsidies were reviewed and the government came to the view that it could no longer afford this additional subsidy to a particular group of tenants. The assessment of the one-off increase impacted rents from 14 May 2011, approximately 20 months after the introduction of the increase. After the assessment, single pensioners still retain $50 of the $65 per fortnight that was included in the one-off increase.

State Governments in Western Australia, Tasmania and New South Wales are also now assessing the one-off increase in their calculation of rent. Victoria and the Northern Territory are currently reviewing their decision.

DISABILITY EQUIPMENT

In reply to the **Hon. D.G.E. HOOD** (10 November 2010) (First Session).

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 am advised:

There is no reference to money being stashed in the 'Grant payment for disability equipment' section of the Auditor-General's Report. Indeed, the Auditor-General identified on p 446 that the grants to Julia Farr Association (JFA) were used for the purpose intended:

> Of crucial importance, it is acknowledged that the grant funds allocated to the Department were used to facilitate the purchase of disability equipment as was approved by Cabinet.

The grants totalling $5.07 million to JFA were used for the prescribing and purchasing of equipment to address the waiting list. These funds have sped up the process of addressing the disability equipment waiting list.

Over 2006-07 and 2007-08 a total of $10.69 million was provided as non-recourse grants to non-government organisations for the purpose of purchasing equipment for children and adults with disability, with the intent of clearing waiting lists at various points in time.

In 2009-10, the government again provided an additional $13.8 million in funding over four years from 2010-11 to 2013-14, in addition to $3.8 million provided in 2009-10, to clear waiting lists and provide recurrent funding of roundly $2.4 million per annum to assist in meeting demand pressures for disability equipment.

DISABILITY CARERS

In reply to the **Hon. K.L. VINCENT** (25 November 2010) (First Session).

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 importance of maintaining carer health and wellbeing is a core principle of the SA Carers Charter and the Carers Recognition Act 2005. Research indicates that carers experience significantly worse physical and emotional health than non-carers. While maintaining health and wellbeing is critical for all carers, it is acknowledged that women represent the majority of people who provide care to a family member or friend with disability, a chronic illness or who are frail and therefore need assistance.

Throughout 2010 the Office for Carers worked with General Practice SA and the rural Divisions of General Practice, to raise awareness of the importance of monitoring carer health and referring carers to carer support services as a preventative measure. This project will also be rolled out in the metropolitan area in 2012, to coincide with the Access2HomeCare metropolitan initiative which was progressed in October 2011.

Resources will continue to be distributed to key service providers in addition to GPs. The Carers portal on the Government of South Australia website includes a specific section with information and referral options for GPs and other health professionals. A state-wide carer support services search map is also on the website www.sa.gov.au/carers.

The nature of care giving can result in carers being vulnerable to physical, emotional, social, and financial stress. It is important to support carers to maintain employment for both financial and social reasons. A Managers and Carers Working Together information and awareness package has been developed with the aim of achieving a cultural change, with caring seen as a normal life activity and one to be supported and encouraged, along with flexible work options. Although this is a Department for Communities and Social Inclusion (DCSI) initiative, the concept and ideas are being made available for use by other Departments.

A Home and Community Care (HACC) research project was undertaken in 2011-12, with a focus on maintaining carers' physical health and wellbeing, and connection with their communities. The project will propose a best practice framework to support carers as they move through the caring role. This Project will be reported in 2012.

A Families Ageing in Place project developed resources for ageing carers of adult children with disability who are also experiencing ageing issues. Many of these carers will be women. Funding was provided to the Disability Information Resource Centre (DIRC) in 2009 to develop a service directory, which is available on the Connecting Up Australia and DIRC websites, and to develop The Path Service. The Path focuses on 'The Later Years' to support people with disability, their carers and families, who face ageing issues.

The annual South Australian Carer Recognition Awards extend carer recognition from the government into the private sector, by identifying and acknowledging innovation and best practice by South Australian businesses, non-government organisations, government departments and general practices, in their response to carers who are customers or employees. The Awards both raise awareness and encourage service and program response to support the needs of carers.

The demands for and on carers in Australia will continue to increase with the ageing of the population as well as a population growth and an emphasis on smaller, more scattered families. South Australia places high priority on the funding of support for carers. In 2009-10, the Office for the Ageing (OFTA) allocated approximately $16 million in HACC funding to carer support and respite services for carers of frail older people, including people with dementia and younger people with disability, representing about 10 per cent of total HACC funds.

New carer support services funded in 2008-09 in the Adelaide Hills, Yankalilla, Kangaroo Island and the outer southern metropolitan area are now fully operational. In 2010-11, a new service was funded in Strathalbyn. State-wide coverage of carer support services has now been achieved.

A National Carer Strategy is currently being developed by the Commonwealth Government in consultation with State and Territory Governments, with input from carers, carer support organisations and service providers. This will provide a consistent national framework and approach to policies, programs and services for Australian carers. South Australia is actively contributing to the Strategy.

The Australian Government has provided $1.6 million in 2011-13 to fund a campaign to raise public awareness of carers and $1 million to hold young carer festivals.

In 2009, the government asked the Social Inclusion Board to develop a blueprint for long-term reform of the disability system. The report 'Strong Voices' was released in October 2011. The report recognises the need to ensure our disability support system is strong and effective, and is able to supply the care and support needed by people with disability, beyond that which their family or friends can readily and willingly provide. It also recognises the need to boost support for carers. The government has already supported almost half of the 'Strong Voices' recommendations, including enabling everyone with six hours or more of disability support to have a personal budget, which they can manage themselves if they choose. Greater control and choice over how and what disability supports are provided is something that both people with disability and their carers have been calling for. The government will consider the remaining recommendations as part of the State Budget process, including a number that relate specifically to carers, such as increasing respite, improving concessions for carers, meeting unmet need and assisting with future planning for ageing carers.

POLLUTION MONITORING

In reply to the **Hon. M. PARNELL** (14 September 2011) (First Session).

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 Sustainability, Environment and Conservation has been advised:

1. No.

2. The identity of the company referred to in the ABC's PM article was unknown to the Environment Protection Authority (EPA) at that point in time.

3. The EPA undertakes its own monitoring in relation to point sources emissions, including from licensed sites, examples include continual monitoring at Whyalla and Port Pirie and short-term monitoring at sites such as the Lefevre Peninsula, Mount Gambier and Angaston. The data obtained from such monitoring can be used to assist in assessing data provided by licensees and/or to support the EPA in its regulatory decision-making.

The penalties under the Environment Protection Act 1993 for falsification of data are significant ($15,000 or 4 years imprisonment).

The EPA reviews the quality assurance and quality control reports for work it commissions with a laboratory. The EPA also considers the analytical reports against observations that are recorded at the time of sampling.

4. The EPA undertakes a range of actions (from direct monitoring to site inspections and desk top analysis) to ensure that licensees act appropriately to monitor and protect the environment. The penalties for falsification of data are significant.

DESALINATION PLANT

In reply to the **Hon. J.A. DARLEY** (19 October 2011) (First Session).

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 Water and the River Murray has been advised:

1. First water is the continuous and safe production of 10 per cent of the first 50 gigalitres desalination plant or approximately 15 million litres of desalinated drinking water per day. This was achieved in October 2011 and the desalination plant is currently supplying water into the SA Water network.

First drop of desalinated water is the commencement of production of desalinated water (Permeate). This was achieved in July 2011.

2. At the time of achieving the first drop of desalinated water, the contractor had produced in the order of 3.1 million litres of desalinated water (Permeate).

At the time of achieving first water in October 2011, the contractor demonstrated plant capacity of nearly 30 million litres per day.

3. As with all complex process plants, the contractor did encounter challenges associated with the electrical and protection trips on the high pressure pumps. These challenges were properly and methodically resolved.

ENERGY-SAVING LIGHT GLOBES

In reply to the **Hon. D.G.E. HOOD** (23 November 2011) (First Session).

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 Sustainability, Environment and Conservation has been advised:

1. The South Australian Government adopts advice provided by the Australian Government Department of Climate Change and Energy Efficiency in relation to the health risks associated with mercury containing light globes. The advice can be found on the Australian Government's Climate Change website: http://www.climatechange.gov.au/.

2. The South Australian Government adopts advice provided by the Australian Government Department of Climate Change and Energy Efficiency in relation to the appropriate disposal of broken mercury containing light globes.

This advice can also be found on the Australian Government's Climate Change website.

3. When the Australian Government announced its intention to phase out incandescent lamps by June 2010 as a way of reducing Australia's greenhouse gas emissions, the South Australian Government welcomed the Australian Government's decision as the change to energy efficient light bulbs and using lighting efficiently will help to minimise energy bills and lower greenhouse gas emissions within South Australian households and businesses.

The South Australian Government will continue to support the ban on incandescent light globes in favour of more energy efficient light bulbs and as such, has worked to increase accessibility for South Australians to safely dispose of a range of light globes.

APY LANDS, FOOD SECURITY

In reply to the **Hon. T.J. STEPHENS** (30 November 2011) (First Session).

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 Aboriginal Affairs and Reconciliation is advised:

1. Access to, and consumption of, nutritious food on the APY lands is a very complex issue. There is no evidence to support the view that a food transport subsidy of $300,000 provided by the government would be a complete response to this very complex issue. The government has committed to the APY Lands Food Security Strategy to meet the challenge of improving food security on the APY Lands.

2. The APY Lands Food Security Strategy will consider store pricing and food supply chain issues to investigate the most appropriate and effective mechanisms to promote a sustainable food supply for Anangu. The effect of food, freight and other subsidies will be considered.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from 16 February 2012.)

The Hon. S.G. WADE (15:26): I rise to speak in support of the motion that the Address in Reply, as read, be adopted. I thank the Governor for delivering the address to open the Second Session of the Fifty-Second Parliament and I thank both he and his wife for their ongoing service to this state. We congratulate the Governor on his reappointment.

The Address in Reply debate marks the start of a new parliamentary session, but on this occasion it also marks two other milestones. First, it marks a new premiership. After the Malinauskas coup and a tortuously long birth, this Governor's speech is the first of the Weatherill ministry. The other milestone is the halfway mark of the parliament. The next election is almost as close as the last. It is an appropriate time to take stock of this government.

My reflections will focus on my shadow portfolio responsibilities—Attorney-General's and Justice. The Governor's speech was delivered during a period of heightened crime group activity. We had a shooting in a coffee shop in a prestige shopping district in broad daylight; we had the shooting of an outlaw motorcycle gang member in a suburban street. In the Governor's speech, he said that the government believes that our public discourse should be more civil, that we should be slower to attribute blame and quicker to accept responsibility.

On that basis, we would think that the government would be taking responsibility for a decade of failure at dealing with outlaw motorcycle gang members. After all, there are more members of outlaw motorcycle gangs. In the three years since the Serious and Organised Crime (Control) Act was enacted, outlaw motorcycle gang memberships has increased by 10 per cent to 274. There are more gangs. The New Boys street gang has transformed into the Comancheros, and we have seen evolving links between street gangs more generally and outlaw motorcycle gang groups. In spite of the commitments of the former premier, in particular, there are no fewer bikie fortresses. The Australian Crime Commission has highlighted to us the weakening of internal controls and that that will lead to more public and riskier behaviour.

After the Governor's plea that people in public discourse should be slower to attribute blame and quicker to accept responsibility, what did we see? The House of Assembly adjourned for little more than an hour after the Governor's speech before the house resumed to a tirade by the Premier in a ministerial statement blaming the opposition for causing the crime wave by daring to improve proposed laws. Soon after, the government moved to suspend standing orders to bring on

debate on the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2012. This was a bill that was so urgent that its predecessor bill had been left untouched for 4½ months. There had been no work brought on by the government since 27 September 2011.

The Liberal opposition did not object to the suspension of standing orders, in fact 13 days earlier we had suggested it. I had written to the Attorney to suggest that standing orders be suspended to allow debate on the new anti-gang laws to proceed. The only response from the government was a letter of acknowledgement, received on 6 February. On the same day, we received an email from the Attorney-General's office inquiring about our views on the monkey bike bill, and I quote:

> In relation to the above Bill, it is anticipated that this will once again go to a Deadlock Conference. In order to speed up the process, I would be grateful if your Party could articulate its final concerns with the Bill in writing...

Labor did not take up the offer of expediting the anti-gang laws. Labor wanted to play the blame game. Labor wanted some parliamentary theatrics, and so, with less than 24 hours notice before the resumption of the House of Assembly, it brought on the Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill. The Liberal opposition cooperated and 24 hours later the bill was passed through the House of Assembly.

So, what has happened with this urgent bill? Members of this place would have expected that having been declared urgent in the House of Assembly, and having been rushed through the other place, that it would be a high priority for the government in this place, but no, when the government revealed its priorities for this week the bill was not even in its nine priorities.

Labor's changing priorities expose Premier Weatherill's tough talk on crime as mere rhetoric—it is merely the blame game. The calls in the Governor's speech for the taking of responsibility are shown to be mere hollow words. This Labor government has the conviction and concentration span of a goldfish. The Weatherill government feigns urgency to distract, or to attempt to distract, from its own inaction.

In spite of the government's hypocrisy, the Liberal opposition is continuing with its scrutiny of the new anti-gang laws that were introduced into the House of Assembly last week and are being considered by the House of Assembly this week. Premier Weatherill promised South Australians a new Labor, but he has shown that he is no different to the former premier, Mike Rann: all spin and no substance.

The Governor's speech identified one of the so-called seven primary areas of focus of action as safe and active neighbourhoods. The Governor's speech states that:

> ...being safe from crime remains the most important single concern for South Australians. And securing the safety of the people is a primary role of government:

That is true, and the government, over the past 10 years, has failed in that responsibility. It has failed to reduce fear in our community. Before the 2002 state election, the then opposition leader, Mike Rann, promised that he would:

> Focus not only on minimising crime but on ending the fear of crime that terrorises many in our community, especially older South Australians.

Yet, South Australians walking locally at night feel the least safe of citizens of any state. According to the report on government services, 43 per cent of South Australians, in 2009-10, felt unsafe. In contrast, in 2001-02, South Australians felt the most safe of any state. The Governor's speech went on to state:

> The Government will therefore introduce legislation to attack head-on the most dangerous and violent criminal conduct.

That statement belies Labor's naive belief that a law on the statute books, in and of itself, produces peace on the streets. In fact, when the parliament's work on a new law is done, the reality is that the task has only just begun. This government is more interested in making laws than doing the hard yards to implement them. For example, firearms prohibition orders were introduced in 2008, after the Tonic Nightclub shooting.

The government specifically stated that the orders were designed to curb motorcycle gang violence, but the last police annual report states that only 24 outlaw motorcycle gang members have firearms prohibition orders against them, less than 10 per cent of the 274 members of outlaw motorcycle gangs. Firearms offences against public order increased by 9.4 per cent in 2010-11 to 3,891 incidents in that year alone, but only 53 people throughout the state are subject to the orders.

There have been two major incidents involving the discharging of firearms in public places in the last two months but, despite being previously known to police for their involvement in violent incidents, none of the known combatants are subject to firearms prohibition orders. In particular, I remind the council of Vince Focarelli, Michael Syfris, Dylan Jessen and Danny Papadopoulos. None are subject to FPOs.

Orders would serve to discourage the participants from possessing a firearm and taking a firearm into a public place and would strengthen the arm of the police in terms of search and seizure. Again, Labor loves to make laws but loses interest soon after the ink dries on the press release. Legislation passed in 2008 also required a review of the firearms prohibition orders. Now, 12 months after it was due, it is yet to be tabled in this place. If the government will not respect the law, how does it expect that bikies will?

One of the most bizarre sidelights in the House of Assembly last week was the Attorney-General's participation. The Premier had been frothing at the mouth at the need to progress his integrated package of crime bills. Standing orders were suspended and the debate on the first bill comes on. Yet, the Attorney-General's summing up on the second reading of the bill did not even focus on the bill. Most of the Attorney-General's contribution is a self-indulgent defence by the Attorney in relation to a press release that I had issued. The Attorney even adjourned the debate to the following day so that he could continue his comments.

The release was called 'Rau: all talk, no action'. My complaint was that the Attorney and Labor more generally are more interested in press coverage than getting the job done. I detailed 19 core policy announcements that the Attorney had failed to deliver. Let me summarise those 19 failures. Three of the 19 failures relate to matters that I suspect are rightly called 'closed matters'.

One of the 19 was the 2010 election policy commitment on tightening laws on drug paraphernalia. That has been met but, then again, it was met as soon as it was made, as the promised laws already existed. When the Attorney brought his nothing bill into the parliament, the opposition and other members of this place did the work and made the amendments to give the bill some useful work to do.

The Hon. A. Bressington: And it still doesn't work!

The Hon. S.G. WADE: The Attorney failed to deliver because there was nothing to deliver in law and, as my colleague the Hon. Ann Bressington highlights, having the law in place does not mean that it is being implemented. It is yet to be seen to work on the ground.

The Attorney failed to deliver on another commitment in relation to similar fact and propensity evidence. The Attorney objects to this because he did get a bill through the parliament on this matter, but let us remember what Labor promised. Labor promised to lower the threshold and allow more such evidence.

The Attorney's bill did no such thing. It merely codified the law. I actually acknowledge that it was a good bill, and I am sure that it is a law that will be easy to work with and the Attorney may still be smirking about how he hoodwinked former premier Rann into thinking that he had delivered, but it was just another broken Labor promise.

Another of the 19 will never be delivered. In the Mid-Year Budget Review, the government broke its election promise to establish a southern community justice court. I ask the house: what hope do the courts have of getting any investment out of this government when the A-G has so little standing within the government that, within 18 months, he managed to lose funding for courts infrastructure that was promised as part of the election campaign?

The Attorney-General particularly seemed to get excited when he was focusing on three of the 19 areas, because he objected to being blamed for Legislative Council obstructionism. This claim shows the arrogance of the man and of the government he seeks to be a leader within. More often than not, the Attorney-General's reaction and that of this government to any amendments from the Legislative Council is to just park the bill.

The Legislative Council does the hard yards to review and improve a law and then waits and waits for any response. What a cop-out. Rather than having the confidence in the government's bills to come in and argue them, the Attorney and his colleagues just park them. Rather than engage the council through negotiations outside the chamber or perhaps through deadlock conferences or even debate in the chamber, the Attorney-General assumes that government bills, by definition, cannot be improved.

I urge the council to be highly sceptical of this attitude. If the government continues to effectively veto Legislative Council amendments by refusing to have them considered by the House of Assembly, and then turns around from time to time and insists that we pass all parked bills without amendment, the Legislative Council might as well pack up and go home.

The Attorney-General has particularly criticised the opposition for amending four bills in the last session. By way of footnote I stress that the opposition in this place is completely impotent to pass amendments without the support of the majority of the crossbenchers. However, the government particularly focuses on Liberal members—and I do not shy away from our role, working cooperatively with other crossbenchers to deliver improvements to law—and, in particular, the government is calling on the Liberal opposition to back down and pass four bills unamended.

Let us look at the bills which the Attorney-General highlighted as indicative of Legislative Council obstructionism. In relation to the first one, I am constrained by standing orders not to address the merits because it is on our *Notice Paper*, but I will simply highlight the time frame. The Criminal Assets Confiscation (Prescribed Drug Offenders) Amendment Bill 2011 was introduced in the House of Assembly on 18 May 2011. The Legislative Council committee and the third reading stages were completed on 27 September 2011 and there has been no work since. It sat on the House of Assembly *Notice Paper* until the parliamentary theatrics of the last sitting week. If it was so important the government should have progressed it.

The Attorney-General also claimed that the Legislative Council was obstructing its efforts to deal with internet censorship and dodgy how-to-vote cards. He claims that the bill was bogged down in the Legislative Council committee. Indeed, the Legislative Council did have a select committee and that committee, including the Labor members, rejected his bill to deal with dodgy how-to-vote cards. That committee reported on 5 May. The government has had 10 months to bring the legislation back in; it has not done so.

In fact, the fact that the bill has not even been restored to the *Notice Paper*, I hope is an indication that the government finally admits that the Attorney-General's bill was dodgy and that it will not try to progress it. We urge the government to provide a new bill to the parliament as soon as possible. We find it highly unacceptable that we had two parliamentary by-elections recently and South Australians did not have protection in place against Labor's tactics as used at the 2010 general election.

I also pointed out that this Attorney-General has failed to deliver on his promise on weapons prohibition orders. The Summary Offences (Weapons) Amendment Bill 2010 was introduced to the House of Assembly on 15 September 2010 and the Legislative Council completed the Legislative Council committee stage on 21 June 2011. There has been no work done on this bill since June. The government paused for four months before it even bothered to put the bill to its third reading on 8 November and no work until this month, when it was restored to the *Notice Paper*. I remind members that that bill emanated from the stabbing of a young Sudanese male (Daniel Awak) in Grenfell Street in 2008.

What horrendous follies does the Attorney-General claim this council has inflicted on this bill? Could it be that we want children to be able to purchase plastic knives and forks at community barbecues? Could it be that we refuse to allow amateurs to be authorised to conduct personal body searches? Could it be that we wanted to ensure that all offensive weapons, not simply knives, were banned in schools? We may never know because for this Attorney-General parliament seems to be a mere platform for the display of brute numbers, but he needs to look outside the door of his own chamber. His parliamentary gang may have a comfortable majority in the House of Assembly but no bill can go to the Governor without the support of both chambers of this parliament.

I remind the Labor Party that no government has had control of this chamber since 1975. The crossbenchers are the largest they have ever been—that is the will of the people of South Australia. I dare to predict that this council has no intention of betraying our collective mandate from the people of South Australia nor of abdicating our personal responsibilities as legislators by caving in to the theatrics of the temperamental Attorney-General and a government getting more arrogant, not less.

That deals with seven of the 19 commitments where the Attorney-General has failed to deliver and, in spite of the fact that we have untimed speeches in this chamber, I will do the council the courtesy of merely listing some of the others. We have a bunch of 2010 election commitments: to keep child sex offenders in prison for longer, suspended sentences, being tough on tagging,

more control over entertainment precincts and targeting drug dealers in nightclubs and pubs; all are yet to be implemented.

There are a range of other measures, such as the response to the report by Thinker in Residence Peggy Hora, 'Smart Justice', which was delivered in February 2011 after, I understand, a number of months' delay in its tabling. We have been told that the government is looking at a general appeals tribunal; that was announced in August 2011 but there has still been no progress. In relation to DNA law reform, we were told in November 2010 that we would have a new bill in early 2011; 12 months later there are still no changes.

In November 2010 we had a discussion paper on public integrity, and we had an announcement from incoming Premier Weatherill of a lightweight version of an ICAC, but still there is no legislation. We had commitments in March 2011 for security industry reform; no changes have been made. In February 2011 the government sought public comment on reforms to spent convictions legislation; we are still waiting.

The Attorney-General's defence on a number of these are that they are 'in the pipeline', if I can paraphrase his words. I appreciate that at any point in time there will always be things in the pipeline, but I remind the Attorney that pipelines are for throughput; as some things go in one end you do expect some things to come out the other. With this Attorney the pipeline seems to be like a long, thin dam.

In this regard let me highlight another example, highlighted in fact by the Governor's speech. It relates to codes of conduct by parliamentarians. The Governor's speech states:

> The government will call on all members to maintain the proper standards during this session. And beyond this, we will enact a Code of Conduct for all members, to ensure that their public lives are beyond reproach.

The Hon. A. Bressington interjecting:

The Hon. S.G. WADE: I am sorry to bring mirth to the chamber. To be fair, the pipeline on this one goes back not to 2010 when the Attorney-General was appointed, but to the earliest days of the government. The government has a tradition of re-announcing policies rather than implementing them. The Governor's speech announcement follows nearly eight years of delay.

In October 2004 the joint committee on a code of conduct—of which Attorney-General Rau, then a mere backbencher, was a member—recommended the introduction of a statement of principles for members of parliament. In 2009 the South Australian Labor Party platform committed to a code of conduct for parliamentarians, but another three years and no progress had been made towards that code of conduct.

On 30 June 2011 Independent member of the House of Assembly the Hon. Dr Bob Such moved a motion calling on the parliament to introduce a code of conduct, but still the government took no action. On 24 October 2011 Attorney-General Rau announced again that Labor would introduce a code of conduct. In the Governor's speech the Labor government announced, yet again, its commitment to a code of conduct.

The Liberal Party committed to a code of conduct in its 2010 election policy: Transparency. After eight years' of Labor inaction it may well take the election of a Liberal government to see real action. The Attorney is failing to deliver on commitments and reform. He is also failing to act effectively to protect the administration of justice. I will give the council three particular examples.

First, I believe the Attorney has failed to protect public confidence in the legal system by letting action in relation to Eugene McGee lapse. I believe the Attorney has underestimated the significant community concern that persists in relation to the role of Mr McGee in the hit and run death of cyclist Ian Humphrey on 30 November 2003. Deficiencies of police prosecutors and courts in handling the case has significantly undermined public confidence in our justice system. In spite of the action already taken against Mr McGee, it is important that all reasonable steps are taken to hold Mr McGee to account and ensure that such issues are adequately addressed through the justice system in the future.

Last year I received advice which raised significant doubt as to the correctness of the Legal Practitioners Conduct Board decision and recommended that charges should be laid in the Legal Practitioners Disciplinary Tribunal. While the Legal Practitioners Conduct Board recommended no action against Mr McGee, the Attorney-General could still refer the matter to the more senior body, the Legal Practitioners Disciplinary Tribunal. Given the efflux of time, under section 82 of the Legal Practitioners Act only the Attorney-General is legally able to refer this matter to the tribunal.

In April 2011 Senator Nick Xenophon and myself called for Attorney-General Rau to do so. The Attorney-General issued a statement on 8 December 2011 announcing that, following advice from the Crown Solicitor's Office that it was open to the board to take the view that unprofessional conduct could not be proved in the circumstances, he had decided not to refer the case. The implication was that it was open to the board to take a contrary view. On that day I called for the Attorney-General to release his advice. He has not done so.

