HOUSE OF ASSEMBLY

THURSDAY 14TH JUNE 2012

AQUACULTURE (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 17 May 2012.)

Mr PEDERICK (Hammond) (15:58): I am lead speaker on the aquaculture bill today, and I indicate that the Liberal Party will be supporting it. We do have some other speakers and we will be seeking some clarification during the committee process on some points. This bill comes after just over a decade of leadership that was shown by the then Liberal government back in 2000 and 2001 in the instigation of the first act. I think it is still the only act in the world to manage aquaculture as it does. I will always say that I think our fisheries are very well managed under the Fisheries Management Act and the Aquaculture Act. Those acts, especially the Fisheries Management Act, also deal with the management of sea growth such as seaweed on the sea floor.

That is what disturbs me about the whole debate about marine parks, where we see the Department of Environment and Natural Resources taking over, or attempting to take over, from the excellent management that Primary Industries and Regions, formerly Primary Industries and Resources, has done through various governments in managing fish and fish stocks. These are very well managed with, if need be, quota restrictions and time restrictions on fishermen in regard to the taking of fish, especially in the commercial sector. I think it is very well managed—extremely well managed.

We see today, at the federal level, the announcement by minister Burke about marine parks, when once again Australia steps out into the great green unknown and we see Labor governments bending over to their green taskmasters and not seeing the folly of their ways. At least I suppose at the federal level the Prime Minister and minister Burke are saying that there will probably be $100 million of compensation in place, but in the bigger picture it will mean that more fish will need to be imported to feed the ever-growing population of this country.

It will mean that there will be less fish that will be able to be exported from Australia, and there will be a forever growing cost burden on the commercial fishers, especially

those left in the industry, and these are costs that will be born by industry. There is also the heavy cost wherever we land with this marine park process, whether it is at a federal or state level, that will be borne by local communities and the flow-on effects to the corner stores, to the local grocery store, to the fishing tackle shop, or to the caravan park. There will be a whole range of impacts that I am sure that governments at the state and federal level have not fully analysed, but I digress.

I want to talk about some of the excellent work that was done around the time the aquaculture act was introduced by the Liberal government back in 2001. I believe Rob Kerin was the lead at the time of its introduction and, as I said, it is world-class legislation. In January 2001, Aquafin, a major new national research centre in South Australia with a focus on aquaculture, was announced.

In February 2001, following a successful captive breeding program at the South Australian Research and Development Institute, the government proposed to introduce mulloway into the South Australian aquaculture sector. We saw in March 2001, the government proposal to develop a marine plan for Spencer Gulf, namely the Spencer Gulf Pilot Marine Plan. In May 2001, the government committed $2 million to the farm seafood industry in the 2001-02 state budget.

In August 2001, the government introduced a $3 million program to improve compliance services to fisheries around South Australia; essentially, more fisheries compliance officers were to be employed. In December 2001, the government proposed to set up an aquaculture park on Eyre Peninsula to store, process and package oysters. This project was funded by a partnership between the District Council of Ceduna and the state government through a regional development infrastructure grant.

There was so much more done by the Liberal government of the day to promote aquaculture in our state. As to that last issue about the aquaculture park, I am sure the member for Flinders will be well aware of the progress of aquaculture in the last decade in his area of the state. It was pleasing that around the end of January, early February, I went over to Eyre Peninsula, along with the member for Flinders and the Hon. John Dawkins from the other place, and for some of the meetings over there Rowan Ramsey, the federal member for Grey, was on board. We met and consulted with many people on the impacts of the change in the legislation and some of those people included Samara Miller from the abalone association, people from Kinkawooka mussels, Trent Gregory from the Northern Zone Rock Lobster Association and Simon Clark from the Prawn Association.

We were talking to people who were not just involved in aquaculture but, obviously, wild catch as well. David Ellis is involved with the tuna industry. Paul Watson is in charge of pilchards or sardines. We also went out to the pristine oyster farm at Coffin Bay and Brendan Guidera is a leading light in the production of oysters. We also

talked to Bruce Zippel at the aquaculture park at Streaky Bay. Bruce has an excellent operation there as well. We met with mayor Allan Suter from the Ceduna council and also ran some open forums at Streaky Bay and Ceduna. It was a very worthwhile trip. I always find it invigorating to get over to the wide open spaces of Eyre Peninsula. There are some very good people who are involved in not just the aquaculture industry but agriculture as well.

