LEGISLATIVE COUNCIL

Thursday 14 November 2013

The PRESIDENT (Hon. J.M. Gazzola) took the chair at 11:00 and read prayers.

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (11:01): I move:

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

Motion carried.

MOTOR VEHICLES (DRIVER LICENSING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 October 2013.)

The Hon. K.L. VINCENT (11:02): I do not propose to speak at great length about this bill. It relates to a matter that I consider to be of great importance and is a bill I intend to support; however, I felt it important, when presented with the chance to comment upon it, to raise a key issue that I feel must be acknowledged in this area.

The bill seeks to address a serious issue affecting the people that reside in the Anangu Pitjantjatjara Yankunytjatjara (APY) lands in the state's Far North western corner and the Maralinga Tjarutja lands that lie just to the south. To very quickly sum up its provisions, the bill provides for an exemption from some of the conditions for obtaining a driver's license for people living in remote Indigenous communities such as these. It is a hugely important step, as it increases the opportunities for people living in these communities to get a driver's licence and increase their mobility.

The driver's licence conditions have very much been written with an urban population context in mind and in very remote areas, like the APY lands, they are difficult if not impossible to achieve. The creation of these exemptions will, it is hoped, increase mobility and improve road safety by increasing the number of licensed drivers in the area.

From my own trip to the APY lands, I can vividly recall the sides of the roads littered with the wrecks of a great number of cars of all descriptions—twisted, burnt out and half dismantled—that have all been devoured by the very challenging and demanding roads. The abundance of all manner of wildlife and the great distances between communities make travel difficult and quite dangerous. I shall spare you the full anecdote but, last year, my staff and I spent several hours driving back and forth to assist a family that had become stranded with a flat tyre around an hour out of Amata.

The exemptions will initially only apply to a small number of people; however, it is my understanding that the government hopes to expand this in 2014, when it is hoped a road safety education program for the area will begin to be delivered. This is where I fear the danger lies. There is too great a tendency for the temporary to overstay its welcome and become the permanent where the APY lands are concerned. One need only look at the issue of conciliators that recently has been discussed here and elsewhere. For three years, from 2010 to 2013, the minister failed to appoint APY conciliators in accordance with the APY Land Rights Act of 1981, and it is my understanding that nobody has ever been appointed to the equivalent position under the Maralinga Tjarutja Land Rights Act 1984.

I want here and now to put on the record both my hope that this will be a great initiative for the people of the state's remote Indigenous communities and my fear that this could become another great plan half implemented. On this occasion I sincerely hope to be proved wrong, and I hope the minister will be able to provide some reassuring comment in that regard in his summing up. With those words, I support the bill on behalf of Dignity for Disability and commend it to the council.

The Hon. T.J. STEPHENS (11:06): I rise on behalf of the opposition to speak on this bill. As outlined previously by the Minister for Aboriginal Affairs and Reconciliation, this bill amends the

Motor Vehicles Act to enable the minister to exempt remote Aboriginal communities, initially the APY and MT peoples, from the onerous licensing regulations.

The opposition believes this to be common-sense legislation. It is quite obvious that in remote communities the ability to meet licensing conditions to the letter of the Motor Vehicles Act is almost impossible. In remote communities there are very few, if any, driving instructors, limited access to roadworthy vehicles and limited access to fully-licensed supervising drivers for learners in order for them to complete the 75 driving hours, not to mention the literacy issues that prevent access to information or accurate completion of the logbook.

Given the difficulties just mentioned, it is no wonder that only 17 per cent of Aboriginal people living on the lands hold a current driver's licence. This leads to many driving unlicensed in order to get around the vast homelands, and a spiral of criminality ensues. These people are then fined for driving unlicensed and, after failing to pay fines, many wind up in gaol. As honourable members know, with a criminal conviction and a prison sentence, future employment becomes difficult to obtain. We do not wish to see this continue. These people should not be considered criminals purely as a result of their geographical challenges.

The minister indicated that he has capacity to prescribe other areas for exemption, and this is welcomed. From a personal perspective I know that non-Aboriginal people living in remote areas, cattle stations and the like, would also find it difficult to meet the specific requirements outlined by the current act, so perhaps that is something the government can look at in the future.

Finally, I indicate that I will be moving an amendment to legislate the need for exempted drivers to undertake an intensive driver training course and pass driver competency. I understand the government wants these details to be the realm of the minister; however, we believe it is important that it be legislated. I commend the minister and the department. There are many brickbats thrown about in Aboriginal affairs, and even in this particular instance there are many reasons why we could say that this is too hard. If we are going to make meaningful differences, especially on the APY lands, sometimes we have to take a risk and perhaps put ourselves out there.

I commend the minister and his advisers in particular on this issue because it does show a reasonable amount of courage. I also thank other members in this place for their support, because it is very easy to find reasons not to do things. My experience from travelling to the lands is that not enough happens, because there are always too many reasons why we cannot get something done, and not enough reasons why we can. The opposition will support the second reading of this bill, and I look forward to moving my amendment in committee.

The Hon. T.A. FRANKS (11:09): I rise on behalf of the Greens very briefly to say that we fully support the bill before us. Certainly, Anangu Pitjantjatjara Yankunytjatjara and Maralinga Tjarutja people face particular hurdles in regard to driver licensing that have compounding effects, leading to their contact with the criminal justice system, as has been mentioned by previous speakers—unnecessarily so. I have heard time and time again, through my membership of the Aboriginal Lands Parliamentary Standing Committee, ridiculous stories about how even when an Anangu person qualifies for a driver's licence there is nowhere to pay for it. It is not as though half the time there is a post office on the corner or even a working phone, let alone a local Services SA office.

That vicious cycle leads to those people, even with the best of intentions and doing the best they can, falling foul of the law and precludes them from the ability to hold jobs that often requires a driver's licence. That is one of the things I wanted to quickly raise. I believe this will also have a very positive effect on the ability of Anangu to get those jobs that require a driver's licence.

With that, I echo the sentiments, particularly of the Hon. Terry Stephens, that it is always far too easy to find ways to say no to something like this. I know that for many years people have been saying no to this particular idea before us, and I commend the minister for finally getting it into this council. I also acknowledge the work of people like Judge McCusker from the Palya foundation, who met with me many years ago on this issue, but so many more have lobbied me about this issue. I think it will change lives and have a really positive effect. With that, I look forward to its speedy passage.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:11): I would like to thank all honourable members for their words of support for the bill; I am very heartened. As the Hon. Mr Stephens said, only 17 per cent of eligible Aboriginal people living

on the APY lands hold a valid driver's licence, compared with approximately 90 per cent of eligible people in the rest of the state. Such a differential demands the special measure that this bill provides, although I do understand that it has been a hurdle that not many people have wanted to jump in the past.

This bill will enable the Minister for Road Safety to issue exemptions to Anangu living in remote communities in both the APY and MT lands from requirements of the Motor Vehicles Act regarding eligibility for and the granting of a learner's permit or driver's licence. The bill provides a mechanism that will be supported by policy to assist Aboriginal residents of the lands to overcome barriers to both entering that licensing system and retaining their licence. Driver licensing offences and penalties and disqualifications will continue to apply to drivers once licensed in the same way they apply to any other driver.

A case management approach will be used to assist Aboriginal residents on the lands to work through the complex licensing process, and it is anticipated that in 2014 a road safety education and intensive driver training program will be established for those persons whose personal circumstances require it.

It is envisaged that community support for parents and other community members will be provided during the intensive driver training program to help the local community understand the requirements of the licensing system and support participants in the driver training program. Subject to a successful completion of the program, participants would benefit from exemptions that would enable them to obtain a driver's licence, either provisional or full, depending on their age. The exemptions could also be used to reduce the number of supervised driving hours a learner driver is required to obtain before progressing to a provisional licence.

I would like to take this opportunity to thank the trustees of the Palya Fund and to acknowledge their advocacy on behalf of senior Anangu in support of this bill. In particular, I would like make special mention of the Hon. Dr John Bannon AO, Judge Peter McCusker and Elizabeth Tregenza. These people work diligently and tirelessly in support of the economic community and cultural wellbeing of Anangu, and it is a fact that this bill would not be in its current form were it not for the partnership the government has with the Palya Fund. I would also like to thank most sincerely minister O'Brien and his staff in the other place and my long-suffering adviser, Shane Webster, for shepherding this bill through these processes that have taken so long to get it to the chamber.

It is anticipated that this bill will have a significant positive impact on remote Aboriginal communities by enabling more community members to obtain licences. In turn, this will enable them to take advantage of employment opportunities, to more easily access health care facilities off the lands, to access social, sporting and community events and, of course, I am confident that it will also save lives. I commend the bill to the house.

Bill read a second time.

In committee.

Clause 1.

The Hon. T.J. STEPHENS: One of the points I did not mention in my second reading speech—and it is something I hope the minister and his department will take on board—is that one of my real concerns with the APY lands is the lack of community constables. I would love to see, with this measure we are going to implement today, that we bear in mind those younger people who show some interest in coming through the system whom we could encourage to become community constables and help with policing on the lands. I also think that that is an incredibly difficult point.

One of the things I am really attracted to with this bill is that so many good people have been ruled out in the past because they have been caught up in this treadmill of not having a licence but having to get around. If we could show consideration—almost some priority—to identify those young people who could head down that career path, have meaningful work on the lands and help us get better outcomes on the lands, I would really like your department and yourself to take that on board if possible.

The Hon. I.K. HUNTER: The Hon. Mr Stephens makes some very good points and I would have to heartily concur with him. I think this opens up the opportunity for some of those success stories that have been lacking in the past to happen. Having a driver's licence is fundamental to so many aspects of our lives, and it is no different on the lands. Not having a

licence places so many impediments in front of young people, so I concur with the Hon. Mr Stephens' point of view.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. T.J. STEPHENS: I move:

Amendment No 1 [T Stephens–1]—

Page 2, after line 18 [inserted section 98AAG]—After subsection (1) insert:

(1a) In addition to any conditions imposed by the Minister under subsection (1), an exemption will be subject to a condition that the holder of the exemption must, in accordance with any directions of the Minister specified in the instrument or notice of exemption—

(a) undertake an intensive driver training course; and

(b) pass a test in driver competency,

approved by the Minister for the purposes of this section.

We consistently would prefer decisions taken by legislation as against regulation. I had discussions with the government's advisers, and I thank them for their time and effort in regard to that. They have certainly put their position. I still move the amendment standing in my name. I understand that the government is prepared to support part, but not the other part. I have diligently had discussions with my crossbench colleagues and understand where they are coming from. We are reasonably comfortable with what I suspect will be the outcome, so I have moved the amendment standing in my name and we will see where it goes from here.

The Hon. I.K. HUNTER: I must admit I am a little bit torn because my initial view was to oppose the amendments by the Hon. Mr Stephens, and I will go through why I think they should be opposed in a moment. I do understand the motivation behind the amendments, but my fear is that they will, in fact, put up roadblocks (forgive the pun) or blockages into the core intent of the bill, and that is my concern. I might think on my feet, while I am going through the process, as to whether I will move an amendment to Mr Stephens' amendment or ask the committee to oppose it outright.

The government opposes the amendment as it currently stands. The bill, as drafted, allows flexibility in its administration to adapt to the many different circumstances that might arise in the lands. The outcomes this bill seeks to achieve rely on it being constructed in partnership with Anangu in a way that is responsive to the challenges that present themselves in remote communities. The Hon. Mr Stephen's amendment does not allow the minister this flexibility. For example, the amendment mandates participation in an intensive driving course. This could potentially create problems. It would restrict the minister in assisting Anangu who may not be able to travel to an intensive driver training course for whatever reason, family or others, but also prevent experienced Anangu drivers—and I think that this is a more germane criticism—who have previously held a licence but who have since fallen out of the system to benefit from the exemption without the inconvenience and the expense of participating in a training course which for them is unnecessary.

Further, it would prevent the power being used to assist learner drivers who find it impossible to get 75 hours of driving experience but who do not need a course at this stage of the learning process because they must be accompanied by a qualified supervising driver who can provide direction. Requiring an intensive driver training course (and that is mandating it in the amendment of the Hon. Mr Stephens) does not allow the flexibility of delivering training in a more cost-effective way, for example, over a longer period of time.

Additionally, it is anticipated that the development of an intensive driver training course will take some time because it will be necessary to consult the Anangu about the structure and delivery of the course and to go through appropriate tendering and procurement processes to obtain a provider for the course. This will prevent the exemption panel being used immediately to assist Anangu people already identified as needing its assistance, and that is also a significant concern. As the Hon. Ms Franks said, this is taking too long to deliver. I fear that having to put together a mandated driver training course, with all of the difficulties that are involved up on the lands, and most of us know what they are, puts another impediment in the way of the success this bill is trying to achieve.

The other aspect of the amendment is a requirement for a driver benefiting from the exemption to pass a test in driver competency, and that is an unnecessary restriction on the operational flexibility required to deliver the intended benefits to Anangu on the lands. It would mean that, whatever the nature of the exemption, the driver would be required to sit a competency test. In the case of an exemption from the requirement for a learner driver to have 75 hours of driving experience with a qualified supervising driver, provided on the condition that the driver completed 35 hours, the learner driver would need to pass the existing driver competency test required to obtain a provisional licence. So, there is no purpose to be served in requiring the learner to sit an additional driver competency test only because they benefited from the exemption because they have already sat one. The Minister for Road Safety, who will be granting the exemptions, will ensure that they are subject to conditions that will ensure road safety for the driver and the wider community.

The difficulties of providing services in these remote areas and the variations in age, stage in the licensing system and driving experience of the Anangu people who might benefit from the exemption's power make it essential for the bill to retain maximum flexibility. As most of us know, to accomplish anything on the lands, you have to be incredibly flexible. Without this, it will be less effective, I fear, in providing the anticipated benefits of increasing the number of licensed drivers on the lands and the flow-on of increased access to employment and health and other facilities that we spoke about during the second reading stage. I have only just made up my mind now, but I think that for those reasons I will ask the committee to oppose the amendment by the Hon. Mr Stephens. I think that it does constrain the impact and the effect of the bill in too serious a way.

The Hon. T.J. STEPHENS: Thank you for that explanation, minister. This is going to be a work in progress. I think that there is a terrific amount of goodwill in this chamber, in particular, to try to make this work. I have moved my amendment, and I stand by it, but this is going to be a work in progress.

Regardless of the outcome of the next election, I am hoping that we have a minister for Aboriginal affairs and a minister for road safety who are genuinely prepared to give this a go. We may well be back in this chamber talking about the need to tweak this but, again, if we tried to get everything exact and perfect with this bill, we would never progress. You could find many, many reasons to be conservative and to take a very careful approach, and this is pretty bold. I accept the minister's argument; I do not necessarily agree with. I know that we are going to monitor this and work constructively together as a group to try to get a really good outcome.

The Hon. T.A. FRANKS: I rise on behalf of the Greens to indicate that we are not attracted to the opposition's amendment. I imagine it is a well-intentioned amendment, but I fear it is one of those one size fits all approaches, which is, indeed, the barrier in the first place here. It may well work in regional South Australia to impose these particular conditions, but I can already see that the requirements are just not viable in remote areas, and what we are talking about are the most remote parts of our state here, with the APY and the Maralinga Tjarutja lands. For those reasons, we will not be supporting the opposition's amendment.

Amendment negatived; clause passed.

Title passed.

Bill reported without amendment.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:26): I move:

That this bill be now read a third time.

I again thank all honourable members. I thank the Greens Party, Dignity for Disability and the Liberals for working with us in a multipartisan way to get a bill which I think will have a very real impact on the lives of people on the lands.

Bill read a third time and passed.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 November 2013.)

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (11:27): I thank honourable members for their contributions to the second reading of this bill. The health and prosperity of all South Australians depends on the health of our environment. The health of our environment is contingent upon our landscapes and our biodiversity also being in good condition. The Native Vegetation Act 1991 has a key role in protecting our environment through controlling the clearance of significant native vegetation in this state and ensuring that, where clearance occurs to support economic development, the loss of biodiversity is offset by a significant environmental benefit.

This bill proposes several amendments to help in achieving this central purpose of protecting our environment. It seeks to increase flexibility in the delivery of significant environmental benefit offsets for vegetation clearance. It proposes to provide more flexibility for the delivery of significant environmental benefit offsets, including providing for offsets to be delivered where they are most needed, including outside of the region of the original clearance and enabling a credit to be registered against future requirements for offsets. The bill seeks to add new expertise to the Native Vegetation Council and update evidentiary provisions to reflect modern technology. It also seeks to clarify that offences constituted under the Native Vegetation Act 1991 lie within the criminal jurisdiction of the Environment, Resources and Development Court.

I note that the Hon. Michelle Lensink MLC has asked a number of questions in her second reading contribution regarding the formula for determining the value of native vegetation. Under the Native Vegetation Act and the Native Vegetation Regulations, authorised clearance of native vegetation in South Australia is generally required to be offset by a significant environmental benefit—for example, under section 28 of the act—although it is not required for a number of regulations, such as clearance for safety purposes. A significant environmental benefit is not defined in the act, it is to the satisfaction of the Native Vegetation Council. The act does, however, specify that the significant environmental benefit may take the form of the establishment and management of vegetation, improved management of native vegetation, protection via a heritage agreement or payment into the Native Vegetation Fund. It is important to note that all moneys paid into the Native Vegetation Fund to meet significant environmental benefit requirements are used to deliver on-ground restoration projects as specified in the act. This is via the Significant Environmental Benefit Grants scheme.

The Native Vegetation Council has determined policies to provide a degree of consistency in determining clearance matters. The Native Vegetation Council has been reviewing the policies relating to significant environmental benefit offsets and the way in which the significant environmental benefit requirement is calculated. This initiative forms the significant environmental benefit metrics review. I can confirm for the Hon. Michelle Lensink that this is indeed not the subject of this legislation. This review is required to improve the consistency of how significant environmental benefit offsets are determined, to provide greater clarity for clearance applicants and delegates of the Native Vegetation Council regarding the process and to ensure that South Australia's native vegetation offsetting approach keeps pace with national and international standards.

A consultation process has been running through 2013 on the significant environmental benefit metrics review. This consultation has been with government stakeholders and peak representative bodies, including environmental non-government organisations, the South Australian Chamber of Mines and Energy, Primary Producers SA and the Local Government Association.

I am advised that it has been generally acknowledged that the current method for calculating payments to the Native Vegetation Fund in place of an on-ground offset is problematic. This policy relies on a formula to determine what the payment into the Native Vegetation Fund should be in lieu of an on-ground offset. The existing formula for a payment in lieu of on-ground work is: the area of the offset multiplied by the local council non-residential land value, added to the clearance area multiplied by $800.

As part of the consultation process a figure of $5,000 per year was proposed to cover the active management of a hectare of native vegetation over a 10-year period, giving a one-off cost of $50,000 per hectare. I am advised that this figure includes components such as the development of an initial management plan, fencing and control of pest plants and animals. I am further advised that the reaction to this figure, which has been put forward as an aid to discussion, has been somewhat mixed.

Taking into consideration the feedback to date, and consistent with the Better Together approach of this government, further consultation will include a series of regional workshops to achieve an understanding of all issues and seek input, suggestions and formal feedback from the relevant stakeholders with the goal of progressing towards an improved system. These workshops will run from November 2013 through to February 2014. They will include local government, the South Australian Chamber of Mines and Energy, DMITRE, Primary Producers SA and Natural Resources Management boards.

No policy decision has been made as yet and that is why the Native Vegetation Council is currently going through a consultation process to seek appropriate feedback and input to developing policy that is practical, acceptable to the community and achieves sustainability for the long term. I am also happy to reconfirm that the bill does not seek to alter the calculation of the significant environmental benefit figure.

In closing, I would like to reiterate that these amendments will strengthen landscape approaches to biodiversity conservation in the state and support economic development by providing improved flexibility for business. I would like to also thank my staff in my department. This has been a bill long in gestation. I have another long-suffering adviser who has been working very closely with this bill: Holly. Well done, and thank you for getting me through this process. I look forward to the bill passing, with some amendments.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.L. BROKENSHIRE: To advise you, Mr Chairman, and my colleagues, the Hon. Ann Bressington has filed some amendments and is unwell. She has sent a message asking if I would take her amendments through for her, so I will do that.

Clause passed.

Clauses 2 to 5 passed.

New clause 5A.

The Hon. J.M.A. LENSINK: I move:

Amendment No 1 [Lensink–2]—

Page 3, after line 29—After clause 5 insert:

5A—Insertion of section 4A

After section 4 insert:

4A—Interaction with *Fire and Emergency Services Act 2005*

In the event of an inconsistency between this Act and the *Fire and Emergency Services Act 2005*, the *Fire and Emergency Services Act 2005* will prevail to the extent of the inconsistency.

As honourable members would know from my speech, I indicated that we had a couple of new amendments so there is a second set which is a consolidated set which has been filed. This amendment will insert into the act a new section 4A. The purpose of this is to clarify that if there is inconsistency between the Native Vegetation Act and the Fire and Emergency Services Act, the latter will prevail. This is to ensure that in matters where there may be conflicts between the acts, the safety of human life must take precedence over the preservation of native vegetation.

The Hon. I.K. HUNTER: The government is happy to accept the amendment as it basically outlines the current course that pertains, so for those reasons we accept the amendment.

New clause inserted.

New clause 5A.

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

Amendment No 1 [Bressington–1]—New clause

Page 3, after line 29—Insert:

5A—Insertion of Part 1A

After section 5 insert:

Part 1A—Duty not to increase fire risk

5A—Duty not to increase fire risk

(1) A person who is engaged in the administration, operation or enforcement of this Act must not—

(a) perform a function, or exercise a power, in a manner; or

(b) take action, or require another person to take action,

that would substantially increase the risk or severity of fire on particular land.

(2) Despite section 30 of the *Acts Interpretation Act 1915*, the mandatory penalty for an offence against subsection (1) is a fine of $5,000.

(3) In proceedings for an offence against subsection (1), it is a defence for the defendant to prove that he or she did not know, and could not reasonably have been expected to have known, that the performance of the function or exercise of the power, or action taken or required, that is the subject of the charge would substantially increase the risk or severity of fire on the relevant land.

(4) The mandatory penalty prescribed by subsection (2) cannot be reduced or mitigated in any way or be substituted by any other penalty or sentence.

This amendment puts an overarching duty into the act that native vegetation authorities must not increase the risk or severity of fire on particular land. There is no clarity on what 'particular land' means so I assume it means all land, and it makes it a $5,000 fine offence for heightening the fire risk. There are also defence provisions in the wording.

The Hon. I.K. HUNTER: To assist the committee, I might indicate that the government will be opposing all Bressington amendments and, dependent on what the opposition determines for its position as well, that might save us some time and deliberation. However, in terms of this amendment, the government opposes it, of course.

The government has taken significant steps to mitigate the risk and danger of bushfires at the interface between native vegetation and human activity. There are already requirements in place under the Fire and Emergency Services Act 2005 for landowners and managers to mitigate the risk or occurrence of bushfire on their properties and the amendments made to the Native Vegetation Regulations in 2009, i.e. the introduction of regulation 5A, facilitate a landowner or manager to do so.

The responsibility in managing a property for bushfire risk is not confined to simply removing native vegetation from a property: it is about managing all flammable material, including weeds or non-native species, and this is an issue for determination by those with the relevant expertise, who we suggest is the South Australian Country Fire Service.

The Hon. J.M.A. LENSINK: The Liberal opposition will not be supporting this amendment because we think that the grounds exist that there is a general duty of care not to act in a malicious or negligent manner and therefore this amendment would be redundant, for want of a better word. We also will not be supporting any of the other amendments of the Hon. Ann Bressington, but I think it would be useful to put our comments on the record to provide the honourable member with an explanation at each of those junctures.

The Hon. R.L. BROKENSHIRE: I could not quite hear the minister. Did the minister say that not only would he not be supporting the Bressington amendments but he would not be supporting the Liberals amendments?

The Hon. I.K. HUNTER: No, that is not the case. I have already supported amendments in the name of the Hon. Michelle Lensink, and I will be supporting more. I am just giving an indication to the chamber that none of the Hon. Ann Bressington's amendments will be supported by the government.

The Hon. R.L. BROKENSHIRE: Based on the minister's overview, that everything is in hand when it comes to legislation regarding property owners, including the Crown, cleaning up and protecting their land from the point of view of bushfires, I will just put on the public record that the minister may want to have an urgent talk to his cabinet, because you only have to drive to Port Wakefield or up to Willunga Hill to see two examples of where the government has done diddly squat in bushfire prevention thus far. It all starts in a big way on 1 December.

New clause negatived.

Clause 6.

The Hon. J.M.A. LENSINK: I move:

Amendment No 2 [Lensink–2]—

Page 3, lines 30 to 36—This clause will be opposed

I will just explain this amendment. The Native Vegetation Act obviously falls under the list of acts committed to the Minister for Sustainability, Environment and Conservation. It has quite a degree of independence in that it has the Native Vegetation Council, which is responsible for making decisions and hearing appeals in the first instance.

The act, as I understand it, is currently silent as to whether the minister may intervene in relation to certain matters. The Liberal Party thinks that it is useful for the act to continue to not explicitly outline that the government may not direct the Native Vegetation Council in respect of certain matters. So, for those reasons, I endorse this amendment to the council.

The Hon. I.K. HUNTER: The intent of the new section, which the Hon. Ms Lensink wishes to delete, was to provide the minister with the capacity to set the general direction for the Native Vegetation Council, but would not allow directions to be given in relation to specific decisions, advice or recommendations that the council may make. The government believes that that is a sensible provision; however, I have listened to the concerns of the Hon. Michelle Lensink in our conversations and have decided, on balance, to accept her amendment.