The case was recently subject to two episodes of the ABC series *Australian Story*. Former attorney-general Michael Atkinson and Senator Xenophon both recently called for the case to be referred. Mr Atkinson has been quoted as saying:

> Under the Legal Practitioners Act the Attorney-General has the undoubted authority to refer a charge against a legal practitioner to the Legal Practitioners Disciplinary Tribunal...and my opinion is that John Rau should refer the Eugene McGee matter to the tribunal for adjudication but he has chosen in a personal decision, not a cabinet decision or a government decision, but a personal decision not to refer the Eugene McGee charge to the tribunal.

To protect public confidence in the justice system I consider that we as a community should maintain our calls for the referral of the Eugene McGee matter to the Legal Practitioners Disciplinary Tribunal.

Secondly, the Attorney-General has failed to protect the administration of justice by failing to deal effectively with the Malcolm Fox case. I am concerned at the Labor government's silence in the face of significant community disquiet at the sentence in the Malcolm Fox case. The Labor government's own Commissioner for Victims' Rights has recognised community concerns at the perceived leniency of the sentence and supported the victim to seek an appeal through the DPP.

In the face of this community concern, I understand the Attorney-General did not meet with the victim. As far as I know, he did not seek a briefing from the DPP on the case and on the prospects for a review of the sentence. In my view, it is fair to say that the community expects that a conviction for such an offence would mean time in custody. Whilst nobody wants another round of court bashing by Labor, victims need to be assured that the government is protecting their interests.

The Labor government should have ensured that South Australians received an explanation as to why the sentencing decision in the Malcolm Fox case was not appealed. The Liberal Party believes that the community needs to have engagement in the process and that the process needs to be transparent. After all, one of the criteria for an appeal is whether the sentence would 'shock the public conscience'. The community has a right to be informed and engaged.

Thirdly, I believe the Attorney-General has failed to protect the administration of justice in the context of the case of the Labor member of parliament charged in April 2011. Following the public outrage at the suppression of the identity of a Labor MP, the Labor government commissioned and then rejected the findings of its own independent review in relation to the use of suppression orders in relation to sex offences. The Liberal opposition welcomes the report by Justice Martin, which is a strong statement on the need for open justice and how the legal system needs to be open to both the media and the public. As an aside, I would encourage members to read the judgement. I thought it was a particularly strong statement in terms of the vital importance of freedom of the press.

The Liberal Party will work for openness and transparency in sex offences cases by rolling back automatic suppression orders, as recommended by Justice Martin. We support suppression orders. We believe that suppression orders, used appropriately, are part of the proper administration of justice, but they must be used sparingly, and there is no reason why sexual offences should be treated differently to other offences. We want court processes to be open, unless there is a good reason for them not to be.

The Liberal Party position, I stress, is not a response to the case of the father of a Labor MP, or the identity of a Labor MP; even if the Labor MP's identity is suppressed when legislation is brought before this parliament, we would not support any changes applying retrospectively. Having recognised public disquiet over the suppression of the identity of the Labor MP by commissioning an independent review, we urge the government to support changes to the law.

Fourthly, the Attorney-General has failed, in our view, in his role as political guardian of the administration of justice. In particular, I draw the house's attention to his silence in the recent aftermath of the Focarelli shooting, where there were four days of criticism of the courts by senior police. His silence forced the Chief Judge of the District Court to take the extraordinary step of

issuing a public statement to defend his court. The Chief Judge's statement is an indictment of the failure of the Attorney-General to act.

In a month which highlighted 10 years of Labor's failure to deal with organised crime, Attorney-General Rau seemed more than happy to let the courts take the flak. The courts, I assert, are not free from criticism. The courts may well need to lift their game to deal effectively with the escalation of gangs, but so might the police, and so might we as legislators and members of government.

Unlike the police, legislators and members of government, judges are not able to participate in the argy-bargy of the public debate, due to their office. Former Labor attorney-general Len King, who had served as both the attorney-general in a government and as chief justice of our Supreme Court, described the guardian role in the following terms:

> It is the special role of the Attorney-General to be the voice within government and to the public which articulates and insists upon the observance of the enduring principles of legal justice and respect for the judicial and other legal institutions through which they are applied.

Len King made those comments at a Colloquium of the Judicial Conference of Australia in 1999. In a letter to premier Rann in 2006, the Chief Justice of our Supreme Court (Chief Justice Doyle), said:

> If the impression is allowed to develop that the judiciary or lawyers are not operating in compliance with the laws of the parliament as enacted, then the public's confidence in the judicial system will inevitably be eroded.

In his welcome address to the Supreme Court in 2010, Attorney-General Rau said, 'The challenge of raising the public's respect for the judiciary and the Rule of Law is before all of us.' The silence of the Attorney-General in recent weeks has failed his own test. I also believe that the Attorney-General is proving to be a poor administrator.

The recent awarding of a tender contract in relation to fines enforcement eight months after it was called highlights how slow the Weatherill government has been in addressing the almost quarter of a billion dollar unexpected fines backlog. In May 2011, the Labor government announced it was calling a tender for a private debt collection agency to address one-fifth of the outstanding fines in South Australia. I remind the house that, since January 2010, $111 million of outstanding fines have been written off. Law-abiding South Australians are paying for this government's failure to properly enforce fines.

The recent announcement only addresses, as I said, one-fifth of the debt. We want the Labor government to respond to last year's consultation and tell us how it is going to address the outstanding fines totalling almost $200 million. Let us remember that South Australians are losing out on services that could be funded by this revenue. The 24 per cent increase in the fines debt in the last financial year alone could have covered the bicentennial funding cutback 1,000 times over. Labor's lack of commitment and sloppy approach to fine enforcement is simply unjust to the thousands of South Australians who pay their fines on time and who are being deprived of services that could otherwise be funded by them.

The poor record of the Attorney-General in so many domains caused the member for Bragg in another place to highlight that, in spite of his attempts to distance himself from his predecessor, former attorney-general Atkinson, the Attorney-General has become like him. The honourable member for Bragg said:

> The Atkinson era is, of course, gone, but here I see the Attorney-General with a bit less hair, he could probably grow a foot, add a carnation, and what would we have? We have it all back again. It has all come back.
>
> It may be unkind to the member for Croydon, but the bottom line is that it is all back here...We have the same trumped up, thin, shallow, insincere, inadequate response from the government to deal with a very serious problem.

I am almost driven by the member for Bragg's comments to defend former attorney-general Atkinson. At least former attorney-general Atkinson had the courage of his convictions and did not insult the people with light versions of Liberal policies. The member for Croydon consistently opposed an ICAC. The Liberal Party has long been calling for a full-blooded ICAC. Current Attorney-General Rau is promising to give us ICAC light, a commission which will only deal with corruption beyond the criminal threshold and with limited opportunities for public hearings.

Former attorney-general Atkinson consistently opposed a law reform commission. The Liberal Party has promised a law reform commission. Attorney-General Rau has agreed to a university proposal for a law institute—a light version of a law reform commission. Former attorney-

general Atkinson consistently resisted a sentencing advisory council. The Liberal Party has called for a sentencing advisory council. Attorney-General Rau has established a group with that name, but with no budget for it to be able to effectively discharge its important role.

For the sake of balance, in conclusion, I also want to commend the Attorney. Almost two years into his role, I am not aware of the Attorney launching any proceedings for defamation. Whilst parliamentarians have reputations that they have every right to defend, we also have a responsibility to respect freedom of speech and not be too quick to resort to legal action for defamation. I perceive that the Attorney-General is showing that respect and commend him for that. I commend the motion to the council that the Address in Reply be noted.

The Hon. T.J. STEPHENS (16:03): Firstly, I would like to thank His Excellency the Governor for overseeing the opening ceremony of parliament. The ceremony was conducted with great respect and sense of occasion, in keeping with the dignity of His Excellency's office and that of this great institution, the Parliament of South Australia. I welcome the extension of His Excellency's term for another two years and have no doubt he will continue to work hard in that role on behalf of the Crown for the people of South Australia.

May I also take the opportunity to thank Mrs Scarce for the excellent job that she does in assisting His Excellency in his role. They are a great team and, as I have said before, one of the few very, very good appointments of the Rann government—very few.

I want to begin by saying that my comments are in no way a reflection on His Excellency, as I realise it is convention only which forces the Governor to associate himself with the views of the Premier and his government, which I am sure is the most unpleasant part of his job.

His Excellency outlined that his government would focus on several areas, and I congratulate the Premier and his band of merry men on that speech because it sets a new record for broad sweeping statements. I have never heard a governor's speech of such length containing such little substance. I want to highlight some lines from His Excellency's speech that I found disturbing. First:

> The Government understands that many South Australians are troubled and uneasy about the shifting and uncertain times the world now faces, on so many fronts.

I have no doubt the government understands that, because they have created it. This government is directly responsible for the cost of living pressures that many South Australians are now under. We are now the highest taxed state in the nation, and you would think that with such a high amount of tax coming in that the government would have no problem paying its bills. No surprises, but that is not the case.

The budget is currently in a deficit of $11 billion with an interest bill of $2 million a day. The budget was only just getting back on track following the State Bank disaster, which was brought back under the previous Liberal government, when Labor managed slide its way into government through some backroom deals and uncomfortable marriages with crossbenches from the 50th Parliament. The Governor then continued on with the Premier's words:

> The Government's aim is not limited to improving the material circumstances of South Australians.

No, the government is committed to exactly the opposite, as I said before. How can burdening South Australians with exorbitant taxes be improving their material circumstances? Shame on the Treasurer and shame on the Premier. Another quote from the speech:

> This Government will resist, by whatever means necessary, the depletion and pollution of the Murray through over-allocation by upstream states.

What exactly does this statement mean? There was no concrete promise or commitment to do anything other than just give a broad statement—a broad statement that was also made by former premier Rann when we had the huff and puff and spin that we have been accustomed to from this Labor government that a High Court challenge was going to save the river and South Australia. Well, it did not. Nothing changed, and more rhetoric from the government is only going to push any achievements on the River Murray further away.

The Governor mentioned South Australia's leading role in renewable energy technologies. This, of course, includes the wind farms that no-one wants and the unconsultative process in which they are built. It includes solar technology which the government is unwilling to support, a feed-in tariff no longer in operation citing its unsustainability, and the cost to ETSA. Given the dire situation

that many remote centres are in regarding energy, perhaps greater investment in solar technology would be pertinent.

Coober Pedy comes to mind where, instead of perhaps investing in solar technologies in a place where it is most appropriate, the government has generously allowed the town to pay for its connection to the grid at a cost of $50 million. This in effect left the local council and the people of Coober Pedy high and dry.

The speech mentioned the potential of the mining boom to bring wealth and prosperity to this state, which all of us in this place wish for I am sure; however, the preparation and economic conditions need to be handled and maintained responsibly in order to guarantee the ripple effects of a strong mining sector. For this, I look to the Western Australian government under Premier Barnett. He had made the economic conditions in his state comfortable for the miners to operate within, encouraging investment.

The Western Australian government has been opposed to the federal government's mining tax from the outset, and so are we. The Liberal Party understands how important mining is to this state and does not want to jeopardise that through a ludicrous money grab. The government needs to come out against it. If the Premier really wants a strong mining sector in South Australia, and wants to guarantee its long-term future, he should come out against this punitive tax. I quote again from the Governor:

> It is therefore crucial that we sustain our existing manufacturing sector, particularly our car manufacturing industry that employs about 8,000 workers in South Australia. This government will invest to keep General Motors-Holden in South Australia for the next decade and beyond.

That is all well and good to want to keep the industry and the plant at Elizabeth. I could not agree more with the government, but the government needs to realise that it cannot dictate to a private company what it prefers for that company's future.

After the Premier's Messianic trip to Detroit to persuade the GM bosses and save the plant from closure, we learnt that Holden was cutting a shift at Elizabeth anyway. In fact, like Monty Python's Brian, the Premier is not the Messiah but just 'a very naughty boy' because he wasted taxpayers' dollars on a trip that has done nothing to improve the situation at Elizabeth and was a trip that was not necessary for the Premier of Victoria as he received similar news about General Motors operations in his state.

So, it seems the Labor spin machine is still in full operation and it is business as usual on that side of the chamber. Staged media opportunities and denial are the preferred method rather than facing up to the debacle that is this government. His Excellency states:

> Increasingly, well-educated and well-trained people have choices, and are willing to make those choices, about where they will live to find fulfilling work.

Young people are certainly making those choices, but they are not choosing Adelaide. Since this government has been in office, there has been a mass exodus of our youngest and brightest interstate, particularly to Melbourne and Sydney, but increasingly to Perth, a city which was comparable to Adelaide not so long ago.

The government also mentioned that it has enlivened the Capital City Committee to include the Premier and Deputy Premier. How about including the local parliamentary representative, the member for Adelaide from another place? Would it be because she is a Liberal? It is not her fault the Labor Party neglected its constituents in the electorate of Adelaide—their voice should be heard on this committee. I hope the member for Adelaide's bill to amend the membership of the committee is supported by the House of Assembly so that it may be considered by this place.

The Governor also mentioned the regeneration of Adelaide Oval in his speech, as if it was a visionary proposal for which the government will be forever immortalised. Let us be clear on this, the government did not even consider an upgrade to the oval until the 2010 election campaign, when the Liberals had a plan for a covered inner city stadium, which was immensely popular and which left the government out of step, and it then cobbled together this Adelaide Oval idea. The Governor states:

> The Government will develop a State Public Health Plan, and assist all councils to create Healthy Neighbourhood Plans.

I, with the people of this state, am sick to death of this government's many plans, which are never worth the glossy paper they are printed on. 'More plans and no action' should be the slogan of the Rann/Weatherill government. Solutions need to happen, things need to be done. This government

has had 10 years to plan and still there is no action. You do not need to plan to know that regional hospitals are in desperate need of funding, with many at risk of closure.

Keith Hospital is one major example that comes to mind: $370,000 is all it requires, yet this government is happy to abandon it in favour of golden handshakes and perks for themselves and former members and friends. For example, the golden handshake—perhaps golden parachute would be more appropriate—that Premier Weatherill gave to former premier Rann, which was worth about $200,000 and included a car, staff and furnished office, as well as a pension worth three-quarters of his former salary. The Governor continues:

> The Government will...introduce legislation to attack head-on the most dangerous and violent criminal conduct.

This is an excerpt from the Governor's speech of last Tuesday. Was not similar legislation introduced and passed in 2008? The opposition had reservations about the original legislation four years ago. It did not believe it would solve the problem. Four years and a High Court challenge later, nothing has changed. What makes the government think that this similar proposal will change anything now? His Excellency states:

> Parliament should demonstrate how debate and dissent can be constructive—and not be a forum for endless squabbles that lead nowhere.

What parliament, and particularly this place, should not be is a rubber stamp for government, especially this government. It was pointed out to me recently that in the Canadian parliament, one with very similar traditions and roots to ours, opposition frontbenchers are referred to as 'critics' rather than shadow ministers, which probably reflects our role much better.

We are not there to act as a rubber stamp or as yes men, but to analyse and criticise the government's proposals, and that is, a lot of the time, constructive. The work we do here, which includes minor parties and Independents, reflecting the broad view of South Australians, actually works on and improves government bills before they become law, and it is a shame that the government and the broader Labor Party want to abolish this place.

The Governor went on to say that his government wants a government sector where risk-taking is rewarded. We can only hope it is not the risk-taking which led to the State Bank collapse in the late 1980s—a monumental failure which I know this government is capable of. With those few remarks, I support the motion.

The Hon. M. PARNELL (16:13): I rise to support the adoption of the Address in Reply to the Governor's speech and to thank His Excellency for his ongoing service to our state. There were many fine words in the Governor's address and it was hard to disagree with a lot of it. However, it is actions rather than words that really matter, and I want to speak briefly today on the government's priorities, in particular an apparent shift in government priority away from action and programs that look after the environment.

The former premier, from his election in 2002 until he left office, spoke often and frequently about the environment, about ecological sustainability, renewable energy, the challenge of climate change and a range of other environmental issues. During his tenure, the Greens were often critical of how the premier spoke about these issues and then failed to deliver real outcomes for the South Australian environment. We often saw the spin and the words not matched by action on the ground.

I could go through example after example of where the spin took over and the action did not result, but just one will suffice: the mini wind turbines on the roof of the state administration building. They were announced with great fanfare. There were ribbons to be cut, but we know that they never worked. They did not ever power one light globe or one heater under one bureaucrat's desk. They simply did not work. I am not critical of the government trying things and I am not even necessarily critical if those trials fail.

Failure is a part of trial, but I do object, as do many South Australians, when the issue is spun as somehow the saviour of the environment when in fact it was a small trial, an unsuccessful trial and it should have been declared as such. Despite those criticisms of the former premier, at least the Hon. Mike Rann did seem to recognise the importance of the issue. That is to his credit.

However, since Premier Weatherill has taken charge, I have been hearing many worrying reports from inside the Public Service that environmental issues have been significantly downgraded. There are two recent incidents that strongly back up this concern. The first is the scrapping of the renewable energy fund. Members might have read the article by Belinda Willis in

the *SA Business Journal* in *The Advertiser*, in the last edition, under the heading 'Fears solar project has lost support'. Her article starts like this:

> Solar groups are worried the State Government is pulling its industry support after funding dried up for the community-owned solar farms project. Funding of $1 million disappeared when $11.7 million was cut from RenewablesSA with at least a dozen community groups well advanced in their project submissions.

The article goes on to outline some concerns of some pretty prominent South Australians, including Monica Oliphant, who is a committee member of the Australian Solar Energy Society and a former president of the International Solar Energy Society. The article refers to her concerns, saying:

> Ms Oliphant was concerned the State Government was not showing interest in solar power.

I think that is clearly an understatement. So, why has it come to cutting this relatively small fund? The answer can be found in some other decisions that the government has made—very poor decisions—in relation to hospital car parking.

It decided that it was going to charge people to park at hospitals, charge visitors who were calling on sick friends and relations and helping to cheer them up and helping their healing. It was going to charge them. When that policy was ultimately abandoned, or at least modified, the money to be found was found by axing this environmental project. Here you have a clear example of the government fixing up a social policy mistake of its own making by sacrificing an environmental program.

What all members have to remember is that renewable energy is a very job-rich sector and it is also a sector that is focused on the future. It was one of the priority areas identified by the state Economic Development Board, a priority area for South Australia to invest in and to advance and to lead. This renewable energy fund was a very small fund, comparatively, but even this small amount has now been scrapped.

The second example of the government's abandonment of an environmental initiative is in relation to the Glenside Hospital and we have already heard in this place about what has happened there. The government, through lack of due diligence or through whatever means, has now discovered that the extent of contamination at the Glenside site is far worse than it had previously expected and the cost of remediation is far greater. What was going to be a fairly modest clean-up cost is now ranging into the tens of millions.

So what is the government's response? It is to go for the low-hanging fruit—the environmental projects, the environmental initiatives. The first we hear is that it will be the stormwater collection and management component of the project that will be axed. Again, stormwater management is one of those long-term investments that pays rich rewards if you do it properly. Members will be familiar with the report that I commissioned some years ago still sitting there on my website. It is a plan for water security for Adelaide, 'Water that doesn't cost the earth'.

In that report we analysed all the different options for water security, and the harvesting, treatment and reuse of stormwater ranked right up near the top of the list for cost-effective, environmentally responsible water security measures. The other end of the spectrum, of course, was the least environmentally sustainable and the most expensive, and that is desalination. It is unacceptable for the government to try to bail itself out of problems of its own making by sacrificing environmental initiatives. It is short-sighted and it is entirely the wrong way to go.

Of course, if we do not invest in things like stormwater capture and reuse, then we are destined to rely on two ultimately dodgy sources of water: one is the River Murray (and we all know what dire straits that river has been in in the past, and will be again in the future) and, as I say, desal—bottled electricity, the most expensive way we know of making fresh water.

It is important for the government to stick with the stormwater component for Glenside. Of course, it is much easier, much simpler and much cheaper to introduce those sorts of schemes at the ground floor; in other words, do it whilst the project is at the development stage rather than trying to retrofit this type of measure onto an existing development. We know how hard it is and we know how expensive it is. If they are going to do a proper environmental stormwater component of this project at Glenside they need to do it right up-front.

What these examples show is a worrying mindset within the Weatherill government that environmental aspects of projects are simply expendable. Rather than truly integrated and holistic thinking within the government that recognises that economic, cultural, social and environmental considerations should be an integral part of all projects, what we are now seeing is that the

government sees environmental aspects as an add-on and something that can be jettisoned as soon as the money gets tight.

On top of those examples we have the ongoing issue of budget cuts to the environment department and to the EPA which results in compromises which, in turn, compromise our environment. As a result, we see community groups and others raising concerns about a range of important issues: there is the Tropical Conservatory at the Botanic Gardens, the future of the Mount Lofty Botanic Gardens and the Wittunga Botanic Gardens.

These things normally would not be on a list of things to be worried about, but we know that many of them featured in the Sustainable Budget Commission report and I think people will be going back to that report and worrying about even more things that are in there, given what we are now seeing as the Weatherill government's lack of commitment to environmental projects.

The Greens call on the Premier to stop this dangerous trend of ignoring sustainability and environmental policy. It is not a question of one or the other—the government can certainly walk and chew gum at the same time—it is not a trade-off between economic objectives, social objectives and environmental objectives. We must seek to achieve them all.

I urge the Premier to reverse the decision that has apparently been made about stormwater at Glenside, reverse the axing of the Renewable Energy Fund and recommit this government to environmental programs and environmental initiatives. The environment is not an optional extra: it is what keeps us all alive and it is irresponsible to ignore it.

The Hon. A. BRESSINGTON (16:25): I also rise to support the motion on the Address in Reply, and again thank His Excellency the Governor for his speech and congratulate him on his extended term. The Governor, in his speech to this parliament, stated:

> This government has comprehensively reviewed where the state stands now, and made decisions about where its focus needs to be for the future. Its emphasis is not just on the next year, or the next decade, but on a future which will provide rich and worthwhile opportunities for our children, and for our children's children.
>
> From this process, this government has identified seven primary areas of focus for action. These...[are]:
>
> - Clean, green food industry
> - The mining boom and its benefits
> - Advanced manufacturing
> - A vibrant city
> - Safe and active neighbourhoods
> - Affordable living
> - Early childhood
>
> The government recognises that these fields of focus do not include every subject of importance in the life of the state, or every area of government endeavour. It has made [strategic] choices.

He goes on to say that the government's aim is not limited to improving the material circumstances of South Australians. I see these seven primary areas of focus as aspirational rather than inspirational.

There is nothing inspirational to a family who cannot afford to pay for their power or their mortgage or their water to hear about a vibrant city. There is nothing inspirational to that same family about the clean, green food industry when they are forced to line up for food hampers, and affordable living to that same family is a kick in the guts as they struggle to pay their mortgage or for an education for their children, and then watch in disgust as the long-term unemployed, drug-addicted deadbeats next door wreck a house that they have contributed to pay for, via their taxes, and receive a house full of new furniture and whitegoods after they have been reported for abusing and/or neglecting their own children.

I will not even tell you about the lack of inspiration it causes when they also hear the blurb about early childhood, when so many hardworking families in the north cannot even enrol their children in kindergarten, primary school or high school because there simply are not any places left. With all due respect, the primary areas of focus in the Governor's speech are, for average Joe, a joke that is not easily expressed in civil terms. When the Governor stated that the government's aim is not limited to improving the material circumstances of South Australians, the general response I got was, 'No kidding. You don't have to be Einstein to work that one out. We are being robbed blind day in and day out.'

While the government's aim is not limited to improving the material circumstances of South Australians, I am sure average Joe has received the message loud and clear that it was of the utmost importance, however, to secure the material circumstances for the former premier Mike Rann with his $600,000 package, debated behind the closed doors of the Labor Party rooms—probably the same rooms where they plotted to rip off the pensioners for their measly federal pension increase just last year.

I am sure that it is not just me who sees that there are actually some valid reasons for discontent and contempt for this government, and I am sad to say that the Governor's speech did not do anything to reduce either of these emotions, which will prevail unless the needs—the needs, not the wants—of people are actually met.

In 2010 the Rann Labor government secured office for another term, and this year the people of this state will have the opportunity to measure the new Premier of South Australia, the Hon. Jay Weatherill, and his ministers, appointed to serve the best interests of the people of this state. Indeed, it is an honour that comparatively few people achieve in their lifetime, to be of service to the people of a great state such as this and to literally hold the future of well over one million people in the palm of their hands. That in itself is a surreal thought, that every decision we make here flows over to every single person out there, one way or another.

I hope that this new look Labor government, that has declared the intention of doing things differently, is not only able but willing to address the many ongoing needs of the people and that this Labor government can achieve some kind of balance between having to meet the obligations of the globalists, who have thrust policies upon us without public debate and scrutiny that will affect our way of life far into the future, and meeting their responsibilities to both lead and govern for the people.

There is no doubt that being part of the global community is only just now starting to reveal the impact this will have on Australian life as we know it and on how the required adjustments will impact on the security of this state and this country as a whole. At the end of the day the people of this state are not just an economy: they are real people with real problems raising real families.

As I look around this chamber I see people who I believe are decent and well intentioned. I would find it hard to believe that any person would come into this place with the intention to do any harm to the people of this state. I also believe that there are still those who believe that, when their time comes, they will be able to make a difference and turn back the clock on some of the disastrous decisions that have been made over the last years just since I have been here, and also who believe they can adjust some of the poor public policy of those who went before them.

Rarely though does that seem to happen because it seems that, once the climb up the ladder of political success begins, somehow focus shifts and it seems to become all about holding on to that power instead of analysing what should be done with it.

Over the past weeks we have seen a display of disunity at the federal level that has not only disgusted the Australian public but also has shone a light on how people are misled on an almost daily basis. Is there going to be a leadership challenge? The question is asked a thousand times in 100 different ways. The resounding response was, 'No, no; the PM has my support. I'm happy being foreign minister' or, from other senior ministers, 'the PM has total party support and we are not concerned'.

Almost every minister and backbencher for that matter is now unbelievable in the eyes of the Australian public. As we have seen, the PM tried to scratch and claw her way to a half-decent opinion poll after the biggest lie ever told pre-election that 'there'll be no carbon tax under a government I lead'. The Labor Party now has to deal with the fact that, not only cannot they be trusted but that they are all very good liars.