In relation to the Aquaculture (Miscellaneous) Amendment Bill, I just want to reiterate that we have a world-class reputation for our aquaculture in this state. Of the total seafood production in South Australia, 30 per cent originated from aquaculture in 2009-10, which represented 49 per cent of the total seafood value of production. This generated direct employment for approximately 1,800 people, with 1,700 jobs flowing on, which is a total of 3,500 jobs in this state. Of these jobs, 71 per cent are in the regional areas.

As I indicated earlier, the 2001 act is a unique piece of legislation and the first of its kind in Australia. This Aquaculture (Miscellaneous) Amendment Bill builds upon the excellent work that was done over a decade ago and aims to actually improve and streamline processes and reduce red tape. As I indicated earlier, this legislation will bring the ever maturing industry up to date and coincide with the rapid development of industry practice and aquaculture management practice. I think an excellent part of the bill is the introduction of third-party registrations on leases, which is similar to mortgage arrangements on a property, so third parties can be part owners in the operation.

The objects of the act remain unchanged and the bill will assist with this, especially when it is enacted. It will ensure ecologically sustainable development of marine and land-based aquaculture and maximise benefits to the community. It will also give, as it has done over the past decade, efficient and effective regulation of the aquaculture industry under the regulation-making powers of the act, and it will regulate infrastructure, including site markers, anchors and feed barges used on licensed sites. Holding sites and the maintenance of infrastructure will be managed and in this bill there will also be the capacity to license the towing of live aquaculture stock, which obviously happens all the time with regard to the tuna ranching operations, mainly on Eyre Peninsula.

The bill appears to give greater clarity and transparency in the determination of a suitable person who may be granted an aquaculture licence, which will involve clarifying the person's financial capacity to comply and whether the person has committed any offences or has had any statutory authorisation relating to aquaculture, fishing or environmental protection cancelled or suspended.

It is indicated that there will be no confusion as to the application of standard conditions of aquaculture policies. A 28-day time frame will be set for the

consideration of aquaculture policies by the Environment Resources and Development Committee, which will not be eroded by the Christmas holiday period or in periods near general elections. As I have indicated, those periods will be disregarded in the 28-day time frame.

The concurrence of the minister responsible for the administration of the Harbors and Navigation Act 1993 to the grant of an aquaculture lease has been clarified in the bill, with the effect that concurrence is not required where a lease is subdivided or two leases are amalgamated. This section also establishes that concurrence is not required for an emergency lease unless it is to be granted within the boundary of a port of harbor. Another good part of this bill is where we see the ability for leases to be amalgamated, especially with the ever-rising costs of compliance.

The bill removes a mandatory requirement for the lease to specify a class of aquaculture. The bill also provides that the lease may specify performance criteria to be met by the lessee. This is with regard to the fact that in the past some leases have been left undeveloped by speculators, so the government wants—and I agree with this practice—aquaculture leases to actually be used for a purpose, which will maximise benefits for industry. The bill will give the minister of the day the power to cancel an aquaculture lease where no aquaculture is being conducted and where performance criteria have not been met. This can happen when fees have not been paid. As indicated in the bill, the minister needs to follow procedural fairness steps.

Through this bill it is indicated that there will be the removal of development leases, which will reduce red tape. Development leases can be managed in the same way through a production lease, and there are obviously transitional provisions as part of the bill. All development leases will automatically become production leases, with the same terms and conditions as those that applied to the existing development lease. The minister would have to give consent to the transfer of production leases in the same way consent was required for the transfer of development leases.

Provision for the allocation of pilot leases in prospective zones has been removed, together with the provision for prospective zones altogether. The maximum aggregate term of a pilot lease has been increased to not more than five years, and this is an increase from three years. The lease may be converted after three years if the minister is satisfied with the performance of the activity on the site. This will enhance the new scheme for the grant of leases within aquaculture zones that are more flexible and more transparent.