Clause negatived.

Clause 7.

The CHAIR: There are multiple amendments to clause 7, so I am just trying to work through them.

The Hon. I.K. HUNTER: We could make things a little bit easier for the Chair.

The CHAIR: Why didn't you say that in the first place?

The Hon. I.K. HUNTER: I will make a few comments, if I could.

The CHAIR: Minister, make things easier for me.

The Hon. I.K. HUNTER: There are a number of amendments in place to section 8—Membership of the Council. What I will be doing is proposing my amendment, which effectively takes into consideration amendments that the Hon. Michelle Lensink was to move: amendments [Lensink-2] 3 and [Lensink-2] 4. My amendment will incorporate elements of hers, and I hope that they will be acceptable to the Liberals and, therefore, she will not need to move her own. We will be accepting amendment No. 1 from Mr Darley and opposing the amendments in the name of Mr Brokenshire.

The Hon. J.M.A. LENSINK: The minister is correct, and if I could just explain: we had some amendments that were filed previously, and they were to increase the membership of the Native Vegetation Council to include a representative from SACOME. We think it is important that the mining sector has a voice on the Native Vegetation Council, because it is increasingly one of the key stakeholders in this issue. The model I put up was to increase the membership of the Native Vegetation Council from seven to eight.

The minister had an amendment which would substitute a former commonwealth appointment with a person from the development community, and I understand his amendment will incorporate both of those, so it will be one from either/or sector. I still think both deserve some representation, but in the interests of reaching some compromise so that we can progress this bill, we are happy to accept the minister's amendments.

The Hon. R.L. BROKENSHIRE: I hear what the minister is saying. I put on the public record that, whilst each minister has the right to make their own decisions, the former minister did, when the bill was hanging around before (it is quite an old bill), indicate that the government would support my amendment regarding the CFS chief coming on. I ask the minister why he is deciding to approve, rather than the CFS chief, someone from SACOME?

The Hon. J.M.A. Lensink: No, it's not. It's not what I said. You should read his amendment.

The Hon. I.K. Hunter: I'll answer it.

The Hon. R.L. BROKENSHIRE: Alright, if you can answer it, and the second thing, before you get on your feet (as I would hate to think I was getting you up and down all morning): can you explain why the government will not, just from a housekeeping viewpoint, support removing SAFF and putting on PPSA, because SAFF is no longer an organisation—it is now PPSA?

The Hon. I.K. HUNTER: I think I can make the Hon. Mr Brokenshire happy on both counts. I move:

Amendment No 1 [SusEnvCons–4]—

Page 4, lines 1 to 4—Delete clause 7 and substitute:

7—Amendment of section 8—Membership of Council

(1) Section 8(1)(b)—delete 'the South Australian Farmers Federation Incorporated' and substitute:

Primary Producers SA Incorporated

(2) Section 8(1)(f)—delete paragraph (f) and substitute:

(f) 1 must be a person with extensive knowledge of, and experience in, planning, development or mining nominated by the Minister; and

(3) Section 8(3)—delete 'the South Australian Farmers Federation Incorporated' and substitute:

Primary Producers SA Incorporated

This amendment deletes clause 7 of the bill. It does two things: first, it recognises a change from what is now Primary Producers SA Incorporated and updates the act to recognise that change. Secondly, it alters the criteria for replacement of the member of the Native Vegetation Council nominated by the commonwealth government. In 2006 the commonwealth minister for the environment advised the then South Australian minister for environment and conservation that the commonwealth no longer wished to provide a nomination for the Native Vegetation Council. This clause replaces that member with a person with extensive knowledge of and experience in planning, development or mining, as nominated by the minister, with the responsibility for the Native Vegetation Act. This amendment includes mining in the criteria proposed by the bill.

In making this amendment the government has had regard to the amendments proposed by the Hon. Ms Lensink in respect to Native Vegetation Council membership. Planning, development or mining expertise is considered relevant to this policy role of the council, and a significant amount of authorised clearance is a result of development and mining. This clause allows for the nomination of persons from any sector, provided that nominees have the appropriate expertise. The appointment is made by the minister responsible for the act.

In relation to the CFS, we will come to that in again in relation to further amendments from the Hon. Mr Brokenshire. My advice is that the CFS is very comfortable with its observer's position and does not want to be a member of the committee.

The Hon. M. PARNELL: The provisions in section 8 for the membership of the council are a mixture of quasi representation and qualification base. You have a number of bodies that are entitled to nominate panels of people from which the government chooses one that it is happy to go on. That is the situation with what was the farmers federation and will now be primary producers, the Conservation Council, the NRM Council and also the Local Government Association. Those four bodies get to put three names forward, and the minister chooses a person from the list of three.

You then have the clause now being proposed to be replaced, which is a person nominated by the commonwealth minister for the environment. It would come as no surprise to anyone that, even before the change of government, the commonwealth has zero interest in being on this Native Vegetation Council for the state. Given what the federal government is currently doing, in trying to divest itself of all environmental responsibility, I think it is even more the case now than it was when these provisions were first drafted.

Then we get down to the final two positions on the board. The existing paragraph (g) talks about 'a person with extensive knowledge of and experience in the preservation and management of native vegetation nominated by the minister'. Now, that person could be a miner. It could be someone who works for Santos or BHP in their environmental section whose job it is to store topsoil, to make sure that revegetation and rehabilitation programs are undertaken properly or to manage the environmental impact of their exploration activities. The existing (g)—if the minister

really wants a miner to be on the Native Vegetation Council—enables it to do it. The Hon. Michelle Lensink's amendment basically particularly identifies mining and seeks to put—

The Hon. J.M.A. Lensink: I won't be moving it.

The Hon. M. PARNELL: No, I know. Sorry, the Hon. Michelle Lensink is not moving hers but I am just trying to work out where we are going with this and what the outcome might be for the composition of the council. The Hon. Michelle Lensink had flagged that a miner would be appropriate. The government's compromise is this new paragraph (f):

> 1 must be a person with extensive knowledge of, and experience in, planning, development or mining...

They are three potentially unrelated fields and the words are vague enough so that effectively anyone that the government wants to appoint could be appointed. I am not sure we get a whole lot of value out of that.

From the Greens' perspective, we would not have thought that having an identified mining person—they would say it is 'expert'—is of great value to the Native Vegetation Council. We can see that a person with experience in planning, if those skills did not already exist on the council, might add value. Development—again, what does it mean?

It seems to me that in the quest for a compromise we have planners, developers and miners lumped in to a new paragraph (f) with the people under (g) who are people who just have to know a bit about native vegetation anyway. At the end of the day, let's not kid ourselves, the government is going to appoint to this Native Vegetation Council who it wants to appoint, and they will be made to fit into one of these categories without too much grief.

We are not going to oppose the amendment—I can see how it has been developed—but I do want to put on the record that we do not see any particular value in having a nominated mining expert put into the Native Vegetation Council. We do not think that that criteria adds value. That is not to say that there are not people involved in mining who might not be appropriate to put on, but pulling that one out, identifying it as a particular category of expertise I do not think adds value to the council.

The Hon. J.M.A. LENSINK: The honourable member is probably aware of this anyway because I know he understands how to interpret legislation, bills and so forth fairly well. The government has compromised to include mining because the original clause referred to planning and development. I cannot see—and this is probably just a comment probably in response more than anything—how mining is any less legitimate than having primary industries or development on there. There is extensive exploration in areas of the West Coast and Far North and so forth.

I don't want to be political here, Mark, I am sorry, but we know that the Greens will take every opportunity to put roadblocks and difficulties in the way of the mining sector in this state. However, quite frankly, you have to work with industry and it needs to have a place at the table. You cannot just exclude them from things and hope that the state is going to progress. With those comments, I thank the minister for incorporating the compromise.

My interpretation of clause (g) of the membership of the council would be that that person would be more likely, if they are an expert, to be in favour of the retention of native vegetation and understand the complexity of it rather than someone who wants to bulldoze it all.

The Hon. I.K. HUNTER: Chairman, in a further attempt to assist you, I have sought advice on how to proceed with this raft of amendments. I seek leave of the committee to move the amendment in amended form, as follows:

> New proposed clause 7(2)—Insert after 'Minister' the words 'after consultation with the Minister for Planning'.

That will bring into effect the amendment in the name of Mr Darley without him needing to move it. And also:

> Insert new subclause (4), which reads:
>
> (4) Section 8, after subsection (7)—insert:
>
> (8) In this section 'Minister for Planning' means the minister who has the portfolio responsibility for urban and regional planning within the state.

Thus, in one move, I have incorporated amendments in the name of Ms Lensink and Mr Darley and the government.

The CHAIR: The Hon. Mr Darley, do you accept that?

The Hon. J.A. DARLEY: In view of the minister's comments, I will not be moving my amendment.

The CHAIR: The Hon. Mr Brokenshire, you still have an amendment.

The Hon. R.L. BROKENSHIRE: In view of obviously an arrangement between the two big machines in this chamber on this occasion, similar to NRM where we saw the same thing, I will be withdrawing my amendment and the consequential amendments to save some time.

Amendment as amended carried; clause as amended passed.

Clause 8.

The Hon. R.L. BROKENSHIRE: Amendment No. 2 [Brokenshire-1] is consequential and I have foreshadowed withdrawing anything consequential to my original amendment on the membership of the council. I withdraw anything that is consequential.

Clause passed.

The CHAIR: Hon. Mr Brokenshire, you have a new clause to insert. Can you indicate whether you view that as consequential?

The Hon. R.L. BROKENSHIRE: It is a consequential amendment, I withdraw it.

Clause 9 passed.

Clause 10.

The Hon. I.K. HUNTER: I move:

Amendment No 1 [SusEnvCons–1]—

Page 4, after line 28—Insert:

(1a) Section 21(3a)—delete 'section 28(3)(b)(iii)' and substitute 'section 28(3)(b)(ii)(C)'

(1b) Section 21(3a)—delete 'section 28(3)(b)(iia)' and substitute 'section 28(3)(b)(ii)(A)'

These amendments are consequential to the amendments to existing section 28 relating to the third-party significant environment benefit offset amendments and maintain the situation of the retention of the prescribed fee by a body acting under delegation. I note that the Hon. Ms Lensink has proposed an amendment which is exactly the same, [Lensink-2] 5, and so I will be withdrawing this amendment and advise the government will support Ms Lensink's amendment.

Amendment withdrawn.

The Hon. J.M.A. LENSINK: I move:

Amendment No 5 [Lensink–2]—

Page 4, after line 28—After subclause (1) insert:

(1a) Section 21(3a)—delete 'section 28(3)(b)(iii)' and substitute 'section 28(3)(b)(ii)(C)'

(1b) Section 21(3a)—delete 'section 28(3)(b)(iia)' and substitute 'section 28(3)(b)(ii)(A)'

I indicate that they relate to significant environmental benefits in third-party offsets.

Amendment carried; clause as amended passed.

Clause 11.

The Hon. J.M.A. LENSINK: I move:

Amendment No 6 [Lensink–2]—

Page 6, line 3 [clause 11, inserted paragraph (d)]—Delete inserted paragraph (d) and substitute:

(d) clearing vegetation by the process commonly known as a cold burn; and

(e) any other matter required by the regulations.

I indicate that this amendment enables the clearance of vegetation via a process known as cold burns. There has been a lot of discussion in the general community, I think, about the benefit of cold burns, and the Liberal Party believes that they can be a very useful tool not just in the matter of reducing fuel loads but indeed for the benefit of the regeneration of native vegetation.

The Hon. I.K. HUNTER: Clause 11 of the bill relates to the amendment of section 25 of the act, which sets the process for the Native Vegetation Council preparing and adopting guidelines. Clause 11(2) proposes to insert into the act an additional matter on which the council must prepare guidelines and any other matter required by the regulations.

The Hon. Ms Lensink's amendment retains the amendment proposed by the bill but proposes an additional matter: guidelines relating to cold burns. The government is prepared to accept this amendment as a consequential amendment allowing for guidelines for cold burns as it is prepared to accept part of Ms Lensink's later amendment [Lensink-2] 7, where that amendment also relates to cold burns.

The Hon. R.L. BROKENSHIRE: In relation to these two amendments, I indicate that, relative to all the discussion I have had in this house over a period of time, Family First supports anything to initiate more cold burn opportunities to reduce fuel load. I also place on the public record that this bill has been around for a long time, but at 8.42 this morning the government, having being alerted to the fact after we tabled our amendment that, from a drafting point of view, SAFA has been changed to PPSA, put forward an amendment. I put it on the record that it has been a bit of slack work on the government's behalf when it comes to this.

Amendment carried.

The Hon. I.K. HUNTER: I move:

Amendment No 2 [SusEnvCons-4]—

Page 6, after line 6—After subclause (3) insert:

(4) Section 25(2)(f)—delete 'the South Australian Farmers Federation Incorporated' and substitute:

Primary Producers SA Incorporated

This further amendment is necessitated by the change from the South Australian Farmers Federation to Primary Producers SA Incorporated. Section 25 of the act sets the process for the Native Vegetation Council preparing and adopting guidelines under the act. One of those criteria is providing the draft guidelines to the South Australian Farmers Federation. This amendment changes that reference to refer to Primary Producers SA Incorporated.

Amendment carried; clause as amended passed.

New clause 11A.

The Hon. I.K. HUNTER: I move:

Amendment No 2 [SusEnvCons–1]—

Page 6, after line 6—Insert:

11A—Insertion of Part 4A

After section 25 insert:

Part 4A—Credit, assignment and third party establishment of environmental benefits

25A—Credit for environmental benefits

(1) If—

(a) a person—

(i) has achieved an environmental benefit (not being a benefit required in relation to a consent to clear native vegetation or under any other requirement under this Act); or

(ii) has, in accordance with a consent to clear native vegetation, achieved an environmental benefit that exceeds the value of the minimum benefit needed to offset the loss of the cleared vegetation; and

(b) the Council is satisfied that the benefit or excess benefit (as the case requires) is of a significant value,

the Council may, for the purposes of this Act—

(c) credit the person with having achieved an environmental benefit of a value determined by the Council (whether monetary or otherwise); and

(d) take into account and apply the value of the credit (adjusted to reflect the value, in the Council's opinion, of the native vegetation the subject of the credit at the time it is so applied) to—

(i) an amount of environmental benefit the person must achieve; or

(ii) an amount of compensation proposed to be paid into the Fund under section 28(4); or

(iii) an amount to be paid into the Fund under any other provision of this Act as an alternative to achieving an environmental benefit.

(2) In determining the value of an excess benefit contemplated by subsection (1)(a)(ii), the Council must have regard to the approximate difference between the value of the environmental benefit achieved by the person and the value of the environmental benefit that would, in the Council's opinion, have been the minimum the person would have been required to achieve in the circumstances.

25B—Assignment of credit

(1) Subject to this section, a person credited under section 25A with having achieved an environmental benefit (the *assignor*) may, with the written approval of the Council, assign the whole or part of the credit to another person or body (the *assignee*).

(2) An application for approval under subsection (1)—

(a) must be made in a manner and form determined by the Council; and

(b) must be accompanied by such information as the Council may reasonably require; and

(c) must be accompanied by the prescribed fee.

(3) The Council must not give its approval under subsection (1) unless the assignor has complied with any requirement of the Council to do 1 or more of the following:

(a) enter into a heritage agreement in respect of the native vegetation that is the subject of the credit to be assigned;

(b) enter into a management agreement under section 25D in respect of the native vegetation that is the subject of the credit to be assigned.

(4) Before giving its approval under subsection (1), the Council must have regard to any Regional Biodiversity Plan or Plans approved by the Minister that apply within any region relevant to the application.

(5) An approval may be conditional or unconditional.

(6) A condition of an approval is binding on, and enforceable against—

(a) the assignor; and

(b) all owners and occupiers, and subsequent owners and occupiers, of the land on which the native vegetation that is the subject of the assigned credit is growing or situated.

(7) The Council may, by notice in writing, vary or revoke a condition of an approval.

(8) An approval remains in force for the period specified by the Council in the approval, or for such longer period as the Council may fix on application by the assignor or assignee.

(9) The Council must inform the Registrar-General in writing of all conditions imposed under this section that relate to land and must provide the Registrar-General with such further information as the Registrar-General requires to comply with subsection (10).

(10) The Registrar-General must note the conditions against the relevant instrument of title for the land or, in the case of land not under the *Real Property Act 1886*, against the land.

(11) The Registrar-General must, on the application of the Council after the variation or revocation of a condition under this section, vary or cancel a note under subsection (10) (but must otherwise ensure that the note is not removed once made).

(12) For the purposes of this Act—

(a) credit assigned under this section will be taken to be credit of the assignee;

(b) an assignment of credit that contravenes this section is, unless the Council determines otherwise, void and of no effect.

25C—Achievement of environmental benefit by accredited third party provider

(1) Subject to this section, a requirement under this Act that an environmental benefit be achieved by a person (the *proponent*) may, with the written approval of the Council, be satisfied by means of the achievement of the environmental benefit by an accredited third party provider.

(2) An application for approval under subsection (1)—

(a) must be made in a manner and form determined by the Council; and

(b) must be accompanied by such information as the Council may reasonably require; and

(c) must be accompanied by the prescribed fee.

(3) The Council must not give its approval under subsection (1) unless the accredited third party provider—

(a) has entered into a management agreement under section 25D in respect of the native vegetation comprising the environmental benefit; and

(b) has complied with any other requirements prescribed by the regulations for the purposes of this section.

(4) Before giving its approval under subsection (1), the Council must have regard to any Regional Biodiversity Plan or Plans approved by the Minister that apply within any region relevant to the application.

(5) An approval may be conditional or unconditional.

(6) A condition of an approval is binding on, and enforceable against—

(a) the accredited third party provider; and

(b) all owners and occupiers, and subsequent owners and occupiers, of the land on which the native vegetation comprising the environmental benefit is growing or situated.

(7) The Council may, by notice in writing, vary or revoke a condition of an approval.

(8) An approval remains in force for the period specified by the Council in the approval, or for such longer period as the Council may fix on application by the proponent or provider.

(9) The Council must inform the Registrar-General in writing of all conditions imposed under this section that relate to land and must provide the Registrar-General with such further information as the Registrar-General requires to comply with subsection (10).

(10) The Registrar-General must note the conditions against the relevant instrument of title for the land or, in the case of land not under the *Real Property Act 1886*, against the land.

(11) The Registrar-General must, on the application of the Council after the variation or revocation of a condition under this section, vary or cancel a note under subsection (10) (but must otherwise ensure that the note is not removed once made).

(12) In this section—

accredited third party provider means a person or body accredited for the purposes of this section in accordance with the regulations.

25D—Management agreements

(1) The Minister may enter into a management agreement with—

(a) an assignor of credit under section 25B; or

(b) an accredited third party provider of an environmental benefit under section 25C.

(2) A management agreement may contain such provisions for the management of the relevant native vegetation as the Minister thinks fit, including (without limiting the generality of this subsection)—

(a) requiring specified work or work of a specified kind to be carried out in accordance with specified standards on the land on which the relevant native vegetation is growing or situated (the *subject land*); and

(b) restricting the nature of work or other activities that may be carried out on the subject land.

(3) A management agreement attaches to the subject land and is binding on the current owner of the subject land whether or not that owner was the person with whom the agreement was made.

(4) The Minister may, by agreement with the owner of the subject land to which a management agreement applies, vary or terminate the agreement.

(5) A management agreement is, to the extent specified in the agreement, binding on the occupier of the subject land.

(6) The Minister must not enter into, vary or terminate a management agreement under this section without first consulting and obtaining the approval of the Council.

(7) If the Minister enters into a management agreement, or an agreement varying or terminating a management agreement, the Registrar-General must, on application by the Minister, note the agreement against the relevant instrument of title or, in the case of subject land not under the *Real Property Act 1886*, against the land (and, subject to an appropriate application under this subsection, must ensure that the note is not removed once made).

(8) In this section—

relevant native vegetation means the native vegetation that is the subject of credit assigned under section 25B or that comprises the environmental benefit achieved, or to be achieved, by the accredited third party provider under section 25C (as the case requires).

25E—Register

(1) The Council must keep a register for the purposes of this Part.

(2) The register must contain the information required by the regulations in relation to—

(a) each credit under section 25A; and

(b) each application of credit toward the matters contemplated by section 25A(1)(d); and

(c) each assignment of credit under section 25B; and

(d) each achievement of an environmental benefit by accredited third party provider under section 25C; and

(e) each management agreement under section 25D,

and may contain any other information the Council thinks fit.

(3) The register must be kept available for public inspection, without fee, at the office of the Council during ordinary office hours.

I might at this stage put on the record part of a discussion I have had with the opposition on a set of amendments that flow through on this topic. They are largely similar. The two versions in the name of Hunter and Lensink are the same in terms of both contemplating the assignment of credit and the establishment and use of third parties. The subject matter is essentially the same; however, they are drafted slightly differently and there are additional inserts in the government's set of amendments which are not picked up by the Hon. Ms Lensink's amendments.

Essentially, the government's amendments put into legislation a number of things which the Hon. Ms Lensink is proposing to leave to regulation. I think that we have arrived at a position in discussion. The Hon. Ms Lensink can confirm that for her party herself, but the government will be progressing with its amendments instead of her amendments.

The Hon. J.M.A. LENSINK: I am pleased that the government has adopted a third-party offset scheme, which was absent from previous iterations of the bill. I agree with the minister that in some ways this is six of one, half a dozen of the other. As I said in my second reading contribution, I think it really is early days in terms of these third-party offset schemes and there may well be tweaks that need to be made to the legislation. It remains my preference that it be a process adopted through regulation and I have concerns that some of the conditions that are in the government's proposal may well form extra green tape. In the interest of progressing the debate I am happy to concede, but I indicate that there may be problems with this approach.

The Hon. I.K. HUNTER: I need to read something onto the record. This amendment is the substance of the government's third-party significant environmental benefit offset scheme. As members would be aware, the act provides that, for most clearance, a significant environmental benefit offset is required.

The intent of the government's third-party significant environmental benefit offset scheme is to provide increased flexibility and improved environmental outcomes. In doing so, the government has considered the commonwealth government's position, the schemes operating in Victoria and

New South Wales, and stakeholder input. Based on that, the government's scheme is intended not only to provide increased flexibility and improved environmental outcomes but also to provide for transparency. This is, essentially, why the government proposal provides for management plans and a credit register in addition to the establishment of credit, its transfer and the use of third parties in the legislation.

There are five proposed new sections to the act under this amendment, which we will get to eventually. I will address each of them in turn. This amendment relates to new section 25A, credit for environmental benefits. This amendment provides for the establishment and use of credit. Under the existing Native Vegetation Act, there is commonly a requirement to provide an offset for the clearance undertaken. This is referred to as significant environmental benefit.

The significant environmental benefit can be on ground or it can be payment into a Native Vegetation Fund. This section provides for the establishment of a native vegetation credit, as recognised by the Native Vegetation Council, either through the provision of a significant environmental benefit where there is no obligation to do so or through the provision of environmental benefit which is more than is required in the given instance.

This proposed section also allows a person with native vegetation credit to apply to an environmental benefit offset that they are required to provide under the act, subject to Native Vegetation Council approval. Under proposed new section 25A(1)(d)(i) to (iii), the credit could be used to meet or reduce a person's new significant environmental benefit obligation or reduce the amount of payment into the Native Vegetation Fund through utilising the credit to partially meet the obligation.

New clause inserted.

Clause 12 passed.

New clause 12A.

The CHAIR: We have a number of amendments to insert new clauses. Minister, if you can assist the committee.

The Hon. I.K. HUNTER: I will do my best. I move:

Amendment No 3 [SusEnvCons–1]—

Page 6, after line 15—Insert:

12A—Amendment of section 27—Clearance of native vegetation

(1) Section 27(5)—delete "or a heritage agreement that was entered into in compliance with a condition of consent to clear native vegetation under the repealed Act' and substitute:

, a heritage agreement that was entered into in compliance with a condition of consent to clear native vegetation under the repealed Act or a management agreement under section 25D

(2) Section 27(5)(b)—delete 'a heritage agreement' and substitute 'such an agreement'

Section 27 of the act sets out the basis on which native vegetation may be cleared under the act. The particular section referred to restricts the clearance of land the subject of a heritage agreement unless the minister agrees or the clearance is subject to an exemption contained in the regulations which specifically apply to heritage agreements. This amendment is a consequential amendment related to the government's third party significant environmental benefit offsets scheme. It extends the restrictions to include management agreements so that land the subject of a heritage agreement or a management agreement cannot be cleared without the minister's approval or an exemption in the regulations that specifically applies to heritage agreements or management agreements.

The Hon. J.M.A. LENSINK: I move:

Amendment No 7 [Lensink–2]—

Page 6, after line 15—After clause 12 insert:

12A—Amendment of section 27—Clearance of native vegetation

(1) Section 27(1)—after paragraph (b) insert:

(c) native vegetation may, subject to subsection (5)(c), be cleared without any other restriction under this Act if the clearance falls within the ambit of subsection (4a).