On Monday of this week a Nine MSN poll asked the question: Do you think the Labor Party is fit to run this country? The answer was: no, 65,854 and, yes, 15,667. I know that every time a poll like this is run that the response is, 'We don't take any notice of polls; we have a job to do and we are just getting on with it'. Perhaps that is the problem because, after all, if 81,521 people take the time to answer a question, they would probably expect that their answer be heeded and not dismissed. These are voices of the Australian people sending a clear message, and every time that response is heard the more resentment builds.

I have said in this place before that tensions are rising against governments in this country and it is not just the so-called nutters or fringe-dwelling loonies who are fed up, but business people

in the community, middle-class Australia, are sick and tired of having their resources drained away while those with the welfare mentality reap the rewards. Middle-class Australia can only subsidise for so long and, as we have seen, the working poor have become a reality, and it will not be too much longer before diverting their hard-earned dollars will not be possible because there will be just nothing left to divert.

About six weeks ago a friend of mine had to accompany her husband to the hospital because of a suspected heart attack, and she shared with me a conversation she had with the female ambulance driver. The ambulance driver said that paramedics and police are demoralised with the work they are being asked to do. She said they are being used as a baby-sitting service for drug addicts, who are draining their time and resources and making their job near impossible to cope with.

She said that it is the drug addicts who are doing the crime and the drug addicts who are draining their service, and it never gets any better because they do not suffer any consequences for their actions and have unlimited resources diverted to them while good-hearted working people suffer as a result. This conversation is a revelation to me of enormous magnitude and tells a story of how our communities are falling apart.

Of course the other important fact we learnt just last week is that 61 per cent of people in South Australia do not even bother to report crime any more. Is anyone seeing the same picture as I am? This is a government that has staked its law and order agenda—its tough on crime agenda—on the need to pass more laws to deal with outlaw motorcycle gangs and the like when, in fact, it has missed what needs to be done entirely. Law and order is not just about new tough legislation, it is about justice as well; justice for everyone, including the sick and vulnerable.

As it has been said many times before, placing a fence at the top of the mountain, rather than an ambulance at the bottom, would be the desired action to take. People are fed up with seeing those who are not interested in making their lives any better being rewarded for their lack of effort and lack of respect, and they are also sick and tired of hearing the airy-fairy rhetoric of a government that they believe does not have a clue.

Most Australians were raised with the belief in a fair day's work for a fair day's pay; that is, work hard and, over time, you will be able to provide for your children and yourself at the end of your working life, with some assistance from the state and federal government, in return for the hard-earned money that has been paid in taxes over your working lives. This has been the Australian way of life, but no more, it seems.

It is time to reset the moral compass and deal with the social issues that flow over onto each and every family in this state. Start setting things right, or this Labor Party will see the same level of dissatisfaction from the public as their federal counterparts.

We have seen a government that has been very willing to pin the future of this state on a mining boom—something I have been hearing about since entering this place in 2006—and that has also come at a cost. I take this opportunity to acknowledge the efforts of the Hon. Mark Parnell during that particular debate to bring to the surface many of the compromises made associated with the Olympic Dam mine expansion.

Although I had some empathy for the position of the honourable member during that debate, I also recognise that this state has little left to bargain with but its natural resources. Although I am still doubtful that the windfall is going to be as great as this government claims, what else do we do when we have depleted our manufacturing and industry to such a degree that we are literally painted into a corner and are now in a position where mining is our get-out-of-gaol card for a cash flow?

The big projects that are in the pipeline will bring no short-term relief to all of the economic struggles that face this state, but, true to form, I imagine that more taxes, more levies and more fines for the average working family will be put forward to keep our head above water. Of course, we will also see further cuts to necessary services as austerity measures, and these will be touted as necessary to get us through the hard times.

We know that we absolutely have a government that feels no shame in using the line, 'We are not afraid of having to make the hard decisions necessary for the future of this state.' Of course, as time goes by, the people are able to see that these austerity measures actually only apply to them, because, in the midst of these tough times, we have seen that ministers of this government have no intention to curb their own spending and to do it just that little bit tougher.

In these tough times, we have had ministers spending exorbitant amounts of money on travel and office renovations, and all of this pales into insignificance when we see the money spent on monuments that will benefit the least number of people at any one time. I speak now of the Adelaide Oval redevelopment, at a cost of $535 million to the taxpayer.

Yes, every capital city needs a sports stadium, but did we need to have such a monument in such tough times? The majority of people thought not, but I suspect because of deals done and promises made, it went full steam ahead, and I have no doubt that every person in this state is well aware that this sporting arena will be paid for not only by their hard-earned dollars but that of their children, and most likely their grandchildren.

The same applies to the new hospital, that promises not to deliver more beds and services, but an art gallery that will provide signage of where one needs to go. Really, extravagance in the face of hard times so that senior ministers of this government can pat themselves on the back and feel proud. Surely, providing much-needed services and health care to the sick and vulnerable would really be something to truly take pride in.

Mr President, I say this again and again at the risk of being repetitive: the people of SA are hurting and, as the weeks go by, more and more are falling into the category of the working poor, and all of this seems to roll off this government like water off a duck's back. We are told there is no money to fund this service or that service and that cuts are necessary, and then the people see a government prepared to enter into financial agreements or PPPs and commit millions upon millions to non-essentials, while the sick and vulnerable have to suck it up and live in conditions that this state and this country would have once believed to be unacceptable.

This government scrounges back an increase for the aged pensioners, breaking a promise to the federal government, and then upgrades a cricket oval. This government attempts to close a community centre—no doubt a land grab—and then minister Portolesi spends $20,000 on a fly-in, fly-out trip to the APY lands for a photo opportunity as the Red Cross are handing out food parcels to hungry Aboriginal children.

Then this same minister is exposed for flying business class with her daughter overseas, with the cost of the airfares totalling $14,000. The explanation given to the people of this state who paid for these trips was, 'Parliamentary rules allow MPs allow to take one family member on an overseas trip once a year.' Perhaps, just because the rules say that it can be done, it would be prudent to reflect on the hardship of the ordinary person and then make a judgement call. Surely, if times are tough, they are tough for everyone, not just the people who provide the cash flow to this government and then expect that that money would be spent in their best interest.

We also saw the former premier and treasurer ensure that there was basically nothing left in their travel allowances to be refunded on their retirement, while most people right now cannot even afford to take their children away for a weekend. The inappropriate use of funds seems to be now a badge of honour for a number of Labor MPs, even at the federal level. Again, all of this while austerity measures are the play of the day to secure our financial future.

Is it any wonder that the term 'ruling elite' is surfacing more and more? When did the Labor government or the Labor Party decide that there was a law of entitlement to taxpayer funds when so many average citizens are struggling to pay for water, electricity, food and fuel? In 2010 around this same time, on the night of the election, then premier Mike Rann said:

'I recognise tonight we have suffered some big swings and we have to listen to the message of the people,' he said.

'And we will listen to that message and we will reconnect with the people in an energised and positive way because everything we must do in the future is about them and their families and their children's future.

'I want us to absolutely commit tonight, win or lose tonight, to go out to the suburbs, to the streets, to the rural communities, to the farms and factories and reconnect in a way where we can reinvigorate what we are doing to make sure we have a positive future for this state.'

Obviously, this reconnection with rural SA did not include the neglect or closure of their hospitals, the intrusion of the NRM into the lives of good, honest food producers or, of course, the forward sale of SA forests in the South-East. One might ask what other issues did this government think it could possibly reconnect on in rural South Australia and who would not be affected to want to re-engage with this government?

This seemingly heartfelt speech seemed like a good starting point for all of us to look forward to because, as we all know in this place, many South Australian citizens are hurting, and

hurting in ways that only occur when governments ignore the concerns of the people it is elected to serve. It is fair to say that the government took a significant hit at that last election, with almost every minister of this government having a warning shot fired across their bow. An 8.8 per cent swing against any government should not be ignored.

There were significant swings away from the government for the ministers overseeing important social issues, such as disabilities, family and community services, housing, industrial relations, primary industries, education, and mental health and substance abuse, not to mention the significant swing against the premier himself.

I am curious to know just who the then premier intended to reconnect and re-engage with, because we all know that the issues raised in this place that negatively impact on South Australians have varied very little over the six years I have been here, and the government response to those issues has been seen as little more than patronising and condescending, to say the least. It appears that the aspirations of the Hon. Mike Rann were either a dismal failure or, as most have concluded, it simply made good television at the time.

Both the former premier and treasurer managed to hang in there longer than most expected, and many watched as the mentoring of our premier-elect rolled out into one insult after another—hardly the hallmark of a friendly departure. Of course, the speculation about the former treasurer, the Hon. Kevin Foley, became more and more ungracious as his conduct in public came to the attention of the South Australian people. It is fair to say that the Hon. Kevin Foley has left an indelible mark against the title 'honourable' for a long time to come. He was able singlehandedly to lower whatever expectations people have of their political leaders even more, if that is possible. This is the same Labor government that is talking about introducing a code of conduct for parliamentarians.

Indeed, the Premier, the Hon. Jay Weatherill, and his team have a huge task ahead of them to restore public opinion in favour of a Labor government, and that is demonstrated again that the longheld values of the labour movement have been traded for values that fall far short of public expectation. Many have been forced to re-evaluate their lifelong voting habits and have pledged never to vote Labor again.

I have no doubt that these words will fall on deaf ears because, sadly, denial seems to be one of the most prominent features of this government—denial that the people can see with their own eyes. This is a government that is more focused on undoing this state by ignoring the social issues that grow worse and by ignoring the fact that people are hurting at the hands of government departments and statutory authorities, and ministers are content to fiddle while SA burns.

Now we hear the current Premier acknowledge that they have a lot of work to do, and this will need to be more than a public relations exercise for the people to buy it. It should be loud and clear by now that the people just do not want what this government has been trying to sell. Any smart person would be forced to undertake a critical analysis of how it was doing business, and I wonder whether this government has what it really takes to honestly re-evaluate where it has been trying to take this state and how their electors feel about that.

I can tell you right here right now that this government has been branded as the most power hungry, control hungry government in memory, with poor social policies that do not fit with what Australians believe is needed. So, what did we see in the 12 months following that seemingly genuine objective to reconnect and re-engage? Well, WorkCover. It remains a mess, and those who are unfortunate enough to need help and support are let down time and time again.

Yet, we still must endure the pathetic advertising campaign on radio about the successful return-to-work rate of some poor schmuck who needs to learn how to use a saw and we will still watch while dollars are needlessly spent on PR campaigns of an awards night for injured workers. We do not even go near the litigation that it is costing WorkCover.

Meanwhile, one person who has literally devoted her life as an advocate to injured workers, Ms Rosemary McKenzie-Ferguson, has had to put together food parcels with support from me to ensure that those people she advocates for do not have to choose whether they pay a power bill or eat. This has cost me a mere $6,000 to ensure that injured workers have food on their table for them and their children—$6,000 only.

But there is no money for Ms Rosemary McKenzie who does this out of her own time, out of her own pocket. The delivery of food parcels is only one of the many services that Rosemary delivers free of charge, and many injured workers' lives have been made that little bit easier

because someone cared. Again, it is not a good look for a Labor government that is supposed to be all about social justice and equity.

The disability sector remains in disarray, with essential services and equipment still not accessible to those who need them. The Hon. Kelly Vincent has raised numerous issues facing the disability sector in this place and, like the rest of us, I suspect the answers she gets are nothing more than bureaucratic doublespeak that, when deciphered, translate to 'Too bad, too sad. We are in tough times.'

Housing SA is still plagued with reports of violent and abusive tenants disrupting the lives of entire neighbourhoods and the ongoing call for public housing to be used for its intended purpose of assisting low income families to put a roof over their head instead of the system of welfare housing where criminals and drug addicts have become the priority. Yet again, another community hero who spends her time and effort advocating for the pathetic situation of Housing SA tenants, Ms Julie MacDonald, is the only person in this state who is making an effort to hold this government to account for the breaking down of what used to be a fine scheme for the struggling families of this state.

Child protection: well, do not even go there. The old saying applies that when nothing changes, then nothing changes. The former minister (Hon. Jennifer Rankine) made a solemn promise that the world would spin in a different direction once a new CEO was appointed in 2009. Children who are at risk and should be removed, are not, and children who should not be removed, are, and the merry-go-round of human misery remains in business.

Victims of abuse in state care are still waiting for the state to develop some code or to be the model citizen, as it promised, and deliver justice in a timely fashion and provide assistance for those victims to heal as best they can. There is the debacle around Ward 4G and changing the services to those who suffer from eating disorders to an untried and unproven model. The motto for this government on issues of health is not, 'If it ain't broken, don't fix it' but rather, 'If we can save a buck, then bugger the outcomes.'

Farmers have been put under the hammer, being expected to comply with the views of bureaucrats who have learnt their farming skills out of a textbook (probably) or somewhere other than on the land. An entire farming community has threatened to go to gaol rather than comply with metering their dams or allowing NRM officers onto their land without prior warning. These farmers and food growers have had to learn to be political lobbyists, to expose the lunacy of some of the NRM policies and fines for non-compliance of policies that will eventually force them off the land, if they remain silent.

Again, another citizen steps up: Mr Peter Manuel, and some of his associates, and devotes his time and effort to advocating for farmers and food growers through an organisation known as FLAG SA. Efforts have been made to sully the reputation of this man, to discredit him, and yet he still manages to attract new membership to his organisation every day because the issues he raises are the real issues of the farming community, not just stories that are made up to make this government look bad.

I comfortably make this prediction for 2014: that the issue of NRM boards across this state will be a make or break deal for both the government and the opposition because the farmers and food growers of SA have set up an information network that spans across every state in this country, as well as overseas, and they no longer need a crystal ball to see what the future holds for the food security of this state if we continue down the path of this green agenda. Environmental policies will ensure that there will be no food security in this state. Peter Manuel and his organisation have identified that they now have a responsibility and cannot sit back and do nothing or say nothing.

Our policies, as I have said in here on a number of occasions, are not the result of careful consideration, but merely policies that have been handed down from international organisations not elected by the people of this state or even this country. For some time, the people of SA believed that their appointed ministers would provide the safety net between good policy and the fanatical green agenda. Then, they realised that none of their ministers seemed capable of questioning any of these policies. It became obvious that ministers of this government were nothing more than a mouthpiece for the policy and bureaucracy that instructs them, and suddenly the ABC television series of *Yes Minister* did not seem quite so funny anymore.

The forward sale of the forests will go ahead. It is a tough decision but someone has to do it. Hardly a convincing argument to so many concerned for their livelihoods, but never mind, it is still two years to go before the next election.

The Attorney-General seems more than willing to pursue the 'tough on law and order' agenda, yet fails to equate that to justice issues that are a benchmark of a fair government that seeks balance rather than power over the people. The first law officer of this land must be the model citizen in both his judgements and the legislation he puts forward. So far, his pathetic attempts to justify poor judgement and poor legislation have fooled no-one—just park legislation, as the Hon. Stephen Wade mentioned earlier.

When all else fails, however, we revert to the old and tired public safety fear campaign and talk about the bikies and their threat, when in actual fact the people see this government as more of a public threat than all the bikies combined. The scandals, the abhorrent conduct of some politicians (both state and federal), and a party that either remains silent or defends these morally bankrupt individuals, tells the people only one thing—one law for them and another for us. Again, not a good look.

The education system is plagued with bad press over its inability to implement and enforce adequate and functional policies on bullying in schools and has failed on numerous occasions to support victims of abuse, including its own teachers. I was approached by parents in the northern suburbs who have stated to me that the new developments that have gone ahead out our way have not provided adequate educational facilities for their children. The claim was made that there are many children in these new developments who cannot get placements in kindergartens or even primary school for that matter.

One mother told me that her seven year old has not set foot inside a school, not because the child does not want to go to school but because there is no room in any school to take this child. One would have thought that the government would work with developers to ensure that the basic right of access to education was a no-brainer, but again we see poor planning affect families of this state. Again, working-class families are now forced to search for educational facilities for their children or pick up and move house rather than simply be able to have access to those facilities in their own area.

Our health system is faring no better under this government that vowed to re-engage and reconnect with the community. Country hospitals are neglected, city hospitals are understaffed and now, to add insult to injury, staff are required to pay for parking when they show up for work. I have been told by people who work at the QEH and who are on call that paying for their parking is costing them dearly and that they are insisting that the hospital provide taxi transportation to relieve their personal costs.

We also see that issues of violent and aggressive people in emergency rooms remains a problem, even after the health minister of 2005 (the Hon. Lea Stevens) promised that annexes to hospitals were a goer to relieve the stress of nursing staff. What we saw instead was security guards in emergency rooms and still no annexes, because apparently many of the promises made are now subject to the effects of that great global financial crisis—but we can afford a new hospital and a new sporting stadium.

Last but not least, in my opinion, one of the most stupid decisions of all for a new minister, when we are hearing about tough on law and order and tough on crime, is the canning of the Burnside report. The minister, the A-G and the Premier all made it perfectly clear this was a political decision. What does that mean? For the people of Burnside, it meant that there are some who are above the law and order agenda of this government. If you are a bikie, then look out. If you are merely a person connected to government, then you are off the hook. You will not even be investigated and your deeds will never be made known if you play the game of 'dodge and weave' and use the system to ensure that you will live to play another day.

Now of course even the newest minister of the Weatherill government is shrouded under a cloud of suspicion and mistrust, and little is expected of him in the future to uphold his role as a minister of the Crown because his first decision ensured that many people would not see justice done and that the losses they have incurred will never be recovered. Again, smart move and again, a great way to reconnect and re-engage with that electorate.

Although it may seem acceptable to run a state like a corporation, I remind this government that the citizens of SA are real living, breathing human beings and not part of a corporate machine who, once productivity decreases or ceases, are no longer considered viable and are thrown onto

the scrapheap. This government has a duty of care—if not legally, then morally—to every single person in this state.

There are so many other issues that need to be addressed, such as the deliberate poisoning of our water with fluoride. I have not given up on that. Again, I note that countries all over the world now are re-evaluating this policy and are voting fluoride out of their water because of the toxic health effects that have now been proven. Again, we see a government and an opposition that turn a blind eye and pretend that this is not an issue.

The spraying of our air with heavy metals and toxins is occurring and chemtrails are not contrails or jet streams. That is just another example of the condescending attitude of this government and its advisers who obviously write the replies to questions asked. Chemtrails are part and parcel of a geo-engineering protocol that has been implemented across every state of this country, and Victoria even has legislation for this activity.

Although denied by the minister in response to a question I asked last year, a picture paints a thousand words, and hundreds of action shots of these planes spraying the population like bugs have been sent to me. Those pictures do not lie. I have seen this myself, and I have actually taken the time to draw the Hon. Stephen Wade's attention to this on two occasions.

On our trip to the Supreme Court the other week, I think there were about nine MPs whom I told to look up and notice the chemtrails in the sky. Again, this minister's already damaged reputation and credibility has been further jeopardised, if that is even possible, and the flippant response of the Hon. Ian Hunter on the day did him no favours either.

All I want to know about the chemtrails is: if we are being sprayed, with what? Who has authorised it? What chemicals are in those sprays? If there is nothing untoward, tell the truth. But, no, what do we do? We deny that there is any spraying happening and, therefore, the EPA does not need to monitor it. It is hardly an acceptable answer to a legitimate question and the concerns of many hundreds of South Australians.

All I can say is, 'Keep up the spin and denial and continue to show contempt for the people of this state and treat them like idiots and you will suffer the consequences at the next election, no matter how much BS is put forward and no matter how many spin doctors you employ.' There is no amount of spin, deception or denial that is going to see this government retain power in 2014.

What would secure it, though, would be an obvious and dedicated agenda to solve problems rather than pretend they are not there or try to convince people that what they are experiencing is simply a figment of their imagination. The pain, the hurt, the hardship and the struggle is real to many, and the more the government denies the presence of such negative impacts their decisions have on so many and the more the government tries to spin its way out of this cycle, the angrier and more cynical people become.

The feedback I was getting (and am still getting) is that the people of this state feel that this government and the bureaucracies have literally declared war on its own citizens. Again, this was reflected with every minister and the Premier getting a swift kick up the backside from the people of this state at the 2010 election, which is the only time that citizens' concerns and aspirations will ever be publicly noted. We have now seen this with Port Adelaide and Ramsay as well.

It seems that the electorate is slowly but surely waking up to the fact that nothing happens randomly in politics; that every move is carefully planned. They also believe that they are being lied to on an almost daily basis, and discontent is rising more and more as days go by. People now get that they are being led down the path that is intended for them rather than being taken to the place that they aspire to be. Once the electorate wakes up it is surely time to change how we do things in here. We can only create so many victim groups and then ignore their needs before the backlash is felt. As I have said over and over again, we make policies and decisions in this place to protect previous bad decisions rather than truly review what is not working and fix it, and for that we will all be held to account.

Secret courts, laws that now presume guilt instead of innocence, no recourse for people who believe that injustice has occurred, and families being broken down day after day is not a recipe for a peaceful and productive community. The voters are hearing the stories of their friends and witnessing the stories of their family members, and those who once believed that it was not possible for the state to turn on its own are now seeing it for themselves. Those who have had their lives destroyed by the actions of government agencies and statutory authorities have families and friends and they talk to others and such is the value of word of mouth.

Again, if this government wants to operate like a corporate body then perhaps a course in Business 101 would be well served. Customer service, customer satisfaction and word of mouth, and sound economic management all make successful businesses—ignore it at your peril. If we have a vision or wish to be remembered for our time in here, then I hope that vision encompasses a will of the majority in here to change what is not working and make it work, not for political gain but for the greater good.

I will support any government that puts forward solutions to the problems that the people of this state are experiencing, and the onus is on government to take the initiative on this. We do not just need a legislative agenda, we need ministers to be the leaders of their portfolios, not followers of their bureaucrats and, as leaders, bring in workable policies and enforce them in the best interests of the people of this state rather than trying to keep its unionised workforce at bay.

We want to see this government set a legislative agenda for this state, not a legislative agenda which brings us into line with other states and which is slowly taking away the power of this parliament and putting it under the federal government. We are becoming little more than an administrative arm. This ideology of levelling the playing field would not and cannot work because Australians have always prided themselves on their individuality and diversity.

What this and the federal government are trying to create with the harmonisation of legislation is a workforce, a community of drones, who do what they are told when they are told, and who will get so bogged down in process that the private sector will eventually fold under the pressure. It is much the same tactic as is being used on our farmers: bog them down with red tape, frustrate the hell out of them, and maybe one day they will walk away.

I truly do regret not being able to stand here and share the optimism of the Governor and take pride in the good news contained in his speech to open this session of parliament. Day in and day out I, like others, are hearing stories of personal tragedy, and it would be a pleasant relief to be able to see, touch and feel something of substance that shows that we are here in this place creating positive change for those who find themselves in such situations.

It is often for no other reason than because they went to work one day and were injured, through no fault of their own; or woke up one day to find their family destroyed through false allegations; or they have to bear another day of discomfort and suffering because they do not qualify for a disability pension; or they wake up to face another horror day of their drug-addicted child threatening violence or prostituting themselves or engaged in criminal activity because there is nowhere for them to get help. It could be children who have to front up to school to face endless bullying, harassment and intimidation, only to have the school they attend tell them to avoid the perpetrators or restrict their movements in order to avoid further incidents, or a parent whose child has run away to live a life of total freedom with some pervert who would then addict these kids to drugs, use them as prostitutes or for their own sick pleasure.

I look forward to the day when we can rely on government to respond to the needs of these people, when they can be referred to services and supports that exist in the real world rather than the imaginary world of paper policy, when we can guarantee that the legal and judicial system will dish out just sentences and consistently be on the side of the children, parents and families of this state with the conviction that the family is the foundation, the basic fabric of our society, that must be protected and supported at all costs. I support the motion.

The Hon. J.S.L. DAWKINS (17:07): It gives me great pleasure to support the motion, and I wish to acknowledge the speech that His Excellency the Governor made to open the second session of the 52nd parliament a fortnight ago. I also welcome the fact that the government has announced that His Excellency has been appointed for a further two years. He has, of course, served the state very well in his term to date, and I do note his strong commitment to the northern suburbs, where he spent a lot of his young life. He is, of course, well known for his support of Central Districts Football Club, although I know he would wish the result of last year's grand final to have been different.

I commend the Governor for his support of other organisations, including the Northern Advanced Manufacturing Industry Group, which does a great deal to encourage young people—not just in the northern area now, but across much of the state—to take up a career in the manufacturing and technical industries that feature across the northern suburbs, in particular. He is also a great supporter of the Operation Flinders Foundation, of which I am an ambassador. I have commended him in this place before for the fact that he actually went out and walked with young people in the Northern Flinders last year, I believe. I also recognise the fact that His Excellency

Mr Scarce and Mrs Scarce again attended the annual service to mark the opening of the parliamentary year that is conducted by the Parliamentary Christian Fellowship.

There were seven priorities highlighted in the Governor's speech, which is prepared for him by the government. I noted the reference to safe and active neighbourhoods and affordable living. It reminded me of the efforts the City of Playford has made for a number of years to get some government support. It has tried very hard at a federal level to get government support for a complete study of the vast areas of Housing SA properties within their city, many of which are very much reaching their use-by date. The City of Playford, I think, struggles under the need to renew infrastructure in that area, just as does Housing SA.

Certainly the Liberal Party and myself, as the then spokesman for the northern suburbs, supported the City of Playford in its efforts to get a proper investigation about the fact that a lot of those Housing SA properties are quite large residences on very large blocks and which now, in many cases, have only one or two people living in them, and that that land could be reutilised and have modern and many more residences on it, which would also take up some of the priorities a lot of us have for urban renewal.

I am pleased to say that eventually this government agreed to support the Playford council in that manner and the office of Northern Connections was charged with coming up with some sort of feasibility to support the Playford council's initiative in this area. I understand that that report has been brought down recently, and I think it has been delivered to the City of Playford. I am not sure that it has become public at this point, but I look forward to hearing more about what that feasibility has recommended, because certainly there is a large area there that has great potential for renewal and revitalisation. I also note a sentence on page 10 of the speech by the Governor:

> But a great city also contains liveable neighbourhoods, the spaces where our families and communities can gather together in other ways.