There are two methods—which we will investigate more during the committee stage—that have been identified in the bill by which to release tenure or access rights to areas of state waters. There is a system of public call, and the second and new form of tenure release is an on application regime where no public call will be required. Applications received will be assessed by the Aquaculture Tenure Allocation

Board. It is the aim of the bill to encourage investment whenever possible. All applications will be assessed by the Aquaculture Tenure Allocation Board against set criteria.

It is indicated in the bill that there will be a greater level of transparency to the assessment process for the applicant. The draft bill proposes that the ministerial guidelines be gazetted and available on the internet. A research lease has been included in the bill to enable certain waters to be dedicated to research activities, and the term of research leases will be five years or less. Research leases will be renewable, but are not to extend beyond the term of the appropriate research project.

There has been a new regime on the granting of emergency leases introduced in this bill. If the minister considers that an emergency circumstance exists that warrants such action, an emergency lease can be granted. The concurrence of the minister responsible for administering the Harbors and Navigation Act 1993 will be required only if it is necessary to grant an emergency lease within a port or harbour.

The current power for the minister to require or carry out work on a licence has been extended to require or carry out work on a lease. The minister may now direct the lessee or former lessee to take action or remove equipment in certain circumstances. As indicated in the bill, failure to comply with the minister's direction may result in a penalty, and the minister will be able to organise the work to be done and recover the associated costs from the lessee or former lessee. As part of the bill, abandoned sites must be secured and clearly marked until any existing infrastructure is removed.

I note that the bill modifies and expands the provisions dealing with licence conditions and variation of licence conditions. It also introduces an offence of contravening a condition of licence, with the maximum penalty being $10,000 or an expiation fee of $1,000. It is hoped that through this enhancement of the act there will be greater business certainty and obviously, with third-party investment, attractiveness of investment, as indicated, with the ability to register the interest of a third party (for example, a mortgagee) on an aquaculture lease or licence. Once registered the third party is required to consent to the transfer and variation of a lease or licence.

With regard to third parties, the minister must also give a registered third party written notice of any proceedings for an offence of any notice proposing to cancel or not renew a lease. Having a registered third party has been supported by the Australian Bankers Association. In addition, the bill clarifies the fee structure for lessees and licensees and elevates provisions dealing with annual fees for licensees to the level of the act.

I note that the membership of the Aquaculture Advisory Committee will be expanded from 10 to 11 members, with the additional member being a person engaged in the administration of the Harbors and Navigation Act 1993. The Aquaculture Resource Management Fund will be known as the Aquaculture Fund, and that fund will be applied to two additional purposes: research and development relating to the aquaculture industry, and the removal and recovery of aquaculture equipment, stock or lease markers should that action be required to be taken under the act. We will also see a further enhancement of environmental management of aquaculture activities in South Australia.

The bill deems the minister to be an administering agency for the purposes of the Environment Protection Act 1993. It will also enable the minister to appoint fisheries officers as authorised officers under the Environment Protection Act 1993. The bill clarifies succession arrangements, providing certain persons with powers to carry on aquaculture should a lessee or licensee die, become bankrupt or insolvent or, in the case of a body corporate, be wound up or put under administration, receivership or official management.

A constituent came to me who had a licence leased out that caused a world of pain because, sadly, the lessee died. Hopefully this part of the bill will clean up such circumstances so that people can sort out their business arrangements quickly regarding who has to pay the bill, basically. Hopefully we can get that sorted out to everyone's benefit. There is a confidentiality provision included which makes it an offence for persons engaged in the administration of the act to divulge trade processes or financial information gathered in the course of official duties unless it falls within the limited exceptions of the provision.

Enhancement will assist in ensuring the continued sustainability of the aquaculture industry in South Australia into the future. I certainly believe that aquaculture does have a bright future. As time goes on, the percentage of fish that are farmed and the wealth will slowly enhance the productivity of all our fisheries income and become a major part of our fisheries income for decades to come.

I just want to briefly reflect upon a question asked by the Hon. John Dawkins in the other place to do with the increases that have been charged to leaseholders in regard to fees. The Hon. John Dawkins made the following comments:

They include one whose fees went up from $5,000 to $74,000 and another example where one [fisherman's fees] went from $2,700 to $30,900 over a 12-month period.