(2) Section 27—after subsection (4) insert:

(4a) The clearance of native vegetation falls within the ambit of this subsection if—

(a) the clearance occurs on pastoral land and is for the purposes of grazing stock, constructing a dam or providing watering points for stock; or

(b) the clearance occurs on pastoral land and is for the purpose of reestablishing land for cropping purposes after a break not exceeding 15 years; or

(c) the clearance—

(i) occurs on land situated within the area of a rural council; and

(ii) is undertaken—

(A) by the rural council in whose area the clearance occurs; or

(B) in accordance with a written approval granted by that rural council; and

(iii) is reasonably required for fire-control purposes and involves—

(A) the construction of fire breaks not exceeding 20 metres in width; or

(B) the construction of vehicular tracks not exceeding 15 metres in width to enable or aid access to particular areas; or

(C) the reduction of the fuel-load on land between 1 March and 31 October in any year; or

(d) the clearance occurs in the course of clearing vegetation by the process commonly known as a cold burn (being a cold burn conducted in accordance with any relevant guidelines adopted by the Council under section 25); or

(e) the clearance is authorised by the relevant Chief Officer under subsection (4b).

(4b) The relevant Chief Officer may authorise the clearance of native vegetation under this subsection if the Chief Officer considers—

(a) that the clearance is reasonably necessary and appropriate for the purpose of protecting the life, health or safety of any person from a serious risk of bushfire after taking into account any guidelines developed by the Council after consultation with the Chief Officer of SACFS and the Chief Officer of SAMFS; and

(b) that it is appropriate to proceed under this subsection rather than the other provisions of this Act due to the circumstances of the particular case.

(4c) A Chief Officer may—

(a) give an authorisation under subsection (4b) subject to such conditions (if any) as the Chief Officer thinks fit to impose; and

(b) vary or revoke an authorisation under subsection (4b) due to a change in circumstances.

(4d) A Chief Officer may only delegate a power under subsection (4b) or (4c) to a Deputy Chief Officer or Assistant Chief Officer of the relevant service.

(3) Section 27(5)—after paragraph (b) insert:

(c) under subsection (1)(c) unless the Minister has given his or her consent to the clearance.

(4) Section 27—after subsection (6) insert:

(7) In this section—

Chief Officer means a Chief Officer of SACFS or a Chief Officer of SAMFS (as the case requires) and includes a person for the time being acting in the relevant office;

fire-control purposes—these are purposes associated with preventing or controlling the spread of fires or potential fires;

relevant Chief Officer, in relation to an authorisation under subsection (4b), means—

(a) if the relevant land is in a fire district established for the purposes of SAMFS—the Chief Officer of SAMFS;

(b) in any other case—the Chief Officer of SACFS;

rural council has the same meaning as in the *Fire and Emergency Services Act 2005*;

SACFS means the South Australian Country Fire Service;

SAMFS means the South Australian Metropolitan Fire Service.

This is a combination of amendments which have been a longstanding policy, sometimes referred to as the Gunn clauses (as in the former member for Stuart, Mr Graham Gunn). What this amendment does is section 27 of the act provides some instances where native vegetation may be cleared, and these circumstances are outlined in new subsection (4a): if it occurs on pastoral land and is for the purposes of grazing stock, constructing a dam or providing watering points for stock; if the clearance occurs on pastoral land and is for the purpose of re-establishing land for cropping after 15 years; and if the clearance occurs on land within a rural council which is undertaken by the rural council for fire control purposes with the approval of the CFS through the process of a cold burn, then it may take place.

If I can just explain the pastoral amendments. I think the rural council ones are self-explanatory. These, in our view, provide positive environmental benefits because they respect the fact that land in pastoral countries is often not as productive. The vegetation can grow quite slowly, you get longer periods of extended droughts, therefore, it enables the land to be rested for longer periods. Whereas, under the current circumstances there may be considerable pressure on pastoralists so that they comply with the rules, which would force them to reintroduce grazing or undertaking cropping, which I might add is quite rare in those parts of the state, but they may feel some pressure to undertake that sooner and therefore would put more pressure on the native vegetation. With those comments, I endorse the amendment to the council.

The Hon. I.K. HUNTER: Our advisers are working on a form of words for me to move my amendment which I have just moved in a slightly different way, with the leave of the council, which will accept some of the amendments that the Hon. Michelle Lensink has proposed, but not accept others. The government agrees to part of this amendment and opposes those provisions which are to be set out in my amendment. The amendment proposed by the Hon. Michelle Lensink is to deal with clearance on pastoral land for the grazing of stock, the watering of stock, to allow cropping on pastoral properties and clearance for fire control purposes. There are a number of issues here, and I will break them down individually.

Clearance on pastoral land for watering points is already catered to under the act and regulations. Clearance for a dam in the pastoral regions is covered by regulatory exemption 5(1)(ja). Clearance for the grazing of stock, which is a consequence of additional watering points in the pastoral region, is covered by regulatory exemption 5(1)(zh). I note that this exemption, if applied in pastoral lands, also requires the approval of the Pastoral Board. The council at this time is seeking comment on a potential guideline in relation to pastoral watering points. The council, working cooperatively with the Pastoral Board, has the responsibility of the administration of pastoral leases, including the number and type of stock to be run.

This provides a productive and sustainable pastoral management program. Allowing unfettered installation of water points could result in clearance by grazing on existing remnant native vegetation on pastoral leases which would mean not only the loss of that vegetation but also the reduction and sustainability of pastoral leases. What is sought is appropriate management of pastoral leases and the existing system provides for that, we contend.

Clearance for the purpose of cropping on pastoral land would require the consent of the Pastoral Board and its consideration of the Pastoral Land Management and Conservation Act 1989. Under that act the 'pastoral land' means land comprised in a pastoral lease. A 'pastoral lease' means a lease granted under that act over crown land for pastoral purposes. 'Pastoral purposes' means the pasturing of stock and other ancillary purposes.

Unless cropping is considered to be ancillary to the pasturing of stock, the Pastoral Land Management and Conservation Act would need to be amended to allow for cropping if this proposed amendment were passed. I note that the pastoral lands are not ordinarily suitable for cropping. If a pastoralist wanted to rest a paddock, then that can be done now under the existing legislative scheme either for 10 years without any native vegetation approvals or for longer with an approved management plan. There is no need to amend the legislation which caters well to the existing requirements and provides for appropriate environmental management as part of ensuring the industry remains sustainable.

For these reasons the government is opposed to the amendment as it is proposed by the Hon. Michelle Lensink in relation to pastoral lands. It is so repugnant to the government that, should this amendment be successful, I will be withdrawing the bill completely and I would encourage the council to consider very carefully my subsequent amendment to this which would accept a large amount of her amendments but remove those that relate to the pastoral lands.

In relation to fire, clearance for fire control purposes is addressed by the existing legislation. In 2009 this government amended the Native Vegetation Regulations to provide simple and local approval where necessary by the recognised authority in bushfire control, the South Australian Country Fire Service. The intent and effect of these changes was to make the protection of human life and property paramount. Under the existing scheme landholders can clear native vegetation up to 20 metres around a house without any consent and up to five metres around a shed or similar structure without consent. Clearance beyond the 20 metres and five metres is possible with the approval of the South Australian Country Fire Service who decide based on risk to life and property.

Native vegetation can be cleared to reduce combustible material with the approval of the South Australian Country Fire Service or under a bushfire prevention plan. Native vegetation can be cleared at the direction of the South Australian Country Fire Service in an emergency. Native vegetation can be cleared if it is for purposes of a fire access track up to 15 metres in width and as approved by the South Australian Country Fire Service. Native vegetation can be cleared for fuel breaks as approved by the South Australian Country Fire Service or as authorised by a bushfire prevention plan.

These provisions also apply to heritage agreements. The legislation applies to both publicly and privately held land, whether for conservation or not. The regulations provide for necessary clearance associated with bushfire prevention plans which include asset protection such as roads. Bushfire plans operate at a regional level, not just at local council level, and address regional risks and options in a considered and coherent fashion. The approach is a whole-of-government approach to planning, including local government. The government is prepared to accept the honourable member's amendment where it enhances the ability to manage native vegetation by the South Australian Country Fire Service.

In relation to cold burns, this amendment also refers to the process known as cold burns. Cold burns can be used for either fuel reduction or for ecological purposes. In either case they need to be planned and managed to minimise the life and property risk and to take into consideration environmental outcomes. If such burns were commonly occurring, they would result in clearance of both native vegetation and habitat through the repeated process and through removing such areas from the definition of 'intact stratum' in the act.

In this respect, I advise that the Native Vegetation Council has recently released a guideline of burning for ecological purposes on an interim basis and is finalising the guideline with respect to the comments received as part of the consultation process. I note that under the existing legislative scheme a cold burn could be performed with either the consent of the South Australian Country Fire Service or as approved or required under a bushfire plan. The government also accept this portion of the honourable member's amendment, noting that adequate support and controls are in place via the guidelines and the South Australian Country Fire Service approval. I will have a few more words momentarily.

In the first instance, I seek leave to withdraw my amendment. The Hon. Ms Lensink has moved her new clause and I will now move a series of amendments. I move my amendment No. 3 in an amended form:

Amendment No 1 [SusEnvCons–3]—Amendment to Amendment No 7 [Lensink—2]—

New clause 12A, page 6, after line 15—

Delete paragraphs (a), (b) and (c) of inserted subsection (4a) in clause 12A(2)

Amendment No 1A [SusEnvCons–3]—

(2a) Section 27(5)—delete 'or a heritage agreement that was entered into in compliance with a condition of consent to clear native vegetation under the repealed Act' and substitute:

, a heritage agreement that was entered into in compliance with a condition of consent to clear native vegetation under the repealed Act or a management agreement under section 25D

(2b) Section 27(5)(b)—delete 'a heritage agreement' and substitute:

such an agreement

Amendment No 2 [SusEnvCons–3]—Amendment to Amendment No 7 [Lensink—2]—

New clause 12A, page 6, after line 15—Delete clause 12A(3)

Amendment No 3 [SusEnvCons–3]—Amendment to Amendment No 7 [Lensink—2]—

New clause 12A, page 6, after line 15—

Delete the definition of *rural council* from inserted subsection (7) in clause 12A(4)

In effect, I am advised that what I am doing is accepting a number of provisions in the Hon. Michelle Lensink's amendment, which I outlined in my contribution, and adding in some further clauses that need to be added in.

The Hon. J.M.A. LENSINK: I note the comments of the minister that sections of this were repugnant to him and would cause him to withdraw the bill, something that in the vernacular is known as a deal-breaker, and, on that basis I will accept his amendments. However, I have some comments—and I did refer to this in my second reading contribution. There certainly are problems with the legal framework for native vegetation: some parts are in the act and some parts are in the regulations, which are really hard to read, and some of it is done through guidelines. I take on board the previous comments from the Hon. Rob Brokenshire that further reform is needed of this legislation. These are particular issues that a Liberal government, if elected next year, will revisit, but in the interests of not stopping all of the useful things which are provided in the bill, we will accept the minister's amendment.

The CHAIR: The Hon. Mr Brokenshire, do you have an amendment?

The Hon. R.L. BROKENSHIRE: Sir, I have a number of amendments to this clause. I believe they are multifaceted and perhaps it would be best to move 1 to 4 in subparagraphs.

The CHAIR: We are dealing with [Brokenshire-1] 4, which seeks to insert a new clause, which is what we are doing anyway.

The Hon. R.L. BROKENSHIRE: Based on what has been said, with your guidance, I may withdraw that. I think from what the minister and the shadow minister have said, until we get to the amendment which I have as (c)—which is to do with the clearance undertaken on behalf of a local council for road safety purposes—and I am able to do that with your indulgence, I will withdraw the earlier amendment based on what has been debated in the chamber.

The CHAIR: The Hon. Mr Brokenshire, my understanding is that you will not be moving [Brokenshire-1] 4.

The Hon. R.L. BROKENSHIRE: There is a bit of on-the-run stuff occurring here with what the government has been doing, and I accept that that is not unprecedented. What I am trying to do to help the debate is accept that the government and the opposition have an arrangement with what the minister and shadow minister have just said, but, with [Brokenshire-1] 4 standing in my name, I still want to move the particular part of the amendment under 12A(2c), which is to do with the clearance being undertaken by or on behalf of a local council and which is reasonably required for road safety purposes.

The Hon. I.K. HUNTER: The Hon. Mr Brokenshire's amendment is in many situations similar to the Hon. Michelle Lensink's. Again, we will oppose it for the same reasons and, to use the vernacular, this will be a deal-breaker for us as well.

The Hon. R.L. BROKENSHIRE: Just as a point of qualification, so that the minister gets a chance to qualify this for at least myself, I think you say this would be a deal-breaker. Are you saying that, if this were to get up in the house, you would pull the bill?

The Hon. I.K. HUNTER: Absolutely. The government has been quite clear: the government opposes the amendment. The amendment proposes to deal with clearance on pastoral lands for the grazing of stock, watering of stock on pastoral properties, clearance for fire

control purposes and for road safety purposes. I have already commented in regard to those issues on the last amendment, in relation to pastoral properties and fire, so I will not repeat it at length here. There are other aspects to be taken into consideration in the Hon. Mr Brokenshire's amendment dealing with road safety and other issues but, for all the reasons I have outlined previously, this is not an amendment we can see succeed.

The Hon. R.L. BROKENSHIRE: I would ask that the shadow minister advise whether the opposition is prepared to accept this particular part of the amendment regarding road safety.

The Hon. J.M.A. LENSINK: As I stated in my previous contribution, I understand Family First's frustration with a number of aspects of native vegetation. I can assure the honourable member that they are the same issues that we hear very regularly, but we are not prepared to put at risk the entire bill for the sake of one amendment.

The Hon. R.L. BROKENSHIRE: I advise the house that, for expediency, I will have no choice but to assist the house with the passage of work today by not insisting on my amendments, but I place on the public record my extreme disappointment with the government on this in particular. The reason is that too many people are killed in country South Australia because of trees in inappropriate places with respect to where roads have been constructed.

Councils have said to me time and again that the absurd cost, the outrageous cost, the government now puts on councils to either pay in financial contribution or find other land and plant trees on them to offset is actually stopping councils now from taking down trees they have identified as being a potential fatality risk in their district. All I was simply trying to do was get some sort of common sense back into this and some realistic opportunity to save lives.

I am bitterly disappointed that the government actually threatens to pull the bill on this house simply because I wanted to put up one important amendment. I can do no more. The numbers I can read, but at least I have it on the public record, and I hope, trust and pray that it does not happen, but I have been doing enough myself over the years, and I will be raising this every time I get an opportunity if there is a serious injury or fatality in the future in this state because the government should have supported these amendments.

The CHAIR: The question is that the amendments moved by the Minister for Sustainability, Environment and Conservation to new clause 12A as proposed to be inserted by the Hon. J.M.A. Lensink be agreed to.

Amendments carried; new clause as amended inserted.

Clause 13.

The Hon. I.K. HUNTER: I move:

Amendment No 4 [SusEnvCons–1]—

Page 6, lines 16 to 34—Delete clause 13 and substitute:

13—Amendment of section 28—Application for consent

(1) Section 28(3)(b)—delete paragraph (b) and substitute:

(b) must be accompanied by—

(i) —

(A) if an environmental benefit required under this Act is to be satisfied by the application of a credit under section 25A—

- if the credit has been assigned in accordance with section 25B—a management agreement prepared under section 25D; and
- in any case—
  - information that establishes that the applicant has been credited, in accordance with section 25A or 25B, with having achieved an environmental benefit of a particular value; and
  - information that establishes that the environmental benefit the subject of the credit amounts, after allowing for the loss of the vegetation to be cleared, to a significant environmental benefit; or

(B) if an environmental benefit required under this Act has been, or is to be, achieved by an accredited third party provider in accordance with section 25C—

- a management agreement prepared under section 25D; and
- information that establishes that the environmental benefit achieved, or to be achieved, by the accredited third party provider will, after allowing for the loss of the vegetation to be cleared, result in a significant environmental benefit; or

(C) if an environmental benefit required under this Act is to be achieved in any other way—

- a native vegetation management plan prepared by the applicant in accordance with guidelines adopted by the Council under Part 4; and
- information that establishes that subsequent establishment, regeneration or maintenance of native vegetation (whether on the land after the proposed clearance or on other land) in accordance with the native vegetation management plan will, after allowing for the loss of the vegetation to be cleared, result in a significant environmental benefit; or

(D) information that establishes that it is not possible for the applicant to achieve a significant environmental benefit in the manner contemplated by subsubparagraph (C); and

(ii) in any case—

(A) the prescribed number of copies of a report relating to the proposed clearance prepared in a form approved by the Council; and

(B) such other information as the Council reasonably requires; and

(C) the prescribed fee (including the fee prescribed for the report referred to in subsubparagraph (A)).

(2) Section 28(4)—delete 'subsection (3)(b)(ii)(B)' and substitute 'subsection (3)(b)(i)(D)'

(3) Section 28(5)—delete 'subsection (3)(b)(iia)' and substitute 'subsection (3)(b)(ii)(A)'

(4) Section 28(6)—delete 'subsection (3)(b)(iia)' and substitute 'subsection (3)(b)(ii)(A)'

(5) Section 28(7)—delete 'subsection (3)(b)(iia)' and substitute 'subsection (3)(b)(ii)(A)'

This is part of a suite of amendments I am moving. The Hon. Ms Lensink had a similar proposal but, as we are going with the government's amendments, I move amendment No. 4. Existing section 28 relates to application for consent to clear and provides in part the information provided for that application must establish that either the significant environmental benefit offset will be achieved on ground or that it is not possible, in which case the applicant can propose a payment to the Native Vegetation Fund in lieu.

This amendment provides for a modification to recognise the establishment in use of credit and the information to be provided in the application for consent, including the requirement to provide a management agreement, as required by proposed new section 25D. The new amendments not only establish credit but integrate the establishment of credit with a scheme to enable the utilisation of credit, notably in the third-party context.

It ensures there is a management agreement where there is assignment of credit or if the significant environmental benefit is being provided by a third-party provider, or if the requirement is to be met in any other fashion. It ensures an applicant has assessed, as part of their application, whether there is sufficient credit to meet the significant environmental benefit requirements. I foreshadow that the other amendments Nos 2 to 5 will be consequential.

The Hon. J.M.A. LENSINK: These amendments are consequential, and I have already agreed that we will support the government's regime when it comes to third-party offsets and credit schemes.

The Hon. R.L. BROKENSHIRE: I can, in principle, still speak to this amendment. I move:

Amendment No 5 [Broke–1]—

Page 6, after line 34—Insert:

(4) Section 28—after subsection (4) insert:

(4a) Without otherwise limiting this section, the following provisions apply in relation to an application for consent to clear native vegetation for road safety purposes:

(a) subsection (3)(b)(iia) does not apply in relation to the application;

(b) the amount of environmental benefit the applicant must achieve, or the amount of compensation to be paid under subsection (4), or the value of the credit under section 28A required, must not be more than one-third of the environmental benefit, compensation or credit (as the case requires) that would have been required had the clearance been for any other purpose;

(c) the prescribed fee required to accompany the application will be taken to be one-third of the prescribed fee applicable in respect of applications for consent to clear native vegetation for any other purpose (excluding the fee prescribed for a report referred to in subsection (3)(b)(iia)).

To be brief and summarise, section 28 after subsection (4), I insert (4a) and then paragraphs (a), (b) and (c). This is to help councils clear native vegetation without ridiculous offsetting costs or requirements by capping the money, offset where it is required to be one-third of the total environmental benefit required. I have already said my piece on why I believe this should be supported. I seek confirmation from the minister and the shadow minister that they will not be supporting it.

The Hon. I.K. HUNTER: The honourable member is quite right: the government will not be supporting this amendment. The situation, we believe, is already catered for in a manner which provides for a balance between conservation and safety. First, roadside vegetation can be managed by a local government agency in accordance with either guidelines issued by the Native Vegetation Council or under a roadside vegetation management plan approved by the Native Vegetation Council. This is done under the existing regulations.

Secondly, in 2012 the Native Vegetation Council finalised a policy in relation to clearance for road safety purposes, a framework for the clearance of native vegetation under regulation 5(1)(lb), public safety for rail crossings, road intersections and roadsides. The policy was established under existing regulation, which is clearance for public safety purposes. Under that regulation, clearance may occur for public safety purposes without a requirement for a significant environmental benefit.

The policy was developed in conjunction with the Department of Planning, Transport and Infrastructure, together with the Local Government Association of South Australia, with some input from a non-governmental environmental group. I note (or I am advised, as I do not have the correspondence with me) that in correspondence, dated 30 January 2013, from the then president of the Local Government Association of South Australia to Dr Duncan McFetridge in the other place, in relation to the proposed legislation for Native Vegetation (Road Verges) Amendment Bill 2012, that correspondence supported the government's position.

The existing situation encourages planning by local government in its management of roadside vegetation, which includes safety. It also allows unplanned situations to be addressed, encourages an appropriate assessment of the situation and the exploration of alternatives. The existing situation balances safety needs with conservation, noting that in some cases roadside vegetation can represent and contain the last pre-European native vegetation remnants in an otherwise extensively cleared landscape.

I thank the honourable member for his impassioned contribution, but I repeat that we believe that the situation is well catered for under existing legislation and policy.

The Hon. J.M.A. LENSINK: I understand a shorthand version of what the minister might have just said, that the local government sector has indeed managed to find some sort of compromise to enable it to manage this issue into the future and that therefore this amendment is not required.

The CHAIR: For the assistance of the committee, I will be putting the Hon. Mr Brokenshire's amendment first and then dealing with the minister's amendment.

The Hon. R.L. Brokenshire's amendment negatived; the Hon. I.K. Hunter's amendment carried; clause as amended passed.

Clause 14.

The Hon. I.K. HUNTER: I move:

Amendment No 5 [SusEnvCons–1]—

Page 7, lines 1 to 35—Delete clause 14

This amendment deletes clause 14. Clause 14 established a credit for significant environmental benefit offsets. The clause has been superseded by the government's third-party significant environmental benefits offset scheme and the establishment and assignment of credits and the provision of third-party environmental benefits.

Amendment carried; clause deleted.

New clauses 14A and 14B.

The Hon. J.M.A. LENSINK: I should check this before I speak, but I think that this one might be one of the ones that we will not be moving. I will not be moving [Lensink-2] 10.

The Hon. I.K. HUNTER: I move:

Amendment No 6 [SusEnvCons–1]—

Page 7, after line 35—Insert:

14A—Amendment of section 29—Provisions relating to consent

(1) Section 29—after subsection (4a) insert:

(4b) The Council may give its consent to the clearance of native vegetation that is in contravention of subsection (1)(b) if the Council is satisfied that—

(a) —

(i) a significant environmental benefit, which outweighs the value of retaining the vegetation, has been achieved and credited to the applicant under section 25A, or assigned to the applicant under section 25B; or

(ii) a significant environmental benefit, which outweighs the value of retaining the vegetation, has been, or is to be, achieved by an accredited third party provider in accordance with section 25C; or

(iii) a significant environmental benefit, which outweighs the value of retaining the vegetation, has been, or is to be, achieved by or on behalf of the applicant, having regard to the combined value of—

(A) the value of any environmental benefit credited to the applicant under section 25A, or assigned to the applicant under section 25B; and

(B) the value of any environmental benefit that has been, or is to be, achieved by an accredited third party provider in accordance with section 25C; and

(C) the value to any environmental benefit to be achieved through the imposition of conditions and the taking of other action by the applicant; and

(b) that the particular circumstances justify the giving of consent.

(2) Section 29—after subsection (12) insert:

(12a) Subsections (11) and (12) do not apply in relation to a consent to which subsection (4b)(a)(i), (ii) or (iii) applies.

(12b) The Council must account for the application of any credited environmental benefit to a consent under this Division in accordance with the scheme prescribed by the regulations.

14B—Amendment of section 29A—Avoidance of duplication of procedures etc

Section 29A(2)(b)—delete 'section 28(3)(b)(i)' and substitute 'section 28(3)(b)(i)(C)'

If the Native Vegetation Council approves a clearance application then it can only do so with regard to provisions of consent detailed in section 29 of the act. The existing section 29 provides a restriction on clearing contrary to the principles of clearance contained in schedule 1 of the act. These principles incorporate factors such as high plant diversity, species of significance, soil erosion and wetlands.

The Hon. R.L. BROKENSHIRE: On behalf of the Hon. Ann Bressington, I move:

Amendment No 2 [Bressington–1]—New clause

Page 7, after line 35—Insert:

14A—Amendment of section 29—Provisions relating to consent

Section 29—after subsection (2) insert:

(2a) Despite any other provision of this Act, the Council must not refuse to consent to an application to clear native vegetation on land that forms part of a property used for the business of agriculture solely on the ground that the native vegetation is a habitat for wildlife.

What the mover intends here is that, despite any other provision of this act, the council must not refuse to consent an application to clear native vegetation on land that forms part of a property used for the business of agriculture solely on the ground that native vegetation is a habitat for wildlife. Really what the Hon. Ann Bressington is saying is that the Native Vegetation Council needs to show more than just native vegetation being a habitat for wildlife before they can refuse an application to clear for agriculture.

The Hon. I.K. HUNTER: The government will oppose the amendment. If the decision were based solely on the provision of habitat for wildlife it would mean that the habitat could be removed under state law, even if the wildlife concerned were a rated species. It would be at odds with the commonwealth legislation and the Environment Protection and Biodiversity Conservation Act 1999. The amendment is essentially redundant in that the management of land for primary production is already explicitly catered to and these decisions are not based on one factor or criteria alone.

The Hon. J.M.A. LENSINK: The opposition will not be able to support this amendment. I think it is actually inconsistent with the entire purpose of the act and might actually be in breach of the federal EPBC Act as well, so we are unable to support it for those reasons.

The Hon. A. Bressington's new clause 14A negatived; the Hon. I.K. Hunter's new clauses 14A and 14B inserted.