Liveable communities do gather together, but in some cases this government is trying to limit the way in which some of these communities can gather together. People gather together for all sorts of reasons, whether it be to go to school or work, for recreation or for entertainment.

I am concerned, first, about the issue of the long, protracted area of the school bus contracts, which have seen a number of local and long-serving bus companies in a situation where they have had their school bus contracts ended, and we have seen a number of these companies impacted across the state. In fact, the *Stock Journal* on 9 February had a full-page coverage about the impact on relatively small bus companies across South Australia which had been impacted by the government's decision to give many of those contracts to large companies, many of them based or owned outside this state.

I took strong note of the full-page article in the *Stock Journal*, which does not normally report these sorts of issues, as it is more of an agricultural paper. I put on the record that my son was once the editor of the paper, but has not been for a couple of years. This article—and I am certainly not going to read it out—has a couple of telling headlines: 'Rural school buses run on empty', and, 'State Govt puts history, community links under threat'. This article goes on to highlight the plight of Harris Coaches from Gawler.

That is an organisation that I have not known closely, but I have known of for all of my life. It has operated for 56 years but has lost all of its public school runs for this year; that has an impact on the local community, and it has an impact on the organisations that some of the bus companies support and sponsor. We have not yet had any evidence that some of the other bodies that have taken their place are going to do that.

Talking about communities gathering together also brings me to the issue of the Gawler metropolitan bus service, which was announced with fanfare before the last election. In the last 10 days of the election campaign, there were many placards put up around Gawler and surrounds to say that a re-elected Labor government would bring in a metropolitan bus service to Gawler.

It was never said in so many words, but I think most people believed that that there would be buses in Gawler that would connect to the actual metropolitan bus service, which currently ends at Munno Parra. Many people believed that was going to be the case. I have looked through the documents and I cannot see where it actually said that in so many words, so I take the Labor Party's policy on merit; however, that was what a lot of people believed was going to be the case.

Having said that, what we do have is a service that operates in Gawler, going in loops around the town and linking back to the various railway stations. For some time, a large number of

people have raised with me the community's concerns about the size of the buses being used, the lack of large patronage on those buses and the fact that they are ill-designed for the narrow streets and many roundabouts that are a feature of Gawler. I have raised these concerns with minister Chloë Fox, and also in the local media.

On 1 February this year, the member for Light in another place inserted a newsletter known as 'Lights On' in the *Barossa Herald*, which, as I understand, is a paid insert into that newspaper. In this newsletter, there was an article stating, 'Liberals to axe Gawler buses', which, in no uncertain fashion, criticised me for attacking and undermining this new transport service. Of course, the article reiterated that the Liberal Party would axe the bus service if it was elected to government.

In response to that, the shadow minister for transport and I issued a statement, and it was run by all of the local newspapers in the area, not just in the *Barossa Herald*. I will read what my colleague the member for Bragg said:

> The Liberal Party totally supports Gawler having a bus service—in fact we want a service which is better than the one that Mr Piccolo is defending...Empty buses demonstrate the service is not running as it should and we need to look at how we can change that.

I would reiterate that I have been a public transport user all my life—I must say, trains much more than buses, but certainly a bus service in Gawler is something that has been asked for for a long time. It has been a priority for me to highlight concerns and suggested improvements that are made to me by regular commuters and others who use public transport.

In relation to this, I have called for a review of the current system, and that review should be based around the way the service is designed and the way it is delivered. Certainly, the use of the very large, outdated vehicles, without air conditioning, rumbling around those narrow streets and roundabouts is not desirable.

Having seen that the local media carried that statement by the member for Bragg and I refuting Mr Piccolo's article in that paid newsletter in the *Barossa Herald* and that heading 'Liberals to axe Gawler buses', in his address in reply contribution on 16 February he actually repeated the assertion in the House of Assembly. I say to the member for Light in the other place that he needs to realise that we are not out there to axe that service. The service can be improved and should be improved. He needs to listen to the community and make sure that minister Fox does something about reviewing the design and delivery of that service. I think the member for Light needs to get the message and not repeat, under parliamentary privilege, things that are not true.

There are a couple of other matters that I will deal with briefly. One is the ongoing issue of the forward sale of the forests in the South-East of this state. I must say that in the last week of parliamentary sitting I was disappointed that, when I asked questions of the Minister for Forests, firstly, about how the relatively small areas of plantation forests in the northern and hills regions of this state would be managed, given that the economy of scale of ForestrySA would be lost when the forward sale was completed, the minister could not answer that question. She had even less of an answer when I asked her about the future management plans of the 25,000 hectares of native forest, much of which is in the South-East, particularly in relation to the fire risk that that amount of native forest is vulnerable to.

I would also like to follow up on something that the Leader of the Opposition in the other place raised in her speech. She noted the new Premier's declaration about lifting the standard of debate and ensuring that credible questions get responsible and relevant answers. I know that we have seen more today from the Premier about answering questions from the other place. I could not agree more, but one of the things I have seen in the last several years in this place is a degeneration in the ability of this government to provide answers. Increasingly, answers are coming back in here that are 12 months old or more.

Members of the government who have not served in opposition seem to accept that it is just a bit of a joke. We raise legitimate questions from legitimate constituents and ask for a response. The minister then stands up and faithfully says they will refer it to their colleague in another place and bring back a response. Most of the time we have to accept that it is going to be many months. I must give credit to new minister the Hon. Mr Hunter because he has been bringing answers back in a relatively short time. However, we had one a fortnight ago that was 15 months old when it was brought back. That is not acceptable.

I will be urging my party, when we return to government after the next election, to make sure that we have a set number of sitting days to ensure that an answer must come back. If that answer does not come back, then the president of the day will need to hear a pretty good excuse

as to why it has not come back. I think that it is a part of this parliament that has been lacking in recent years. It is a part of the Westminster democracy that I hold dear and I think that the government needs to have a look at that—and I mean that the government in this chamber needs to have a look at it.

A number of us have been told by members of the Public Service what the result of our inquiry is, that an answer has been drafted and that it is with the minister and has been approved and signed off on, but we know that for some weeks we will not get that answer because they will leave it until everything has been fixed up. You then get an answer afterwards to say, 'What are you worrying about? It has all been done.' To me, that is an insult. I appeal to the Leader of the Government and other members of the government in this chamber to ensure that questions that are asked in good faith are answered in good faith and answered in a much more prompt time frame.

Once again, I thank the Governor for the role that he plays in South Australia. I mean that in the way he covers the state very well. On the day he gave the opening speech to this parliament, the timing of that event was because he had a large event in the morning across the road at Government House with some of the exemplary students in this state and then he had to go to Murray Bridge to open a major building at a certain time, so he does get around the state. I commend him for that. I also commend the motion to the council.

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

ARKAROOLA PROTECTION BILL

In committee.

Clause 1.

The Hon. I.K. HUNTER: I might put on the record some answers to questions that were asked during the second reading stage by the Hon. Ms Michelle Lensink. Her first question was: when does the government envisage that the Arkaroola Protection Area Management Plan will be reviewed? The Arkaroola Protection Bill 2011 does not stipulate a requirement for a management plan to be reviewed. Clause 8 of the bill establishes a rigorous framework for preparing a management plan, including extensive requirements for consultation.

The government is therefore confident that these provisions will result in a management plan that does not require regular review. More importantly, the government will commence preparing the draft management plan immediately following the passage of the bill. However, if there is a change in circumstances that warrant a change in the management of the area, the government will consider a review of the plan. The bill does not impede the ability to review and amend the management plan.

In response to the second question regarding the environmental class A zone of the land not within a council area, I can say that the Arkaroola Protection Bill 2011 requires the planning minister to ensure that the relevant development plan, in this case the Land Not Within A Council Area (Flinders) Development Plan, be reviewed within six months of the completion of the Arkaroola Protection Area Management Plan. Therefore, I do not wish to pre-empt the recommendations of the management plan or the findings of the planning minister's subsequent review of the development plan.

Notwithstanding that, the assertion that the environmental class A zone provisions of the development plan provide an appropriate level of protection to Arkaroola from mining is incorrect. Mining operations that are carried on in pursuance of any of the mining acts are not classified as development and are not assessed against the provisions of the relevant development plan. The development plan, therefore, has no work to do in determining if mining operations can be illegally established.

It is therefore also incorrect to suggest that the government's 2009 policy framework, Seeking a Balance, sought to water down those provisions of the development plan. The opposite is true. Seeking a Balance recommended a system of zoning to manage mining access around iconic sites of the Northern Flinders Ranges. In areas such as Mawson Plateau, Freeling Heights and Split Rock, Seeking a Balance recommended absolutely no mining access, thereby recommending a level of protection from mining that previously did not exist. Whilst Seeking a Balance was discontinued by the government in late 2010, it provided the vehicle for the excellent outcome we have arrived at through this legislation.

The third question the Hon. Ms Lensink asked was: will the Arkaroola Protection Area Management Plan be made publicly available? Like other management plans for protected areas, the Arkaroola Protection Area Management Plan will be available when completed, either in printed form from the Department of Environment and Natural Resources or online from the department's website.

Clauses 1 to 3 passed.

Clause 4.

The Hon. M. PARNELL: I move:

Page 3, line 28 [clause 4(b)]—after 'cultural' insert:

or spiritual

I explained this amendment in my second reading contribution. I will not repeat what I said there, but for the benefit of members, this is a very simple amendment to the Objects section of the act. That section provides a number of paragraphs setting out the objects. The first paragraph is, effectively, the nature conservation objectives, which include the protection of habitat and ecosystems. That is paragraph (a).

When we get down to paragraph (b), the objects of the act are 'to support the conservation of objects, places or features of cultural value to the Adnyamathanha people within the Arkaroola Protection Area'. My amendment very simply seeks to add an additional two words so that it says: 'to support the conservation of objects, places or features of cultural or spiritual value to the Adnyamathanha people within the Arkaroola Protection Area'.

They are words that I have been asked by some Adnyamathanha elders to seek to incorporate into the objects. The main rationale is that it does not make an overwhelming or significant change to the objects, but it does recognise that the things that are important to the Adnyamathanha people, in particular their spiritual beliefs, might not be adequately reflected if simply the word 'cultural' is there. In particular, concerns that have been raised with me are that, if there are any non-tangible cultural assets, if you like, they might better be described as spiritual. Hence, I am seeking to incorporate those words into the bill.

The Hon. S.G. WADE: I seek to ask a couple of questions of the mover. As a general point, my understanding is that the objects of the bill—and therefore of the act that results from it—are not substantive in the sense that they can be used by courts in understanding the intentions of parliament where the court is otherwise unable to divine the intention but, unlike other substantive sections of the legislation, the words only have interpretive value. I would like to clarify with the mover whether that is his understanding of the effect of the amendment or whether they would have substantive effect?

The Hon. M. PARNELL: My understanding is that they would not. Basically, the objects of the act are reflected in some substantive measures, such as a prohibition on mining, but I see that this change to the objects is more likely to be reflected, if at all, in the management plan. In other words, it is an addition to the list of things that need to be taken into account when management is being arranged through clause 8 through the management plan, but I do not see the addition of this word as creating any particular new rights and possibly not even any new obligations. However, out of an abundance of caution and at the request of the Adnyamathanha elders, I think it is a useful additional descriptor of the types of Aboriginal values that are sought to be protected through the bill.

The Hon. I.K. HUNTER: The government is not supporting the amendment. We believe it adds no particular value to the objects. It is largely, if not completely, symbolic. It is recognised that spiritual values are an integral part of cultural value of 'objects, places or features' and do not need to be separately referred to in the objects of the bill, in the government's opinion. For the purposes of this bill, the omission of the term 'spiritual value' has no impact in relation to conserving Aboriginal heritage, which will continue to be protected under the Aboriginal Heritage Act 1988.

The Hon. S.G. WADE: I thank the government for the indication that, whilst it sees no need, it also sees no harm. The opposition certainly sees no harm in showing respect to the Aboriginal people of the Adnyamathanha community and we will be supporting the amendment of the Greens.

The Hon. R.L. BROKENSHIRE: I ask a question of the mover of the amendment: does this give any special rights to Aboriginal communities over that land with respect to claims ownership that is not already acknowledged? I just seek that clarification.

The Hon. M. PARNELL: The short answer is no; it provides no additional rights. When we get to the bill a little bit later we will see that there are Aboriginal groups that need to be consulted in relation to management, and that is exactly as it should be. However, this does not affect that at all; it has no implications for native title, for example, or any such thing. It is simply an additional word requested by some Adnyamathanha elders that assists in clarifying that there is a broad range of values that we should be seeking to protect—natural values—but when it comes to the Aboriginal issues, there are Aboriginal cultural values but also with this addition, the spiritual connection to the land, as well, which I think most of us recognise.

The Hon. T.A. FRANKS: I have a question for the minister. Did the minister base the government's position on any findings that it has had in the last three years since the Aboriginal Heritage Act has been under review? Is the information based on any information perhaps they would like to share with the council?

The Hon. J.A. DARLEY: I will be supporting the amendment.

The Hon. K.L. VINCENT: Similarly to the Liberals' position, I can see absolutely no harm in this amendment going forward. As the Hon. Mr Parnell said, this is what the elders want. I think we do not need to look far to know that what the traditional owners of this land want has historically largely been denied. I think if there is no harm in putting this forward then we owe it to the traditional owners of this land to honour this amendment.

The Hon. R.L. BROKENSHIRE: This question is to the mover of the amendment for the public record. Has the mover discussed this with the Sprigg family and others who have made representation leading up to where we are with this bill at the moment, and have they indicated their support?

The Hon. M. PARNELL: I have circulated this amendment to the range of stakeholders that I am aware of, and certainly the Sprigg family have expressed no problem with this aspect of it. I have sent copies of this to the Adnyamathanha Traditional Lands Association. I have discussed it with the chairperson and I have had some correspondence with its lawyers. I do not believe on this particular amendment they have any objection—none that they have raised with me. Certainly, the so-called Camp Law Mob (who I met with in Port Augusta) are the ones who have particularly asked for this to be included. I have not had anyone who has suggested to me that there is any reason not to make this change.

The Hon. I.K. HUNTER: I am advised that there is nothing in the Aboriginal Heritage Act that reflects spiritual values. This is in response to the question of the Hon. Tammy Franks. The government's position is based merely on trying to be consistent with other acts.

The Hon. T.A. FRANKS: With respect, my question was about the review of the Aboriginal Heritage Act which is from 1988, I understand. However, in 2009 or so (three years ago) the government instigated a review and there have been responses to that review, and I am asking if the government has based its rejection of this suggestion on those responses in that review.

The Hon. I.K. HUNTER: My advice is no.

The Hon. S.G. WADE: The minister's response to the comments of the Hon. Tammy Franks intrigues me, because in reading this clause I wondered why the government did not use the terms of the Aboriginal Heritage Act. The words you would expect to see in South Australia are 'for the preservation and protection of Aboriginal sites, remains and objects'. That is the phrase that is used in the Aboriginal Heritage Act.

I am intrigued that the only place I can see the words used that are actually in the bill, 'the conservation of objects, places or features of cultural value', is in the New South Wales National Parks and Wildlife Service Act. I wonder why we are resorting to New South Wales precedents rather than our own Aboriginal Heritage Act.

The Hon. I.K. HUNTER: My advice is that the government reviewed a range of legislation from around various jurisdictions of our country. We were of the view that the term 'cultural' included the word 'spiritual', and we landed on the objects that we have because we decided that it was a very well worded clause.

Amendment carried; clause as amended passed.

Clauses 5 to 7 passed.

Clause 8.

The Hon. M. PARNELL: I move:

Page 5, after line 8—After subclause (10) insert:

(11) In addition to the persons or bodies specified in subsection (10), if, in the opinion of the minister, an Aboriginal person or Aboriginal organisation has a particular interest in the Arkaroola Protection Area, the person or organisation will be taken to hold an interest in the Arkaroola Protection Area for the purposes of this section.

(12) In this section—

'Aboriginal organisation' means an association, body or group comprised, or substantially comprised, of Aboriginal persons having as its principal objects the furtherance of interests of Aboriginal people.

This is another fairly simple amendment. Clause 8 requires the minister, as soon as practicable after the commencement of the act, to develop a management plan for the Arkaroola Protection Area. The question that then arises is: what process will the minister go through, how will the minister prepare this plan?

We have been discussing the objects of the act and the first obligation is that the management plan must be consistent with, and seek to further, the objects of the act. However, when you get down through this management plan section there is a requirement for consultation. Subclause (3) provides:

The minister must, before commencing to develop or to alter the management plan under this section, undertake consultation with persons or bodies who hold interests in the Arkaroola Protection Area in such manner as the minister thinks fit.

The question then is: who are these people who hold interests in the Arkaroola Protection Area? Subclause (10) basically sets out a list of those who should be consulted in the preparation of the management plan. It defines a person or body who holds an interest in the Arkaroola Protection Area as being (there is a list of five): a native title holder; an owner of land; a lessee of leasehold land; a holder of a tenement in relation to land; or a custodian of land.

My amendment seeks to add two additional subclauses, which provide that the minister should also put his or her mind to whether or not there are other Aboriginal persons or Aboriginal organisations who have a particular interest in the Arkaroola Protection Area and, if the minister forms the view that such other persons or groups exist, then the minister should consult with them as well. In a nutshell that is what it says; it is pretty straightforward.

Basically, it is about broadening the range of people who should be consulted before the management plan is finalised. I will say at this point that, whilst they are not named, the native title holders are ATLA (Adnyamathanha Traditional Lands Association), a registered body corporate. They are the official native title holders and are the ones referred to in subclause (10)(a); they are the first group that needs to be consulted.

However, as I have mentioned in this place before, there are other Adnyamathanha people who also desire to be involved in discussions on the future of Arkaroola and its management. I have already mentioned today—and I have mentioned before in this place—that there are other Adnyamathanha elders, such as the so-called Camp Law Mob, who are keen to make sure that they get to have a say as well.

So, whilst my amendment does not name any particular group or Aboriginal person, it basically leaves it to the minister to put his or her mind to the fact that other people who deserve to be consulted are out there. If the minister forms the opinion that such person or group has a particular interest in the Arkaroola protection area, then the minister should consult with them as well, and it is as simple as that.

The Hon. I.K. HUNTER: I need to correct the Hon. Mr Parnell: if I heard correctly he said that the Adnyamathanha Traditional Lands Association (ATLA) are the native title holders; they are not. They are the representative body for the Adnyamathanha people, but they are not in themselves the native title holder.

The government opposes this amendment, and it is worth noting that the ATLA, the Adnyamathanha Traditional Lands Association, also opposes the amendment. Whilst the ATLA did

support the first amendment of the Hon. Mr Parnell, they do not support, I am advised, the second amendment. That advice was passed to me from their legal representatives in Adelaide.

Clause 8 of the bill requires the minister to consult with those who have an interest in the land prior to preparing a draft management plan. This is in addition to the public consultation once the draft has been prepared. This clause recognises that the land remains outside government ownership. It ensures that those with a legal interest in the land were consulted by the minister, given the land remains outside that government ownership. Those with a legal interest include native title holders, owners of land, the lessee of leasehold land, a holder of a tenement in relation to the land and a custodian of the land.

The Hon. Mr Parnell has filed an amendment so that the consultation be extended to include an Aboriginal person or organisation which in the minister's opinion has a particular interest in the Arkaroola Protection Area. The amendment places a positive obligation on the minister to determine which Aboriginal organisations or persons have an interest in Arkaroola. It does raise a very serious question of whether the minister has properly considered who has an interest and thus whether he has fulfilled the consultation requirements. Our view is that this has the potential to be a significant burden.

The definition in the bill of 'native title holder' includes all Adnyamathanha people. The proposed amendment is not required to ensure consultation occurs with all Adnyamathanha people. The amendment is not supported, and I remind the chamber that it is not supported by the Adnyamathanha Traditional Lands Association either.

The Hon. J.M.A. LENSINK: The Liberal Party will support the amendment as well. For reasons of inclusivity we do not see that it does any harm. Anybody who is familiar with Aboriginal politics would know there are diverse views among Aboriginal people, and we do not see any reason why other groups should not be included in the legislation.

In addressing that I also make some remarks in relation to the timing of this particular bill. We are now in the second sitting week of this parliamentary year. I have heard some comments from some stakeholders that they were concerned that the bill was being delayed. I state for the record that the Liberal Party has had no part in that. These amendments were tabled on Thursday of the last sitting week and they have gone through our due diligence process. Certainly if there had been no amendments perhaps this bill could have been debated earlier this year. I would like the community at large to be well aware that the Liberal Party has not had any part in delaying the progress of this bill.

The Hon. J.A. DARLEY: I will support the amendment.

The Hon. R.L. BROKENSHIRE: Family First will also support the amendment.

The Hon. A. BRESSINGTON: I will support the amendment also.

The Hon. M. PARNELL: Given that the numbers are apparent, I will not delay the council. The minister challenged the comment I made about ATLA being the native title holders. I will clarify the record—and this is a communication from their lawyer:

> ATLA is the prescribed body corporate/registered native title body corporate on behalf of the Adnyamathanha people as native title holders and acts as their agent and representative in accordance with the Native Title Act and the Native Title Prescribed Body Corporate Regulations.

That is what I meant to say when I said that ATLA was the native title holder I add that I do not think that it is a significant burden to a minister to put his or her mind to the fact that there might be some people out there who should be consulted, other than the narrow range listed in the legislation.

Amendment carried; clause as amended passed.

Remaining clauses (9 to 11) and title passed.

Bill reported with amendment.

The Hon. I.K. HUNTER (Minister for Communities and Social Inclusion, Minister for Social Housing, Minister for Disabilities, Minister for Youth, Minister for Volunteers) (17:56): I move:

> That this bill now be read a third time.

Bill read a third time and passed.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE

The House of Assembly appointed Ms Bettison to the committee in place of Mr Sibbons.

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 February 2012.)

The Hon. T.A. FRANKS (17:57): I rise briefly to speak on the Tobacco Products Regulation (Further Restrictions) Amendment Bill 2011. I would like to thank the office of the Minister for Health for the background information provided and, in particular, Marina Bowshall from Drug and Alcohol Services South Australia (DASSA), who was kind enough to provide a briefing on the contents of this simple bill.

The Greens acknowledge that tobacco smoking is the single largest cause of preventable death, hospitalisation and disease in Australia. It is no surprise then that the Greens have long supported measures to reduce the harmful effect of tobacco smoking in our society. In fact, this bill before us echoes that of my Greens colleague Mark Parnell, who introduced the Tobacco Products Regulation (Prohibition on Smoking in Children's Recreational Parks) Amendment Bill back, I believe, in 2007.

That bill, of course, sought to end smoking in and around playground areas, and keep children away from the potential health problems caused by both passive smoking and also the modelling of seeing role models smoking. The Greens have also most recently supported the plain packaging of cigarette products at a federal level, and I know that is intended to reduce the allure of cigarettes through the marketing of those products.

The purpose of the bill before us today is fully consistent with the Greens' work on minimising the effects of passive smoking on public health. This bill proposes to ban smoking in a number of public areas to protect the community from the dangers of passive smoking. It proposes, firstly, to ban smoking in public spaces, particularly those areas used by public transport commuters. This is a great initiative because, as members would be aware, catching public transport can mean a tightly congregated bunch of people and exposing them to second-hand smoke is harmful to public health, and can also act as a disincentive to use that public transport.

I am always reminded of a woman whom I once knew and who has since passed away. She had cystic fibrosis and would actually get sicker trying to get into a hospital than was necessary because, of course, there would be a congregation of smokers as she tried to access that health service. That was some decades ago, and she was certainly a leading activist in this area of raising awareness of the harmful effects to some people of passive smoking, that is, it is not a long-term effect but almost immediate.

I understand that this bill will have implications for particular events such as Christmas pageants—not only the annual Credit Union Christmas Pageant but potentially those smaller pageants such as the Norwood and Glenelg pageants. I certainly look forward to taking my child to a smoke-free event where not only is there no longer the danger of passive smoking but also no danger of my child being struck in the face with some ash, which, certainly in Rundle Mall, is often quite a difficult area to traverse if you have a small child who is right at hand level.

I commend this bill to the council.

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

[Sitting suspended from 18:01 to 19:48]

WATER INDUSTRY BILL

In committee.

Clauses 1 to 3 passed.

Clause 4.

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

Page 9, after line 25—Insert:

River Murray has the same meaning as in the *River Murray Act 2003*;

As members would be aware, recent dramatic price rises have impacted on sustainability of livestock farming across the state where the only water available is sourced from water pipelines. Farmers have been reporting that water costs are making sheep and cattle production unprofitable. We propose through this amendment, and two others (Nos 9 and 12), a scheme where livestock producers could purchase a River Murray water access entitlement, and purchase the delivery only from SA Water. The amendments would also restrict the cost of service to 50 per cent of the price charged for industrial water by SA Water. This is to allow the same meaning for 'the River Murray' as in the River Murray Act 2003, so it will allow producers to purchase water from the River Murray.

The Hon. I.K. HUNTER: The government opposes the amendment. As the honourable member says, it relates to amendment Nos 9 and 12 which provide for a subsidy for livestock. I will go to some of the points now prior to getting to amendment Nos 9 and 12. The government understands the issues that have given rise to these amendments but we do not believe this is the most appropriate way to deal with them.

Firstly, these amendments would provide a significant subsidy to livestock producers at the cost of increasing prices to all other consumers. The scheme seeks to limit the delivery price to 50 per cent of the prevailing commercial water price in metropolitan Adelaide. There would also be no contribution from livestock producers for the fixed cost or any other variable costs associated with constructing, maintaining and managing the water supply network.

Furthermore, while the amendments envisage the livestock producers paying for their own River Murray water for delivery, the producers will remain connected to SA Water's infrastructure. This means that SA Water would still be required to secure sufficient water supplies to provide security for all customers, but the cost of providing that security would not be borne by those livestock producers who take advantage of the access scheme. This is hardly a fair arrangement.