The Hon. John Dawkins asked:

If the minister could bring back some explanation of the rationale and way in which those fees were determined ...

There is a fund within some of the aquaculture sector, certainly within the oyster industry, that has been established to enable those disused and abandoned aquaculture sites to be dismantled by people who know what they are doing.

I have also been advised that in recent times PIRSA Fisheries has been establishing its own fund to do this. It charges fees to the participants to facilitate this fund. My query to the minister (and I would be grateful if she brings this back at the commencement of the committee stage or in her second reading summary) is why, when there is a fund established by the industry and at their own volition—and there is a track record of those participants doing the work, going out and cleaning up a site that has been disused—there would be a duplicate established by the department when that is already working very well.

That is something else that we will be investigating during the discussion at the committee stage of the bill because there are some sectors that do have their own fund for cleaning up disused sites. I will read in the minister's response to the Hon. John Dawkins in the other place. I found it quite interesting because, in a lot of words, it really did not say a lot at all:

Dear Mr John Dawkins,

In further response to your questions raised in the committee stage of the reading of the Aquaculture (Miscellaneous) Amendment Bill 2012 on 15 March 2012 and recorded in Hansard on pages 9 82 to 988, I provide the following answer to your question on aquaculture fees.

Aquaculture Fees

A system for determining cost recovery for PIRSA Aquaculture and Fisheries, Aquaculture division management activities has been in place since the Act was introduced in 2002. Aquaculture leases and licences are currently the primary means of regulating the activities of aquaculture operations in South Australia. The Act provides for the charging of fees in relation to the administration of leases and licences.

PIRSA Aquaculture reviewed its cost recovery methodology in 2010 and has adopted an activity based approach where the e ort is quantified for every activity, including overheads and non-cash items for identified programs. A process has been developed to provide a basis for determining resources required to deliver [a] particular activity—

I do not think this printed very well, but anyway—

PIRSA Aquaculture is now able to provide a more accurate reflection of real cost. This approach is in line with the PIRSA Cost Recovery Policy 2010 which has been developed using the commonwealth Department of Finance and Administration's 'Australian Government Cost Recovery Guidelines' report (2005), in addition to the Productivity Commission's 'Cost recovery government agencies: inquiry report' (2001), to ensure consistency with National Guidelines.

A time recording process has also been implemented by PIRSA Aquaculture staff to accurately report effort against each activity program and aquaculture industry sector to inform the cost recovery process for the 2011 -12 financial year and beyond.

Due to this new activity based approach to setting fees and a reduction in appropriated funds for services provided to the aquaculture industry, there have been increases in licence fees across all sectors of the industry. The increases are directly attributable to the level of resourcing required to conduct each of these services for the aquaculture industry sectors and a significant reduction of government subsidisation through state funding. All industry sectors are consulted on their fees and PIRSA Fisheries and Aquaculture undertake a thorough process before setting any new fees.

Yours sincerely, Hon. Gail Gago MLC.

That was quite a long explanation which, really, did not say much at all. It did not explain exactly how the fees were arrived at. I was horrified several years ago, in one sector, trying to work out the fees, where the minister of the time (Hon. Rory McEwen) said, 'We will only double the fees but they are effectively quadrupled,' and that, obviously, caused a lot of angst, especially on Eyre Peninsula.

I think, certainly from the industry's point of view, they have not been happy with the way a lot of the fees have been set in the past and I just hope that things are being sorted out into the future so that people do not feel like they are essentially being ripped off. Aquaculture is a vital industry for our state and it is a real cash-hungry industry, and we do not want to see these people who put their money where their mouth is taxed out of existence. The input costs of aquaculture are massive. These people put millions and millions of dollars into this state through setting up and managing their aquaculture farms and employing people. They put many millions of dollars into the economy of the state.

As I indicated earlier, we will be asking for some clarification during the committee stage of the bill and, from my perspective, I commend the bill. We will certainly be looking for some more information as we go through the bill. I note there are a couple of other speakers.