Clause 15 passed.

Clause 16.

The Hon. R.L. BROKENSHIRE: On behalf of the Hon. Ann Bressington, I move:

Amendment No 3 [Bressington–1]—

Page 7, after line 38—Insert:

(a1) Section 31E—after subsection (1) insert:

(1a) An authorised officer must not issue a direction of the following kinds under subsection (1):

(a) a direction that a person plant native vegetation on a property such that access to a watercourse (within the meaning of the *Natural Resources Management Act 2004*) on the property by—

(i) livestock or native animals; or

(ii) a person engaged in activities associated with preventing or controlling the spread of fires or potential fires (whether on the property or otherwise),

is impeded, or may be impeded in future;

(b) a direction that a person plant native vegetation of a kind, or in a location, on a property that substantially increases the risk or severity of fire on the property;

(c) in the case of a direction relating to land that forms part of a property used for the business of agriculture—a direction that is inconsistent with, or unreasonably affects, carrying on the business of agriculture on the property (including, to avoid doubt, a direction that a particular

crop be planted or not be planted, or that particular livestock not be grazed on the land),

(and, if such a direction is issued, the direction is void and of no effect).

In general, this amendment introduces that authorised officers cannot direct landholders to plant native vegetation that obstructs livestock access to watercourses, firefighting or increases fire risk or is inconsistent with the farming needs on the property.

The Hon. I.K. HUNTER: The government opposes the amendment. Section 31E allows an authorised officer to issue an enforcement notice, which can either be a stop work order or be a minor make good order, based on an unauthorised clearance. This amendment effectively makes any direction given on agricultural land null and void; that is, on agricultural land, the landholders are not constrained by the provisions of the Native Vegetation Act. The property used or partly used for agricultural purposes could be cleared of native vegetation on the basis that it is inconsistent or unreasonably interferes with agricultural production. As the Hon. Ms Lensink said about a previous amendment, it is potentially contrary to the whole intent of the bill.

The Hon. J.M.A. LENSINK: Apart from any of the environmental issues that may arise, this clause should be opposed because it may well lead to landholders who overstocked and degraded their properties to utilise this for their own benefit. It reminds me a little bit of some of the amendments we had to the NRM Act, where downstream water users would have been potentially disadvantaged if they had been included in the bill. On balance, we are unable to support this amendment.

Amendment negatived; clause passed.

Clauses 17 and 18 passed.

New clause 18A.

The Hon. R.L. BROKENSHIRE: On behalf of the Hon. Ann Bressington, I move:

Amendment No 4 [Bressington–1]—New clause

Page 9, after line 12—Insert:

18A—Insertion of section 33AA

Before section 33A insert:

33AA—Minister to establish policies with respect to the exercise of powers by authorised officers

(1) The Minister must establish a policy or policies with respect to the exercise by authorised officers of their powers under this Act.

(2) Without limiting subsection (1), the Minister must ensure that a policy under this section sets out—

(a) the manner in which the powers of authorised officers under sections 31E and 33B will be exercised; and

(b) that an authorised officer must, in exercising his or her powers under the Act, respect the right of a person to expect fair and balanced treatment.

(3) The Minister may vary or substitute a policy under this section from time to time.

(4) The Minister must ensure that a copy of any policy in operation under this section is published on a website maintained by the administrative unit of the Public Service that is, under the Minister, responsible for the administration of this Act.

This amendment relates to general orders being issued to authorised officers on how to use their super police powers. What I think the Hon. Ms Bressington wants to do here is to ensure that there is a process to establish policies by the minister so that authorised officers do not overstep the mark with respect to farmers and property owners.

The Hon. I.K. HUNTER: The government opposes the amendment. The government believes that the requirements which currently exist in the act are sufficient. There is an existing provision in the act detailing offences by authorised officers, at section 33EA. All authorised officers under the Native Vegetation Act are public servants and must abide by both the Public Sector Act 2009 and the public sector code of conduct. The powers of the act are exercised in accordance

with the act and the Crown Solicitor's Office advice and, if necessary, are ultimately tested in the court. The government believes that this is sufficient and will oppose the amendment.

New clause negatived.

Clause 19 passed.

Clause 20.

The Hon. R.L. BROKENSHIRE: On behalf of the Hon. Ann Bressington, I move:

Amendment No 5 [Bressington–1]—

Page 9, before line 17—Insert:

(1) Section 33B—after subsection (3) insert:

(3a) An authorised officer must not give a direction of the following kinds under subsection (1)(l):

(a) a direction that a person plant native vegetation on a property such that access to a watercourse (within the meaning of the *Natural Resources Management Act 2004*) on the property by—

(i) livestock or native animals; or

(ii) a person engaged in activities associated with preventing or controlling the spread of fires or potential fires (whether on the property or otherwise),

is impeded, or may be impeded in future;

(b) a direction that a person plant native vegetation of a kind, or in a location, on a property that substantially increases the risk or severity of fire on the property;

(c) in the case of a direction relating to land that forms part of a property used for the business of agriculture—a direction that is inconsistent with, or unreasonably affects, carrying on the business of agriculture on the property (including, to avoid doubt, a direction that a particular crop be planted or not be planted, or that particular livestock not be grazed on the land),

(and, if such a direction is given, the direction is void and of no effect).

The Hon. I.K. HUNTER: The government opposes the amendment on the same principle that it opposed [Bressington-1] 3, in that the proposal could compromise reasonable compliance activities. To assist the chamber, I understand that the Hon. Michelle Lensink will be amending section 33B with her amendment No. 11, which is to oppose a clause. The government will accept the Hon. Ms Lensink's position.

Amendment negatived; clause negatived.

Clause 21 passed.

New clause 21A.

The Hon. R.L. BROKENSHIRE: On behalf of the Hon. Ann Bressington, I move:

Amendment No 6 [Bressington–1]—

Page 9, after line 20—Insert:

21A—Insertion of Part 5A

After section 33EA insert:

Part 5A—Review and appeal

33F—Ministerial review of certain decisions

(1) A person aggrieved by—

(a) a decision of the Council to refuse an application for consent to clear native vegetation; or

(b) a decision of an authorised officer to give a direction under this Act (including, to avoid doubt, a direction under section 31E); or

(c) any other decision of a kind prescribed by the regulations,

may, within 28 days after the day on which the decision is made, apply to the Minister for a review of the decision.

(2) The Council or authorised officer (as the case requires) must, if required by the applicant for the review, state in writing the reasons for the decision that is the subject of the application for review.

(3) If the reasons of the Council or authorised officer (as the case requires) are not given to the applicant for the review in writing at the time of making the decision and that person, within 28 days of the making of the decision, requires the Council or authorised officer (as the case requires) to state the reasons in writing, the time for instituting a review runs from the time at which that person receives the written statement of those reasons.

(4) An application for a review must be made in a manner and form determined by the Minister.

(5) The Minister must review the decision that is the subject of an application for review under this section.

(6) An applicant for review must, if so required by the Minister—

(a) appear personally before the Minister in support of the application; and

(b) provide any information sought by the Minister; and

(c) verify information provided to the Minister by statutory declaration.

(7) An applicant for review may be assisted before the Minister by an agent or representative (not being a legal practitioner).

(8) On a review under this section, the Minister—

(a) may confirm, vary or revoke the decision under review or set aside the decision and substitute a new decision; and

(b) must provide the applicant for review with a written statement of the reasons for making the decision.

33G—Appeal to ERD Court against decision of Minister

(1) An applicant for a review under Division 1 who is not satisfied with the decision of the Minister on the review may appeal to the ERD Court against the decision.

(2) An appeal must be instituted within 28 days from the time the appellant receives the written statement of the reasons for making the decision appealed against.

The Hon. I.K. HUNTER: The government opposes the amendment. There are already existing rights and obligations in relation to the consideration of matters by the Native Vegetation Council. The act allows for any person to make representation to the council in relation to clearance applications. An applicant has the right to appear before the council and natural justice is required to apply to that process. If a decision is refused in whole or part then written reasons must be provided to the applicant by the council.

Administratively, the council is set up and operates a specialist panel to consider clearance consents, the Native Vegetation Assessment Panel, which is made up of three members of the council. The government believes this is sufficient and will be opposing the amendment.

New clause negatived.

Clause 22 passed.

Clause 23.

The Hon. I.K. HUNTER: I move:

Amendment No 7 [SusEnvCons–1]—

Page 10, after line 41—Insert:

(6a) In any legal proceedings, an apparently genuine document appearing to be a copy of a management agreement under section 25D certified by the Minister is, in the absence of proof to the contrary, proof of the agreement and its terms.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 24 passed.

Clause 25.

The Hon. I.K. HUNTER: I move:

Amendment No 8 [SusEnvCons–1]—

Page 11, lines 16 to 26—Delete clause 25 and substitute:

25—Substitution of section 41

Section 41—delete the section and substitute:

41—Regulations

(1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision for or relating to—

(a) exemptions (conditional or unconditional) from specified provisions of this Act; and

(b) fees in respect of any matter under this Act and their payment, recovery or waiver; and

(c) fines, not exceeding $10,000, for offences against the regulations; and

(d) expiation fees, not exceeding $750, for offences against this Act or the regulations; and

(e) facilitation of proof of the commission of offences against the regulations.

(3) The regulations may vary Schedule 1.

(4) The regulations may—

(a) be of general application or vary in their application according to prescribed factors;

(b) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister, the Council or other specified person or body;

(c) refer to or incorporate, wholly or partially and with or without modification, a code, standard or other document prepared or published by a prescribed body, either as in force at the time the regulations are made or as in force from time to time.

(5) If a code, standard or other document is referred to or incorporated in the regulations—

(a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and

(b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

There is an existing provision in the bill for the amendment of section 41. The government amendment to the bill incorporates those amendments and allows for amendments associated with third party significant environmental benefit offsets and accepts the proposal by the Hon. Mr Brokenshire to consequential provisions of a savings or transitional nature. So, well done, Robert, you got a clause up.

The Hon. R.L. BROKENSHIRE: Thank you. All good things come to those who wait, minister.

The CHAIR: Minister, you are accepting the Hon. Mr Brokenshire's amendment, is that what you are saying?

The Hon. I.K. HUNTER: No. What we are doing is incorporating the intent of his amendment in my amendment No. 8. So, we will be opposing his amendment to clause 25 and substituting it with mine.

The Hon. R.L. BROKENSHIRE: Sir, I advise the council that, as I am very kind to this minister, I will concur with him and I will withdraw my amendment, so we can go to lunch.

Amendment carried; clause as amended passed.

Title passed.

Bill reported with amendment.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (13:02): I move:

That this bill be now read a third time.

Very briefly, I would like to thank the many people who have been involved in this very long and drawn out process. I would like to thank those members who contributed to the debate, particularly the Hon. Michelle Lensink for the very cooperative way that she has worked with me and my office. She has not got everything she was after, neither have I, but I think we have a better product at the end of the day. So, I thank everybody, particularly also the Native Vegetation Council for its forbearance.

Bill read a third time and passed.

[Sitting suspended from 13:03 to 14:15]

PATIENT ASSISTANCE TRANSPORT SCHEME

The Hon. J.M.A. LENSINK: Presented a petition signed by 111 residents of South Australia requesting the council to urge the government to reform the Patient Assistance Transport Scheme particularly to ensure that patients and their carers receive the subsidies that they are entitled to.

DAYLIGHT SAVING EXTENSION

The Hon. R.L. BROKENSHIRE: Presented a petition signed by 93 residents of South Australia requesting the council to urge the state government to:

1. Resist any further extension of daylight saving hours;

2. Conduct a full and proper review of the current extension of daylight saving hours and its impact on families and communities in the western half of South Australia;

3. Resist any efforts to shift the South Australian time zone to be the same as Eastern Standard Time; and

4. Set a plan and time frame to shift South Australia to true Central Standard Time, being one hour behind Eastern Standard Time.

PAPERS

The following papers were laid on the table:

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

Reports, 2012-13—
- Adelaide Cemeteries Authority
- Guardianship Board
- Independent Gambling Authority
- Legal Practitioners Education and Admission Council
- Legal Practitioners Guarantee Fund
- Legal Services Commission of South Australia
- Listening and Surveillance Devices Act 1972
- Mining and Quarrying Occupational Health and Safety Committee
- Office of the Public Advocate
- Privacy Committee of South Australia
- Public Trustee
- SafeWork SA Advisory Council
- Senior Judge of the Industrial Relations Court and President of the Industrial Relations Commission

South Australian Classification Council
Terrorism (Preventative Detention) Act 2005
West Beach Trust

Regulations under the following Act—
Road Traffic Act 1961—Miscellaneous—Detection Devices

Adelaide Casino—Advertising Code of Practice Prescription Notice 2013
Adelaide Casino—Responsible Gambling Code of Practice Prescription Notice 2013
State Lotteries—Advertising Code of Practice Prescription Notice 2013
State Lotteries—Responsible Gambling Code of Practice Prescription Notice 2013

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Australian Health Practitioner Regulation Agency—Report, 2012-13

By the Minister for Aboriginal Affairs and Reconciliation (Hon. I.K. Hunter)—

Ministerial Response to Final Report—Workforce and Education Participation—Economic and Finance Committee—Recommendation 12

SA WATER

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:18): I seek leave to make a ministerial statement.

Leave granted.

The Hon. I.K. HUNTER: I wish to make a statement on the SA Water purchase card policy. Earlier this year I requested that SA Water revise its policies on purchase card use and other expenditure. I am pleased to advise the chamber that SA Water has revised its policies with respect to purchase card use and other expenditure, which have now been presented to me.

SA Water has reviewed all its policies relating to purchase cards, reimbursement and petty cash, travel allowances and other relevant policies. SA Water provides one of the most vital services, of course, to the community, and the organisation requires purchase cards to support its day-to-day operations. However, its purchasing policies must be efficient and appropriate.

Approximately 490 staff members have purchase cards to enable the efficient and timely purchase of low value goods and services, particularly in regional areas, and SA Water must ensure that the use of these cards is strictly monitored. That is why I asked SA Water's chief executive to review all expenditure policies.

As a result, a new purchase card policy has come into effect. The policy places even stricter guidelines on the use of purchase cards and restricts the purchase of alcohol and gifts. In addition, the chief executive has written to all SA Water cardholders, reminding them of their obligations and the organisation's expectations when it comes to corporate card use.

The new purchase card policy contains detailed information which clearly explains the responsibility for primary cardholders, issuing officers and those staff with authorisation status. Queries about the appropriateness of any expenditure will now be raised directly by managers with cardholders. In the event of serious misuse of a card, disciplinary action will be taken as warranted, including the potential for prosecution and dismissal. This government has set SA Water the challenge of finding increased efficiencies in a new environment that includes economic regulation and third-party access, and this policy will contribute to that challenge.

QUESTION TIME

FORESTRYSA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:20): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries and Forests a question about the forests.

Leave granted.

The Hon. D.W. RIDGWAY: In May 2011, cabinet approved proceeding with the forward sale of the South Australian forest resource. The buyer was OneFortyOne Plantations, which paid

$670 million for an initial term of 70 years, but we all know it is for three rotations that will go well past 100 years.

The forest resource is still managed by the public sector by the South Australian Forestry Corporation. OneFortyOne pays ForestrySA for this work, but there is a shortfall. It costs ForestrySA more to deliver the service than OneFortyOne pays. In other words, it costs taxpayers money, year after year. It's a losing deal for the taxpayer and a boon for OneFortyOne.

The amount of those losses so far has been a deeply-guarded secret. I have endeavoured to ask the minister in this place at other times, but she said the budget papers only show the final position which, of course, includes the forest reserves and assets from the Fleurieu Peninsula and in the Mid North.

On Tuesday 12 November this week, the minister told parliament that questions relating to this arrangement were outside the scope of an examination into the Auditor-General's Report, but she invited me to ask for those details in question time this week. 'The honourable member is able to ask me in question time...' she said on Tuesday. When I inquired as to whether the minister was committed to bringing back an answer, she again invited me to ask the question in question time. So, today: what is the difference between the fee that ForestrySA charges OneFortyOne and the cost of delivering that service to OneFortyOne Plantations?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:22): I thank the honourable member for his—

Members interjecting:

The PRESIDENT: I have. Minister.

The Hon. G.E. GAGO: Someone is counting, are they?

Members interjecting:

The Hon. G.E. GAGO: Just because it's your birthday, doesn't mean you get a free question, you know.

The Hon. D.W. Ridgway: It would be a gift if I got an answer to the question.

The Hon. G.E. GAGO: I give comprehensive answers to every question I am ever asked. I am happy to say I have already answered this question in a number of different forums. I have made it very clear that the fee that the government has agreed to receive from OneFortyOne is a commercially confidential sum, so we are not able to divulge that.

To give details of the figures that the Hon. David Ridgway has asked means that, given the budget documents that I have referred him to, which he didn't know existed, I have to say, at the time—he had no idea. Not only didn't the Hon. David Ridgway know that these budget documents existed, no-one in the Liberal opposition knew they existed at the time of our estimates committee. It's a disgrace that the opposition has no idea of these documents existing.

I have referred him to those documents, and they are on the record. They outline what the budget for ForestrySA is. If I were to outline the details of the question that he is asking, it would be quite a simple matter to be able to deduce what the fee is for OneFortyOne, which I am not able to for commercially confidential reasons. So the questions around ForestrySA, and the amount the government is providing to ForestrySA, is in the budget document. The amount ForestrySA expends is in the budget documents, and it is very clearly on the public record, very transparent.

I have talked about the costs of our Mid North and Mount Lofty forests before in this place; I have talked about the slump in the forestry industry because of the international marketplace and the difficulties that is having on our ability to generate profits, particularly from our Mount Lofty forests. We know that the costs of those forests are challenges to us, and we know that they have to be subsidised for the time being while we work forward.

We recently signed up an export contract for Mount Lofty, so there are some slight improvements in that marketplace, and we would be looking to generate more income from those forests that will help balance the books into the future. The figures, in terms of what the government pays for ForestrySA, the costs for ForestrySA, are all on the public record, and I have referred the honourable member to page 95 of a budget document that he had no idea existed. He has obviously failed to find the document or has failed to understand the figures in that document, and it just shows the incredible ineptitude of the opposition.

FORESTRYSA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:26): By way of supplementary question, I have asked for the difference between what the government receives from OneFortyOne Plantations—not the total amount—and what it actually costs to provide that service. I am not interested in the Fleurieu, export logs from Mount Lofty—

The PRESIDENT: You've asked your question.

The Hon. D.W. RIDGWAY: —or anything else—it is just the difference.

The PRESIDENT: You've asked your question.

The Hon. D.W. RIDGWAY: Those figures are not in the budget papers and I have asked—

The PRESIDENT: You're out of order.

The Hon. D.W. RIDGWAY: —you a simple question, which you committed on Tuesday to bring back here today.

The PRESIDENT: You should know better than to ask a supplementary question—

The Hon. D.W. Ridgway: I did ask a supplementary question.

The PRESIDENT: —and carry on with debate or offer—

The Hon. D.W. Ridgway: Sorry, I am excited—it's my birthday. I'm sorry.

The PRESIDENT: Well, you should get wiser as you get older.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:27): There is obviously too much sugar in the icing on his birthday cake, or too many food additives—it is obviously something. I have given a very simple answer, a very clear answer in terms of the difference in those figures and the ability to be able to deduct, quite simply using the figures that are on the record and any other details that might be given. It would be quite a simple exercise to deduct what is the OneFortyOne fee. It is a commercially confidential figure.

The Hon. D.W. RIDGWAY: I haven't asked for the fee—it's the difference.

The Hon. G.E. GAGO: But I am letting people know what the impact of divulging those details would mean. I referred the honourable member to the budget figures, which are clearly outlined and provide all the information the government is able to divulge that is not covered by commercially confidential information. I would be asking the honourable member to give a commitment in this place that, if there was some small miracle (and I very much doubt it), if the opposition were to enter government after the next election or the election after that, is he saying that he would divulge the details of commercially confidential information? Is that what the Hon. David Ridgway is saying—that he would be prepared to divulging that information?

FORESTRYSA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:29): By way of a further supplementary, given that the minister has only taken a bit over a minute to answer that question: do you, as minister, know the difference—

Members interjecting:

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

The Hon. D.W. RIDGWAY: Does the minister know the difference between the actual figure for the revenue from OneFortyOne Plantations and the cost of providing services? Do you actually know the figure?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:29): I have given all of the information that I am able to give to this house. As I said, the question that I asked the Hon. David Ridgway was: is he prepared to divulge those figures? If and when—and I think it would be many years to come—the opposition is in government, is he saying that they would be prepared to divulge those figures? That would

have drastic and significant consequences in the marketplace. He is just being completely irresponsible.

FORESTRYSA

The Hon. R.L. BROKENSHIRE (14:30): I have a supplementary question. Given part of the minster's answer, and I quote 'going forward', the question is: can the minister rule out any further sales of ForestrySA land remaining in South Australia?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:30): I do not think that any of it at this point in time is saleable. We have two fairly small forests that have been retained by the government—the Mount Lofty and Mid North. The Mid North forest I do not believe has ever made a profit; I do not believe it really has the capacity to do that because of its nature. Those plantations have lots of other values: they have significant community value; they are very important native reserves; and they provide a great community service as well. In terms of community value, the government certainly acknowledges how important they are.

In terms of the Mount Lofty plantation reserves, again, it is a relatively small plantation. At present it is struggling to break even. We are working towards that. It is going to be quite a challenge for us to even bring it up to the stage of breaking even. I doubt that those plantations are in a condition for sale and, as I said, our native reserves have a very important community value to us. We certainly do not have any intention of selling either the commercial components that are retained or the native plantations.

MURRAY-DARLING BASIN AUTHORITY

The Hon. J.M.A. LENSINK (14:32): I seek leave to make a brief explanation—or maybe just an explanation—before asking the Minister for the River Murray a question about the Murray-Darling Basin Authority.

Leave granted.

The Hon. J.M.A. LENSINK: In the December Mid-Year Budget Review all South Australians were shocked by the Weatherill Labor government's move to slash funding to the MDBA and, in doing so, has tried to shift the blame to the New South Wales government. I understand that the New South Wales government's decision to cut its contribution was in response to a determination made by their Independent Pricing and Regulatory Tribunal.

Today the South Australian government has indicated that it will consider reinstating the funding for one year but only if the New South Wales government reinstates its funding as well. My questions to the minister are:

1. Why does he continue to pass the buck on to other states rather than taking responsibility for his own government's actions?

2. At a time when South Australia should be leading by example and protecting the River Murray, can the minister please explain why the South Australian government is depending on other states' decisions?

3. Can the minister indicate whether he has actually had any discussions with the New South Wales government or, indeed, any other governments regarding funding?

4. Does the minister acknowledge that he is effectively cutting off the nose to spite the face because most of the funding or a significant amount ends up in South Australia on works and environmental measures anyway?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (14:34): I thank the honourable member for her most important questions. I am very pleased that, in the spirit of cooperation that we have embraced today, she has asked one of the most important questions that I would like to be asked this afternoon.

I will be attending the Murray-Darling Basin Ministerial Council meeting which is being held in Canberra tomorrow. The meeting will, of course, be the first since the election of the new federal Liberal government. The meeting includes a number of items which will have a significant impact on the management of the basin and on the people of South Australia. Members will be aware that in July 2012 the New South Wales government cut their funding to the Murray-Darling Basin

Authority by 60 per cent and, of course, New South Wales has capped its contribution to the authority at $8.9 million in 2013-14 and 2014-15. This is a very unfortunate outcome for every South Australian—it is a very unfortunate outcome for every Australian—who relies on the river for their way of life, no matter what side of the border they are on and it is an unfortunate outcome for the river itself; a river that is only just beginning to recover from the years of overallocation, interstate bickering and, of course, drought.

This decision by New South Wales puts South Australia in a very difficult position. The state government, under the leadership of Jay Weatherill, fought long and hard for a basin plan which would ensure the health of the Murray-Darling Basin and we are committed to the work being undertaken by the Murray-Darling Basin Authority. We are committed to the communities of the river and we are committed to the ecological health of the river. We are committed to the outcomes agreed to by all parties, prior to the change of government in New South Wales, that ensure we never push the river to the brink again. The river should never be about politics and the river should never be about one state over another. It is perhaps Australia's most important natural resource and it is time that New South Wales began treating it as such.

South Australia, despite our smaller population, has traditionally provided 24 per cent of the funding to the Murray-Darling Basin Authority. This is despite the fact that New South Wales takes more than 47 per cent of the water extractions and South Australia only 9 per cent. Even though New South Wales capped its funding over the last two years at a shocking reduction, we have maintained ours. This is because we knew just how important that money was to ensure the work being done right across the river system to return it to health could be undertaken. It was vital that the states work together.

However, it has meant that our proportion of funding has now blown out from 24 per cent to 29 per cent of the authority's funding. With this massive cut foreshadowed by the New South Wales government in 2014-15, South Australia stands to pick up the tab for New South Wales—the state that draws the most water from the system. That is simply unacceptable, and that is why in October last year we foreshadowed a reduction in our contribution to the authority from 2014-15. That decision was not made lightly. It was made on the basis that this state could not afford to subsidise the New South Wales government, and that is why I will be heading to Canberra to tell the Murray-Darling Basin Ministerial Council meeting that this is something South Australia cannot and will not sustain.

South Australia will not pick up the tab for New South Wales into the future. However, I will tell the council that if the state of New South Wales reverses its decision to cap its funding to the authority at $8.9 million and to fund the authority at its agreed state share, South Australia will maintain our proportion of funding because we will not give up on the River Murray as the Liberals opposite have done.