To put some numbers around these amendments, SA Water has undertaken calculations around the associated costs in relation to the top 500 Country Lands customers who use approximately five gigalitres per annum. Unless separately funded from the state budget, the cost of the proposed scheme will require an additional impost of $22 on every other water user's bill—primarily the bills of residential users. Again, this is unfair, conflicts with the National Water Initiative pricing principles and goes against the intent of the legislation. The government opposes the amendments.

The Hon. M. PARNELL: The Greens oppose this amendment as well. Without being too flippant, it is sort of happy hour for cattle with half price drinks year-round. For the reasons that the minister has outlined in relation to the extra impost on other water users, I do not think that this does lead to the most efficient allocation of these scarce potable water resources, so we oppose the amendment.

The Hon. A. BRESSINGTON: That was $22 per household per annum extra that would be added to their costs?

The Hon. I.K. HUNTER: My advice is $22 on every other water user's bill per annum.

Amendment negatived; clause passed.

Clause 5.

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

Clause 5, page 12, after line 21—Insert:

(3a) Parts 4 and 8 of this Act do not apply in relation to—

(a) a *Community Waste Water Management System* operated by a council, or a subsidiary of a council; or

(b) a retail service that is constituted solely for the supply of non-potable water.

(3b) In connection with subsection (3a), a council, subsidiary or person who provides a service referred to in that section will, subject to any provisions made by the regulations, be taken to be a water industry entity for the purposes of the other Parts of this Act.

The bill establishes a licensing and regulatory scheme which applies to any retail service which is defined as a service selling water from a reticulated system or sale and supply of sewerage services with the ability to exclude services by regulation.

The opposition accepts the regulatory role as applied to essential services (potable water supply) but fails to accept that a non-potable supply such as that provided by the Salisbury council stormwater recycling scheme needs to be regulated. I note the comments from the Hon. Mark Parnell that he thought in the last amendment it would be an unreasonable impost on the consumers of potable water. We are now talking about non-potable water.

Similarly, the local government sector has raised concerns regarding the added layer of red tape imposed on them by requiring the licensing to operate their Community Wastewater Management Systems (formerly STEDS). They will continue to be subject to an ongoing Department of Health and EPA licensing and oversight, irrespective of being licensed under this new regime.

This amendment seeks to exclude such councils from those Community Wastewater Management Schemes and non-potable water supply systems from the licensing and enforcement parts of this act (parts 4 and 8). This is about the community wastewater schemes operated by your local government and also non-potable water. The opposition reluctantly accepts that we will not get some of these amendments up because we are talking about potable water, but this is non-potable water. The opposition is strongly of the view that the non-potable water and the Community Wastewater Management Schemes should not come under this new regime.

The Hon. I.K. HUNTER: I understand the opposition wants to exempt, by this amendment, Community Wastewater Management Schemes from the requirements of this legislation. This seems quite contrary to various opposition statements in the House of Assembly which recognise the need to regulate essential services. I think most South Australians would regard community wastewater management systems as an essential service. The Local Government Association estimates approximately 200,000 people, or over 10 per cent of the state's population, are served by these schemes, and this number is increasing as the government continues to support the installation of new schemes across the state.

Some level of consumer protection is appropriate for these essential services, we would submit. This is why we have deemed it necessary to cover these services in this bill. However, ESCOSA will take into account the nature of the entity in determining the appropriate level of regulation and can be expected to adopt a light-handed approach to small community wastewater management systems.

This is consistent with the requirements of the Essential Services Commission Act 2002 under which ESCOSA is required to have regard to the financial viability of regulated industries as well as to the competition and efficiency of those industries. For example, in its Statement of Issues and draft advice on the economic regulation of the water industry, ESCOSA has foreshadowed light-handed regulation of entities and services other than those run by SA Water.

On the issue of non-potable water, the government is at a loss to understand the rationale of the opposition in proposing this amendment. It would appear to be proposed on the basis that non-potable water does not constitute an essential service. However, this is clearly not the case. I note and am advised that, in respect of some rural towns, their supply from SA Water is only non-potable water and it is still essential.

The Hon. D.W. RIDGWAY: I have a question of the minister while I am moving the amendment: are towns where non-potable water is supplied still subject to the same fees and charges as supplies of potable water?

The Hon. I.K. HUNTER: I do not have that advice to hand, so I will need to take that question on notice.

The Hon. M. PARNELL: Just a question of the minister: in your response to the Hon. David Ridgway's question, you referred to the approach that ESCOSA is expected to take. You said that they would be 'light-handed'. I apologise if you have answered this and I was distracted, but can you give any indication on what level of licence fee, for example, or administrative burden might comprise this notion of being light handed? I am trying to work out what it means.

The Hon. I.K. HUNTER: My advice in response to this approach is to go to ESCOSA's draft advice, and I will quote them. They state:

While there are a large number of entities other than SA Water involved in the provision of drinking water and sewerage services in South Australia, many of those operations are small in scale and undertaken by Local

Government or private enterprises...The Commission is...of the view that the regulation of these entities should be based initially on a 'light-handed' approach, involving a price monitoring/pricing principles.

I understand that is on page 96 of their draft advice. The commission goes on to say:

Under this approach, the Commission would develop a set of pricing principles to which the entities would be required to have regard when developing their prices. The Commission would also require the entities to publish their prices, and provide a statement demonstrating how the Commission's pricing principles have been applied in determining those prices.

The Hon. M. PARNELL: I thank the minister for the answer. In relation to this bill, there have not been many constituents who have contacted me but, certainly, the Local Government Association has, and it has expressed some concerns about the extra level of regulation that it sees would come from having it bound by parts 4 and 8, I think it is, of the bill, part 4 being the licensing arrangement and part 8 being the enforcement arrangement.

What the Greens have been grappling with—and we do not want to see unnecessary regulation—is that it would seem to me that, in the absence of requiring these local council schemes, or even non-potable schemes run by anyone, and in the absence of part 4 applying, there would be no ability to regulate in the sense of, for example, compliance with hardship provisions or a range of other things that are part of conditions of licence. If you do not have to have a licence, you do not have to comply with licence conditions because you do not have any because you haven't got a licence.

It seems to me that, if we are serious about reform of the water industry, one of the things that we will probably need to do is be a bit smarter in the way we allocate water resources to appropriate uses. For example, it has never made sense to me that we use some of the highest quality potable water for what are really secondary uses. We flush our toilets with it, for example. If you had a purple pipe system, presumably, you would flush your toilet with second-grade water that is not potable.

It would seem to me that if, for example, you had such a scheme—you had a parallel system of pipes coming into your house, a drinking water pipe and a purple pipe for, for example, the garden and flushing the toilets—it would seem that you would have some protection that comes from the licensing regime for the drinking water but you would not have that same level of protection for the second-grade water. Can I ask the minister to respond to that? Am I correct that, in the absence of licensing, some of those consumer protection measures for purple pipe water, if I can call it that, will not apply?

The Hon. I.K. HUNTER: My advice is: yes, the Hon. Mr Parnell is correct. Can I say with regard to the other issue that the Hon. Mr Parnell spoke on that the government is willing to entertain an amendment to clause 25, which would make ESCOSA have regard to the size and nature in settling licence conditions, and that amendment is being drafted as we speak.

The Hon. A. BRESSINGTON: I would like to ask the minister if he can explain in as simple terms as possible the impact that this would have on, say, the Salisbury council and its water catchment, and how it is distributing its water now and the purposes that it is being used for? That is probably one of the most successful alternative non-potable water sources that we have in this state.

The Hon. I.K. HUNTER: My advice, in relation to the Salisbury council, which is the hypothetical the Hon. Ms Bressington raises, is that they would be required to have a licence and to abide by the conditions (light-handed conditions) set by ESCOSA. ESCOSA is keen to encourage competition, so it would follow that those conditions would not be burdensome.

The Hon. D.W. RIDGWAY: What would be the financial burdens placed on the Salisbury council under this proposed new licensing regime?

The Hon. I.K. HUNTER: My advice is that the bulk of licences will be paid for by SA Water. So, the impact on, for example, the Salisbury council, would be quite modest.

The Hon. D.W. RIDGWAY: Can you quantify 'modest'? If the licences are paid for by SA Water, presumably it will pass that on to consumers. So, what is the actual cost that we are talking about?

The Hon. I.K. HUNTER: I cannot give the honourable member dollar figures, but I can come back with that advice at a later stage.

The Hon. D.W. RIDGWAY: My understanding is that the community wastewater management schemes already have Department for Health and Ageing and EPA licensing and oversight of their operations. The opposition is concerned that this new regime is adding another level of bureaucracy, another layer of regulation, when they are already operating in our community.

Salisbury has been very successful with stormwater recycling; in fact, I am sure the minister and his Labor Party colleagues have been out there championing its cause. The community wastewater management schemes, formerly the STED schemes, operate all over the state perfectly well now. Why do we need another level of regulation and licensing over the top of them? I indicate that I will be dividing on this when we have a chance to do so because I think this is a fundamental problem.

We seem to be continually making laws in this place that we do not actually need. We already have the systems operating, I do not believe there is any public safety or health risks, yet for some reason this government thinks fit to put another layer of bureaucracy over the top. It is the cost of it. People in our community are screaming out at the moment at the cost of living and this government wants to put another level of regulation over a system that already works very well.

The Hon. I.K. HUNTER: My advice is that the other schemes the honourable member spoke about do not encompass consumer protection. Are you saying to me that we should not have consumer protection built into the legislation? The question you have to ask is: if we licence SA Water to provide these services, why would we not licence the other providers at the same time so that they compete on a level playing field?

The Hon. M. PARNELL: Further to what the minister was saying, one thing the Greens are concerned about is that we make sure that consumer protection measures apply to water customers, whether they be water customers buying drinking water from SA Water or whether they are water customers buying second grade water from some other source. When I say consumer protection, I am talking about things like arbitrary disconnection for non-payment of a bill. Certainly, it would be unacceptable for the drinking water out of your kitchen tap to be cut off because you were a day late paying your bill—that would be unacceptable.

People might think that if your purple pipe water—if I can use that analogy—is cut off then maybe your plants might die but it will not be as dire as not being able to drink, cook and wash. It seems to me that if we are serious about a new regime for water that has more separation, I would expect there would be more entities, whether they be local councils, private companies, or whatever, in the market for non-potable water, and I think the customers of those water services will require some level of protection.

The level of protection that is before us is licensing. Basically, what the act provides is that you cannot retail this water unless you have a licence and a condition of your licence will be consumer protection measures. So, it seems that a consequence of supporting the Liberal amendment is to effectively prevent customers of non-potable or council excess wastewater having rights as consumers. That, I think, is the bottom line. With that brief contribution, the Greens will not be supporting this amendment.

The Hon. D.W. RIDGWAY: I certainly do not want to ask questions of the Greens, but, given that these operations are subject to ongoing Department of Health and EPA licensing and oversight, even for the people who might use excess water from a community wastewater management scheme, I am at a loss to see why we need another level again.

The Hon. M. PARNELL: I am happy to answer the question. I want the EPA and the health department to keep the water safe so that it is not full of toxins and all sorts of pathogens so that when you are watering your roses you are not contracting cholera. I want proper authorities to manage that. What I am saying is that there is an extra level of protection that is outside the domain of the EPA or the health department and that is in relation to unfair contracts, for example, and consumer protection in terms of pricing mechanisms.

If they are part of the regulatory regime they are part of the protection regime. If we exempt them from the licensing part of the act and the enforcement part of the act enabled to respond to them behaving badly, I think that we are effectively letting down future customers. What we do not know, of course, is how many people will be caught by this. We know that 95 per cent, probably, of customers we are talking about are going to be customers of effectively what is almost a monopoly supplier of water, that is, SA Water.

We are talking about a small number of other services, which the minister has assured us will be managed in a light-handed manner but, in future, I imagine that more entities will enter the market for selling second-grade water, and I think it is important for us—

The Hon. D.W. Ridgway interjecting:

The Hon. M. PARNELL: No, well, second-grade water, I mean—not potable water. But I think that those consumers are also deserving of protection measures, and I think that is reason enough to keep them within the scope of the bill. However, I do accept the minister's assurance that the imposition will not be burdensome.

The committee divided on the amendment:

AYES (8)

Bressington, A.	Dawkins, J.S.L.	Lee, J.S.
Lensink, J.M.A.	Lucas, R.I.	Ridgway, D.W. (teller)
Stephens, T.J.	Wade, S.G.	

NOES (13)

Brokenshire, R.L.	Darley, J.A.	Finnigan, B.V.
Franks, T.A.	Gago, G.E.	Gazzola, J.M.
Hood, D.G.E.	Hunter, I.K. (teller)	Kandelaars, G.A.
Parnell, M.	Vincent, K.L.	Wortley, R.P.
Zollo, C.		

Majority of five for the noes.

Amendment thus negatived; clause passed.

Clauses 6 to 8 passed.

Clause 9.

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

Page 15, line 14—Delete 'or conferred by regulation under this Act'

This clause establishes the functions of the technical regulator and includes a subclause allowing further functions to be assigned by regulation. Effectively, this amendment deletes the power and reasserts the sovereignty of the parliament to make law.

The Hon. I.K. HUNTER: The government does not support this amendment. The intent of clause 9(d) is to retain the flexibility to adapt to future requirements if needed. In this respect, the proposed amendment removes the government's ability to extend the technical regulator's function by regulation.

The Hon. M. PARNELL: When looking at clause 9, it would be no surprise to members that the primary function of the technical regulator is to develop technical standards, and it is pretty hard to see that they would do much more than that. It goes on—they have to monitor and regulate technical standards and they can provide advice about technical standards—but I would be very surprised if it would be deemed suitable to give them any role other than a technical role.

Nevertheless, I think that subclause (d), which is the subclause that the Liberal amendment seeks to amend, is pretty much a safety net, where it says 'any other function assigned to the Technical Regulator under this or any other Act or conferred by regulation'. I would be surprised if the government would want to give the technical regulator much other power, but I can understand their desire for a safety net.

Can I ask the minister to put on the record whether he envisages any situation, other than technical matters, that might be referred to the technical regulator. In other words, what work, if any, can the minister identify at this point that might be required to be added to the technical regulator's functions by regulation?

The Hon. I.K. HUNTER: No other functions will be conferred on the technical regulator, I am advised. The provision is in place should the role be expanded statewide. That is what it is there for.

The Hon. M. PARNELL: In light of the minister's answer, the Greens will not be supporting the Liberal amendment. We are happy to trust that the government, having this power to add to the technical regulator's functions by regulation, would only use it in an appropriate manner that relates to technical standards or, as he said, if there are some fundamental changes later, in which case I am sure we will have the act back before us again if the changes are of such a fundamental nature.

The Hon. J.A. DARLEY: I will not be supporting the amendment.

Amendment negatived; clause passed.

Clause 10.

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

Page 15, lines 20 and 21—Delete subclause (2)

Subclause (2) provides that delegation is:

A function or power delegated under this section may, if the instrument of delegation so provides, be further delegated.

This is a technical amendment that would prevent the delegation from being redelegated, requiring the initial delegation to be revoked and then a new delegation issued. We think this is a better way to keep track of the delegations. The opposition cannot really understand how a function or power delegated under this section, if the instrument of delegation so provides, be further delegated. It seems like a continual buck-passing or responsibility shifting down the chain, so we would like to see that deleted.

The Hon. I.K. HUNTER: Let me try to assist the opposition and explain this clause. The amendment seeks to remove the ability to subdelegate the functions of the technical regulator, as the Leader of the Opposition has said. Accepting this amendment would create some additional administrative burden on the technical regulator, particularly if its role is expanded to areas of the state where another technical regulator—for example, health—already provides that regulation. We would look to apply that regulation to another organisation rather than repeat the infrastructure that they already provide. In these areas, I understand, subdelegation is common practice and, therefore, we do not support the honourable member's amendment.

The Hon. M. PARNELL: I note that part of the honourable mover's intention in relation to this amendment is to keep track of delegations. It seems to me that there is an adequate provision in clause 10 already to keep track, and that is subclause (4), which provides:

The technical regulator must keep a public register of delegations under this section.

So, it will be pretty clear at any time who is being primarily delegated and then subdelegates under that. I think it is not a good enough reason to remove that clause. I think the minister is correct that in these sorts of areas subdelegations are common. We will know who the subdelegates are, and if they are inappropriate, we will raise it in appropriate forums such as this parliament. I will not be supporting the amendment.

The Hon. R.L. BROKENSHIRE: In deliberating, can the mover of the amendment try to articulate a little clearer the concern that he has whereby he wants to remove that particular section of the clause?

The Hon. D.W. RIDGWAY: Subclause (4) provides that the technical regulator must keep a register of delegations under this section. It just seems burdensome that we can have this ongoing subsigning of delegation powers. The technical regulator has a delegate—that is fine—but if you can reassign the delegation to somebody else it tends to create a whole range of people who can be delegates of the regulator and, of course, it is another administrative burden having a technical regulator keep a register of these delegations.

The Hon. I.K. HUNTER: If I can assist once more. This is not adding an increased layer of burden, it is to make it easier. Where there is technical regulation already applied by another agency such as Health we may seek, if the role is expanded to those areas in the state, to make Health do that work rather than set up another layer of bureaucracy.

Amendment negatived; clause passed.

Clause 11 passed.

Clause 12.

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

Page 16, after line 30—Insert:

(2a) However, before the Technical Regulator takes steps to disclose information under subsection (2)(a), (b) or (c), the Technical Regulator must—

(a) take reasonable steps to consult with the person who gave the information; and

(b) take into account any views expressed by the person who gave the information as a result of any consultation undertaken under paragraph (a).

The insertion of new subclause (a) into clause 12 tightens up the part of the act which allows the technical regulator to disclose information even though it may have been given in confidence. The government indicated in the House of Assembly that it would confer the consideration of this proposal and the opposition certainly believed this was an important amendment. It does, if you like, add a further level of protection to confidential information that may have been given to the technical regulator.

The Hon. I.K. HUNTER: The government opposes the amendment. My advice is that it is because it would create ambiguity and uncertainty; it would cause delays in addressing important safety matters, and my advice is that it is generally unworkable.

The example is given that in a case where defective or dangerous work is under investigation by the technical regulator, the amendment would require the individual or company concerned to be consulted before any information is provided to the relevant authority and possible disciplinary proceedings. This would add a further procedural step before disciplinary proceedings can commence. This could prolong the time in which defective and dangerous work continues to be performed.

The amendment also creates uncertainty as to what information requires consultation before it may be disclosed. For example, consider the hypothetical situation where an interstate regulator was to advise a technical regulator of a dangerous practice in its jurisdiction, and ask if such practices had been found in South Australia. If the technical regulator knew of such a case involving a person, it is unclear whether the technical regulator would need to consult that person before disclosing the fact that the practice occurred.

Information-sharing is a common practice between state regulators and contributes to improving safety and technical standards. It is also not clear from this amendment if the technical regulator must consult with persons before routine information can be aggregated and provided to persons and agencies referred to in clause 12(2a) through to (c) of the bill. It is even possible that, as a result of the amendment, consultation would be required with respect to some types of information in the technical regulator's annual report. For these reasons the government opposes the amendment.

The Hon. M. PARNELL: It is difficult to see how the opposition's amendment would work in practice and why it is logical, because the types of people that the technical regulator may disclose confidential information to are other regulators. There are government agencies and others—it is not Joe Blow down the street; it is law enforcement bodies of the state or commonwealth.

The idea that the technical regulator should go to the person who has been found to have done the wrong thing, point out to them that they have done the wrong thing and ask them whether they mind that information being passed on to a law enforcement agency, and giving them an opportunity to say why that information should not be passed on, I am not familiar with any precedents for that type of approach. Certainly, police officers, as a rule, having pulled you over for speeding—not that it happens to me, but if it were to happen, and friends of mine who it has happened to—are unlikely to enter into a dialogue about whether or not you have been speeding; they tend to just proceed with it.

I know we are talking about confidential information but it seems to me that what the opposition's amendment is seeking to do is to make it more difficult for the technical regulator to give to people who have an interest in receiving it, important information that will lead to the proper

administration of these laws and proper administration of safety standards. It makes no sense to me that those extra hurdles should be put in the way of the technical regulator. So the Greens will not be supporting this amendment.

The Hon. R.L. BROKENSHIRE: Further to what my colleague has just raised, I ask the mover the purpose of moving this amendment: are you concerned that people will not disclose information to the technical regulator? What is the intent of moving the amendment, the specific intent?

The Hon. D.W. RIDGWAY: This tightens up the part of the act which allows a technical regulator to disclose information even though it may have been in confidence. The opposition believes that it is a worthwhile amendment. It allows for that information to be shared, if possible, for reasonable steps to be taken to consult with the person who gave that information and to take into account any views expressed by the person who gave that information as a result of the consultation undertaken under paragraph (a). We think it enhances the bill but, clearly, members have their own view. If they do not support it, they do not support it.

Amendment negatived; clause passed.

Clauses 13 to 17 passed.

Clause 18.

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

Page 18, lines 17 and 18—Delete ',suspended or cancelled' and substitute:

or cancelled (but may be suspended by the Commission under this Act)

The bill proposes that SA Water must be given a licence under the terms dictated by the minister, and the licence cannot be cancelled or suspended by the commission. The opposition argues that if the commission is unable to even suspend SA Water's licence then very little pressure can be applied to force conformity to the regulatory regime.

The Hon. I.K. HUNTER: The government does not support the amendment. The South Australian Water Corporation is established and given its functions by an act of parliament, the South Australian Water Corporation Act 1994. It provides services to over 90 percent of South Australia's population. It is therefore odd to propose that a body which is not directly accountable to either the parliament or the community should have the authority to suspend SA Water's licence and effectively leave the community without water or wastewater services. This is not a slight on ESCOSA—it is a very competent organisation—however, ESCOSA should not be put in a position where either it is obliged or it has the option to take such significant action on its own authority.

The Hon. M. PARNELL: SA Water is in a particularly significant position, not just for the reasons that the minister has outlined. It is effectively—certainly for metropolitan Adelaide—pretty much a monopoly provider of everyone's water, and certainly everyone's sewerage services as well. The concept of its licence being cancelled or suspended so that it is no longer allowed to deliver water and no longer allowed to take away our waste does not warrant thinking about, but it does raise the question—and I think the honourable member has a good point here—what response is there when it does something wrong?

The answer might be that there would be financial penalties, but we are talking about giving with one hand and taking away with the other. You can fine a publicly owned entity as many millions of dollars as you want and it will just go in and out of general revenue. It will not have much of an impact. However, I do not see any way around it, given the position that SA Water is in. We hear about banks that are too big to fail; SA Water is too big to shut down. So, I think that it does make sense to give the community that security in legislation, to say, 'Whatever it does and whatever it does wrong, we're not going to turn off the taps or the pumps at Bolívar.

The Hon. R.L. BROKENSHIRE: I see what the opposition is trying to do, but I agree with the Hon. Mark Parnell that a very concerning situation would be created if SA Water was not able to provide potable water or, indeed, manage sewerage systems because of breaches of conditions. I ask the minister: are there any penalties or protections in place to put pressure on SA Water if it does err? I struggle to support the opposition's amendment, but I do see that it has a valid point to bring before the parliament. What is the structure to ensure that SA Water complies?

The Hon. I.K. HUNTER: The thing we are obviously aware of, but which bears repeating, is that SA Water's performance is, and will continue to be, subject to greater oversight than any

other water industry entity, in the form, for example, of ministerial control and direction, scrutiny by the parliament and its committees (for instance, the Public Works Committee) and oversight by the Auditor-General.

SA Water also comes under the jurisdiction of the state Ombudsman and is subject to the Freedom of Information Act 1991. Should SA Water's performance be lagging, it is rightly a matter for the government of the day and for the parliament to take up that issue. In any case, SA Water will still need to comply with the water industry legislation in the same way as any other water industry entity.

Amendment negatived.

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

Page 18, after line 18—Insert:

(6) In connection with the operation of this section—

(a) the minister must establish a set of community service obligations that require SA Water to continue to provide services within those areas of the state in which services are provided immediately before the commencement of subsection (2) unless the minister grants an approval for the discontinuance of any such service; and

(b) if the minister grants an approval under paragraph (a), the minister must immediately prepare a report in relation to the matter and cause copies of the report to be laid before both houses of parliament within six sitting days after the approval is given.

This amendment is to protect isolated communities that currently receive a service from SA Water. The clause simply obliges SA Water to continue to provide such a service as a community service obligation unless the minister approves discontinuance, in which case he or she must provide a report to both houses. Again, I think the government indicated that it would consider the sentiment of this proposal between the houses, and I hope it has given this favourable consideration.

The Hon. I.K. HUNTER: This is one of those rare instances where the government and the opposition are in broad agreement; however, the government will not support the amendment. The government agrees that there should be safeguards in place to ensure continuity of supply for existing consumers. However, we believe this objective is best met through the existing mechanisms in place in the bill and other legislation.

For example, clause 25(1)(o) of the bill requires a water industry entity to comply with the requirements of the scheme funded by the minister for the performance of community service obligations. The minister can also direct SA Water to provide services to these customers under section 6 of the Public Corporations Act 1993. This direction must be published in the *Gazette* and tabled in parliament.

If the provision of service to these areas results in a financial loss to SA Water then it is expected that the government community service obligation would apply. CSO payments provided to SA Water are published annually as part of the National Water Commission's national performance reporting process. ESCOSA will also make this information available on its website. We believe that these arrangements are more flexible and more transparent than the proposed amendment and thus urge the chamber to reject the amendment.

The Hon. M. PARNELL: I am going to test the opposition a little bit with some questions on this clause, if I may. I call this clause 'the ghost town' clause. We know that a number of remote rural communities have often struggled over time; maybe their resource base diminishes, the hospital closes, then the school goes, then the banks go, then the general store goes, and I think one of the questions this amendment invites us to consider is: when does the water go? What are the circumstances in which SA Water would be entitled to say, 'Look, this once vibrant community is now effectively a ghost town and there are only a handful of customers left. It is not worth us supplying them with mains water'?