As I have said earlier, we have already done more than our fair share. Because of New South Wales' cap, we currently provide more than our previously agreed proportion of 24 per cent of the total funding to the authority, but you come to a point when you have to say, 'Enough is enough.' New South Wales now needs to pull its weight and everybody in this chamber and in the other place, particularly the Leader of the Opposition who has thus far, as far as I can tell, been completely silent on the matter, need to help ensure that this occurs.

South Australian Liberal senator Simon Birmingham will be at this meeting. He will be chairing it and it is my hope that the honourable senator, like me, will be pressuring the New South Wales government to reinstate their proportion of that funding. I am sure the honourable senator knows exactly how important this funding is to the communities of the river and the economy of our state but, if I am to be honest, I am not sure that the Leader of the Opposition, Mr Marshall, in the other place, understands this at all. If he does, it is time for the Leader of the Opposition in the other place and all his parliamentary Liberal colleagues in both houses to finally put the politics aside and stand up for South Australia. Show the people of South Australia that you can fight for our state. Show the people of South Australia that you will put our state and our interests before that of your Liberal Party mates in the Eastern States.

Jay Weatherill and this state government did exactly that when we fought for the River Murray basin deal. We told prime minister Gillard and the federal government at the time that we wanted a better deal than what was on offer; a better deal than what the Liberals opposite were offering. They were saying, 'Take it, take it, you'll never get a better deal.' The Liberals were saying, 'Take the deal on the table that New South Wales is offering. You will never manage to get a better deal.' But that is exactly what Jay Weatherill did. He stood his ground, he fought for South

Australia, and he got a better deal for the River Murray, a better deal for the River Murray communities and a better deal for our state. It is time that the Liberals learnt that lesson and stood up for our people.

FRUIT FLY

The Hon. S.G. WADE (14:40): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries questions relating to the recently announced fruit fly sterile insect facility.

Leave granted.

The Hon. S.G. WADE: Yesterday, I asked a series of questions of the minister in relation to the recently announced fruit fly sterile insect facility. In her answer, the minister said that $3 million to be spent on the facility—

The Hon. G.E. Gago: Sorry, I can't hear.

The Hon. S.G. WADE: Well, if you stopped talking, you might be able to hear.

The Hon. G.E. Gago interjecting:

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Wade, you have the call.

The Hon. G.E. Gago interjecting:

The Hon. D.W. Ridgway: Please, please! What else can I do to get thrown out?

The PRESIDENT: Order! I can name you if you like and that will start the process. The Hon. Mr Wade has the call.

The Hon. S.G. WADE: Thank you, Mr President. Yesterday, I asked a series of questions of the minister in relation to the recently announced fruit fly sterile insect facility. In her answer, the minister said that the $3 million to be spent on the facility 'will not make any difference to current expenditure in relation to public awareness and information campaigns, border protection and such like, and our grid systems'. My questions are:

1. Will the minister specifically guarantee that none of the $3 million to be invested in the facility will come from the $5 million being spent annually on fruit fly control, that is, that the capital allocation is in addition to the $5 million that is spent annually on fruit fly control?

2. Given that the Mediterranean fruit fly is the main risk to South Australia, why has the government chosen to focus on the Queensland fruit fly to the relatively greater benefit of other states?

3. Will the government own any intellectual property or patents created by the facility and, if not, who will?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:42): Oh dear, I lost a bet! I said that they wouldn't give me a Dorothy three days in a row, and they have. I thank the honourable member for his very important Dorothy, I mean government question, I mean question. This government is incredibly proud that it has been able to take national leadership in relation to the management and control of fruit fly. We are very proud. We have been—

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

The PRESIDENT: The Hon. Mr Dawkins, we want to hear this.

The Hon. G.E. GAGO: We led the way in the past, and we continue to lead the way. In terms of our horticulture industry, which plays a very important role in our economy, we know that fruit fly is one of the major pests which puts our industry at risk and which could cost our industry many millions of dollars. We could, in effect, end up losing markets if we were to lose our fruit fly free status.

I was very pleased that recently the Premier and I were able to announce a commitment of $3 million over two years to fund the establishment of a sterile insect technology facility in Upper

Spencer Gulf. I have to say that this has been met with resounding support right across the industry, from our primary producers to our peak industry bodies right through to our education and research institutions, and it has also generated a great deal of interest interstate as well.

The honourable member has a lot of trouble grasping this, but I have outlined quite clearly that the $3 million that the government contributed to capital expenditure for the building of the facility will leverage $15 million of industry money contributed by HAL, CSIRO and, I think, plant security and other partners. It is an incredible project, a $3 million state-of-the-art research facility and a $15 million industry.

Currently, South Australia spends about $5 million a year on our fruit fly management system. I made it very clear yesterday that none of those programs or that funding would be affected by the new additional $3 million fund. I answered this question yesterday very clearly but the opposition is thick as a brick, truly. Anyway, I am happy to spend three days in a row going over exactly the same material, giving exactly the same commitment.

The $3 million was made up of an additional $2 million plus, as I explained: the $1 million that this government put on the table in the last budget round for new initiatives for fruit fly protection, which we said we wanted matched by industry contribution, and this project is perfect for that. The industry is indeed matching that; in fact, we are leveraging $3 million to $15 million. So this is a very important achievement and a great outcome. We have that $1 million being brought forward and put in with an additional $2 million, so that is basically new money of $3 million for capital expenditure. It leaves the current $5 million in expenditure on fruit fly unchanged; it has no impact on that.

It is a wonderful project and, as I said, everyone one else who has anything to do with horticulture, agriculture and research has embraced this and has acknowledged what a fabulous initiative this is and has congratulated the government. But the Hon. Stephen Wade still has some misunderstanding; he obviously cannot understand the figures in front of him, and he still struggles to get the fact that it is a new $3 million and the old $5 million stays as is.

In relation to Qfly, he is just showing his absolute ignorance. I can't believe that the Hon. Stephen Wade would come into this chamber with a question that just doesn't even require research, just basic information about our fruit fly industry. Really, it is disgraceful. This is how lazy the opposition are—lazy, lazy, lazy opposition. They are such a dozy lot. I have talked in this place before about the two main incursions that occur here in South Australia. There are others as well but the two main threats to our industry are the Mediterranean fruit fly which was brought over from Western Australia and Qfly which basically started off in Queensland.

We already have a sterile insect technology around our Mediterranean fruit fly and have had for some time, so I don't know what the Hon. Stephen Wade wants us to do, go back out and reinvent that technology? It is the technology around controlling and managing Queensland fruit fly that currently is not in existence, so that is why the South Australian government has taken national leadership and stepped into that research space because currently there is no sterile fruit fly technology to combat Queensland fruit fly (or Qfly).

PHYLLOXERA

The Hon. R.P. WORTLEY (14:49): I seek leave to ask the Minister for Agriculture, Food and Fisheries a question about phylloxera.

Members interjecting:

The PRESIDENT: Order!

Leave granted.

The Hon. R.P. WORTLEY: Phylloxera is an insect that feeds on the roots of grapevines, seriously weakening the vine. You would have thought this would have been an interesting question or an important question for those opposite who seem to always say they represent regional and rural areas. Phylloxera is an insect that feeds on roots of grapevines, seriously weakening the vine. Can the minister inform the chamber about new technology that will assist in keeping South Australia phylloxera free?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:50): I thank the honourable member for his well thought through question. Phylloxera is a very important pest to the wine industry here in Australia and, of

course, South Australia has the great reputation of being not only fruit fly free but also phylloxera free, and that is due to the hard work of our primary industries, our farmers, who are ever diligent, and also governments that are prepared to invest in our biosecurity protection technologies and systems.

South Australia is one of the few major grape-growing areas in the world that has remained free of this vine-destroying pest phylloxera. As a result, South Australia has some of the oldest grapevines in the world. Many of those old grapevines help us produce some of the best wine in the world.

The Hon. R.L. Brokenshire: Grange; the best Grange, Penfolds Grange.

The Hon. G.E. GAGO: Yes, thank you for that. I have a bit of a conflict there, so I will not say too much more, but we do produce some of the world's finest wines. Last week, as part of the government's series of policies aimed at Building a Stronger South Australia, I announced that the state government is expanding the development of a world-leading soil DNA testing system to help keep the state's grapevines free of phylloxera. The state government will provide around $500,000 of new funding and work with partners to support the development and trialling of the new testing system, establish a commercial service to provide phylloxera testing and certification, and adapt the technology for other horticultural industries to better combat plant diseases and pests.

Grape phylloxera is an insect that feeds on the roots of grapevines. The infestation damages the roots and also allows infections such as fungi and bacteria to damage the root systems even further and seriously weaken the vine. Currently, there is no cost-effective testing for the presence of phylloxera in soil. The only way to identify the pest is to actually dig up and visually inspect the vine's roots.

The new DNA soil test, under development at SARDI, is world-leading work that is expected to have significant benefits for wine-growing areas across the world. The new test will also help to protect South Australia's important grapevine industry—an integral part of the state's $1.8 billion (so just under $2 billion) wine industry.

Research has shown that phylloxera can be identified from just small soil samples in a rapid testing procedure and, once deployed, the screening system will give the viticulture industry an effective early detection tool to be able to protect against the vineyard scourge of phylloxera and create a new export market for the technology.

The emphasis in South Australia is on ensuring phylloxera does not enter the state from the importation of infected rootstock or on equipment. The ability to use world-leading DNA testing will enhance the regulatory approach to ensure South Australia remains phylloxera free.

This new DNA test is so important because South Australia accounts for almost 75 per cent of Australia's premium wine production. I will just repeat that, Mr President—and I know you enjoy some of our fabulous wine products, you are a bit of a connoisseur—South Australia accounts for almost 75 per cent of Australia's premium wine production, which is produced, as I said, from some of the oldest vines in the world.

South Australia dominates the Australian wine industry, with just under one half of all of Australia's vineyards situated in South Australia and approximately one out of every two bottles of Australian wine made in South Australia. So one out of every two is made here. This wine is exported to almost 100 countries and just over 50 per cent of all wine exported overseas originates from this state. This government remains committed to doing what it can to ensure that phylloxera does not enter this state.

It is worth noting that Australia's $500 million potato industry is already benefiting from a soil DNA testing service developed by SARDI scientists, which could be expanded to other horticulture sectors in South Australia. The service gives growers a snapshot of any common disease pathogens present in their soil samples before they plant their crops, reducing the reliance on soil treatments to control disease outbreaks and improving the premium potential of products.

The additional government funding will also support the adaptation of this technology to other horticulture industries to better combat plant disease and pests. This will have, obviously, great benefits for other horticulture industries and can also be delivered to other jurisdictions.

FARM FINANCE PACKAGE

The Hon. R.L. BROKENSHIRE (14:56): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question regarding farm finance.

Leave granted.

The Hon. R.L. BROKENSHIRE: I recount the history of questions asked in this place about the former Labor government's farm finance package. On 30 April 2013, I asked the minister if she had received a letter from former minister Ludwig, given he was encouraging state ministers and governments to get behind the program. The minister said she had got a text or email about the wonderful package of assistance and that the government was in discussions with the former government about delivery mechanisms for the loans. Then, in April, the minister said she agreed with me that it was important to expedite this.

The Leader of the Opposition in this place and shadow agriculture minister asked, on 19 June 2013, whether any money under the program had been provided to South Australian farmers. The minister said the government was then negotiating to establish a fund administrator, which meant a lot of work, but she admitted that other jurisdictions already had that in place. The minister said negotiations were continuing but she hoped it would commence 13 days later on 1 July.

The Hon. Mr Ridgway asked again on 25 July why South Australia had not signed up yet. The minister said the federal Labor government had initiated discussions with other states and was 'slowly working around the nation' and 'they have only really just come to South Australia'. On a supplementary, the minister said we would sign up when we got the best deal for South Australian farmers.

Finally in this chronology, to help the minister and the council, in answer to my question last Thursday on the drought conditions in the north-eastern pastoral areas of South Australia, I asked about the farm finance package that other states and the Northern Territory signed up to in time. What did the minister say? She had a sad story, blaming the new federal government for ripping off South Australian farmers. However, she also said the submission to get SA on board was submitted 'prior to caretaker provisions being put in place'. My questions therefore are:

1. Will the minister tell us today, or commit to come back to this place next sitting week and tell us when all the other participating jurisdictions submitted their commitment to the farm finance package and were, in turn, approved by the former federal government?

2. How long prior to caretaker does the minister mean her government submitted its paperwork to be part of the package?

3. Why did the government sit back and wait for its turn on farm finance negotiations, rather than be proactive to ensure that we didn't miss out on our fair share?

4. Does the minister accept, on reflection, that her government in fact dropped the ball for South Australian farmers on the former federal government's farm finance package?

5. In light of how this sad story played out, regardless of who the minister wants to blame, will the state government reach into its own pockets to replace the money South Australian farmers have now missed out on?

The PRESIDENT: Before I call you, minister, I remind you—

Members interjecting:

The PRESIDENT: Order! Minister, I remind you to ignore the opinion and the debate, which was most of it.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (14:59): It is an absolute disgrace that the new Liberal federal government has ripped out of the hands of our South Australian farmers $10 million over two years for farm finance assistance. It is an absolute disgrace. How could this South Australian government sign an agreement with the federal government when the federal government has simply refused to furnish us with an agreement to sign? They have failed to provide South Australia with an agreement to sign. They have simply failed to provide us with an agreement. We cannot sign something we do not have.

We have pushed and shoved right from the outset—pushed and shoved, kicking and screaming—both the former federal government and now the Liberal federal government; we have pushed and shoved them into attempting to have this finalised. The current federal government has dragged its feet. I contacted them, as I have put on record before. The South Australian government agreed to the guidelines with the former federal government. They were agreed this year, before caretaker mode and before the election. The federal government at that time failed to progress that, then we went into caretaker mode, then election. As soon as the new government was elected and minister Barnaby was appointed, again I contacted him and drew attention to the fact that those guidelines had been agreed to and a commitment had been given to $60 million. It is an absolute disgrace.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: The Hon. Mr Ridgway will come to order! Minister.

The Hon. G.E. GAGO: You can see why South Australian farmers have every right to be absolutely outraged to have $10 million of their $60 million diverted to other states. It was not only diverted but it was agreed to. An agreement was given by the former federal Labor government to give South Australia a package of $60 million for farm financing. That is on the record. An agreement was given and an announcement was made by the former federal government at the time.

The former federal government committed to give our farmers $60 million over two years. That commitment was given. What failed to occur was that the federal government failed to furnish a contract agreement to South Australia for signing, and we have seen a Liberal government fail to honour that former agreement. The current Liberal government has failed to honour that former agreement. They have reneged on a deal—reneged on a deal.

And what have we heard from the Liberal government? What have we heard Mr Steven Marshall say or do to defend South Australian farmers? Nothing; there has been complete and utter silence from the opposition. We have heard nothing from them to come out and defend South Australian farmers. At least the Hon. Robert Brokenshire has actually come out and tried to defend South Australian farmers. But not a murmur, not a squeak, not a peep out of Mr Steven Marshall or the opposition. I have not heard a word of them calling on minister Barnaby to return that $10 million to South Australian farmers. Where has their commitment been? Where have their demands been? There is not one skerrick of evidence of any attempt by any member of the Liberal opposition to demand minister Barnaby—

The PRESIDENT: Joyce.

The Hon. G.E. GAGO: —Barnaby Joyce return that $10 million to South Australia. What a disgrace they are! They refuse to stand up for South Australian farmers—what a disgrace! They should be ashamed of themselves.

I continue to say to the minister: we are ready to sign, we have agreed to the guidelines, we are ready, willing and able to sign up; where is the contract? He has failed to provide us with that contract—simply failed to provide us with the contract. So, it is an absolute disgrace, and that is because the federal Liberal government does not care about South Australian farmers. They do not give one dot about this state.

What they have done is siphon off our funds to Queensland. These funds were not to be a fire relief strategy. They were part of a farming resilience strategy, yet he has siphoned off, he has taken out of the hands of our farmers—

The Hon. D.W. Ridgway: Because you were too lazy and too disorganised to sign up.

The PRESIDENT: The Hon. Mr Ridgway will come up with something new, if you are to interject, which will be out of order.

The Hon. G.E. GAGO: —ripped out of the hands of our farmers $10 million to siphon off to another jurisdiction. Not one member opposite me, not even the leader Steven Marshall, has made one attempt—not one attempt—to demand that minister Barnaby Joyce return that $10 million.

The Hon. D.W. Ridgway: Yes, we have demanded you sign the deal.

The Hon. G.E. GAGO: Well, why don't you stand up and demand the return of the $10 million? Why don't you stand up and demand that your federal colleagues return that

$10 million to our South Australian farmers? Why don't you have the guts to do that? Why don't you have the guts to stand up and fight for South Australian farmers? Because they're too gutless, that's why—they are just way too gutless. They cower in the shadow of their federal mates. They are just gutless.

LAKE EYRE BASIN

The Hon. G.A. KANDELAARS (15:07): My question is to the Minister for Sustainability, Environment and Conservation. Will the minister inform the council about the recent meeting of the Lake Eyre Basin Ministerial Forum?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Aboriginal Affairs and Reconciliation) (15:07): I thank the member for his most surprising question. It is not the one I was expecting, but then the Hon. Michelle Lensink asked that one. I have spoken at great length in this place about the need to ensure that Australia as a nation does not repeat mistakes made with the Murray-Darling Basin in the Lake Eyre Basin. This government's fight to ensure upstream states listen to the needs of their communities and that the rights of South Australia are protected is progressing full steam ahead.

I am pleased to inform the chamber that, last week, I attended the 11th meeting of the Lake Eyre Basin Ministerial Forum, along with representatives from Queensland, the Northern Territory and the commonwealth government. This meeting was long overdue and something that I, on behalf of South Australia, have been requesting in response to Queensland's proposed changes to the Cooper Creek and Georgina and Diamantina Wild River declarations. This meeting was also requested in response to the worrying plans of the Queensland government to alter water licence conditions on their side of the border to attract more irrigators into the region.

It is extremely disappointing that it took repeated requests, calls to the media, public pressure from around the country and the calling of a ministerial forum for the Queensland government to even discuss their plans with us. Thankfully, Queensland finally came to the party—somewhat dragged to the party, I should say—and presented a preliminary briefing on their proposed changes to the ministerial forum.

Most importantly, we also heard advice from the Lake Eyre Basin Community Advisory Committee and the Lake Eyre Basin Scientific Advisory Panel, who have also been vocal in their concerns about the Queensland government's proposals. Of key concern to South Australia is that Queensland is continuing to state that its proposed changes to water licensing will have little or no change from the current situation; however, the government, the community advisory panel and the scientific advisory panel believe there are very legitimate concerns about that statement.

Queensland's proposal to break up sleeper licences, such as those in the Cooper Creek catchment area, under this framework has the potential to increase their take by almost 10,000 megalitres, and that is more than double the current take. This is of great concern for a number of reasons. Some of those reasons that we heard at the forum include: the potential reduction of flows downstream; reduced groundwater recharge; and, impact on base-level flows into the Lake Eyre Basin needed to remain a healthy and functioning system.

Queensland has now agreed to provide data and modelling on its proposals. Again, my officials have been trying to extract that data, that scientific information, from Queensland, to no avail until I actually asked the minister, point blank, for it at the forum, and they have now agreed to provide that data and the modelling on their proposals, which we hope will allow us to properly assess any impact on the Lake Eyre Basin in South Australia.

I can give the commitment that South Australia will not remain silent on this issue if there are adverse cross-border impacts. We have always maintained that policy decisions must be based on the best available science, and we will continue to pressure Queensland to provide us with the science behind its proposals, so that we can ensure those proposals will not adversely impact on this state.

We have seen the impact of such reduced flows into the state before. We saw it with the Murray-Darling Basin, and it is imperative we do not see it in the Lake Eyre Basin. Many communities and many forms of industry rely on this natural resource for their prosperity, and the environment itself of Central Australia relies heavily on these flows as if it was their lifeblood.

That is why I again urge all members in this place to take up the fight with us, just like the member in the other place, the member for Stuart, Mr Dan van Holst Pellekaan, has done, and the

Hon. Mr Parnell has done, I think last night in this chamber, putting the state first and standing up to those Eastern States MPs who just will not abide any entitlements of water coming across their borders.

I am also pleased to advise that at the ministerial forum ministers agreed to the appointment of Dr Justin Costelloe and the reappointment of Professor Richard Kingsford on the scientific advisory panel. Ministers also agreed to the reappointment of Ms Brenda Shields to the community advisory committee. Queensland needs to heed the advice of the scientific and community advisory panels in considering any proposal that affects the Lake Eyre Basin, and this government will continue to fight to ensure that happens.

When I asked the Queensland minister whether he would undertake to have on-the-ground consultation—in Queensland, not in South Australia—with the impacted communities around Longreach, the pastoralist community and the Aboriginal communities, he said, no, he would not. I think that is an appalling situation. As I said, South Australia will not remain silent. If there are adverse cross-border impacts, we will be agitating and standing up for this state, and I encourage all honourable members to join us and do the same.

FOUNDATION TO PREVENT VIOLENCE AGAINST WOMEN AND THEIR CHILDREN

The Hon. T.A. FRANKS (15:12): I seek leave to make a brief explanation before directing a question to the Minister for the Status of Women on the topic of the national Foundation to Prevent Violence Against Women and Their Children.

Leave granted.

The Hon. T.A. FRANKS: The Foundation to Prevent Violence Against Women and Their Children is a new foundation and seeks to work to raise awareness and engage the community in action to prevent violence against women and their children. It was launched in July 2013 by the then commonwealth minister for the status of women, the Hon. Julie Collins MP, and the Victorian Minister for Community Services, the Hon. Mary Wooldridge MP. Both those jurisdictions—the commonwealth and Victoria—have stumped up $6.5 million to get this foundation going, and I understand that the chair, Natasha Stott Despoja, is meeting with state and territory governments around the country at present and asking them to commit to a partnership with the foundation. My question to the minister is: will she provide an update on what the Weatherill government's attitude is towards this new foundation and whether there is indeed the potential for a partnership to be entered into by South Australia with this exciting new foundation?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:14): I thank the honourable member for her most important question. I congratulate the foundation on the work it has set out to achieve. I have already met with the chair, Ms Natasha Stott Despoja, and had a very fruitful and worthwhile dialogue. I believe she has also met with the Premier or, if not, she has had an exchange of correspondence with the Premier (I know that they certainly have had some exchange).

We had a very fruitful meeting and Natasha took some time to outline where she saw the vision and direction of the foundation going, and I was able to outline how I thought the work we were doing here, our policies for violence against women and children, and our program activities and work could complement each other so that we could work together without replicating activities and working in highly complementary ways.

Even one death or act of violence against a woman or a child is one too many. I think that the establishment of this foundation will very much assist at the community engagement level where there is a great opportunity to do some wonderful work for women and children who are victims of violence or potential victims of violence.

I understand the Premier has already committed $5,000 to the foundation as a sign of commitment and partnership, and he has indicated that in the next financial year we will consider ordinary membership with the foundation. We have agreed to ensure that we stay in contact with each other and keep solid lines of communication open with an ongoing dialogue, and we look forward to working with the foundation in helping to combat violence against women and children.

MYPOLONGA FRUIT FLY TRAPPING GRID

The Hon. J.S. LEE (15:16): I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about the Mypolonga fruit fly trapping grid.

Leave granted.

The Hon. J.S. LEE: The Lower Murray Horticulture Action Committee and the member for Hammond recently met with the minister and PIRSA representatives to discuss the cessation of funding for the Mypolonga fruit fly trapping grid. Local growers recently agreed to continue to fund the trapping grid through a voluntary levy; however, cost estimations leave the local growers short.

The Lower Murray Horticulture Action Committee has requested government support of $5,500 to continue operating the Mypolonga fruit fly trapping grid until July 2014. PIRSA representatives agreed to this; however, no further communication has been received to date. My questions are:

1. Will the minister provide an update on the funding promised by PIRSA to continue to operate the Mypolonga fruit fly trapping grid to ensure that the industry and South Australia stays fruit fly free?

2. Is the minister willing to make necessary legislative changes to upgrade the Mypolonga area from fruit fly free to fruit fly exclusion zone and provide support similar to that afforded Riverland growers?

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:17): I thank the honourable member for her most important questions. I have met with the Mypolonga Fruit Fly Alliance—I think that is the name of the group but I will double-check that. I have met with a number of representatives from that group. The dialogue that took place with them and senior officers and some of my advisers was very fruitful.

They were able to outline the shape of the industry in that particular region. It is a fairly small region and has limited resources available to it in terms of investing in fruit fly initiatives and fruit fly prevention initiatives. In recent times they had a fruit fly grid that was funded by Horticulture Australia Limited but they withdrew that funding that enabled that grid trapping. That left the Mypolonga group of farmers in a very difficult situation. They came to me and I said to them that I am willing to work in partnership. It is important that that area is able to demonstrate that it is fruit fly free. By having this trapping grid in place, they utilised the services of a number of processors in the Riverland area, so some of the producers moved fruit in and used those processors there.

We were concerned that, unless we were able to keep that grid intact, those Riverland processors might lose confidence and then refuse to take fruit and that would leave some of those farmers without any ability to process their fruit. Obviously that was something that we sought to avoid. What we have agreed on—and I think this is just last week, but if it was not last week it was the week before as I have met with them quite recently—is that we will work in partnership to continue with the grid. I have agreed to contribute $5,500 towards the trapping grid and the farmers have agreed to introduce a voluntary modest levy that will help to contribute to that as well. In partnership, we will be able to continue the payment for that grid to remain in place.

In the meantime, we continue to assist that group to fill out grant submissions to HAL and any other appropriate body to provide future assistance to them in managing fruit fly in that particular area. We were very pleased that we were able to land on a partnership arrangement where we will be working together to ensure that those farmers remain fruit fly free.

SUPREME COURT APPOINTMENTS

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:22): I table a copy of a ministerial statement relating to Supreme Court appointments made earlier today in another place by my colleague the Deputy Premier, John Rau.

STATUTES AMENDMENT (SMART METERS) BILL

Adjourned debate on second reading.

(Continued from 29 October 2013.)

The Hon. R.I. LUCAS (15:23): I rise on behalf of Liberal members to support the second reading of the Statutes Amendment (Smart Meters) Bill. South Australia, as members will be well aware, is the lead legislator for national energy retail law and national electricity law and this bill is

being introduced as part of a standing council on an energy and resources market reform initiative. The bill represents the initial legislative stage for the eventual widespread introduction of smart meters and related technologies.

Currently in South Australia about 99 per cent of electricity households and businesses are fitted with the traditional accumulation meters that monitor overall usage. Retailers monitor overall usage on site at quarterly intervals. This old technology requires inspectors to visit properties to read meters and gives little visibility of usage. The old meters cannot be used to manage demand, and I am advised the cost of this old technology is about $50 per user.

The bill establishes the rule-making mechanism by which a rollout of smart meters could be established. The bill does not implement the full recommendations of the SCER (Standing Council on Energy and Resources) process and is deliberately not overly prescriptive, given that different jurisdictions will seek to incentivise or encourage the adoption of smart meters in different manners. Of course, Victoria has already implemented its own scheme which was mandated.

The bill allows the South Australian Minister for Energy to implement the initial National Electricity Rule amendments to ensure that consumer protections are in place in early 2014. After these initial rule changes, the minister will have no power to make further rules under the bill. The rules may be made only on the recommendation of SCER.

Secondly, the bill removes the power for a minister to issue a mandate for a broadscale smart meter rollout determination, as occurred in Victoria. SCER has agreed that any future rollout of smart meters should be market driven and competitive, and by removing the minister's power to mandate the rollout by South Australian Power Networks the door is open for others to enter the market without that risk in prospect. The bill retains, however, the ability of ministers to mandate limited trials or assessment, as is currently being conducted in some suburbs. The bills also goes on to provide a number of consumer protections.

In addressing some comments to this bill and the current state of the National Electricity Law and the national electricity market, I must admit that I have had to chuckle a few times as I have seen the Jay Weatherill Labor government and, in particular, minister Koutsantonis, in essence, virtually twisting himself inside out justifying positions which previously he and his government have been implacably opposed to.

I have seen in many debates, both in the house and also in the media, minister Koutsantonis, on behalf of the Jay Weatherill Labor government, lauding the virtues of the deregulation of pricing in South Australia and the introduction of competition in terms of pricing. Indeed, on a number of occasions, even during this debate, the minister was claiming that when the government deregulated electricity pricing in this state the first thing the opposition said was that we should have done it sooner. He said, 'So, I went and checked and, of course, there were no calls for us to deregulate before we did it. Now it is the same.' The minister has made these claims on many occasions during recent months on this debate; that is, the minister is the champion of deregulating electricity pricing in South Australia and the introduction of competition.

The minister is a slow learner, we know that, but when the electricity market was deregulated, when the electricity assets were privatised in South Australia, the then Liberal government, all during that particular period, mapped out a program of the introduction of competition in the marketplace over a period of time. Various tests were set in relation to the final tranche of that, which was into the retail market for the residential sector, in particular, and once sufficient competition had been introduced, there would be the deregulation of pricing.

Of course, even though there had been reports produced by national regulatory authorities saying that there was competition in the marketplace, the Jay Weatherill Labor government in South Australia, for quite some time, opposed competition and the deregulation of electricity pricing in South Australia. Now the minister is claiming to be the champion of this and that, indeed, the Liberal Party in South Australia has never supported it.

As I said, the minister is either a slow learner or he is deliberately excluding the origins of this particular debate and, indeed, his position and his party's position all during that particular period. They were the ones who opposed the introduction of the deregulation of electricity pricing. They were the ones who said it was one of the evils for the national market and privatisation. They were the ones who said they would never support it, and yet the minister just hopes that everyone will forget that was the Labor Party's position and hopes that they will forget that was his position. He now seeks to cloak himself as the champion of deregulation and competitive pricing.

The other thing I chuckle about in terms of this debate, as I see the minister twisting himself inside out on this topic, is the minister's position in relation to privatisation and government ownership of assets. On many occasions, and even during this debate, the minister is very critical now of those governments that operate publicly owned power assets. He actually does two things. On the one hand he says he opposes privatisation and it is the cause of all the problems but then, on the other hand, he is talking not to the retail market through talkback radio but in the house or to the electricity fora and conferences in this debate, and let me quote him again:

> Electricity is a very controversial subject and the SCER process is a very difficult one because there are entrenched biases within the SCER process. Those biases are from our eastern states colleagues, whether they be Labor or Liberal, and the government owned assets of Queensland and New South Wales. They protect their consumer advantage very well and that consumer advantage is to profit from other consumers and maintain the profitability of their own assets. They use regulations of the National Electricity Law to their advantage, to benefit their own taxpayers.

What he is pointing out there is that the government owned assets in New South Wales and Queensland use the rules and regulations and the law to reap benefits for the taxpayers of South Australia to the disadvantage of the operation of the national electricity market. The Treasury there is able to, in his contention anyway, take profitability to the disadvantage of the others within the national electricity market.

There are many other examples. I am not going to delay the process today in pointing out the inconsistency and the hypocrisy of the minister's position because I think it is self-evident to all those who follow the debate. As I said, when the minister is on talkback radio, he attacks private ownership of electricity assets but in any other forum that he attends he attacks government ownership of electricity assets and champions competitive pricing, competition and deregulation of the electricity market. Sooner or later the inconsistency and hypocrisy of that position will be self evident.

I want to take the opportunity today to put on the public record something that I have not before put on the public record and this has been prompted as a result of continuing to hear minister Koutsantonis and some other Labor members saying that they had always proposed privatisation of electricity of ETSA and they continue to oppose the privatisation of ETSA. I can indicate that former Labor legislative councillor the Hon. Trevor Crothers was one of two key votes in the Legislative Council to support the privatisation of ETSA in South Australia, a courageous decision that he and his colleague the Hon. Terry Cameron took at the time.

The Hon. Trevor Crothers told me at the time, and on a number of occasions after that debate and before he passed away, that during that particular debate he was approached by very many Labor MPs at the time who were in the parliament, including now minister Tom Koutsantonis. He told me that now minister Koutsantonis, at that particular time before the vote, urged him to cross the floor and vote with the Liberal Party, the Liberal government, for the passage of the ETSA legislation.

As the Hon. Mr Crothers put it to me, it was not because of any ideological position or merit-based judgement the Hon. Mr Koutsantonis had arrived at: it was simply a view that Mr Koutsantonis and a number of other Labor MPs had that the Labor Party would be crucified at the upcoming elections in relation to problems with the State Bank debt, or the state's debt, if the Labor Party was seen to prevent the pay-down of the state's debt through the privatisation of the ETSA assets. That particular conversation is also known to the Hon. Terry Cameron who, of course, is still alive. The Hon. Terry Cameron can attest to the accuracy of that particular statement that the Hon. Trevor Crothers made to me on a number of occasions.

I think it is important to highlight the cant and hypocrisy of certain members, in this particular case Labor minister Koutsantonis, on this issue of ETSA privatisation because, as I said, when it suits him he loves to run around saying that he is always opposed to privatisation and continues to oppose the privatisation of electricity assets, yet what is quite clear is that right from the word go he was urging Labor MLCs Trevor Crothers and Terry Cameron to cross the floor and vote with the Liberal government for the privatisation of electricity assets in South Australia. As I said, I think it is important at this stage to put that on the public record. Of course, I was not there for those discussions; I can only recount what the Hons Trevor Crothers and Terry Cameron have told me over the years in relation to those conversations.

In relation to this additional element of the potential introduction of competition into the marketplace and the implications of smart meters, there is much discussion about where smart meters might end up and what use might be made of them in South Australia. We know that way

back in 2005 the company now known as SA Power Networks was commissioned by ESCOSA in South Australia to conduct a demand management, research and development program aimed at introducing demand-management strategies into the South Australian marketplace, and a budget of $20.4 million was delegated by ESCOSA to that project. I am told that through careful husbanding of that money, almost eight years later the last of that money is being spent on continuing demand management research and development, and the most recent trials and programs continue in the suburb of North Adelaide.

In previous years the suburbs of Glenelg, Mawson Lakes, Northgate and Murray Bridge were also part of a beat-the-peak research and development program, where various initiatives were trialled by SA Power Networks in relation to the use of smart meters. As I said, the trial continues in North Adelaide. It is a trial which has been very well managed by SA Power Networks, given that over a period of eight years there seems to have been very little public criticism, if any, of the work that ETSA and now SA Power Networks has conducted with the use of smart meters in those particular trials.

I think the issue in relation to the use of smart meters deserves some commentary and some debate, and there is obviously continuing debate about what smart meters might be used for. Certainly, in some areas people are arguing that they can be used remotely by the distribution companies during peak periods to reduce power usage, in particular in relation to turning off condensers in air conditioners with minimal impact on the actual temperature in the home by switching off in an hour for just a few minutes, allowing the fan to continue to operate. That is one of the particular trials that has been looked at.

I think the key issue being explored in smart meters has been the issue of encouraging consumers to modify their patterns of usage. There are many who are attracted to the notion of the use of smart meters to introduce time-of-use pricing, but I would like to, I guess, issue a touch of a cautionary note in relation to the wholesale acceptance of the logic of smart meters and time-of-use pricing. Certainly, there is increasing debate at the national level in terms of the arguments for and against the introduction of time-of-use pricing and the impacts if time-of-use pricing were to be introduced.

One of the arguments put to me has been that if time-of-use pricing is introduced, and that is on the basis that in the peak period, say between 3 o'clock and 6 o'clock of an evening, that if people are charged extraordinarily high amounts for the use of their air conditioners and power during that particular period they will turn them off and not use them during that particular period. In that way, because we do have the peakiest electricity load in the nation, the difference between the peak capacity the system requires and the average capacity that is required can be minimised thereby reducing costs within the system, and also reducing the prospects of blackouts and brownouts.

It has been put to me that the logic of that is at least plausible, but some have put to me the argument that the experience in South Australia, and in some other jurisdictions, is that that might work for the first one or two nights; that is, households are prepared to adjust their consumption during the peak periods, but when you get to the third night of 10 days of 40º-plus peak periods consumers get to the stage of saying, 'It's all too hot, hang the expense, we're going to crank the air conditioners up to the level that we're going to anyway.'

If that happens, even with the use of time-of-use pricing, then the claimed benefit of reducing the peak no longer exists. Unless you accept that there will be blackouts at that particular time because you cannot produce the peak electricity load in that particular period, it does not matter whether you are using your peak for 10 days in a row or whether you do not use the peak for two or three days of 40 degree temperature but on the third, fourth or fifth day you do reach the peak, ultimately the system has to be constructed to meet the peak otherwise you have a situation of blackouts eventuating.

So, that is an issue that will need to be debated by policy makers and the market in terms of how both policy makers and the market responds. Certainly there is a lot of research going on at the national level from some people arguing against time-of-use pricing, not just for that particular reason. A recent AEMC draft report, *Power of Choice*, stated:

> While over the short term, exposure to time varying pricing will impact consumers in different ways, over the longer term more cost reflective pricing should lower energy bills for all consumers due to lower system costs.

In some of the discussion going on at the national level, arguments against time-of-use pricing raise a number of issues. It impacts most on those who can least afford to pay high electricity

prices at peak times: the poor, the unemployed, the elderly and young families; all those who do not have the comfort of an air-conditioned office or the luxury of eating their evening meal in an air-conditioned cafe or restaurant to save on peak demand at their home.

It can impact differently on different households depending upon their fuel mix. For example, those households that have invested in gas appliances, such as hot water and heating, have less electricity consumption to shift around to avoid peak pricing impacts or to seek benefits from peak pricing. It only in part addresses issues that are beginning to occur in some areas and some networks with significant residential PV installations.

Such installations mean there is little energy consumption by those households from the network during the mid-afternoon. However, as the evening peak arrives and the sun is lower in the sky, their consumption increases significantly, creating difficult load factor issues for networks. Those consumers are exposed to only a proportion of peak rate charges, and if they have been producing extra kilowatt per hour via their solar earlier in the day this can be used as an offset to future charges, thus reducing the impact of the time-of-use price signal.

In addition to time-of-use pricing, prices of consumption are at particular rates regardless of the type of household appliances being used at the time. This is of particular concern as much of the debate blames air conditioner uptake for escalating energy prices. Time-of-use pricing does not discriminate between households that do not have air conditioners or lower consumption or flat consumption. As such, it can be argued that time-of-use pricing sends a blunt pricing signal rather than one tailored to the cause.

A number of those arguments are drawn from work being done by people such as Mr Gavin Dufty on behalf of, I think, St Vincent de Paul nationally and a number of other people who have been looking at the whole argument of time-of-use pricing. Some of these people are arguing that, rather than just accepting the argument that time-of-use pricing is the solution with smart meters, an alternative such as amount-of-use pricing should be considered by retailers as an option, and ultimately they have argued for hybrid or blended proposals, that is blended time-of-use and amount-of-use tariffs. The blended model that Mr Dufty has flagged in one particular paper is a blended time of use where time-of-use charging would be used only in the off-peak period and amount of use would be used during the shoulder and peak periods.

The argument that people like Mr Dufty and others are using to consider options other than time-of-use pricing is in part, of course, that it will be fairer for many consumers who they believe will be disadvantaged by time-of-use pricing. For example, they argue that those households with low consumption regardless of the time of day would have low energy charges and those with peaky or high consumption patterns would pay an appropriate rate regardless of the time of day.

They argue that such a tariff design has an additional advantage because as household behaviour changes the tariff rate adjusts to reward or penalise the behaviour of the household. They argue that the tariff effectively rewards lower energy demand with a cheaper energy rate and a reward is achieved through a reduction in consumption, or shift in consumption, from peakier times to other times of the day or night.

They argue that the tariff design would also give a household the ability to manage their appliance use to suit their unique needs and still be rewarded with a lower rate, if their consumption is in the lower price band. They argue that this is a distinct advantage over time-of-use pricing that penalises all consumption at the peak pricing time.

For example, if households were home on a 40º-plus degree day, under time-of-use pricing, all consumption in the peak period will be charged at the higher peak rate. They argue that this sends a perverse message that all consumption is bad during this time, or air conditioner consumption is bad at this time. In both cases, this is not technically true, they argue. In fact, it is cumulative consumption that creates excessive peak demand that is the real issue.

There is much more detail in the work of Mr Dufty and many other writers at the national level who are much more skilled in these areas than am I, in terms of the potential uses of smart meters but, inevitably, ministers and policymakers are introducing smart meters for a reason. So far, the debate has been limited to a narrow scope of options such as time-of-use pricing and cranking up the charges in peak periods with the inevitable, as I said, disadvantage for the poor, the unemployed, large families and those who cannot reorganise their electricity consumption at those particular times.

The alternatives that Mr Dufty and others are raising in relation to amount-of-use charging and blends of both, I am sure, based on my experience in the past in this area, will also have their problems. Policymakers, I am sure, will be able to raise concerns and issues about the introduction of tariff structures based on those particular models. The reason for my raising them today is, hopefully, to at least broaden the debate in South Australia amongst policymakers and others to look beyond just the use of smart meters for either remote demand management, which is part of the trials that are being and have been conducted in South Australia, or the simple time-of-use use of smart meters, and have a look at other alternative uses of smart meters in terms of where we might head in the future.

Given the speed with which minister Koutsantonis moves, it is unlikely anything will happen between now and March next year, so it will be a decision for either a re-elected Labor government or a newly elected Liberal government. I would hope that, whichever of those options occurs, the debate in relation to smart meters will extend beyond, as I said, the narrow scope of the debate thus far into some of these other areas that I have canvassed this afternoon. With that, I indicate the Liberal Party's support for the second reading of the bill.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:53): I understand that there are no further second reading contributions to this bill. In terms of concluding remarks, I would just like to summarise by saying that this bill seeks to ensure that the government amends the national energy legislation to provide for the implementation of smart meter consumer protections and to remove the power for a minister to issue a ministerial smart meter rollout determination.

The bill empowers jurisdictions to stipulate retail tariff structures that must be included in a retailer's standing offer for small customers and have an interval meter or smart meter. The bill will provide that, once initial rules have been made by the South Australian minister on the subjects provided for in the bill, the minister will have no power to make further rules under this power. I thank the opposition for their indication of support for this important bill and look forward to the committee stage.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:56): I move:

That this bill be now read a third time.

Bill read a third time and passed.

FIREARMS (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (15:57): I move:

That this bill be now read a second time.

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

Leave granted.

Possession and use of illicit firearms are significant elements of criminal activity in South Australia. Trafficking of firearms, including the movement of firearms across borders, is an ongoing concern for police jurisdictions, as are the links to organised crime. Entrepreneurial criminals also exploit emerging technologies to support their activity.

The social ramifications of organised crime and illicit firearm activity on the community are serious and inconsistent with government, police and community expectations of safety and reasonable behaviour.

The amendments contained with the Firearms Amendment (Miscellaneous) Bill 2013 create new criminal offences and enhanced powers to support police. Many are stringent provisions but all have a strong focus on criminal activity involving firearms by those who access, possess and utilise firearms for criminal enterprises. They are intended to directly assist police in the challenge of disrupting and preventing this type of illegal and socially unacceptable activity. Several amendments will also bring South Australia into line with other jurisdictions,

establishing consistency and supporting the need for a national approach to preventing and reducing firearm crimes and harms.

New Offences

Trafficking in firearms

This amendment creates an indictable offence of trafficking in firearms. Any person who acquires or supplies a firearm, or takes part in any step in the process of acquisition or supply of a firearm, where the acquisition or supply of that firearm is illegal, will be dealt with by this new trafficking offence. The offence would apply to the storage, concealment or transportation of a firearm in relation to the illegal acquisition or supply. It would also apply to a person who arranges finance or allows premises to be used for the purpose of the supply. The maximum penalty for the offence is 20 years imprisonment. This would apply where the offence is a first offence involving more than one firearm or where the offence is a subsequent offence. As with the current offences, there is a discretion for a prosecutor to prosecute a first offence as a summary offence.

Possession of a loaded firearm

The measure amends the current offence of an unlicensed person possessing a loaded firearm. A possession offence will now be aggravated if the firearm is simply loaded, or in the immediate vicinity of a loaded magazine that could be attached to and used in conjunction with the firearm, irrespective of whether or not the firearm was being physically carried at the time. It is considered to reflect community expectations that possession of a loaded firearm in any unlawful circumstances is so grave as to warrant an aggravated offence.

Possess detachable magazines with a capacity of more than 10 rounds

This is a new offence to South Australia. Other jurisdictions have a similar offence. It will affect people acquiring, owning or possessing a detachable magazine with a capacity of more than 10 rounds. It is a stringent provision but does not impact people who hold a firearms licence that authorises possession of a category D firearm or whose possession is authorised in writing by the Registrar of Firearms. Transitional provisions will allow a person to obtain the written approval of the Registrar of Firearms to possess a detachable magazine with a capacity of more than 10 rounds, or surrender the magazine, within six months from the commencement of these provisions. The maximum penalty for the offence is a fine of $10,000 or imprisonment for 2 years.

Possession of a silencer, mechanism or fitting found together with a firearm

Possession of silencers is already strictly prohibited. Possession of other mechanisms or fittings to convert a firearm to an automatic firearm or enabling a firearm to fire grenades or explosive projectiles is also prohibited unless that possession is authorised by a firearms licence. This provision creates a new aggravated offence proscribing the possession of a silencer, mechanism or fitting when that silencer, mechanism or fitting is possessed together with a firearm. The provision applies whether the silencer, mechanism or fitting is attached to the firearm or not. The indictable nature of this offence and higher penalty reflects that possession is more serious when the item is found together with or attached to a firearm. The maximum penalty for the offence is a fine of $75,000 or imprisonment for 15 years.

Manufacture of a silencer

Use of silencers is prominent in organised crime activity. This new offence prohibits manufacture of a silencer. The maximum penalty for the offence is a fine of $35,000 or imprisonment for 7 years.

Reactivating a deactivated firearm

A deactivated firearm is one which has been rendered unusable in a manner stipulated by the Registrar of Firearms. This provision creates a new offence that proscribes a person from reactivating a deactivated firearm so that the deactivated firearm becomes capable of being used as a firearm. This will align South Australia with other similar laws in some other jurisdictions and will deter people intent on making firearms operable for supply to the illicit firearms market. The maximum penalty for the offence is a fine of $75,000 or imprisonment for 15 years.

Alterations changing the category of a firearm

This strengthens existing legislation by creating an indictable offence where a person alters a firearm in a way that changes the class of the firearm if the alteration is not authorised in writing by the Registrar of Firearms. This offence will capture persons who reduce the length of rifles and shotguns with the intent of making them more readily concealable and suited for criminal use. The maximum penalty for the offence is a fine of $75,000 or imprisonment for 15 years.

Attempting to reactivate or change the category of a firearm

It will be an indictable offence to attempt to alter a firearm so as to reactivate or change the class of the firearm. It applies to people who alter firearms in stages, where the full alteration and firing capability or change of class has not yet been obtained. The provision will also apply to people who attempt to alter a firearm but whose lack of technical skill prevents completion of the process. The maximum penalty for the offence is a fine of $15,000 or imprisonment for 4 years.

Possession of a prohibited accessory

This new provision makes it an offence to possess an accessory that can be attached to or be used in conjunction with a firearm so as to affect the appearance or operation of the firearm. These will be prescribed by regulation and it is intended that the offence will apply to items such as kits that attach to handguns to give them the appearance of military type firearms. The offence will be aggravated when the accessory is fitted to a firearm or

when an offender has physical possession or control of the accessory together with a firearm. This new law is proposed to meet and 'step ahead' of emerging technology and trends. The maximum penalty for the offence is a fine of $75,000 or imprisonment for 15 years.

New Powers

Police power to stop, search and detain vessel and aircraft

This provision enhances current authority and will provide police with the power to stop, search and detain vessels and aircraft on suspicion that there is a firearm or other item liable to seizure. The current provisions are limited to searches of people and vehicles. The new provisions will expand this power to stopping, searching and detaining vessels and aircraft.

Police power to stop, search and detain to ensure compliance with Court issued firearms prohibition orders

The existing police power to stop, search and detain persons, vehicles, vessels, aircraft and premises to ensure compliance with a firearms prohibition order applies only to firearms prohibition orders issued by the Registrar of Firearms (the Commissioner of Police). This amendment clarifies that the provision applies to firearms prohibition orders issued by a court of South Australia and that court issued orders have the same effect as those issued by the Registrar of Firearms.

Police power to break to conduct searches

The authority to break for the purpose of conducting a search for a firearm or other item liable to seizure is currently limited to searches of premises. This provision amends and expands this power to make it applicable to searches of vehicles, vessels and aircraft, inclusive of searches to ensure compliance with Registrar of Firearms and court issued firearms prohibition orders.

Power to stop and detain in order to serve Firearms Prohibition Order

Firearms Prohibition Orders do not come into effect until served. This provision authorises police to require a person to remain at a particular place for a period of up to 2 hours to facilitate the service of an order. The provision also allows for arrest if the person refuses or fails to comply.

Power to seize manufacturing and alteration equipment

It is already an offence to unlawfully manufacture firearms. This Bill proposes to also make it an offence to alter an unusable firearm in such a way that it becomes operable or to alter a firearm to change the firearm's class. This new provision supports the intention to remove opportunities for criminals to possess tools for the unlawful purpose of manufacturing or altering firearms, silencers or firearm parts. It will provide police with the power to seize equipment e.g. machinery, lathes and instruction manuals used for, or suspected of being used for, the unlawful manufacture or alteration of firearms and firearm parts. Opportunity will now be provided to seize equipment also used to manufacture silencers. It will also encompass emerging technologies such as 3D printed firearms. This new provision provides for forfeiture proceedings to be instituted before a court in relation to seized items.

Power to seize firearms not surrendered under a grant of Bail

Sections 11(1)(a) and 11A(1) of the *Bail Act 1985* provide that a bail authority may direct a person who is granted bail to forthwith surrender at a police station a firearm, firearm part or ammunition owned or possessed by the person. However, police cannot seize those items if they are not surrendered in compliance with a bail authority's direction. There are similar provisions in a number of other Acts. This provision will assist police by providing a police officer with a power to seize a firearm, ammunition or part of a firearm if it is suspected on reasonable grounds that a person has possession of the firearm, ammunition or part of a firearm in contravention of a direction to surrender such an item made under the *Bail Act 1985* or any other Act including the *Intervention Orders (Prevention of Abuse) Act 2009*.

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 *Firearms Act 1977*

4—Amendment of section 5—Interpretation

A new definition of *prohibited firearm accessory* is inserted. The definition provides for the regulations to prescribe such items for the purposes of the new offence in section 29B.

The definition of *silencer* is amended so that the term includes items adapted as well as designed and clarifies the sorts of objects that would comprise a silencer.