The amendment talks about communities that are being provided with services now, and the community service obligation is that they have to be provided with services in the future. My question is: need they be the same services? In other words, if the service that is being provided now is piped water to your house, could the minister say, 'Okay, we are going to turn that off and we are going to give you all rainwater tanks'? Would that fit within the scope of your amendment?

The Hon. D.W. RIDGWAY: If you were in an area of the state where it rained often enough to get adequate rainwater. This amendment does not say the minister cannot discontinue a service: it just requires the minister to provide a report to the parliament to say that they have cut off the water to the little town that, sadly, under a decade or more of Labor government has had its hospital closed and its school closed and people have moved out of the town, only three people are left and they are going to cut off the supply.

All it requires is the minister to say, 'We have managed the economy so badly that, in the end, this town has to close, and we are cutting off the water supply to the three people who remain living there.' We are not necessarily saying the minister is wrong in discontinuing the supply. We just think the minister should provide a report to the parliament to indicate why they have cut off the supply to that particular town.

The Hon. R.L. BROKENSHIRE: I advise the committee that Family First will be supporting the Liberal Party with this amendment. We need as many checks and balances as we can get in regional and rural South Australia to protect and support taxpayers and residents of this state who have a lot of adverse situations before them that are out of their control.

We have seen examples in country health, with the closure of country hospitals and cuts in funding to the Keith, Moonta and Ardrossan hospitals. I believe the more checks and balances that we can put in to protect those people the better, and the government should not feel afraid of this amendment as a further check and balance to ensure that there is equity in the provision of potable water in this state, so we will be supporting the Liberal Party.

The Hon. M. PARNELL: I would like to get the minister's response to the analysis that the Hon. David Ridgway gave. If the effect of this amendment is not much more than requiring the minister to prepare community service obligations—which the minister said are already required elsewhere, so it is duplication but there is no extra work—and if the only real impost on the government is to tell the parliament when it is proposing to change the water arrangements in an existing serviced area, surely that is not such an impost; in which case, why is the government maintaining its opposition to the amendment?

The Hon. I.K. HUNTER: I am going to have to get some further advice about that. I might propose, if honourable members are agreeable, that we report progress on this and I can come back with some further advice to the chamber.

Progress reported; committee to sit again.

TOBACCO PRODUCTS REGULATION (FURTHER RESTRICTIONS) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

The Hon. K.L. VINCENT (20:44): I rise briefly to support this bill. Dignity for Disability strongly supports this bill because, as we all know, smoking is the cause of so much preventable disability, and the smokers themselves are not the only victims. I note that, while we have had many successful antismoking public health campaigns in this state, unfortunately statistics produced by the Drug and Alcohol Services of South Australia (DASSA) show that more than 20 per cent of people aged over 15 years still smoke.

Smoking tobacco is highest among 15 to 59-year olds, most particularly in the 30 to 44-year-old age bracket, at 25 per cent, precisely when people are likely to become parents for the first time if they so choose. Of course, they then have to become role models for those young children.

Smoking tobacco leads to chronic and terminal illnesses, such as mouth, throat and lung cancer and emphysema, and often worsens or delays recovery from a multitude of other illnesses, including asthma or other respiratory conditions. I would seek to enhance the model of protection for children at work (and of course we should note that a child's work is play), just as most adults are now protected from smoking in their workplaces, by extending the clean air zone model to events that are essentially child-friendly events.

I speak of great South Australian institutions, such as our Christmas Pageant and the Royal Adelaide Show, to name just two. Why should adults be permitted to smoke at events that are so quintessentially linked to childhood in this state? That smoking is yet to be stamped out on our railway platforms and our bus stops seems remarkable. It may surprise those who are not regular patrons of our public transport to know that it is not unusual to see a bus driver take the last

drag of their fag on the footpath, board the bus and exhale the second-hand tobacco smoke as they move past the ticket validating machine.

By keeping our bus stops clear of smoke we will keep our buses clear of smoke, and such clean air zones will be applied to bus drivers who are also known to smoke outside of their bus at terminus stops with the doors open, meaning that passengers can often board a smoky bus. For children and people with multiple chemical sensitivity, for example, being subjected to cigarette smoke on public transport is not only a great shame but puts their long-term health at imminent risk.

I note the example the Hon. Ms Franks gave in her speech of a constituent with cystic fibrosis who often struggled to get into hospital in a timely manner because people were smoking on those premises. It is a very similar situation for people who experience multiple chemical sensitivity in that, if they are exposed to passive tobacco smoking, they can not only experience immediate exacerbation of their condition but also at times be bedridden for days and perhaps weeks.

This is a worthwhile piece of legislation for people who experience that condition. So I will be pleased to see this outlawed with the passing of this legislation. South Australia has been at the forefront of tobacco law reform in the past and we can take the lead again. I believe that this must happen. With those brief words, I strongly support the bill.

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

LIVESTOCK (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 15 February 2012.)

The Hon. J.S.L. DAWKINS (20:49): I rise on behalf of Liberal members to indicate our support for the bill. In so doing, I acknowledge the work done in relation to this matter and many other matters in this portfolio by the member for Hammond in another place, Mr Adrian Pederick. This bill is aimed at improving the current operation of the Livestock Act 1997 and will bring the current act up to date, ensuring the health of livestock in South Australia.

The bill incorporates support for a number of important national agreements, such as the National Livestock Identification Scheme (NLIS) and the national agreement for funding of emergency responses to exotic disease. The act provides for registration requirements in the keeping of livestock to ensure fast and effective tracing of livestock in the event of the detection of an emergency animal disease, artificial breeding centres and veterinary diagnostic laboratories, ensuring that the minimum standards are complied with.

The government will have the ability, through this legislation, to investigate and control any animal disease or contaminant which comes under the proposed act which may impact the health of livestock, people or native or feral animals, and the marketability of animals or livestock product. It will remove obsolete or unnecessary provisions and include some new ones in relation to those matters.

The bill enables recovery of costs from individuals who fail to keep up disease control activities. The briefing that the member for Hammond and I received exemplified the apiary industry as one that would be significantly relevant to that matter. These expenses will go beyond just the expenses incurred by inspectors.

If the bill proceeds, Biosecurity SA will be consulting with relevant stakeholders to seek the relevant amendments to regulations. Expiation fees will, as proposed in this bill, assist with compliance, as currently only prosecution processes occur. In relation to the expiation fees, I will explore those changes more in the committee stage, as well as some other aspects of the bill. I anticipate that at least one of my colleagues may also explore some of the matters in relation to the expiation fees.

The bill we have before us is one that does not include any reference to the proposed biosecurity fee. As I have said before, at the end of the last sitting year, I acknowledge the fact that the minister's staff did let me know a day before the minister originally introduced the bill that she had taken the biosecurity fee matter out of it; it had been rather controversial.

Members would remember that, at the same time, I had a motion in this house to refer the matter of the biosecurity fee to the Environment, Resources and Development Committee, and that

motion was subsequently passed by this council late last year. I understand that the ERD Committee has already had some preliminary discussions about how to handle the matter. I look forward to the committee's examination of that. I understand that, while that is going on, the minister has asked her department to go back and have another look at the matter of the biosecurity fee.

I mentioned earlier the briefing that was arranged for the member for Hammond and myself in regard to this bill. There was a matter that I raised during that briefing, and I had a very comprehensive response to that matter via the minister, and I would like to relatively briefly take the time to put on the record the response I received. The letter came from the Hon. Gail Gago, and it commences, as follows:

I write following a recent briefing by staff from the Department of Primary Industries and Regions SA...of Mr Adrian Pederick MP and you about the Bill to amend the Livestock Act...to respond to the question raised by you regarding public notices.

At this meeting you asked if the proposed provisions on public notices at public stock sales (e.g. saleyards) could or should be extended to stock sales held on private properties.

PIRSA has advised that with the development of risk based trading as a disease control option, it is important that inspectors at markets have the power to erect a placard or public notice either advising of the health status of, or warning of the presence of a notifiable disease.

Public placards improve confidence in the system and act as a disincentive for 'rogue' persons who may not fully disclose or make false statements.

Currently, Ovine Johnes Disease (OJD) is the only disease that is being managed using risk based trading. The system is designed to enable the continuing movement and sale of sheep while minimising the risk of transfer of OJD.

Sheep are allocated a score based on a number of factors related to the risk that the sheep may have OJD. These factors include the geographic location of the property of origin, the vaccination status of the sheep and any results of laboratory or post-mortem tests for the disease. The lower the score, the higher the risk of carrying OJD, so farmers are encouraged to only purchase sheep with an equivalent or higher score to their own animals.

As there is no independent means to verify the status of the sheep at a market, unlike the diseases of footrot and lice where sheep can be inspected, it is critical that buyers are aware of the declared status of the sheep for sale. This is particularly important at public saleyards where there are multiple mobs from multiple properties offered for sale at the one site. This may include sheep from interstate properties where the risk of OJD is much higher.

I understand that OJD notification is generally not an issue at private on-property sales, such as ram or dispersal sales, because:

- sheep with a higher risk ranking are not able to be sold at private sales;
- there are a limited number of these sales, compared with saleyards;
- most sales are sheep from one owner and one property, not sales of sheep from various sources or mixed sales;
- verification of the status of the sheep is much easier at a private sale because the owner is usually present;
- sheep and their accompanying certification, such as the National Sheep Health Statement (NSHS), can be much more easily checked at a private sale than a public sale.

The NSHS provides the vendor with the opportunity to provide information in relation to diseases such as OJD, footrot, sheep lice, Ovine Brucellosis and certain treatments that the sheep have received. The NSHS is mandatory when selling sheep within and into South Australia. It is an offence to make a false statement in a Sheep Health Statement.

I am advised that the current sheep lice regulations, which are supported by industry through the funding of the compliance activity, apply only to markets and sales where sheep from different holdings are present so there is no formal compliance activity in relation to sheep lice at on-farm sales. On the other hand, if footrot was detected at an on-farm sale, the sale would be cancelled and the property placed under quarantine. There would be no need for public notices to be erected.

The advice I have received from Biosecurity SA is based on current risk based trading and practices used when selling stock on properties.

I am advised that due to the factors listed above Biosecurity SA currently does not seek to have the ability to place public notices at private sales.

I trust the above information is of assistance.

(Signed) Hon. Gail Gago.

Once again, I thank the minister and her department for that comprehensive response, which was actually probably more detailed than I expected. I would only comment that I think one of the dot points in that answer indicated that there are a limited number of these on-property sales compared with saleyards. My only comment from my experience is that in the last 20 years or so there have been far more on-property sales, particularly stud and flock ram sales, than there were once. I think, at least only casual observers of the livestock saleyard system in this state would observe that there are far fewer livestock saleyard venues now than there were 15 or 20 years ago.

I think probably the balance between the two has lifted significantly on the side of the on-property sale, even though there would still be a far greater number of sheep sold at public saleyards. Having said that, I again thank the minister and her department for that response. As I said earlier, there will be some areas that I will explore at the committee stage, but once again, I am pleased to indicate that the Liberal Party will be supporting the bill.

The Hon. A. BRESSINGTON (21:00): I rise to indicate my support for the Livestock (Miscellaneous) Amendment Bill 2012, reintroduced in this place by the Minister for Agriculture, Food and Fisheries. In its current form, the bill proposes minor nuts-and-bolts or finetuning amendments to the Livestock Act 1997, many of which are the result of a review of the act that was initiated with the release of the discussion paper in August 2009.

This bill was originally intended to carry the proposed biosecurity levy, which would provide for partial cost recovery of the animal health program and was to be paid by all primary producers through to hobby farmers and recreational equine owners. However, the government, following significant backlash from these industries, has since dropped the proposed levy, with the minister stating in her second reading contribution that it is 'not being pursued at this time'. Further, the issue of cost recovery of the animal health program has been referred by this council to the Environment, Resources and Development Committee.

Late last year, I met with representatives of the South Australian Farmers Federation, and my office spoke with representatives of peak equestrian and dairy bodies, who all denounced the biosecurity levy, arguing that their respective industries were already laden with fees, that there are existing alternative means of funding biosecurity processes, and that that they should not be forced to bear sole responsibility for an issue that affects everybody.

The levy, however, was their only point of concern with the then draft Livestock (Miscellaneous) Amendment Bill, and all expressed support for the other nuts-and-bolts clauses. With the biosecurity levy no longer being pursued, I have since confirmed that the bill is welcomed and has the support of these peak industry bodies. Having further confirmed that there are no amendments intended by the opposition and not being aware of any others, the bill, likewise, has my support.

The Hon. R.L. BROKENSHIRE (21:02): Firstly, I advise colleagues that I have a couple of amendments that are being drafted at the moment, of which I have advised the whips and the minister. Through the proroguing of parliament, in addition to a couple of other things, we are in the process of doing those now, so I will speak to this bill generally and then seek leave to complete my remarks on another day.

I wish to place on public record—and there will be a few occasions where this will be the case—that some of the concerns I have with respect to elements of the bill are not do to with this current minister. In fact, to be fair, some of the issues that I am going to raise and move amendments about concern the former minister, who—

The Hon. D.W. Ridgway: McEwen.

The Hon. R.L. BROKENSHIRE: Well, there are a number of ministers I have concerns with over primary industries—

The Hon. D.W. Ridgway: He is one of them.

The Hon. R.L. BROKENSHIRE: He is indeed, but this minister has actually taken the baton well into proceedings regarding PIRSA. The former minister, who is now the finance minister, I think, actually thought more about being the finance minister than he did about the importance of ensuring that primary producers received some return on the investments they put into the government coffers without having to be fleeced—pardon the pun, to those who are sheep farmers—every time they tried to do something on their farm.

I do commend the current minister, who has realised that full cost recovery is out of control when it comes to primary industries and therefore has put back some of the cost recovery around biosecurity fees. I want to touch for a few moments on the lead-up to that. Interestingly enough, it goes back to the then primary industries minister, the Hon. Rory McEwen, and the NLIS scheme. We were told that we needed to have a National Livestock Identification Scheme. The minister signed off on that at the Primary Industries Ministerial Council meeting and we had an NLIS.

The NLIS is still not perfect, but it has assisted with respect to identification of livestock across the nation. The dilemma is the cost now of complying with NLIS, right down to ear tag costs, when only a couple of companies produce those ear tags. What was a small cost initially has now become a significant cost. To give you an example, you will get for a bobby calf somewhere between $10 and $30 or $40, depending on the size and weight of that calf. However, at $10 you are now spending something like $3.50 to $4 just to put on an NLIS tag.

Then there are the vendor declaration books when you actually send off bobby calves. At the beginning, the government provided those vendor declaration forms in book format free of charge. Now the book format has gone and it is not free of charge at all. In fact, you have to register online every time you want to sell bobby calves, and that in itself takes a great deal of time. The system that they have is far from efficient and the costs are ridiculous. Those are just two examples of what has happened when initiatives have come in.

Sure, we need to protect the security of our livestock industry. We need to do whatever we can to ensure that any notifiable disease is notified. We do need to have, obviously, veterinary diagnostic laboratories, and we do need to ensure that, if there are animals with a disease or contamination, it does not spread through the entire herd or flock. From that point of view, the general intent of what this bill is trying to do is to be commended.

However, there are a couple of issues, and one is that, because this is a government bill that has come in, it gives us an opportunity to address another problem that is very threatening to agriculture. I will talk more about that once I have briefed the minister and my colleagues and tabled the amendments. We have unprecedented pressure on intensive animal husbandry in Australia at the moment, and it is something that needs to be addressed for the wellbeing of our community, not only from an economic aspect but also from the point of view of the sovereignty and protection of our state and nation.

One of the things I want to commend those who drafted this bill for is that, when they look at issues, such as the amendment of section 23, the term of registration and renewal, they talk about processes. If there is an application for a renewal of registration, it must be made to the chief inspector, and it goes through procedures. I would have loved to have seen that with the NRM bill. In this bill, they highlight the importance of these registrations going through the chief inspector, in vast contrast to that of the NRM bill, where someone who is probably only the equivalent of an ASO3 has powers higher than those of a sworn police officer. There has certainly been a lot better drafting and consideration of procedures within this bill than there has been with previous bills.

I will be putting on notice a couple of questions I will put to the minister in committee on clause 11, the amendment of section 19, the requirement for registration to perform artificial breeding procedures. I declare my interest here—which is needed as an MP—that our family does a lot of our own artificial breeding. Whilst it does not directly concern us, as I read this clause, I want to ensure that there are no additional impediments on those farmers who require artificial breeding.

Artificial breeding and genetic improvement is the way of the future. There is sexed semen and the whole lot now. The technical costs of that are high but they allow us to advance our genetic improvement. We do not want to put an impost on the other side when it comes to being able to utilise that technology in respect of registration to perform artificial breeding. So, to give the minister notice, I will be asking some questions on that.

There are two things that I have been particularly happy about lately. I do not always support Premier Weatherill—he knows that and we have had discussions about that—however, where he does things that I believe are in the best interests of our state I will support him. One of those is to do with primary industries, tourism and regional development where, for the first time, we have one minister responsible for all those portfolios which dovetail together, so I am very pleased to see that.

I was also pleased with other colleagues, media and the agricultural community generally arguing about the importance of focusing back on the most sustainable industry that South

Australia has—not mining (you would not be surprised by that, sir, you would know what it is)—which is agriculture. After a lot of debate and argument we have finally seen in this house, when the government prorogued and came in with what I thought was generally a lot of motherhood statements, the first thing it stated that was really important to me and, I am sure, a lot of others, was the importance of agriculture to the state's future and the acknowledgement that agriculture is going to offer a lot of security to the future of this state, and that is true.

This state was built around primary industries. In fact, one of the things that I was always proud of in the House of Assembly was sitting in a chamber where, together with the green carpet showing that it was the House of Assembly (the lower house) there was a wheat sheaf and a wine grape. That was always significant to me because it was there for a purpose, just like the Sturt Desert Pea is here for a purpose; that is, it is our floral emblem.

The wine grape and the wheat sheaf say that this state, from the time it was a colony right through to the future as far as anyone can project and see, will have agriculture underpinning its economy. That is why it is important that the government made that statement. The part that disappointed me—and I hope we will see a change in the May budget because I am confident that this new minister will be out there fighting for a better go for agriculture and the portfolio—

Members interjecting:

The Hon. R.L. BROKENSHIRE: It's good to see them getting excited about wanting to put more money into agriculture. Both the opposition and the government are enthusiastic and that really does stimulate my appetite for what is the greatest sustainable industry. That is the positive, but I now want to come back to the reality.

Members interjecting:

The Hon. R.L. BROKENSHIRE: So I have had half of my dream come true; that is, this government, a Labor government, has recognised the importance of agriculture. However, the other half of my dream has not come true yet; that is, how can you grow agriculture as a sustainable, long-term opportunity and the primary industry over and above mining if you continue to cut the budgets, cut the staff numbers, cut R&D and close down Primary Industries' offices like we have just seen at Keith.

I am not sure what the good people of Keith have done but they have lost their childcare centre, they have had hospital cuts and they have lost their PIRSA office. I know a lot of people in Keith; they are good people. That is just one example of where the government needs to put its money where its mouth is.

The other side of it is that farmers need a fair go. We have seen SACOSS—and rightly so—come out recently with a paper and their budget submissions and the like, and they have highlighted the concerns that people on low incomes and the vulnerable have. Also, with that, I want to highlight the fact that there is not a massive amount of money in the bottom line of agriculture when it comes to net farmgate price returns.

Inputs are going through the roof, well above CPI, and some of those input costs above CPI are from the government on full cost recovery. I have said it publicly and I will talk more about it in committee, but I will be proposing an amendment here that, if supported by my colleagues in this house, there will be no cost recovery for biosecurity fees at all because the government has already done well out of NLIS, PIC and the like.

We have seen something that I will have to get more detailed answers on from the minister when it comes to a sleight of hand, smart CEO performance in PIRSA, I understand, where they have grabbed some money from one area and told people on an advisory committee that because they had been able to pick up that amount of money that if this parliament, this Legislative Council, knocks out the balance, they will probably be able to manage their budget.

That is not acceptable to me because what that says is that they have already ripped more money out of the hands and pockets of farmers. Whilst they would like to rip even more out, they could probably get away with some of the offset to their budget cuts by what they have already done with other existing fees that are already in place. This is a chance for us in this house to say, as I have heard said before, enough is enough and stop this biosecurity fee from having any cost at all.

Taxpayers also, surprisingly, include farmers. Farmers pay tax; they pay direct tax and they pay indirect tax. I think that Jack Snelling, as the Treasurer, would be quite happy with some of the

GST that has come in over recent days and months and in the future as all the machinery orders come through. There is plenty of GST on that and the value-added components of other input costs to farmers. They are two issues that I want to debate in committee.

The Hon. J.M. Gazzola: Have a go at Coles and Woolies.

The Hon. R.L. BROKENSHIRE: Right. Coles and Woolies. Well, I would love to have a go at Coles and Woolies. I do that regularly and, at another more appropriate time, I certainly will. Coles and Woolies: this government has better moral values than Coles and Woolies. I will give the government an accolade for that. They have much better moral value than Coles and Woolworths. If Coles and Woolworths were in charge of this government, it would be triple full cost recovery to all the farmers. They make out that they are the friends of the farmers, but they are ripping them off left, right and centre. They are telling lies on television and in the media and making out that they do not have any impact on the net reduction to farmgate price.

The Hon. J.S.L. Dawkins interjecting:

The Hon. R.L. BROKENSHIRE: Well, a classic example—and just digressing for a moment—as the Hon. John Dawkins points out is not far from his home town, the market gardening area, the green vegetable bowl. They turn around and say that they are doing a favour by slashing all the fruit and veg because otherwise the farmers would leave it out in the paddock. Well, they might as well leave it out in the paddock for the price they are getting paid.

To get back to this, the Livestock (Miscellaneous) Amendment Bill, I want to talk about two other points tonight. One is to do with the establishment of the fund, and it talks about money received under an intergovernmental or livestock industry agreement for sharing the costs of control or eradication of exotic disease. I want to point out that most of the industry sectors in agriculture—and I declare again our own industry, the dairy industry, is part of this through SADFA and other charges. When we sell calves and cattle—

The Hon. J.S.L. Dawkins interjecting:

The Hon. R.L. BROKENSHIRE: Not the SDA—the South Australian Dairyfarmer's Association. I want to point that we already contribute to this and this money sometimes goes into the commonwealth and then it comes back out to the states. Don't think that we are not already contributing to funds. In fact, there are multiple funds that we contribute to every time you sell your wool, lambs, calves and cattle; it is there when you sell your grain. There is not one commodity now that you do not sell without a paying a levy.

These levies are already being paid, and I do not understand why we have to have a new fund. The minister can advise us of that again during committee stage. But, if there is to be the establishment of a fund, it should be to administer the fund from the point of view of money that is already put in that has been accepted by farmers and money that has been put in by government, and we would expect to continue at least at CPI, not seeing cuts and further cost recovery.

The other thing I want to finish on is the functions of livestock advisory groups. It is nice to see that they say that section 9 should be amended in this way:

after 'to advise the Minister' insert:

, on its own initiative or at the request of the Minister

Then it talks further about issues around the function of the livestock advisory groups. It is important that livestock advisory groups are set in place, so I support that part of the bill, but I think it is refreshing, if I read this properly, to see that, at the initiative of the livestock advisory group, they can put proposals, hopefully kosher proposals, to the minister rather than it just being a rubber stamp, as a lot of these advisory groups have become over the years.

With those few remarks and given the time of the evening and, no doubt, the fact that we will be here very late tomorrow night, I would expect, I will introduce those amendments to this bill hopefully tomorrow or Thursday for all colleagues to have time to see before we complete the debate. Again, I just say to colleagues that here is a chance to work with the new minister and for the new minister to also work with us and show those of us who believe in agriculture that this government has taken a turn for the better and it will be actually fully focused on agriculture in the future.

I note that the minister is doing her best to convince us that some of the decisions made by former ministers are in the best interests of agriculture but, when you look at the SARDI-Adelaide

University proposal and the argument from the government that the reason for that is that they will be able to attract more commonwealth funds, maybe that might be the case but is it still going to deliver the best for agriculture with research and development?

Is it also going to give the government an opportunity to walk away from its contribution to SARDI, which has been the lion's share until now, as I understand it? Then, when they start to sell off assets like the Flaxley Research Centre for dairy, is that money going to go back into agriculture or is that money going to go back into general revenue and Treasury?

On that final point regarding Treasury, I believe that this full cost recovery has been driven quite a lot by Treasury. Treasury officers have a job to do but they need to remember that, if they want to balance their books, they need to ensure that farmers have a fair go and pushing full cost recovery on everything that farmers do is not giving farmers a fair go. Hopefully, we will have a chance in committee to ensure that farmers do, for once, get a fair go to ensure there is no additional full cost recovery. With those remarks, I seek leave to conclude at another date.

Leave granted; debate adjourned.

STATUTES AMENDMENT (COMMUNITY AND STRATA TITLES) BILL

Second reading.

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) (21:28): By leave, I move:

That this bill be now read a second time.

This bill will improve protections for consumers who buy into or own units in strata and community titled developments. Greater protections are required for community and strata title property owners, especially those that engage strata managers.

This project started with calls to introduce licensing of body corporate managers. It became clear, however, during early consultation that the concerns of unit owners extend beyond concern about the performance of body corporate managers. These concerns are to be addressed in this bill through specific measures designed to increase the transparency and accountability of body corporate managers as well as giving owners greater access to information about the affairs of their strata or community corporation.

Although this bill does not introduce licensing or restrictions on who may act as a body corporate manager, the idea has not been abandoned completely. The National Occupational Licensing System, due to commence in mid-2012, will bring in a national licence for property agents. Those jurisdictions that currently regulate body corporate managers will be bound to adopt that licence. It would have been confusing and inefficient to introduce a state-based licence scheme to have that replaced shortly thereafter by a national scheme. It is intended to re-examine the issue of licensing body corporate managers under the national licensing system once that is operational.

The comprehensive suite of measures contained in this bill includes pre-contractual and contractual disclosure of body corporate management contracts, restrictions on the duration of such contracts, termination rights in relation to such contracts, better disclosure of conflict of interest and commissions, as well as restrictions on the grant and exercise of proxies for body corporate voting and a penalty notice system for by-law and article breaches. Concerns about the actions of developers during the period of establishing a new community-titled development are addressed by making it clear that a developer is a fiduciary of the community corporation and must act in the interests of the corporation as it will be constituted after the developer ceases to control the corporation.