5—Amendment of section 10B—Firearms prohibition order issued by Registrar

This amendment inserts a new provision that mirrors the provision in section 10A in relation to interim firearm prohibition orders and provides that a police officer who has a reasonable belief that a firearm prohibition order applies to a person but has not yet been served, may require the person to remain at a particular place for up to two hours in order to effect service. If the person fails to comply with the requirement of the officer, he or she may be arrested and detained without warrant for up to 2 hours.

6—Substitution of heading to Part 3

This amendment is consequential on the amendment in clause 9 in relation to trafficking.

7—Amendment of section 11—Possession and use of firearms

Section 11 makes it an offence for a person to possess a firearm without holding a licence authorising that possession. It is also an offence to possess a firearm for a purpose that is not authorised by a firearms licence held by the person. Currently, the offences are aggravated if it is proved that the offender was carrying a loaded firearm or a firearm and a loaded magazine that can be attached to and used in conjunction with the firearm. The offences are also aggravated if the offender had a firearm concealed about the person. This clause amends the section to change the aggravating factors so that an offence against the section is aggravated if—

- the firearm to which the offence relates was loaded or in the immediate vicinity of a loaded magazine that could be attached to and used in conjunction with the firearm; or
- the offender had the firearm concealed about the person.

8—Substitution of heading to Part 3 Division 2

This amendment is consequential on the amendment in clause 9 in relation to trafficking.

9—Substitution of sections 14 and 14A

This clause repeals sections 14 and 14A and substitutes a new section that deals with trafficking in firearms by significantly increasing the penalties for unlawful acquisition or supply of firearms where the offence involves more than 1 firearm or is a subsequent offence. The maximum penalties for a first offence that involves only one firearm have not changed, but the penalty for the more serious offences is imprisonment for 20 years. As with the previous sections, a person commits an offence if he or she illegally acquires or supplies a firearm or takes part in any step in the process of acquisition or supply. The offence would also apply to a person who arranges finance or provides premises in which a step in the process of the illegal acquisition or supply of firearms is taken. The defences currently provided for in sections 14 and 14A are maintained. A person who has not previously been charged with an offence against the section may be prosecuted for a summary offence. If convicted, the maximum penalty is $10,000 or imprisonment for 2 years.

10—Insertion of heading to Part 3 Division 2AA

This amendment is consequential.

11—Amendment of section 27—Manufacture of firearms, firearm parts or silencers

This clause amends section 27 to make it an offence for a person to manufacture a silencer. Subsection (5) is recast to incorporate a penalty for manufacture of silencers.

12—Insertion of sections 27AA and 27AAB

This clause inserts 2 new sections.

27AA—Alteration of firearms

Proposed section 27AA establishes a new offence of reactivating a deactivated firearm or altering a firearm so as to change the class of firearm without the written approval of the Registrar. It is also a separate offence for a person to attempt to commit the main offence. Although an attempt would ordinarily be covered by the *Criminal Law Consolidation Act 1935*, the penalty provided by that Act could not apply to this offence because the maximum penalty depends on the type of firearm involved. If the offence is not complete it may not be clear what type of firearm is involved.

27AAB—Seizure and forfeiture of equipment etc

Proposed section 27AAB provides police officers with a power to seize any equipment, device, object or document reasonably suspected of being used, or intended for use, in connection with the commission of an offence against section 27 or 27AA (Manufacture of firearms, firearm parts or silencers and Alteration of firearms). The section includes procedures for instituting proceedings for forfeiture of seized items and also deals with disposal of forfeited items.

13—Amendment of section 29A—Possession etc of silencer and certain parts of firearms

It is currently an offence to possess a silencer or certain types of mechanisms or fittings. This clause makes the offence an aggravated offence in circumstances where the offender possesses such items and they are fitted to a firearm or the item is in the physical possession or control of the offender together with a firearm to which it can be fitted.

14—Insertion of sections 29B and 29BA

This clause inserts 2 new sections.

29B—Possession etc of prohibited firearm accessory

This proposed section makes possession of a prohibited firearm accessory an offence. The offence is an aggravated offence if the accessory is fitted to a firearm or in the possession of the offender together with a firearm to which the accessory can be fitted or in relation to which it can be used. These items will be prescribed by the regulations.

29BA—Restriction on possession etc of certain magazines

This proposed section prohibits the possession, acquisition or ownership of a detachable magazine with a capacity of more than 10 rounds without the written approval of the Registrar unless the person holds a class D firearms licence or a dealers licence authorising dealing in class D firearms. The offence does not apply in relation to a magazine of a prescribed kind.

15—Amendment of section 32—Power to inspect or seize firearms etc

Section 32(1aa) is amended to extend the police power of seizure to include silencers, firearm parts and prohibited firearm accessories. A similar amendment is made to section 32(2) and (3)(a). The power under subsection (2) to stop and search vehicles is being extended to vessels and aircraft. This provides consistency with subsection (3a), which already provides a power for stopping and detaining vessels and aircraft in addition to vehicles for the purposes of ensuring compliance with firearms prohibition orders. New subsection (1ac) authorises police officers to seize firearms, firearm parts and ammunition if there is a suspicion that the person has possession of the item in contravention of one of the specified Acts. Amendments are made to subsection (3a) to make it consistent with the firearm prohibition order provisions in section 10C, which refers to firearm parts rather than mechanisms or fittings.

Subsection (3c) is inserted to extend the existing power to break into premises for the purposes of a police search to vehicles, vessels and aircraft. It also clarifies that the existing power to search premises would include the ability to break into or open anything in or on the premises (which will now include vehicles, vessels and aircraft).

16—Amendment of section 34—Forfeiture of firearms etc

This amendment includes firearm parts in the existing provisions that enable the Registrar to institute proceedings for forfeiture of seized items.

17—Amendment of section 34A—Powers of court on finding person guilty of firearms offence

The amendments made by this clause extend the existing powers of a court to make orders on finding a person guilty of an offence so that orders can be made in relation to firearm parts. An amendment is also made to clarify the operation of firearms prohibition orders made by a court so that they operate as a firearms prohibition order under Part 2A, which provides for the making of such orders by the Registrar.

18—Amendment of section 35—Disposal of forfeited or surrendered firearms etc

This amendment to the existing disposal provision will enable the Registrar to sell or otherwise dispose of forfeited firearm parts.

19—Amendment of Schedule 1—Transitional provisions and compensation

The transitional provision in relation to possession of magazines with a capacity of more than 10 rounds gives a person who owns or has possession of such a magazine before the commencement of section 29BA 6 months to obtain the written approval of the Registrar.

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

CRIMINAL ASSETS CONFISCATION (PRESCRIBED DRUG OFFENDER ASSETS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 October 2013.)

The Hon. S.G. WADE (15:58): The Criminal Assets Confiscation (Prescribed Drug Offender Assets) Amendment Bill 2012 was tabled in the House of Assembly on 16 October 2012. The bill does two things: first, it authorises the confiscation of assets down to the bankruptcy level for certain drug offenders, whether or not the assets were legally acquired; and, secondly, it diverts proceeds from the scheme from the Victims of Crime Fund towards courts and justice expenditure of government.

The Liberal Party has consistently supported the confiscation of proceeds of crime, instruments of crime and unexplained wealth. We support depriving citizens of not only the proceeds of crime but also the instruments of crime, even where the instrument of crime is lawfully acquired. But this bill seeks to seize legally acquired assets which have no relationship to crime. Neither the 2011 bill, which was an earlier version of this bill, nor a 2012 version of the provisions passed the Legislative Council. In his second reading speech on this bill in the House of Assembly 13 months ago the Attorney-General said:

> The idea that all of the property of certain drug offenders (described in the Bill as prescribed drug traffickers) should be confiscated, whether or not it has any link to crime at all and whether or not legally earned or acquired, originated in the Western Australian Criminal Property Forfeiture Act 2000.

He went on to say:

> The Northern Territory Criminal Property Forfeiture Act contains very similar provisions, obviously modelled on the Western Australian Act.

The Law Society of South Australia is of the view that the bill before us may infringe the Kable principle by attempting to compel the court to comply with an administrative decision made without court consideration. In doing so the administrative decision-maker exercises powers usually reserved for the court.

On 28 March 2013, the Northern Territory Court of Appeal in the case of Emmerson v The Director of Public Prosecution & Ors, held that the Northern Territory acts impermissibly compromised the independence of the Supreme Court, attracting the principle in Kable v The Director of Public Prosecutions. The acts were held to be unconstitutional. As I noted earlier, the South Australian government has said that the bills we are debating today are very similar to the Northern Territory acts.

On 11 October 2013, merely a month ago, the High Court gave special leave for an appeal on the case. The appeal is expected to be heard in early 2014. In this context, the opposition urges the council not to support the bill. We believe it would be highly likely to be challenged. The government has already wasted far too much money on legal frolics to the High Court. We consider that even if the bill was well founded (which we do not think it is) we should wait for the High Court's judgement in the Emmerson case. On that basis, I move to amend the motion of the minister as follows:

> Leave out the word 'now' and insert after 'second time' the words 'this day six months'

The Hon. J.A. DARLEY (16:02): I rise to make a very brief contribution to this bill. This bill certainly has a long history dating back to the government's 2010 election policy. Given its contentious nature, we have seen it split from the original proposal into two separate bills, the first of which I was more than willing to support. That said, I still hold concerns about some aspects of the current bill. I am by no means suggesting that we adopt a soft approach towards drug offenders. These are individuals who wreak havoc on our communities and should be subjected to appropriate penalties.

However, as the Hon. Stephen Wade has pointed out, there is an impending High Court challenge in the Northern Territory concerning the Emmerson case. I appreciate that the legislation in question in that jurisdiction is not identical to that proposed here but our bill is certainly modelled on it. The general consensus appears to be that the High Court challenge should provide some further clarity about the constitutional consequences of the sort of legislation that has been proposed. These are important matters that need to be addressed. For those reasons, I am inclined to support the position of the opposition.

The Hon. K.L. VINCENT (16:03): Just briefly, to aid the proceedings of the council, Dignity for Disability has previously vehemently opposed this bill in its previous incarnation and, for those same reasons, we will be doing it again.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:04): I thank the honourable members for their second reading contributions. It is disappointing to hear that, yet again, there is not support for this important bill. It is unfortunate that it would appear that this bill will, yet again, be defeated and, again, the opposition and it seems the minor parties are still unprepared to support what was an election pledge that this government made. Obviously they do not respect the mandate that this government has given that this was part of an election pledge. Even recent events that have vividly reaffirmed the nature of the menace posed to the community by the activities of organised criminal gangs who obtain their illicit income from commercial drug-related dealings have not obviously caused a re-evaluation of their approach. I look forward to the committee stage.

The council divided on the amendment:

AYES (11)

Darley, J.A.	Dawkins, J.S.L.	Franks, T.A.

AYES (11)

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

NOES (8)

Brokenshire, R.L.	Finnigan, B.V.	Gago, G.E. (teller)
Hood, D.G.E.	Kandelaars, G.A.	Maher, K.J.
Wortley, R.P.	Zollo, C.	

PAIRS (2)

Bressington, A.	Hunter, I.K.

Majority of 3 for the ayes.

Amendment thus carried.

The PRESIDENT: I declare that the second reading be deferred for six months, in accordance with standing order 287.

MOTOR VEHICLES (LEARNER'S PERMITS AND PROVISIONAL LICENCES) AMENDMENT BILL

In committee.

(Continued from 31 October 2013.)

Clause 1.

The Hon. G.E. GAGO: I have received some responses to questions asked by the Hon. John Darley. In relation to the question about whether there are any statistics available on the limitations previously imposed on young drivers, for instance, with regard to high-powered motor vehicles and, if so, what do those stats demonstrate, I am advised that currently there is insufficient crash data available to evaluate to 2010 GLS changes, such as high-powered vehicles.

In general, a minimum of five years of data is required for an evaluation. This requirement is the same in other jurisdictions. For instance, Victoria released an evaluation in 2012 on its GLS changes, which were introduced in 2008, recognising that a full evaluation will require another three years of data. However, the Victorian interim evaluation reported that there had been a significant decrease in the number of casualty crashes involving P1 drivers carrying two or more peer passengers since the introduction of their peer passenger restriction in 2008. An evaluation of the 2010 GLS changes will be undertaken by DPTI in consultation with the Centre for Automotive Safety Research at the University of Adelaide.

I think the second question was, for example, 18-year-old Tim could be driving with his 19-year-old brother, his girlfriend, their 21-year-old sister and their 19-year-old stepbrother, and this would be considered okay. I am advised that, yes, a P1 driver would be allowed to drive with any number of immediate family members regardless of their age, in addition to one peer age passenger aged between 16 and 20.

Research shows that carrying two to three peer age passengers under the age of 21, who are not family members, increases the risk of a young driver crashing by four to five times compared to driving alone. South Australian crash data shows that 74 per cent of fatal and serious crashes involved a P1 driver who had passengers aged between 16 and 20. Carrying peer passengers can distract a newly licensed driver and make it harder for them to concentrate. Having more than one peer age passenger can also encourage a young driver to take greater risks. Older passengers and siblings do not seem to have a negative effect on a provisional driver's behaviour.

A US study that collected information on 16,233 child passengers in 17 states found that younger siblings of teen drivers had a 40 per cent lower chance of injury than non-siblings in crash reports. While there is an increased crash risk for young drivers carrying peer-aged siblings

compared to adult drivers, this risk is lower than for young drivers carrying non-siblings. (Senserrick TM, Kallan M & Winston FK. Child passenger injury risk in sibling versus non-sibling teen driver crashes: A US study. *Injury Prevention*. 2007; 13:207-210). The reason for excluding immediate family members is to assist families; for instance, a P1 driver who takes their siblings to and from school will be able to continue to do so.

On the third question, similarly, 18-year-old Tina could be driving with her 26-year-old boyfriend, as well as her two 18-year-old friends, both of whom are drunk but, because her boyfriend is not over the prescribed alcohol limit, this would also be considered to be acceptable. I am advised that under the proposed passenger restrictions, this scenario would be allowed if the 26-year-old was acting as a qualified supervising driver (QSD). They would need to have held a full licence for the preceding two-year period, be seated next to the driver, be under the .05 BAC limit and be taking reasonable steps to provide supervision. A QSD does not need to be aged 25. Currently, the earliest minimum age a driver could be a QSD is 21.

On the fourth question, furthermore, 18-year-old Lisa is accompanied by Greg and she elects to be prosecuted because she thought Greg was over 25. She has the burden of establishing that she, as the driver, knew that Greg was not of the required age. Alternatively, is this even a valid defence to the charge? I am advised that based on the information that has been provided, an offence would not have been committed. Under the proposed passenger restrictions, a P1 driver aged under 25 years will be allowed to carry one passenger aged 16 to 20. However, if there were peer age passengers in the vehicle, as with the previous scenario, this would be allowed if a QSD was sitting next to the driver. There is no requirement for a QSD to be aged over 25. I hope these satisfy the member's questions.

Clause passed.

Clauses 2 to 6 passed.

Clause 7.

The CHAIR: The Hon. Mr Brokenshire, you have an amendment, [Brokenshire-1] 1?

The Hon. R.L. BROKENSHIRE: I advise the committee that the original amendments in [Brokenshire-1], which I tabled, are being withdrawn and are being replaced with [Brokenshire-2], which has been tabled for some time, since 29 October.

The CHAIR: That is at clause 21?

The Hon. R.L. BROKENSHIRE: At clause 21, yes.

The CHAIR: We are not at clause 21 yet.

The Hon. R.L. BROKENSHIRE: I just advise the committee because I am also paired at 4.30 and the Hon. Mr Hood will be talking to my amendment. The original amendments in [Brokenshire-1], which I tabled on 26 September, are being withdrawn in entirety.

The CHAIR: All of them?

The Hon. R.L. BROKENSHIRE: All of them, and they are being replaced with [Brokenshire-2], which was tabled on 29 October. All [Brokenshire-1] amendments are being withdrawn, sir.

The CHAIR: The Hon. Mr Ridgway, you have an amendment at clause 7, [Ridgway-1] 1?

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

Amendment No 1 [Ridgway–1]—

Page 3, lines 29 to 33 and page 4, lines 1 to 38—Delete clause 7 and substitute:

7—Amendment of section 75A—Learner's permit

Section 75A(10)(c)(ii)(B)—delete '81A(3)(c)' and substitute '81A(4)(c)'

This is the first of a number of amendments. There are two issues in the bill that we seek to change. We oppose the increase of the P-plate period from two to three years and the 12 midnight to 5am curfew. The first amendment deletes the provisions in the bill that propose the new 12 midnight to 5am curfew.

The reason the opposition is moving this amendment is that we think this is an unreasonable burden to place on young people, especially those who are working part-time, shift

workers and those who are doing some sports training. Also regional and country people are impacted when they have to get up early in the morning for sport, training or work. There are a whole range of reasons, we think, that this curfew is unreasonable. I know that exemptions can be granted and you can have a document to say that you have an exemption, but if you are not in the vehicle you normally drive, we think it will be cumbersome and awkward to administer. We do not think there is any evidence to suggest that this particular curfew will save lives; in fact, we think it will be just another impost on young people.

I know it is late in the parliamentary sitting year and I do not want to labour the point for too long, but I urge members to consider this amendment. We have had a briefing from the Motor Accident Commission and the shadow minister. The shadow minister in the other place still wishes me to proceed with these amendments. The discussion with the Motor Accident Commission was not substantial enough for the shadow minister in the other place to advise me to change our position, so clearly there is not enough evidence to suggest that there will be such a positive road safety outcome to justify this extra burden on young people especially.

With those words, I request that members consider supporting this amendment. Of course, this will be, I guess, a test amendment on the curfew. At some other later point I will also have a test amendment on the increase of the P-plate period from two to three years. I urge members to consider my comments, particularly in relation to the burden on young people. It is just another cumbersome, if you like, regulatory approach to what we do not believe is a serious problem.

The Hon. G.E. GAGO: The government rises to oppose the Hon. David Ridgway's amendments to remove the night driving restriction for P1 drivers and young inexperienced learner motorcyclists. The government has proposed the night driving restrictions because P1 drivers are over-represented in fatal crashes for every hour between 9pm through to 6am compared with full licence holders. They are the irrefutable facts. This same situation is found in other parts of Australia and internationally and it is the reason why many other places, including Western Australia, New Zealand and, at the last count, 48 states in the US, have night driving restrictions for newly licensed drivers.

There will be exemptions in place, so the reasons the Hon. David Ridgway outlines in terms of the imposts it would impose on country people, students, etc., is a nonsense. The Hon. David Ridgway knows only too well that exemption provisions have been put in place, and it is a very simple system of exemption. You do not even have to apply for an exemption. There is no up-front paperwork or red tape. It does not require application. It is a system of exclusion. So, he knows full well that if a person is driving for the following reasons: to and from work during the performance of employment, to and from education or training, to and from formal volunteer work and to and from formal sports training and matches, they are allowed to drive at night and they would provide grounds for the person to have permission to drive.

As I said, it is a very simple system, application is not even required. So, by not supporting this measure in the bill the opposition is willing to blatantly discount the savings in young people's lives and ongoing injuries across South Australia that could easily be prevented if night-time restrictions are put in place—they are prepared to discount the lives of young people in South Australia.

The Hon. D.G.E. HOOD: I must say this has been a difficult one for Family First, one that we have had a great deal of discussion about. We have had a good deal of contact with constituents and I think there are very valid arguments on both sides of this debate. However, in the end, we have decided not to support the amendment. The reason for that is that, when it comes to these things, we are going to err on the side of caution, maybe too cautious in some people's view, but I think this is the sort of legislation which we support somewhat cautiously. The truth is, it is a very heavy-handed approach, but a very serious problem. Sometimes heavy-handed approaches are the right approaches to deal with difficult issues. As I said, it has been a difficult one for us, but we will not be supporting the amendment on this occasion.

The Hon. J.A. DARLEY: I similarly will not be supporting the amendment for the reasons given by the minister that exemptions are readily available.

Amendment negatived; clause as amended passed.

Clauses 8 to 10 passed.

Clause 11.

The CHAIR: The Hon. Mr Ridgway, you have an amendment to clause 11?

The Hon. D.W. RIDGWAY: My second amendment, according to my sheet, is consequential, so I will not be moving that amendment.

The CHAIR: The Hon. Mr Ridgway, you have amendment No. 3 at clause 11?

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

Amendment No 3 [Ridgway–1]—

Page 7, line 2 [clause 11, inserted section 81A(2)(c)]—Delete '20 years' and substitute '19 years'

This amendment deals with the issue of increasing from two years to three years the time that a young driver is on a P-plate. It comes back to that impost on young people. We think that two years is adequate. We have looked at it. We think that certainly for regional people, country people, and for all young people it is adequate. We now have the curfew in place; we have been unsuccessful in reducing that. We have that measure in place and the minister claims that that gives a very significant positive road safety outcome. We think extending it from two years to three years is excessive.

I am a parent of two children who have just been through that process. Thankfully they have their licences, although my daughter did go through a red light accidentally on her P-plates and had to go back to the start. Members would be aware at the Mitcham shopping centre, if you look at the red light over there, it went green, but the one that was right here was red and there was a police car next to it. She was somewhat disappointed that she had done that.

Incidentally I was shadow minister for police at the time and she told the police officer that she was worried that I might lose my job because she had broken the law. I did put the fear of God into my children while I was shadow minister for police and they actually did behave very well. She got her demerit points and had to start again. We believe that that extension from two years to three years is an excessive amount of time and I urge members to consider the amendment and support what we are trying to achieve.

The Hon. G.E. GAGO: The government opposes this amendment, which seeks to prevent the minimum provisional licence period from being extended from two to three years. I think I just did a double negative. We do not support the Hon. David Ridgway's amendment, anyway. Extending the provisional licence period from two to three years will extend the duration of protective conditions such as the zero blood alcohol limit and speed and vehicle power restrictions. Extending these conditions will help keep novice drivers out of high risk situations without impinging on their mobility.

Extending the provisional period from two to three years will not mean that young P-drivers are subject to the night and passenger restrictions for three years. These restrictions only apply to a P1 driver for one year. The extension of the provisional period to three years will mean one year on P1 and two years on P2. The minimum provisional licence period is three years in New South Wales, Queensland, Tasmania and the ACT and four years in Victoria. All of these jurisdictions have a much better road safety record for young people than does South Australia.

The Hon. D.G.E. HOOD: I am advised that we have already communicated our position to the opposition and the government and that is that we will not be supporting this amendment.

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

The Hon. T.A. FRANKS: The Greens will not be supporting this amendment.

Amendment negatived.

The CHAIR: The Hon. Mr Ridgway, you have amendment No. 4 at clause 11.

The Hon. D.W. RIDGWAY: I will indicate now that all of my amendments were around those two issues of the P-plate increase from two years to three years and the 12am to 5am curfew and so I will not be progressing any further amendments.

The CHAIR: The Hon. Mr Ridgway, you are not moving [Ridgway-1] amendments Nos. 4 to 9, I think you indicated, but we still have [Ridgway-2] 1 at clause 13.

The Hon. D.W. RIDGWAY: But, likewise, I think my understanding of that, Mr Chair, is that it was only going to be applicable if I had been able to achieve amendment No. 4, so again, I will not be moving that amendment either.

Clause passed.

Clauses 12 to 20 passed.

Clause 21.

The Hon. D.G.E. HOOD: On behalf of my colleague the Hon. Robert Brokenshire, I move:

Amendment No 1 [Broke–2]—

Page 13, lines 20 to 33 [clause 21, inserted Schedule 2, clause 4]—Delete inserted clause 4 and substitute:

4—Driving to participate in activities

(1) For the purposes of sections 75A(21) and 81A(17), driving a motor vehicle by the shortest practicable route between—

(a) a place at which the driver resides (whether temporarily or permanently); and

(b) a place at which the driver engages in recognised activity participation,

for the purposes of the recognised activity participation is driving the vehicle in prescribed circumstances.

(2) In this clause—

recognised activity means—

(a) a sporting, artistic, charitable, religious or scientific activity; or

(b) an activity of a kind prescribed by the regulations for the purposes of this definition;

recognised activity participation means participation in a recognised activity that is provided or organised by an organisation, association or club (other than participation of a kind declared by the regulations to be excluded from this definition).

My colleague is paired from 4.30 this afternoon, hence my moving it on his behalf. This essentially just expands the exemptions that already exist. The minister outlined a number of exemptions previously with respect to people who fall under this category who will be able to drive during the curfew hours, if they are doing so for the specific purposes she outlined. This seeks to further extend those categories to include sporting events, artistic events, charitable events, religious or scientific activities and activity of a kind prescribed by regulations for the purposes of this act.

You can imagine a situation. I will pick on the religious one, as it is probably the easiest one. People might be at a youth group event or something that finishes after midnight, and they will need to get home, so this expands the exemptions.

The Hon. G.E. GAGO: The government rises to support this amendment. We are aware that night-time driving restriction can have an effect on the mobility of young drivers; however, it is about trying to balance this mobility with the safety of young drivers. The exemption grounds that are already in the bill will enable drivers to get to work, volunteer work, education and training, sports, etc., so that they will not be disadvantaged.

The Hon. Robert Brokenshire has indicated that young people may also have legitimate reasons to attend scientific, artistic, charitable or religious activities between midnight and 5am. The government will support this amendment to enable P1 drivers to travel to religious, charitable, artistic and scientific activities between midnight and 5am. As with the other exemption grounds, drivers will need to carry evidence, such as a letter from their church.

The Hon. D.W. RIDGWAY: The opposition will also be supporting the amendment. My colleagues behind me who are good members of the Catholic Church tell me they often go to midnight mass and that their children would like that opportunity as well, so thank you.

Amendment carried; clause as amended passed.

Schedule and title passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:39): I move:

That this bill be now read a third time.

Bill read a third time and passed.

STATUTES AMENDMENT (OCCUPATIONAL LICENSING) BILL

Adjourned debate on second reading.

(Continued from 31 October 2013.)

The Hon. T.A. FRANKS (16:40): I rise on behalf of the Greens to speak to the Statutes Amendment (Occupational Licensing) Bill. The Greens are not looking to take up too much chamber time on this measure. However, we do have a few concerns that we would like the minister to address. The government's intention with this bill is to—and I quote from the minister's speech—'reduce regulatory costs for businesses by removing unnecessary red tape and to improve administrative efficiencies for the Consumer and Business Services'.

It is my understanding that currently in order to be a builder one must be suitably qualified and experienced in the building industry and obtain a building licence to run a company. In order to set up a company the person or persons must have adequate qualifications and experience and the company must also have a director or employee who is nominated and has the appropriate qualification and experience in the building industry.

The company director is responsible for the company and accountable to the company, both in the long and short terms. However, under this bill businesses can remove the requirement for companies to nominate their directors or employees to be building work supervisors. Under this bill it appears we remove the requirement to have the appropriate qualifications, experience and building licence to run a company, and therefore anyone under this bill can run a company. If that is true, I certainly ask the minister to clarify that interpretation.

I ask the minister also: if this provision is removed, who in the company will be accountable when something goes wrong? What happens when a worker who has not been paid their superannuation or annual leave looks for redress, or when a subcontractor has not been paid? Who will be the responsible person when a client has issues to raise and what responsibility does the building company have? The Greens request this clarification from the minister around this issue due to concerns raised with us in our consultations on the bill.

Another major concern that has been raised is that it is claimed that this bill allows builders who are bankrupt to work as subcontractors, even though they are bankrupt. With what justification has this move been undertaken? Can the minister clarify what happens in the case of a subcontractor who goes bankrupt, then continues to work as a subcontractor and becomes bankrupt again? The Greens are very eager to see the minister's response to these issues. With that, I look forward to the second reading summary or the committee stage.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:43): I thank honourable members who have contributed to this debate. The purpose of this bill is to reduce regulatory costs for businesses by removing unnecessary red tape and improving administrative efficiencies for consumer and business services, whilst still continuing to protect the public and consumers. The development of the bill was initially by feedback received by the government during industry roundtable discussions with peak construction industry representatives in 2012.

Consumer and Business Services is not aware of any industry opposition to the bill. Industry has supported the further rationalisation of regulatory requirements and improved consumer protection measures in this bill. In relation to the amendments allowing bankrupts and directors of companies that have been wound up to work as subcontract builders, I have been advised that at present under the Building Work Contractors Act 1995 a person who becomes bankrupt is prohibited from holding a building work contractor's licence for 10 years from the date of discharge. Similarly, a person who was a director of a company wound up for the benefit of creditors is prohibited from holding a building work contractor's licence for 10 years from commencement of the winding up. Effectively, this can put a tradesperson out of work in their field for many years.

The proposed changes to the Building Work Contractors Act 1995 are aimed at allowing tradespeople to continue to work in their field of expertise in a limited capacity. By implementing these reforms, tradespeople will be able to make a living in their field as they will be able to work as subcontractors. Restricting the licence to that of a subcontractor means that consumers are still protected as these tradespeople would be required to engage in a contract with a fully-licensed builder rather than directly with the consumer.

The licensed builder would be responsible for all the warranty work. It should also be remembered that a person who becomes bankrupt has suffered a financial failure. This financial failure may be through no fault of their own but rather, for example, as a result of a business contractor defaulting on major progress payments.

I also want to talk about the importance of occupational licences generally. Occupational licensing is in place to protect consumers from unsafe or incompetent work and poor business practices. This has clear benefits for consumers and it is also beneficial for businesses in that it reduces unfair competition from unqualified or unsuitable people. Regulated industries gain credibility through the licensing system and an assurance that minimum competency standards have been met by all licensees. This in turn increases consumer confidence and allows licensees to easily prove their ability to perform regulated work to potential employers or customers.

The licence provides a certification by government to show that the holder has skills and attributes which enable them to charge fees above base labour rates. Part of the fees paid by licensees is used to process licence renewals, which includes time spent checking information provided and generating licence cards. The fees also cover the cost of maintaining a public register of licensees; ensuring compliance with the legislation, including investigating alleged breaches; providing advice to traders and customers about their obligations and consumer law; regulatory development; investigation into appropriate qualifications and licensing criteria; and the cost of educating traders and consumers alike. The administration of industry regulation does not stop at simply issuing a licence.

The government is conscious of regulatory burdens for business and actively works towards minimising them, particularly for small businesses. This is one of the driving factors for this bill. If there are any questions that I have missed I will be happy to deal with them during the committee stage.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:49): I move:

That this bill be now read a third time.

Bill read a third time and passed.

HEALTH PRACTITIONER REGULATION NATIONAL LAW (SOUTH AUSTRALIA) (PROTECTION OF TITLE—PARAMEDICS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 31 October 2013.)

The Hon. R.I. LUCAS (16:51): This is now a relatively simple bill as a result of a change of position from the government on a key aspect of the legislation. In relation to this legislation, currently paramedic practice is not regulated in Australia, despite calls for the profession to be included as part of the national registration accreditation scheme for health professionals. The bill takes a step towards the regulation of paramedic practice in South Australia by protecting the title of paramedic. Under the current arrangements, any person can call themselves a paramedic and undertake duties and responsibilities generally associated with paramedic practice, regardless of whether they hold the necessary education and training to provide the level of care expected.

The Liberal Party has been supportive of the legislation, but we were surprised—and it is another example—at the government's lack of consultation with key stakeholders which meant that on a fundamental issue when the legislation was introduced into the parliament, which was the definition of paramedic, it looked like there might have to be amendments moved in the Legislative Council to try to force the government to change its position. Whilst the intention of the bill was supported by the Ambulance Employees Association, and Paramedics Australasia, which is the national professional association of paramedics, they had major concerns with the government's wording in the legislation, and they believe that there may have been unforeseen consequences if the government proceeded with the bill as it seemed intent on doing.

They advise me that they have been raising these issues for some time with the government. They wanted the wording to reflect the official definition that was endorsed by

Paramedics Australasia, which is published on their website and has been evident for quite some time. There was evidently opposition from the government and government departments and agencies to that particular position. The bill was introduced without taking on board the views of the AEA and Paramedics Australasia.

I am pleased to say that, after those organisations raised those concerns with non-government members in the parliament and then raised them again with the government, the government had a change of heart and has moved an amendment to resolve the issues. There is peace and harmony on all fronts, at least in relation to the definition of paramedics used in the legislation. As a result of the government's late change of heart and that amendment, the Liberal Party supports the passage of the legislation.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:55): I thank the opposition for their indication of support for this bill. The legislation is about protecting the public of South Australia by ensuring that persons employed as paramedics hold the necessary qualifications and training to make the very complex and critical clinical judgements that they do. In some ways, this legislation is catching up with the community expectations.

I note that, when Channel 10 ran its news story on the introduction of this legislation, it came as a bit of surprise to some members of the public that not all persons who may describe themselves as a paramedic were necessarily qualified or trained to do so. The government is confident that the current employers of paramedics in this state have an appropriate governance arrangement in place to ensure that persons they employ hold the appropriate qualifications and training.

The government is concerned about the significant growth in the casual or intermediate employment of paramedics amongst a range of industries outside of the health sector, and there is no assurance that these employers apply the same standards in the development of clinical protocols and guidelines to govern their paramedic employees. It is the growth of this sector that highlights the need to ensure that the safety of the public is protected from the labelling of an unqualified person as a paramedic, and I welcome honourable members' support for this most important bill.

Bill read a second time.

Bill taken through committee without amendment.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (16:59): I move:

That this bill be now read a third time.

Bill read a third time and passed.

LATE PAYMENT OF GOVERNMENT DEBTS (INTEREST) BILL

Adjourned debate on second reading.

(Continued from 29 October 2013.)

The Hon. T.A. FRANKS (17:00): I rise to speak on behalf of the Greens with regard to the Late Payment of Government Debts (Interest) Bill 2013. I note that this bill has now sat in the parliament for almost five months after being introduced in the House of Assembly on 19 June this year, so I thought it was a timely moment to draw the attention of the council to the existence of this bill and to urge the government to get on and put it on the priority list. It is nowhere in the top 10 yet and obviously with one sitting week to go, we have only a few short days left to pass it, although if members of this council would like to surprise me we could see this bill pass through all stages today. I would be delighted.

I note that this bill before us refers also to the report by Mr McCann being delivered in June 2013—well, that was actually June 2012—and indeed back in 2012 the Payment of Accounts Review recommended this legislation which it would have called a 'Prompt Payment Act'. I am not sure why the government has dropped the 'promptness' from its name but clearly it has happened in the practice as well that the promptness has dropped. A year behind that prompt payments legislation being recommended we finally are seeing some legislation in this house.

The review drew attention to what is a serious issue with regard to late payment by this government of its bills. They have significant consequences for business in this state and particularly for small businesses. I note that in February 2013 *The Advertiser* explored this issue and quoted that:

> Some businesses have told *The Advertiser* they have never been paid late while others have spoken about being forced into administration because of delays and, in one case, a fitter and joiner was forced to take an afternoon factory job to finance his business while waiting for a Government job payment.

That is simply not good enough. I think many small businesses in particular see taking on a government job as some sort of security and, as a state government, we should be ensuring that assumption made by small businesses is not found to be wanting.

It has been found that state government departments have been late in paying $919 million worth of late business invoices in the financial year before this one, missing the government's own commitment to a 30-day turnaround. That payment performance was, in fact, an improvement on the previous financial year when $1.1 billion was paid late, but it was more than double the $410 million that was paid late in 2007-08. So this is a chronic problem, it is an ongoing problem, and I am afraid the fact that this bill is languishing on the *Notice Paper* at the moment means that it is a problem that this government is not getting on and truly addressing.

I acknowledge that there have been some advances. In my research on this bill and in having a look at the tools and technologies now afforded many businesses dealing with most departments (but not all), there is a greater transparency and I commend the government for those steps that it has taken there. However, I simply wanted to raise that this bill is now languishing five months on in this parliament and yet to be passed. I commend finance minister Michael O'Brien who said that the government remained committed to allowing businesses to invoice for interest on late payments. I think that would very much encourage our government bureaucracies to be much more responsible regarding small business in particular. Of course, I cannot but mention one particular department here, SA Health, which has dragged the government payment performance down. Certainly when the new health minister took on the role, that was a massive challenge before him, and it remains so.

I must also note the comments of Business SA chief Nigel McBride, who said that he believed that minister O'Brien was sincere when he made that comment I mentioned before. He was quoted as saying, 'but there has to be a sense of urgency'. I draw the council's attention to the fact that there seems to be no sense of urgency here with this bill. You cannot fail to recognise the irony of what was to have been the prompt payments bill which, a year on, finally arrives in the form of this particular bill without the word 'prompt' in the title. It is a little tardy.

With that, the Greens fully support this bill. We look forward to the committee stage passing quickly. Indeed, should interest be applied on us for tardiness in progressing legislation, I imagine we might be a little quicker and a little more diligent in this place as well.

Debate adjourned on motion of Hon. Carmel Zollo.

CRIMINAL LAW (SENTENCING) (SENTENCES OF INDETERMINATE DURATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 November 2013.)

The Hon. S.G. WADE (17:07): I rise to indicate that the opposition will be supporting the Criminal Law (Sentencing) (Sentences of Indeterminate Duration) Amendment Bill 2013. When a person commits an offence in South Australia our courts weigh up the circumstances in which the offence took place, the gravity of the offence and the need for punishment. Of course, our courts do not send people to prison lightly; in fact, under statute, they are bound to use it as a last resort.

Custodial detention provides three things: first, it imposes punishment; secondly, it provides an opportunity for rehabilitation; and thirdly, it provides incapacitation. The government's focus on incapacitation over the last decade has meant that offenders are often released at the end of their sentence without receiving adequate rehabilitation. As a result, there are more victims in South Australia than there need to be.

There will always be some people who, despite having access to rehabilitation, remain disengaged and a risk to the community. There are a small number of people who are either

unable or unwilling to control their urges, and society needs to be protected from them for the sake of the community.

A special regime in South Australia operates to manage these offenders. Under section 33 of the Criminal Law (Sentencing) Act 1988, an offender who has been assessed as being incapable of controlling, or unwilling to control, his or her sexual instinct may be detained in custody by order of the Supreme Court until further order. This kind of sentence is known as an indeterminate sentence.

The purpose of an order under section 23 is principally for the protection of the community and not for the punishment of the offender. Whilst there is a lack of explicit guidance, a release on licence under section 24 has been held by the court to involve the exercise of a discretion on similar criteria to those under section 23; that is, that having taken into account both the interests of the person and of the community the court is of the opinion that the order of detention should be discharged.

The bill is proposing to narrow that consideration to say that the paramount consideration should be the safety of the community. Currently, the court is only required to consider the report of at least two legally qualified medical practitioners when determining an application for a discharge of an indeterminate sentence under section 23. The bill imposes the same requirement in relation to an application for a release on licence under section 24. In addition, the bill inserts a requirement that the medical practitioners be nominated by a prescribed authority.

I am told that the government intends that the prescribed authority is likely to be the director of forensic mental health, currently the forensic psychiatrist Dr Ken O'Brien, based at James Nash House. The government advises that it hopes this provision will, if I can paraphrase, limit forum shopping for medical advice. In discussing it with practitioners in the field, it was also highlighted to me that in many respects the task that the act requires is not a medical task such that a person should have freedom of choice or practitioner, it is actually in the nature of a risk management task. It is appropriate that they be legally qualified medical practitioners, but it would not be adequate for the task for them merely to be skilled in those areas. The task is significantly one of risk management and the opposition therefore sees the wisdom of the government's proposal.

At the briefing provided by the government I was advised that there are 10 offenders subject to section 23 orders in James Nash House and other prisons: two are subject to section 24 licences and two of the 10 are awaiting placement on section 24 licences when accommodation is available. I acknowledge that the Hon. Carmel Zollo, being a former minister for correctional services, would be well aware of the challenges that our prison system, both forensic and general, has in managing people with mental health issues, let alone those people covered by this act, people who are not willing to control their urges.

The bill also proposes to reduce the frequency of the relevant board's reporting requirement under section 23(9) to annually rather than six-monthly. Following amendments moved by the government in the House of Assembly, that report now needs to include recommendations that are given to the person in detention. These recommendations can be considered by the court when the person is applying for their detention to be discharged. The government also moved an amendment that allows the Supreme Court to consider the monetary cost of releasing the person on licence when deciding whether to release them.

Finally, the bill amends the definition of 'relevant offence' in section 23(1) to include an offence of failing to comply with any reporting obligation relating to contact with a child without a reasonable excuse where the defendant is a registerable offender under the Child Sex Offenders Registration Act 2006. With those words of context, if you like, the opposition indicates that it supports the bill. We support the amendments made to the bill by the government as it has progressed through the parliament. We certainly believe that an appropriate focus on community safety, making community safety a paramount consideration, we hope, will serve to provide a lower level of future victims. I commend the bill to the council.

Debate adjourned on motion of Hon. Carmel Zollo.

SUCCESSION DUTIES REPEAL BILL

Second reading.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (17:15): I move:

That this bill be now read a second time.

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

Leave granted.

The *Succession Duties Act 1929* (the 'Act') was amended in 1979 to exempt from succession duty the estates of persons who died on or after 1 January 1980.

However, succession duty assessments and refunds continue to be made in relation to those persons who died before that date as certain events trigger a liability or an entitlement under the Act.

Although assessments and refunds are increasingly infrequent events, the technical knowledge necessary to assess succession duty liability and consider refund applications is difficult to sustain or justify against the administration of more substantial state taxes.

All other Australian jurisdictions have abolished comparable legislation on the basis that the employment of resources required to administer the legislation was not cost effective.

The repeal of the Act will remove any confusion as to whether there is an ongoing liability to pay succession duty.

The *Succession Duties Repeal Bill 2013* (the 'Bill') gives effect to the abolition of succession duty from 1 July 2014, extinguishing any liability from duty that has not been paid from and including 1 July 2014.

The Bill also extinguishes any potential entitlement to a refund under the Act that has not crystallised before 1 July 2014.

The Bill further extinguishes any entitlement to a refund that existed prior to 1 July 2014 but in respect of which applications for a refund have not been made on or before 31 December 2014.

The Bill was released to the Public Trustee, Australian Executor Trustees, The Law Society of South Australia, Law Council of Australia, Property Council of Australia, The Tax Institute, The Real Estate Institute of South Australia Inc, CPA Australia, The Institute of Chartered Accountants in Australia, Institute of Public Accountants, Australian Institute of Conveyancers (SA Division) Inc and other law firms for confidential consultation prior to its introduction into Parliament.

Both the Public Trustee and The Law Society of South Australia have indicated that they support the Bill. No other comments were received.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

These clauses are formal.

Part 2—Repeal of *Succession Duties Act 1929*

3—Repeal of Act

The *Succession Duties Act 1929* is repealed.

4—Liability for duty and entitlement to refund etc extinguished

Liability for duty under the *Succession Duties Act 1929* that was outstanding immediately before the commencement of this section is extinguished. After commencement of the Bill, a person is not entitled to a refund, rebate or remission under the *Succession Duties Act 1929* unless the entitlement accrued before that commencement and an application is made on or before 31 December 2014.

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

ELECTORAL (LEGISLATIVE COUNCIL VOTING) AMENDMENT BILL

Second reading.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (17:16): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill amends the *Electoral Act 1985*.

Following the results of the 2013 Federal Election there have been widespread calls to reform the way preferences act in proportional representation voting systems throughout Australia. These have been generated by 'preference harvesting' behaviour, which has seen some candidates elected to the Senate with significantly fewer primary votes than other ultimately unelected candidates. Gaming of this system has resulted in there being a degree of a lucky dip in becoming an upper house member.

The Government believes that these outcomes are undemocratic. This capacity to manipulate the system needs to be addressed.

This Bill makes some minor changes to the Act. They are not a complete solution to the problem. The Government encourages discussions to see if the Bill can be improved. There is a belief that, given sufficient time, the solution may well rest with some variation on Optional Preferential Voting or other reform of the preferential voting system. Given the time in the current electoral cycle, we are not likely to be in a position to progress a wholesale reform of this nature, though the Government is not closing this door.

There remains a need at least to take targeted measures that will reduce the capacity of non-registered groups and candidates to harvest preferences. This Bill achieves this by increasing the nomination requirements so that a single candidate. The Bill requires a single candidate for the House of Assembly to obtain the support and signature of 20 electors and a candidate for the Legislative Council 100 electors (as opposed to the current requirement of 2). This will encourage quality candidates who have the reasonable support and backing within the community.

Further, only political parties and groups may lodge a voting ticket and hence obtain an 'above the line' voting ticket square. However, if candidates group together, they must have the supporting signatures of different electors. If two or more candidates have the same signatures, that signature will not be counted for the purpose of making nomination.

As a consequence, electors will have to provide a preference for every candidate below the line on the ballot paper should they wish to vote for an ungrouped independent candidate .

Further, the Bill will also reduce the number of descriptive words that may be provided adjacent to a candidate or group name on the Legislative Council ballot paper from 5 or less words to 2 words.

Finally the ballot paper will be required to list candidates and groups in an order beginning with registered political party groups, independent groups and then lastly independents candidates.

I advise that I also propose to increase by regulation the nomination fee for single candidates from $450 to $2,000.

We believe that in the available timeframe, the minimalist approach taken in this Bill will address the problem to some degree, but will not be the ultimate solution.

I repeat, we will be open to discussion on this Bill between the Houses.

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 *Electoral Act 1985*

4—Amendment of section 4—Interpretation

This amendment amends the definition of *voting ticket square* to reflect the fact that, in accordance with the amendments to section 63, only groups will be entitled to lodge voting tickets for a Legislative Council election (and have voting ticket squares printed on the ballot paper).

5—Amendment of section 53A—Nomination of single candidate

This amendment requires the nomination for election as a member of the House of Assembly by a single candidate to be signed by 20 electors and for election as a member of the Legislative Council by a single candidate to be signed by 100 different electors for the district (currently, the requirement is 2 electors for both Houses).

6—Amendment of section 59—Printing of Legislative Council ballot papers

The amendment to subsection (1)(a) requires groups endorsed by registered political parties to appear on the Legislative Council ballot paper before other groups. The other amendment to subsection (1) is consequential.

7—Amendment of section 62—Printing of descriptive information on ballot papers

The deletion of subsection (1)(d) reduces the number of additional descriptive words that a candidate may have printed adjacent to the candidate's name on a ballot paper (after the word 'Independent') from 5 to 2.

8—Amendment of section 63—Voting tickets

The new inserted subsections relate to the entitlement to lodge a voting ticket for an election. Relevantly, in the case of a Legislative Council election, only a group of candidates is entitled to lodge a voting ticket.

The other amendments are consequential.

9—Amendment of section 139—Regulations

This clause amends section 139 to include certain regulation making powers for the purposes of the Act, including the power to fix fees and the power for a matter or thing in respect of which regulations may be made to be determined according to the discretion of the Electoral Commissioner.

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

STATUTES AMENDMENT (ELECTRONIC MONITORING) BILL

Second reading.

The Hon. G.E. GAGO (Minister for Agriculture, Food and Fisheries, Minister for Forests, Minister for Regional Development, Minister for the Status of Women, Minister for State/Local Government Relations) (17:16): I move:

That this bill be now read a second time.

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

Leave granted.

The Statutes (Amendment) Electronic Monitoring Bill 2013 seeks to amend three pieces of legislation to empower the relevant authorities to impose electronic monitoring of offenders and other persons released to the community that are assessed as posing a risk to the community and requiring additional monitoring.

Electronic monitoring is a valuable tool currently used by the Department for Correctional Services for rigorously supervising offenders in the community.

Electronic monitoring is mostly used for prisoners on post-prison Home Detention and Intensive Bail Supervision.

Post-prison Home Detention is for prisoners that satisfy the strict criteria to serve the last part of their period of imprisonment on Home Detention, at times largely or entirely subject to electronic monitoring as a condition. Intensive Bail Supervision is court ordered Home Detention Bail, of which the vast majority have electronic monitoring as a condition.

Put simply, the Bill proposes to extend electronic monitoring to empower relevant authorities to impose electronic monitoring on:

- prisoners undertaking approved activities outside of the prisons; and
- offenders who are released to the community by the Courts on licence.

The Bill also provides that the Parole Board must consider imposing an electronic monitoring condition for prisoners convicted of child sex offences being released on parole.

These proposed changes will complement amendments recently passed to the Child Sex Offenders Registration (Miscellaneous) Amendment Bill 2013 in which the Police Commissioner will have the power to issue a requirement to a serious registrable child sex offender that he or she wear or carry a tracking device for the purpose of monitoring whereabouts.

The Bill, in addition to child sex offenders would include offenders who have committed sex offences against adults or persons deemed to present a risk to family safety.

The Bill refers to 'electronic monitoring' rather than a particular device type as all types of technologies can then be considered for use now and into the future.

This is to capture all existing devices and enable remote monitoring (for example drug or alcohol testing) and include GPS technology.

The Department for Correctional Services is exploring the use of GPS technology for the monitoring of offenders and is currently conducting a trial.

Public safety and reducing reoffending is paramount and having the right technology in place under an appropriate legislative framework with appropriate supervision arrangements is critical.

The Government takes this opportunity to thank the Member of Parliament who introduced a Private Member's Bill that sought to provide GPS tracking of child sex offenders in the community and on approved release from prison.

This Bill goes much further; it provides for current and future technologies; it provides for a risk-based approach rather than limited to offence type; and will capture the prisoner to whom the Member referred in the Member's speech on her Bill. That Bill would have missed the very person she sought to monitor in this way.

This Bill will make sure we have the legislation in place to electronically monitor that person and others who require this extra monitoring tool to provide greater public safety.

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 *Correctional Services Act 1982*

4—Amendment of section 4—Interpretation

This clause inserts a definition of electronic device for the purposes of the measure.

5—Amendment of section 27—Leave of absence from prison

This clause amends section 27 to specify that conditions under which leave of absence may be granted under the section include a condition concerning matters relating to the custody and supervision of, and directions to be given to, prisoners granted leave and a condition requiring a prisoner granted leave to be monitored by use of an electronic device.

6—Amendment of section 67—Release on parole by application to Board

This clause amends section 67 to expressly refer to the fact that the CE may include in his or her report to the Parole Board recommendations as to the conditions that should, in the opinion of the CE, be imposed by the Board on the prisoner's release on parole.

7—Amendment of section 68—Conditions of release on parole

This clause amends section 68 to specify that the conditions of release on parole may include a condition requiring a prisoner to be monitored by use of an electronic device.

Part 3—Amendment of *Criminal Law Consolidation Act 1935*

8—Amendment of section 269O—Supervision

This clause amends section 269O to provide that the conditions of a supervision order under the section may include a condition requiring a defendant to be monitored by use of an electronic device.

Part 4—Amendment of *Criminal Law (Sentencing) Act 1988*

9—Amendment of section 24—Release on licence

This clause amends section 24 to provide that the conditions of release on licence under the section may include a condition requiring a person to be monitored by use of an electronic device.

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

At 17:18 the council adjourned until Tuesday 26 November 2013 at 11:00.