A significant new consumer protection initiative will accompany this bill. A dedicated strata information and advice service will be established to provide unit owners with information about the rights and obligations attaching to community and strata titled properties. Another message that emerged strongly through the development of this bill was that unit owners are confused about their rights and obligations and about where to turn for information. Once armed with this information, many of the disputes between unit owners and their body corporate or body corporate manager can be avoided.

The law of agency already prohibits some allegedly common abuses by body corporate managers, such as the making of secret profits at the expense of the body corporate. A body

corporate manager is an agent of the body corporate. Agents owe their principals duties of good faith and not to make improper use of the manager's position to gain, directly or indirectly, an advantage personally for any other person. The bill is intended to augment these duties. While the bill and the existing legislation impose criminal sanctions for breaches of duties such as failure to disclose conflicts of interest, these provisions are not intended to derogate from the common law fiduciary duties.

I seek leave to have the remainder of my second reading explanation and the explanation of clauses inserted into *Hansard* without my reading it.

Leave granted.

History of the Bill and consultation

This project started with the release of a discussion paper by the former Attorney-General, the Hon. Michael Atkinson MP in late 2003, which canvassed opinion on a wide range of possible reforms to the regulation of community and strata titles. That was followed up with a private member's inquiry into this area initiated by the Hon. John Rau MP.

That early consultation led to the drafting of a Bill to amend the *Community Titles Act* and *Strata Titles Act*, which was released for consultation with affected parties in December 2008. Comment was invited on the draft Bill from organisations likely to have an interest in the Bill as well as people who had written to the Attorney-General in recent years with complaints or concerns about strata matters. It soon became clear that many members of the community wanted to have a say on this issue and so the consultation was opened up to the general public.

The draft Bill was significantly revised as a result of that consultation, in particular to remove provisions that would have changed how community and strata corporation finances were managed.

In light of the significant changes to the draft Bill, the revised Bill was released for a further brief period of public consultation in December 2010, as a result of which further adjustments have been made to the Bill.

During consultation on the draft Bill comment has been received from over 50 respondents, including the National Community Titles Institute (NCTI), the Property Council (SA Division), the Commissioner for Consumer Affairs, the Law Society, the Legal Services Commission, the Real Estate Institute of South Australia, the Australian Institute of Conveyancers (SA Division), several strata managers and a number of strata owners.

There was broad support for most of the measures contained in this Bill. The NCTI and individual body corporate managers who commented supported the proposed disclosure and insurance requirements for managers. The NCTI was concerned with, and later opposed, the proposal to provide for termination of contracts with managers.

In parallel with finalising the draft Bill, work has been undertaken on the feasibility of establishing a specialist information service on community and strata title matters. It became clear from consultation that many unit owners are confused about their rights and obligations under the community and strata titles legislation and unsure about where to turn for information and advice. There have been discussions with the Real Estate Institute and Institute of Conveyancers about funding such an initiative from the Agents Indemnity Fund administered under the *Land Agents Act* and *Conveyancers Act*. The Government appreciates their strong support for this significant new consumer protection initiative, which is underpinned by amendments contained in this Bill.

Rights to terminate contract with body corporate manager

When a community corporation comes into existence, the lots are owned by the developer. The developer therefore has control over the corporation and can appoint the body corporate manager. There have been some cases reported interstate where developers are said to have auctioned body corporate-management rights for terms as long as 25 years. The developers receive the money from the sale of the rights and leave the incoming owners bound to pay management fees that are well above market rates. Future owners are bound by the contract with the body corporate manager, even if its terms are unfavourable.

The legislation as it currently exists is based on the notion that corporations are responsible for running themselves and that, where used, a manager would assist the corporation rather than effectively run it. Currently the *Community Titles Act* provides that a community corporation may revoke a delegation of its functions to a body corporate manager at any time, even if there is an agreement to the contrary. If the delegation of power is revoked, as can now happen in the case of a community corporation, then the manager is no longer able to act for the body corporate. The Government had intended to give full effect to this provision by providing that a management contract could also be terminated, that is, that corporations ought not to be locked into using the services of a manager for a fixed period.

The Government has accepted submissions that there ought at least to be an initial period of certainty, in particular where a new development is being set up, as well as a period of transition allowed for in the event that a corporation does want to dispense with the services of a manager, hence the Bill provides for an initial period of 12 months in which a manager can lock in a corporation under contract but after which the corporation has the right to terminate the contract with 28 days notice.

Pre-contractual and contractual disclosure

Neither the *Community Titles Act 1996* nor the *Strata Titles Act 1988* defines the role of the body corporate manager. The *Community Titles Act* limits the functions of the corporation that can be delegated, thereby setting

bounds to the manager's authority, but, within those bounds, the functions that the manager is to perform are a matter of contract. Unless promises are clear, disputes will arise. The Bill requires that contracts for the management of a corporation be in writing and must specify:

- the term of the contract;
- termination rights;
- the functions that are delegated to the manager; and
- the charges that will be made for the services provided under the contract.

Other contractual provisions may be required by Regulation and at this stage it is intended to prescribe the following provisions:

- that the manager promises that he or she is insured as required by law and will maintain that insurance throughout the life of the contract; and
- that each member of the corporation has the right at any time in business hours to inspect the records of the corporation in the possession or control of the manager, and how inspection can be arranged.

A copy of the proposed contract is to be available for inspection by any owner at least five clear days before a vote is taken to appoint a body corporate manager. It should also attach a copy of the manager's current certificate of insurance as well as prescribed documents demonstrating the person's eligibility to act as a body corporate manager (for example, a statutory declaration as to eligibility). Before entering into the contract, the body corporate manager will have to give the owners a prescribed pamphlet that explains the role of the manager and sets out the rights of the corporation and its members, including the rights to:

- inspect records held by the manager;
- revoke the delegation of a particular function;
- appoint the manager as a proxy and to revoke that appointment; and
- be told of any payment or benefit that the manager receives from another trader for placing the corporation's business.

Compulsory insurances

Commercial body corporate managers will be required to maintain throughout the life of the management contract a policy of professional indemnity insurance providing cover of at least the amount prescribed by regulation. It is intended to prescribe the figure of $1.5 million per claim, which is derived from the equivalent requirement under the Victorian *Owners' Corporations Act*. It is known that many body corporate managers already buy this insurance out of prudence.

Nearly everyone who has commented on this proposal to date supported it. Two commentators raised the problem of hobbyists who act as managers for just a handful of bodies corporate and could not easily raise the likely premium. However, the risk insured against is substantial. A manager who, for instance, forgets to insure the common property of even one corporation puts the owners at risk of substantial loss.

The corporation itself will also be required to buy fidelity guarantee insurance, covering the risk of theft or fraud of the corporation's funds by the manager or other persons authorised to handle the funds (for example, committee members). Such insurance is sometimes automatically included with community and strata building insurance policies. The amount of the cover will be prescribed and is proposed to be at least the maximum total balance of the corporation's bank accounts at any time in the last three years or $50,000, whichever is higher.

Both of these insurance requirements will be subject to Ministerial exemption in case problems arise with availability of the insurance.

Meetings, proxies and disclosure of conflicts

Participation in meetings remotely

Neither the *Community Titles Act 1996* nor the *Strata Titles Act 1988* provides for owners to participate in meetings by telephone, video-link or internet. The Bill provide for this, where facilities exist, at the expense of the owner concerned.

Court power to convene strata corporation meeting

An owner may need to call a meeting of the corporation. An owner who wants to sell his or her unit, for example, must provide information about the financial state of the corporation to a potential purchaser. Meetings can be convened with the approval of 20% of members, but in some circumstances it might be difficult to obtain even this level of approval. The *Community Titles Act 1996* provides, as an alternative, for a meeting to be convened by order of the Magistrates Court. The *Strata Titles Act 1988* is amended to the same effect.

Length and revocation of proxies

Purchasers of new lots off-the-plan are sometimes asked to assign their right to vote to the developer, whether by proxy or by power of attorney. The assignment is often expressed to be irrevocable. The *Community Titles Act 1996* gives owners an express right to revoke a proxy at any time but the *Strata Titles Act 1988* is silent about this. The Bill amends that Act to make clear that the appointment of a proxy or a power of attorney can be

revoked at any time and that any agreement to the contrary is ineffectual. Also, having appointed a proxy is not to prevent an owner from attending the meeting and exercising his or her vote in person.

The Bill ensures that an owner is still entitled to receive notices of meetings, although these can go to a proxy as well if the corporation agrees. The Bill also limits the life of proxies to no more than 12 months under both Acts. This will compel the owner to take a decision at least every year about whether to take part in meetings in person or by proxy and, if the latter, whom to appoint. Further, a proxy appointing the body corporate manager will lapse automatically if the appointment of the body corporate manager ends.

Disclosure of conflicts of interest

The interests of holders of proxy votes may sometimes conflict with the interests of the owners they represent. A body corporate manager may, for example, hold a proxy vote for a meeting at which there is a motion to appoint a new manager. Proxy notices are required to be given to the secretary of the corporation, who is required to ensure that they are available for inspection at meetings prior to voting. If the manager holds any proxy or power of attorney for the meeting, he or she will be required to produce this for inspection at the meeting before any vote is cast by proxy or power of attorney.

Other people who vote at meetings may also have a conflict of interest. Later discovery of the conflict can cause disputes among members. Under the Bill all members of the corporation and any proxies or attorneys who attend the meeting on their behalf have to disclose any interest that they or their principals have in matters being considered by the corporation.

Chairing of meeting by body corporate manager

Often there is no member of the corporation who wishes to chair the meeting and the body corporate manager is asked to do so. The Bill provides that a body corporate manager may chair the meeting if a majority of those present votes for this. The Regulations will provide that a body corporate manager may only vote if the manager holds specific proxies to this effect and only after telling the meeting at the outset:

- that he or she may only chair the meeting if a majority of those present vote for this; that he or she has no right to vote, except when exercising a specific proxy for a member;
- whether he or she holds any and what proxies for this meeting and that they are available for inspection; and
- that he or she has no right to prevent any member from moving or voting on any motion.

Timing of meetings of secondary and tertiary corporations

At present, under section 82 of the *Community Titles Act*, a primary corporation must hold its annual general meeting within three months after the end of each financial year. A secondary corporation must then hold its annual general meeting within one month after the meeting of the primary corporation. By section 86, however, any secondary corporation that is a member of the primary corporation is entitled to vote at a meeting of the primary corporation, if authorised to do so by its members. Further, if a proposed resolution of the primary corporation is a special or unanimous resolution, then the vote of the secondary corporation on that matter will, in turn, require a special or unanimous vote of the secondary corporation. Notice of such resolutions will only be given within the weeks before the proposed meeting. In practice, therefore, there will need to be a meeting of the secondary corporation before the meeting of the primary corporation, but after the distribution of the agenda for that meeting, so that the representative of the secondary corporation knows how he or she must vote at the meeting of the primary corporation. The minimum notice period for an annual general meeting is 14 days. The result is that a secondary corporation may have to meet within 14 days before the annual meeting of the primary corporation and again within one month thereafter. Otherwise, the secondary corporation will not be able to take part in the running of the primary corporation. The tertiary corporation, if there is one, faces similar difficulties.

The Bill removes the requirement that the secondary and tertiary corporations must meet within one month after the annual general meeting of the primary corporation. It is enough to require them to hold an annual general meeting for a financial year by 31 December of the next year. Corporations are free to hold the meeting either before or after the meeting of the primary or secondary corporation.

By-laws and articles

Penalty notices for breach

The *Community Titles Act 1996*, by section 34, provides that the by-laws may impose a penalty of up to $500 for breach of a by-law. The *Strata Titles Act 1988*, however, does not provide for such penalties. The Bill rectifies this and provides that a higher maximum fine of $2,000 should be available where the scheme includes only non-residential lots. Further, the corporation under either Act will be able to issue a notice requiring a member or occupier to comply with a by-law within a specified time and warning that if this is not done, a penalty will be incurred. If satisfactory action is not taken, the corporation can issue a notice requiring payment of the penalty. The recipient can apply to the Magistrates Court within 60 days for an order that no penalty is payable but otherwise the amount is recoverable as a debt due to the corporation. An unpaid penalty will also be recoverable by the corporation on the sale of the unit, in the same way as unpaid levies.

The Court is empowered to revoke a penalty notice if satisfied that the breach was trifling in the circumstances. The issue of continuing breach has been left to the general law as the question of when continued action or lack of action amounts to a new breach is a complex one that will depend on the particular circumstances.

Corporations should notify tenants before they enter premises to carry out work

A corporation can issue a notice to an owner to carry out work on the owner's unit. If he or she does not, the corporation can arrange for a person to enter the property and carry out the work and can recover the cost from the owner. Although the owner must be given reasonable notice of the proposed entry, there is no requirement for the corporation to notify tenants. The owner ought to notify the tenant, but an owner who has disregarded a notice to carry out work might also disregard the duty to notify the tenant. The Bill amends both the *Community Titles Act 1996* and the *Strata Titles Act 1996* to require a corporation to give written notice to an occupier, before exercising a power of entry to carry out work. It will be sufficient for the corporation to leave the notice, addressed to the occupier, in a mailbox belonging to the unit. Two days' notice will be required, except where urgent action is necessary to avert a risk of death or injury or significant damage to property.

Remedy for discrimination against unit owner

The *Community Titles Act* permits an owner to apply to the Magistrates Court for a remedy if a by-law is made that reduces the value of the unit or unfairly discriminates against the owner. The application must be made within three months of the date this happens or of the date on which the owner should reasonably have found it out. An application can be made only by a person who is an owner at the time the by-law is amended. That is because a person should not be able to complain of a by-law that already existed when he or she bought the unit.

It is common, however, for lots in new community schemes to be bought off the plan. In that case, the buyer does not become the owner for some time after the contract is made. A person who has signed a contract to buy a lot should have the same rights as an owner in respect of a by-law made after the date of contract that reduces the value of a unit or unfairly discriminates against the person. The Bill amends the *Community Titles Act* to that effect.

The *Strata Titles Act* does not provide a similar remedy for the owner of a strata unit if the articles are amended in a way that reduces the value of the unit or unfairly discriminates against that owner. The Bill provides for the same rights under the Strata Titles Act.

Insurance and maintenance of buildings

Under the *Strata Titles Act*, the buildings in a strata scheme are common property and so are insured by the corporation. Under the *Community Titles Act*, however, buildings (other than those divided by a strata plan) are the property of individual lot owners and the responsibility to insure lies with them. The Act compels insurance only where one building provides an easement of shelter or support to another, for instance, where they have a party wall. Even then, the mechanism of compulsion is to make failure to insure a criminal offence. The Act requires these owners to give the corporation a copy of the current certificate of insurance, again on pain of criminal penalty. That does not assist the other owners if, in fact, no insurance has been arranged.

Concerns were expressed some years ago by the Real Estate Institute and some body corporate managers that this approach might not adequately protect owners in community schemes. It is said that many owners would prefer the security of knowing that all the buildings in the scheme are insured and would also like the convenience and economy of dealing with a single insurer through the agency of the corporation. Often, the by-laws of a scheme are drafted so as to permit the corporation to arrange insurance of all the buildings. The validity of this approach seems not to have been challenged.

The members of a community scheme, by majority vote, should be able to agree to insure some or all of the buildings in a community scheme through the agency of the corporation if they wish. Such a vote authorises the corporation to arrange the insurance and to collect the premium from the owners according to their lot entitlements. The Bill amends the Act to make it clear that the by-laws may so provide.

As an added protection, both Acts will be amended to require the agenda for annual general meetings to include presentation of copies of all required insurance policies to encourage annual review of these policies and to impose timeframes for providing evidence of insurance status to the corporation or a unit owner.

Register of owners

The corporation will be required to keep a list of the contact details of the unit owners and make these available to other unit owners on request. This will help a unit owner who is trying to convene a general meeting.

Access to records

The corporation already has a statutory right to require anyone holding its property, including records, to return the property in response to a notice. The Bill introduces two further rights. First, all owners will be entitled to inspect any records of the corporation in the possession or control of the body corporate manager within three business days of a written request. Second, the corporation will be required to send copies of the bank statements of the corporation each quarter to any owner who asks unless a body corporate manager is handling the corporation's money, in which case the manager will be required to send a quarterly financial statement to an owner on request. In the case of a community corporation, accounts for the previous financial year must be presented to each annual general meeting. The Bill stipulates this also for strata corporations.

Time limits are also introduced for the provision of other information. In particular, the corporation will have five business days to provide a statement detailing the financial situation of the corporation and copies of general meeting minutes, most recent statement of accounts and insurance policies. This information is generally sought for prospective purchasers and it is important for the sale process that this information is provided promptly.

Corporation funds: mandatory sinking fund budget

Apart from two-lot corporations, all community corporations must establish a sinking fund for irregular maintenance or capital works and make annual estimates of future spending (section 116 *Community Titles Act*). Contributions to the sinking fund can, however, be set at negligible levels. Under the *Strata Titles Act*, there is no requirement to have a sinking fund or to estimate future spending. The Government is not persuaded that the law should require all strata corporations to establish sinking funds. To improve planning, however, and to encourage such funds, strata and community corporations other than the small groups should have to prepare a forward budget for maintenance and capital works. The Bill provides for compulsory budgets of prescribed duration, up to five years, for groups of various sizes. It is intended that a minimum three year budget (or statement of proposed expenditure) be prescribed for medium sized groups (e.g. of between seven and 20 units) and a minimum five year budget for large groups (e.g. larger than 20 units).

Audit

In the case of community corporations without managers that have more than six lots or collect more than $3,000 income a year, the corporation is obliged to have its accounts audited annually under the current law (s138). There is no corresponding obligation on strata corporations. The Bill will not change this. In New South Wales, audits are not required for corporations of fewer than 100 lots. In the case of small schemes, the sums handled are not likely to be large (probably under $10,000 per year) and the accounts will often be quite simple. Many of the owners will be able to follow these accounts for themselves and the extra cost of an audit would be an unnecessary impost.

In the case of community corporations, it is proposed to retain the requirement but to exempt corporations that collect no more than $10,000 per year, as well as those with no more than six lots and those that are owned wholly by one person. The Bill provides that any owner may apply to the Magistrates' Court for an order requiring an audit. The Court could order that the corporation must pay for the audit. Alternatively, any member could obtain copies of the financial records from the corporation and arrange an audit at his or her own expense and then apply to the Court for reimbursement of the cost from the corporation. This is a safeguard so that if a member has suspicions about the accounts, he or she will be able to have them independently checked, even if the majority of owners is unconcerned.

In the case of audits of the body corporate manager's trust account, the auditor will be required to send a copy of the audit report to the secretary of the corporation rather than simply filing the report in the manager's office as is reported to occur.

Dispute resolution

The *Community Titles Act* provides, by section 142, for an owner to apply to the Magistrates Court for a remedy if prejudiced by the wrongful act of a delegate of the corporation, including a manager, or if he or she claims that the delegate's decision is unreasonable, oppressive or unjust. The Bill includes a corresponding provision in the *Strata Titles Act*.

The Court may, on application, make orders resolving a dispute, including orders:

- requiring a person to provide reports or information
- requiring a person to take action to remedy a default
- requiring a person to refrain from specified further action
- altering the articles or by-laws
- varying or reversing a decision of the corporation or
- giving judgment on a money claim.

Without cutting down the general power to make such orders as are necessary to resolve the dispute, the Bill enables the court to also:

- declare that a vote has been validly or invalidly taken and
- declare that a by-law or article is valid or invalid.

Contracts made while the corporation was controlled by the developer

By section 87(3), once a developer sells even one lot, it loses control of the corporation. The developer is then treated as having the same number of votes as the other owners combined. As it is thought to be common for developers to require that purchasers appoint the developer as a proxy, however, the developer should be treated as controlling the corporation as long has it is in a position to control the corporation using proxy votes that are not subject to written directions on the exercise of the vote. Other examples have been cited of developers including a requirement in the by laws that a corporation must enter into an agreement with a certain service provider. Victoria has addressed the issue by a requirement that the developer act in the interests of the corporation.

This is consistent with the decision of the New South Wales Supreme Court in the case of *Community Association D. P. No. 270180 v Arrow Asset Management Pty Ltd*, handed down on 30 May, 2007. That case confirmed that a developer owes a fiduciary duty to a community corporation by analogy with the duty owed by a promoter to a company. This means that the developer must not act in conflict of interest and must not make secret profits. That decision is persuasive, but not binding, authority in South Australia so the Bill states, for the avoidance of doubt, that a developer stands in a fiduciary relationship with the community corporation or proposed community corporation of the development. Further, without derogating from these general duties, the Bill provides that where corporation intends, during the developer control period, to delegate functions or powers to a body corporate

manager or to enter into a contract for services, the developer must exercise reasonable skill, care and diligence and act in the best interests of the community corporation (as it will be constituted after the developer control period ends).

This approach should deal with the variety of ways in which a developer may prejudice a future body corporate whilst still in control of a new development.

In addition, the Bill gives the Court power to vary or terminate an agreement between a body corporate and a developer, body corporate manager or associate of either where the contract involves a breach of fiduciary duty or other duties under the Act.

Voting and special resolutions

Special resolutions are required for decisions such as changing the by-laws, giving permission for substantial alterations to the buildings or taking out insurance over and above that required by law.

Under the *Strata Titles Act*, a special resolution is passed if two-thirds of all lot holders vote for it at a validly-convened meeting. Thus, in a group of 15 units, at least 10 owners must vote in favour for the resolution to pass. If fewer than 10 owners attend the meeting, the resolution cannot pass, even though the members not attending might have no strong views on the resolution. The *Community Titles Act* takes a different approach. Under that Act, a special resolution is passed if no more than 25% of all lot holders vote against it at a validly-convened meeting. Thus, for example, in a group of 16 units, if nine owners attend the meeting and four of them vote against the resolution, it will pass even though it has the active support of only five of the 16 members. The result is that a special resolution is much more easily achieved under the *Community Titles Act*, because it is not defeated by those who are indifferent but can only be defeated by those who are actively opposed.

A meeting is only validly convened if 14 days' notice has been given to all owners, including notice of the text of the proposed special resolution. That means that anyone concerned about the resolution has his chance to vote.

The Bill amends the *Strata Titles Act* to match the *Community Titles Act* so that a special resolution is more easily achieved, that is, such a resolution could not be defeated by apathy but only by active opposition. The notice of meeting will include a statement that anyone opposed to the resolution should ensure that he or she makes arrangements to vote against it, because it will pass unless at least 25% of units vote against it.

Deposits for off-the-plan sales to be held in trust

Purchasers of units in yet to be constructed developments, who buy 'off-the-plan', pay a deposit. Several other jurisdictions (at least Queensland, Victoria and Western Australia) require off-the-plan vendors to pay all deposits to a stakeholder, such as a lawyer or land agent, who holds the money in trust until the plan is registered. Western Australia's former Strata Titles Referee advised that this provision does not deter development. Developers obtain finance to complete developments by borrowing against the security of the trust funds.

To protect consumers who provide large deposits, the Bill amends the *Community Titles Act 1996* so that developers who sell off-the-plan are required to pay deposits to a solicitor's, conveyancer's or land agent's trust account to be held on trust for the buyer until the plan is deposited and lots created. This is intended to protect the buyer in that the developer cannot spend the deposit, leaving the buyer exposed if the development does not proceed.

Developers' agents often suggest that early starts on new developments are expected, creating an expectation and allaying concerns, whilst developers cover themselves in sale contacts with extended periods, in years, for commencement of projects and include the ability to terminate contracts for lack of sales. Marketing may start before any plan is lodged with the Council. The Bill provides that if no plan has been deposited within the agreed time, required to be prominently set out in the contract for sale, the buyer can rescind the contract and recover the deposit. If an agreed period is not specified prominently in accordance with the prescribed requirements, a default period of six months applies.

First general meeting and voting—associates of developer

By section 79, a general meeting must be convened within three months from the date on which two or more community lots are first owned by different persons. The Bill amends this section to make clear that the developer and an associate of the developer are not 'different persons'. The same principle applies to the value of votes under section 87(3). The value of votes exercisable by the developer and any associates, taken together, is not to exceed the value of the votes of other owners.

Email communications

Both Acts provide for documents to be served by post. Some body corporate managers take the view that all communications with owners must be by post, even when owners wish to receive them by email. The Bill makes it clear that service can be effected by email if the recipient agrees.

Development contract enforcement

Under the *Community Titles Act*, a development contract is required where a community parcel is to be divided in stages or where the scheme description indicates that a developer is (or is likely) to erect buildings or other improvements on the common property. This can include completion of works on common property such as landscaping and fencing common areas. The development contract requires the developer to carry out this further work or development in accordance with the scheme description.

There is no statutory requirement to comply with a development contract (other than where these requirements might also be conditions of development approval). Enforcement therefore relies on owners taking legal action. The *Community Titles Act* provides that a community corporation, or lot owners, may enforce the development contract in a 'court of competent jurisdiction'. Accordingly, this would be either the Magistrates Court or District Court, subject to the monetary limits on the jurisdiction of the Magistrates Court. To minimise the costs for owners to enforce development contracts the Bill amends the *Community Titles Act* to give the community corporation and owner or occupier of a lot the right to apply to the Magistrates Court to enforce a development contract.

It has been brought to the Government's attention that in some cases the works to be completed include basic infrastructure such as access roads and water and electricity connections to the individual lots. There has also recently been a community titled development where the developer became insolvent before satisfactorily completing works on common property.

In ordinary torrens titled subdivisions councils enforce requirements for completion of works such as access roads, landscaping of open space, connection of services, etc as this infrastructure and open space vests in councils on completion. They do this by taking security from developers such as bonds or bank guarantees. The Government is concerned about purchasers of lots in community titled developments being at a comparative disadvantage when it comes to ensuring developers satisfactorily complete works on common property. Councils have expressed some preparedness to play a greater role in enforcing satisfactory completion of infrastructure works on community titled developments and it is intended to explore that option further separately to this Bill.

However, recognising that that may not eventuate, it has been decided to include in this Bill a mechanism to enable requirements to be placed on developers to provide security for fulfilment of their obligations under development contracts. The requirement itself and details of the form of security would be imposed by regulation. This step is taken without having yet explored or consulted on acceptable forms of security, however it is envisaged that this would be either a bank guarantee or a form of insurance similar to the building indemnity insurance that builders must take out to cover owners for the risk that a builder goes bankrupt before completing domestic building work. There is a risk that a workable scheme for providing this security will not be identified and cannot be prescribed. However, this mechanism has been included in the Bill to enable this issue to be dealt with by regulation as soon as investigations and consultation about the provision of security is complete, without needing to return to Parliament with another Bill.

Termination of schemes for redevelopment

Developers have expressed concern about one or two objecting owners impeding a majority of other owners from terminating or amending a strata scheme to redevelop the land (and thereby potentially unlock greater value in the land). Presently it is possible where owners are not unanimous to apply to the Court for an order to terminate a strata or community scheme. It is proposed to make this process more accessible by providing for applications to cancel or amend a strata or community plan to be heard in the Environment, Resources and Development Court rather than the District Court (under the *Community Titles Act*) or the Supreme Court (under the *Strata Titles Act*). Applications to the ERD Court are cheaper and the ERD Court is practised in dealing with applications of a planning nature.

It is also intended to prescribe matters to which the Court should have regard in assessing such an application. Some of the proposed factors intended to be prescribed include the relative percentages of owners for and against cancellation or amendment, the adverse consequences to the minority if the Court grants the application and conversely to the majority if the Court refuses the application and the extent to which these could be ameliorated or alleviated by court-ordered or other action.

Housing Improvement Act

The Bill clarifies the relationship between the *Community Titles Act* and *Strata Titles Act* and the *Housing Improvement Act*, under which a council can require an owner to rectify or demolish a building. The council's powers will apply to buildings that form part of a strata or community titled development, without the need for approval of the works by the corporation.

Strata and community title information service and enforcement

This Bill lays the foundation for the establishment of a dedicated community and strata title information and advice service by providing that the service may be funded from money in the Agents Indemnity Fund administered under the *Land Agents Act* and *Conveyancers Act*. One of the existing purposes of that Fund is to fund education programs about real estate matters for the benefit of members of the public. This is therefore a logical application of that Fund. Similarly, the Bill provides that that Fund can be used to pay for investigation and prosecution of breaches of the community and strata titles legislation and confers power to prosecute breaches of the legislation on the Commissioner for Consumer Affairs.

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 *Community Titles Act 1996*

4—Amendment of section 3—Interpretation

This clause inserts a number of definitions for the purposes of the measure and amends the definitions of *special resolution* and *unanimous resolution* to allow the regulations to prescribe information that must be given in the notice given prior to the resolution.

5—Amendment of section 4—Associates

This clause makes the definition of *associates* have general application (rather than just applying in relation to developers as is currently the case).

6—Amendment of section 34—By-laws

This clause amends section 34 to allow by-laws to authorise or require a community corporation to act as agent for the owners in arranging policies of insurance and to set out a scheme allowing community corporations to enforce their by-laws by serving penalty notices. The maximum penalty that may be imposed by such a notice is $2,000 (for predominantly commercial schemes) and $500 in other cases. A person served with a notice may apply to the Magistrates Court for an order revoking the notice.

7—Amendment of section 35—By-laws may exempt corporation from certain provisions of Act

This is consequential to the amendments in clause 18 and the new definition of *first statutory general meeting*.

8—Amendment of section 37—Restrictions on making of by-laws

This is consequential to the new by-law making power relating to policies of insurance.

9—Amendment of section 38—Certain by-laws may be struck out by Court

This clause makes minor drafting amendments and extends the ability to apply for a by-law to be struck out to a person who has contracted to buy a lot (where currently it is only owners who are able to apply).

10—Amendment of section 47—Development contracts

This clause provides that the regulations may require a developer to provide security of a specified kind to a community corporation in accordance with the regulations in relation to the performance of the developer's obligations for the implementation of the scheme description.

11—Amendment of section 49—Enforcement of development contract

This clause provides for proceedings for enforcement of a development contract to be brought in the Magistrates Court (but with the capacity to transfer the proceedings in appropriate cases).

12—Amendment of section 59—Amendment by order of ERD Court

This clause requires the ERD Court (rather than the District Court) to deal with applications for amendment of a community plan and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

13—Amendment of section 64—Cancellation by Registrar-General or ERD Court

This clause gives the ERD Court (rather than the District Court) power to cancel a deposited community plan.

14—Amendment of section 67—Application to ERD Court

This clause substitutes references to the ERD Court (consequentially to clause 13) and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

15—Amendment of section 69—Cancellation

This is consequential to clause 13.

16—Amendment of section 75—Functions and powers of corporations

This is consequential to clause 17.

17—Insertion of Part 9 Division 1A

This clause proposes to insert a new Division dealing with the delegation of a corporation's functions and powers as outlined below.

Division 1A—Delegations by corporation

78A—Delegation of corporation's functions and powers

This clause provides for a community corporation to delegate its functions or powers to certain other persons by ordinary resolution. This provision is the same as one currently contained within the regulations however it also provides the circumstances in which delegation may be, or is revoked . In the case where a delegation is by contract to a body corporate manager, the delegation is revoked on

termination (see proposed section 78B(4)) or expiry of the contract. In any other case, the delegation may be revoked by the corporation at any time and despite any agreement to the contrary.

78B—Body corporate managers

This clause proposes to regulate the relationship between a community corporation and a person who, in the course of carrying on a business and for remuneration, acts as a delegate of the community corporation (a *body corporate manager*).

It is proposed that a body corporate manager is not entitled to remuneration unless a suitable contract has been entered into with the community corporation, certain information has been provided to the corporation prior to entering into the contract and the body corporate manager maintains appropriate professional indemnity insurance while acting as a body corporate manager.

The clause requires a written contract, containing certain particulars, to be entered into between the body corporate manager and the community corporation at least 5 days after it has been available for inspection by members of the corporation. The clause provides that the community corporation may terminate the contract with at least 28 days notice (or lesser period that may be specified in the contract) if the relevant contract with the body corporate manager has been in force for at least 12 months.

78C—General duties

This clause makes it clear that a body corporate manager stands in a fiduciary relationship with the community corporation and specifies some of the duties of a body corporate manager.

78D—Offences

This proposed clause contains offence provisions that will apply to a delegate of a community corporation. These provisions cover the disclosure of a delegate's direct or indirect pecuniary interests, the provision by a delegate of quarterly financial statements on request, the return of records and property on the revocation of delegations and the availability of records held by a delegate for inspection and provision of a copy.

18—Amendment of section 79—First statutory general meeting

This clause amends section 79 to require the first statutory general meeting of a community corporation to be held after there are at least 2 different members of the community corporation (not including the developer or a person who the developer knows, or ought reasonably to know, is an associate of the developer).

19—Amendment of section 80—Business at first statutory general meeting

This is consequential to clause 18.

20—Amendment of section 81—Convening of general meetings

This clause includes consequential amendments and an amendment to provide that a member may not nominate another person to receive notices of meetings on his or her behalf.

21—Amendment of section 82—Annual general meeting

This clause amends section 82(2) to provide that the annual general meeting of a secondary or tertiary community corporation must be held within 6 months after the commencement of each financial year. Currently this annual general meeting is to be held within one month after the annual general meeting of the primary or secondary corporation of which it is a member (which must be within 3 months after the commencement of each financial year).

22—Amendment of section 83—Procedure at meetings

This clause amends section 83 to allow a person who is a body corporate manager in relation to a corporation, or is an employee of such a body corporate manager, to preside at a meeting of the corporation after a majority vote of those present and entitled to vote. The regulations may make further provision in relation to procedures of a meeting when a body corporate manager presides.

This clause also amends section 83 to provide for a person to attend, and vote, at a meeting by telephone, video-link, Internet connection or any similar means of remote communication, without placing an obligation on the corporation to provide such facilities.

23—Amendment of section 84—Voting at general meetings

This clause amends section 84 in relation to nominations made by an owner of a community lot for another person to vote on his or her behalf. A nomination must be in writing and specify whether it is a general nomination for all meetings and on all matters, or whether it is to be limited to certain meetings or matters (a failure to comply with this provision will invalidate the nomination). A nomination may be subject to any other condition, may only be effective for a maximum period of 12 months and may be revoked at any time by notice in writing to the secretary.

A nomination for a body corporate manager (or employee) to vote on a person's behalf ceases to have effect when the body corporate manager (or employee) ceases to be a body corporate manager in relation to the community corporation.

This clause also provides that an appointment for a person to attend and vote at meetings under a general power of attorney is to be for a maximum period of 12 months unless revoked earlier.

Copies of any nominations or appointments relating to a meeting must be available for inspection at that meeting before any voting occurs.

24—Amendment of section 85—Duty to disclose interest

This clause amends section 85 to require a persons attending and voting, or presiding, at a meeting of a community corporation to declare any direct or indirect pecuniary interest he or she may have in relation to any matter to be voted on at the meeting before the vote is taken.

25—Amendment of section 87—Value of votes cast at general meeting

This clause amends section 87 to take into account the combined voting power of a developer and certain associates of the developer (*prescribed associates*). The aggregate of the votes of the developer and the prescribed associates may not exceed the aggregate of other owners of community lots (if any).

26—Amendment of section 88—Special resolutions—3 lot schemes

This clause amends section 88 so that the regulations may prescribe additional information that must be served along with the proposed resolution under subsection 88(2)(a) for the resolution to be a special resolution of the community corporation.

27—Amendment of section 101—Power to enforce duties of maintenance and repair etc

This clause amends section 101 in relation to power to enter premises of a community corporation to perform maintenance and repair.

It is proposed to require at least 2 days' notice in writing to be given to an owner and to an occupier before the power to enter a lot for maintenance and repair under subsection 101(2) may be used. Currently the requirement is to give the owner reasonable notice.

It is also proposed to include a new provision for the entry into a lot, by an officer of the community corporation or authorised person, if urgent action is needed to avert a risk of death or injury or significant damage to property in order to carry out work that is necessary to deal with that risk. A person who proposes to enter into a lot under this provision must give the owner of the lot such notice as her or she considers appropriate in the circumstances (if any).

28—Amendment of section 102—Alterations and additions in relation to strata schemes

This clause amends section 102 to provide that subsection 102(1) (which limits the circumstances in which prescribed work may be carried out) does not apply to prescribed work carried out in compliance with a direction under section 23 of the *Housing Improvement Act 1940* (which deals with houses declared to be undesirable or unfit for human habitation).

29—Amendment of section 104—Other insurance by community corporation

This clause amends section 104 to require a community corporation (other than a corporation of a kind prescribed by regulation) to maintain fidelity guarantee insurance complying with the requirements prescribed by the regulations. An exemption may be granted by the Minister.

30—Amendment of section 106—Insurance to protect easements

This clause amends section 106 to extend the right to be provided with evidence of insurance to owners, prospective owners, registered mortgagees and prospective mortgagees (where a request is made for such evidence) and to provide that a change to terms and conditions of an insurance policy will also trigger a requirement to provide evidence to the community corporation.

31—Amendment of section 108—Right to inspect policies of insurance

This clause amends section 108 to extend the right to inspect insurance policies to prospective owners and prospective mortgagees and to impose a time limit within which a request to inspect policies must be complied with.

32—Amendment of section 113—Statement of expenditure etc

This clause amends section 113 to include additional information that must be presented by a community corporation to each annual general meeting of the corporation. That additional information is a statement of proposed expenditure (other than recurrent expenditure) for a prescribed period (provided that the regulations cannot prescribe a period of more than 5 years). A community corporation will not be required to update the information every year but new information will be required to be prepared in accordance with the regulations.

33—Amendment of section 126—Keeping of records

This clause amends section 126 to define a time period, namely 5 business days, in which an agent must, at the request of a community corporation, provide the corporation with a statement setting out details of the agent's dealings with the corporation's money. The penalty for a contravention of this provision has been reduced to a maximum of a fine of $500 from $8,000.

34—Amendment of section 127—Audit of trust accounts

This clause amends section 127 to specify that an agent must forward the statement to the secretary of a community corporation.

35—Amendment of section 135—Register of owners of lots

Currently section 135(1) requires a community corporation to maintain a register of the names of the owners of the community lots showing the last known address of each owner. This clause amends section 135(1) to include in that register the last known telephone number and email address of each lot owner and also each owner's lot entitlement.

36—Amendment of section 138—Audit

This clause amends section 138 to provide additional circumstances in which an audit of a community corporation's annual statement of accounts is not required under the Act.

37—Amendment of section 139—Information to be provided by corporation

This clause amends section 139 to require a community corporation to provide information under the section within 5 business days of the application for the information. This amendment also includes additional documents that must be made available for inspection on application by an owner, prospective owner, mortgagee or prospective mortgagee (being any contract entered into with a body corporate manager under proposed section 78B and the register of owners kept under section 135). This amendment also provides for the community corporation to provide an owner of a community or development lot, on application, with statements for all bank accounts maintained by the corporation (unless a body corporate manager maintains the accounts on behalf of the corporation).

38—Amendment of section 141—Persons who may apply for relief

This clause amends section 141 to include a person who has contracted to purchase a community lot in the class of persons who may apply to a court for relief under Part 14 of the Act.

39—Amendment of section 142—Resolution of disputes etc

This clause amends section 142 to expand the powers of a court in relation to dealing with an application under Part 14 of the Act.

40—Insertion of sections 142A and 142B

This clause inserts new sections 142A and 142B.

142A—Holding of deposit and other contract moneys when lot is pre-sold

This proposed clause prohibits the sale of a lot in a proposed community scheme prior to the depositing of a plan of community division in the Lands Titles Office unless any consideration paid by the purchaser prior to the deposit of the plan is paid to, and held of trust by, a legal practitioner, registered agent or registered conveyancer, who must be named in the contract of sale. The contract for sale may be avoided by the purchaser (before the plan of community division is deposited) in the event that this is not complied with or if the proposed plan is not deposited in the Lands Titles Office within an agreed time (which must be specified in the contract in accordance with any prescribed requirements) or 6 months if no time is agreed in accordance with the statutory requirements.

142B—Developer stands in fiduciary relationship with community corporation

This proposed clause clarifies that a developer stands in a fiduciary relationship with the community corporation (or proposed community corporation) and that the duties owed by the developer under this Act are in addition to, and do not derogate from, the duties arising out of that fiduciary relationship.

41—Amendment of section 149A—Applications to Magistrates Court

This clause amends section 149A so that it will not apply to an application under section 49(2).

42—Substitution of section 152

This clause deletes the provision on vicarious liability for management committee members and substitutes a provision allowing for prosecutions to be commenced by the Commissioner for Consumer Affairs, an authorised officer under the *Fair Trading Act 1987* or a person who has the consent of the Minister to commence the prosecution.

43—Amendment of section 155—Service

This clause amends section 155 to provide for the service of a notice under the Act by email if the person receiving the notice consents to service by email.

44—Insertion of section 155A

This clause allows money in the indemnity fund maintained under the *Land Agents Act 1994* to be applied toward the costs of investigations and prosecutions under the *Community Titles Act 1996* and the cost of prescribed advisory services or educational programs.

45—Amendment of section 156—Regulations

This clause amends section 156 to provide for the regulations to assign specified functions to an officer of a community corporation of a specified class.

Part 3—Amendment of *Strata Titles Act 1988*

46—Amendment of section 3—Interpretation

This clause inserts a number of definitions for the purposes of the measure and amends the definition of *special resolution*.

47—Amendment of section 13—Amendment by order of Court

This clause amends section 13 to make the ERD Court the relevant court to hear and determine applications to amend a strata plan and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

48—Amendment of section 17—Cancellation

This clause amends section 17 to make the ERD Court the relevant court to hear and determine applications to cancel a strata plan and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

49—Amendment of section 19—Articles of strata corporation

This clause amends section 19 to provide that the articles of a strata corporation may, by notice, impose a penalty for contravention of, or failure to comply with, any article. The maximum penalty is $2,000 (for predominantly commercial schemes) and $500 in other cases. A person served with a notice may apply to the Magistrates Court for an order revoking the notice.

50—Insertion of section 19A

This clause inserts a new section 19A providing that any articles of a strata corporation may be struck out by order of the Magistrates Court or the District Court if they reduce the value of a unit or unfairly discriminate against a unit holder. A unit holder (including a person who has contracted to purchase a unit) may apply to a court if he or she was a unit holder when the articles came into force and an application must be made within 3 months after the person first knew, or could reasonably be expected to have known, that the articles had been made.

51—Insertion of section 26A

This clause inserts proposed new section 26A that provides a strata corporation can only delegate its functions or powers to the extent permitted by Division 2A (see clause 53).

52—Amendment of section 27—Power to raise money

This clause amends section 27 to provide that a strata corporation may, by ordinary resolution, permit contributions to be paid in instalments and fix (in accordance with the regulations) interest payable in respect of a contribution, or an instalment of a contribution, that is in arrears.

53—Insertion of Part 3 Division 2A

This clause proposes to insert a new Division dealing with the delegation of a corporation's functions and powers as outlined below.

Division 2A—Delegations by strata corporation

27A—Delegation of corporation's functions and powers

This clause provides for a strata corporation to delegate its functions or powers to certain other persons. The clause also provides that a strata corporation may revoke a delegation in certain circumstances. In the case where a delegation is by contract to a body corporate manager the delegation is revoked on termination (see proposed section 27B(4)) or expiry of the contract. In any other case the delegation may be revoked by the corporation at any time and despite any agreement to the contrary.

27B—Body corporate managers

This clause proposes to regulate the relationship between a strata corporation and a person who, in the course of carrying on a business and for remuneration, acts as a delegate of the strata corporation (a *body corporate manager*).

It is proposed that a body corporate manager is not entitled to remuneration unless a suitable contract has been entered into with the strata corporation, unless certain information has been provided to the corporation prior to entering into the contract, and the body corporate manager maintains appropriate professional indemnity insurance while acting as a body corporate manager.

The clause requires a written contract, containing certain particulars, to be entered into between the body corporate manager and the strata corporation at least 5 days after it has been available for inspection by members of the corporation. The clause provides that the strata corporation may terminate the contract with at least 28 days notice (or lesser period that may be specified in the contract) if the relevant contract with the body corporate manager has been in force for at least 12 months.

27C—General duties

This clause makes it clear that a body corporate manager stands in a fiduciary relationship with the strata corporation and specifies some of the duties of a body corporate manager.

27D—Offences

This proposed clause contains offence provisions that will apply to a delegate of a strata corporation. These provisions cover the disclosure of a delegate's direct or indirect pecuniary interests, the provision by a delegate of quarterly financial statements on request, the return of records and property on the revocation of delegations and the availability of records held by a delegate for inspection and provision of a copy.

54—Amendment of section 28—Power to enforce duties of maintenance and repair

This clause amends section 28 in relation to power to enter premises of a strata corporation to perform maintenance and repair.

It is proposed to require at least 2 days' notice in writing to be given to an owner and to an occupier before the power to enter a unit for maintenance and repair under subsection 28(3) may be used. Currently the requirement is to give the owner reasonable notice.

It is proposed to include a new provision for the entry into a unit, by an officer of the strata corporation or authorised person, if urgent action is needed to avert a risk of death or injury or significant damage to property in order to carry out work that is necessary to deal with that risk. A person who proposes to enter into a unit under this proposed provision must give the owner of the unit such notice as her or she considers appropriate in the circumstances (if any).

55—Amendment of section 29—Alterations and additions

This clause amends section 29 to provide that subsection 29(1) (which limits the circumstances in which prescribed work may be carried out) does not apply to prescribed work carried out in compliance with a direction under section 23 of the *Housing Improvement Act 1940* (which deals with houses declared to be undesirable or unfit for human habitation).

56—Amendment of section 31—Other insurance by strata corporation

This clause amends section 31 to require a strata corporation (other than a corporation of a kind prescribed by regulation) to maintain fidelity guarantee insurance complying with the requirements prescribed by the regulations. An exemption may be granted by the Minister.

57—Amendment of section 32—Right of unit holders etc to satisfy themselves as to insurance

This clause imposes a time limit within which a request to inspect insurance policies must be complied with and extends rights under the section to mortgagees and prospective purchasers and mortgagees.

58—Amendment of section 33—Holding of general meetings

This clause amends section 33 in relation to the holding of general meetings in the following ways:

(a) to enable a meeting to be convened by order of the Magistrates Court (on the application of a person of a class specified in section 41AA);

(b) to provide that a unit holder may not nominate another person to receive notices of meetings on his or her behalf;

(c) to require the notice of a meeting to include an agenda for the meeting including those matters listed in the clause;

(d) to allow a person who is a body corporate manager in relation to a corporation, or is an employee of such a body corporate manager, to preside at a meeting of the corporation after a majority vote of those present and entitled to vote. The regulations may make further provision in relation to procedures of a meeting when a body corporate manager presides;

(e) to provide for a person to attend, and vote, at a meeting by telephone, video-link, Internet connection or any similar means of remote communication, without placing an obligation on the corporation to provide such facilities.

59—Insertion of section 33A

This clause proposes to insert section 33A which would require a statement setting out certain specified information be presented by a strata corporation to each annual general meeting of the corporation. The required information includes a statement of proposed expenditure (other than recurrent expenditure) for a prescribed period (provided that the regulations cannot prescribe a period of more than 5 years). A strata corporation will not be required to update the information every year but new information will be required to be prepared in accordance with the regulations.

60—Amendment of section 34—Voting at general meetings

This clause amends section 34 in relation to nominations made by an owner of a strata lot for another person to vote on his or her behalf. A nomination must be in writing to the secretary of the corporation and specify whether it is a general nomination for all meetings and on all matters, or whether it is to be limited to certain meetings or matters (a failure to comply with this provision will invalidate the nomination). A nomination may be subject to any other condition, may only be effective for a maximum period of 12 months and may be revoked at any time by notice in writing to the secretary.

A nomination for a body corporate manager (or employee) to vote on a person's behalf ceases to have effect when the body corporate manager (or employee) ceases to be a body corporate manager in relation to the strata corporation.

The secretary of the corporation must make copies of any nominations in relation to a meeting is available for inspection at that meeting by another person attending and entitled to vote at the meeting.

This clause also provides that an appointment for a person to attend and vote at meetings under a general power of attorney is to be for a maximum period of 12 months unless revoked earlier.

This clause also clarifies that a decision of a corporation in general meeting will be made by ordinary resolution except where otherwise provided in the Act.

61—Insertion of section 34A

This clause inserts a new section 34A to require persons attending and voting, or presiding, at a meeting of a strata corporation to declare any direct or indirect pecuniary interest he or she may have in relation to any matter to be voted on at the meeting before the vote is taken. Additionally a nominee representing a unit holder at a meeting must disclose any such interest to his or her principal prior to the vote taking place or as soon as practicable after.

62—Amendment of section 35—Management committee

This clause clarifies that a decision to appoint a management committee or to remove a member of the management committee is made by ordinary resolution.

63—Amendment of section 36G—Keeping of records

This clause amends section 36G to define a time period, namely 5 business days, in which an agent must, at the request of a strata corporation, provide the corporation with a statement setting out details of the agent's dealings with the corporation's money. The penalty for a contravention of this provision has been reduced to a Division 9 fine from a Division 5 fine.

64—Amendment of section 36H—Audit of trust accounts

This clause amends section 36H to specify that an agent must forward the statement, that is currently required to be lodged with the strata corporation, to the secretary of a strata corporation.

65—Insertion of section 39A

This clause inserts a new section 39A which requires a strata corporation to maintain a register of the names of the unit holders which includes last known contact address, telephone number, email address and unit entitlement.

66—Amendment of section 41—Information to be furnished

This clause amends section 41 to require the information to be provided by a strata corporation under the section to be provided within 5 business days of the application for the information. This amendment also includes additional documents that must be made available for inspection by a strata corporation on application by a unit holder, prospective owner, mortgagee or prospective mortgagee. Those additional documents being any contract entered into with a body corporate manager under proposed section 27B and the register of unit holders kept under proposed section 39A. This amendment also provides for the strata corporation to provide a unit holder, on application, with quarterly statements for all bank accounts maintained by the corporation.

67—Insertion of section 41AA

This clause inserts a new section 41AA that lists the persons who may apply for relief under Part 3A. Those persons are a strata corporation, the owner or occupier of a unit, a person who has contracted to buy a unit and any other person that is bound by the articles of a strata corporation (other than an invitee or visitor).

68—Amendment of section 41A—Resolution of disputes etc

This clause amends section 41A consequentially on the insertion of proposed section 41AA (see clause 67) to refer to an applicant that has standing to apply for relief under Part 3A. The clause also includes additional grounds under which a person may apply for relief and additional orders that a court may make under the Part.

69—Substitution of section 47

This clause removes the current provision on vicarious liability of committee members and inserts a general defence (in the same terms as section 153 of the *Community Titles Act 1996*).

70—Amendment of section 49—Service

This clause amends section 49 to provide for the service of a notice under the Act by email if the person receiving the notice consents to service by email.

71—Amendment of section 50—Proceedings for offences

This clause amends section 50 to allow prosecutions to be commenced by the Commissioner for Consumer Affairs, an authorised officer under the *Fair Trading Act 1987* or a person who has the consent of the Minister to commence the prosecution.

72—Insertion of section 50A

This clause allows money in the indemnity fund maintained under the *Land Agents Act 1994* to be applied toward the costs of investigations and prosecutions under the *Strata Titles Act 1988* and the cost of prescribed advisory services or educational programs.

73—Amendment of section 51—Regulations

This clause amends section 51 to provide for the regulations to assign specified functions to an officer of a strata corporation of a specified class.

Schedule 1—Transitional provisions

1—Delegations made prior to commencement

The transitional provision ensures that delegations made before commencement of the new provisions about body corporate managers will be revocable by the community or strata corporation in accordance with the proposed provisions in the measure.

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

At 21:33 the council adjourned until 29 February 2012 at 14:15.