LEGISLATIVE COUNCIL

Thursday 22 September 2005

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.19 p.m. and read prayers.

STATUTES AMENDMENT AND REPEAL (AGGRAVATED OFFENCES) BILL

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That the sitting of the council be not suspended during the continuation of the conference on the bill.

Motion carried.

PAPER TABLED

The following paper was laid on the table:

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T.G. Roberts)—

Problem Gambling Family Protection Orders Act 2004—First Annual Report on the Operation and Effectiveness of the Act.

AIRPORT SECURITY

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a ministerial statement relating to the Wheeler report into airport security made today by the Deputy Premier.

QUESTION TIME

GAMING MACHINES

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the minister representing the Minister for Gambling a question about gaming machines.

Leave granted.

The Hon. R.I. LUCAS: Members would be aware of the background to Premier Rann's promise to cut 3 000 gaming machines from South Australia whilst, at the same time, we continue to see increased gaming machine revenue being collected. At the time of his initial statements, the Premier was advised by government officers that, using the IGA model, the actual cut in gaming machines would not be 3 000 but 2 461. At the time, the Premier ignored that advice given to him, and he made the announcement that he would cut back the total number of gaming machines by 3 000. As a result, a complicated trading system was developed about which there was much debate in this chamber when the legislation was discussed. I think that, without going through all the detail, it is fair to say that a number of members advised the government that its trading system was a disaster in waiting and would not deliver what premier Rann said that it would deliver in terms of the 3 000 machine cut in the total number of machines.

The first round of trading occurred in the middle of May this year, when the princely sum of 27 machines were further reduced from gaming machine numbers in South Australia, taking the total from 2 168 (which was the original cut) to 2 195. As a result, I am advised that there were urgent discussions, and the government and its agencies involved in this agreed that there would be another round of trading, which has only just concluded. As members will be aware, the second round of trading was even worse than the first round of trading. Instead of a 27 machine net reduction, there was a net reduction of a further seven machines being removed from the system.

We have now moved up to 2 202 machines, almost 800 short of the promised 3 000. Members, of course, will be aware that, in this morning's newspaper, the Leader of the Opposition highlighted that, on his calculations and at the current rate, it will take another 38 years for Premier Rann to reach his promised target of 3 000. The opposition is used to long-term goals from the government in its State Strategic Plan—10, 15 and 20-year goals as they relate to exports, and a variety of other things, but the 38-year goal is indeed a new long-term goal from the Premier and the government.

At the time of the legislation, an amendment was moved to require a report on the trading system, because a number of members (a majority, in the end) were so concerned about the Premier's model that he was proposing and that, indeed, it would not deliver the claimed reductions that he was talking about; and they wanted a report to be produced prior to the next election. So, section 89 of the legislation requires a report to be produced on the operation of the trading system by 31 December of this year so that it can be publicly released. As you know, Mr President, this parliament, under this government, would appear not to be sitting after 31 December prior to the next election, and the legislation requires the minister to give copies of the report to you, Mr President, and the Speaker, and for you to distribute them amongst members of the respective houses.

However, it does rely on the minister's being accountable and presenting the report immediately to you, Mr President, and to the Speaker. The legislation does say that the minister must, if parliament is not sitting, give copies. There is no actual time requirement on the minister in relation to that. So, my questions to the minister are:

1. Will the Rann government, and the minister in particular, give a commitment that, immediately upon receipt of the report into the trading system prior to 31 December, he will do as envisaged by the legislation, that is, provide copies to the President and the Speaker to enable distribution to members, so that members and the community can make a judgment about Premier Mike Rann's trading system and as to how his proposed reduction of 3 000 will be achieved?

2. Can the Minister for Gambling indicate whether he now agrees that Premier Rann's trading system model has been an unmitigated disaster and, on the basis that it has reduced only seven machines in the most recent round of trading, does the Premier now concede that the claims he made to the people of South Australia about a reduction of 3 000 were, indeed, wrong and misleading?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will take the question on notice in relation to the tabling of the report, but my understanding is that the tabling of the report is a statutory requirement, and the minister would have to find a way of getting those reports into the hands of members if that is the case.

I am a little confused in that the article by Laura Anderson, the political reporter for *The Advertiser*, quotes the minister as saying there are 2 202 fewer poker machines in South Australia as a result of the reforms and 17 fewer venues, and that is a great result. No-one else has cut machines like the Rann government. So, I would be interested

in the interpretation of the Leader of the Opposition's figures, and certainly I will look forward to the report when we are given it.

The Hon. NICK XENOPHON: I have a supplementary question. Is the government considering lifting the cap price of $50 000 to that of a market price, as recommended by the Independent Gambling Authority?

The Hon. T.G. ROBERTS: I will refer that question, along with the Leader of the Opposition's questions, to the appropriate minister in another place and bring back a reply.

JUDICIAL APPOINTMENTS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Leader of the Government, representing the Attorney-General, a question about Industrial Court appointments.

Leave granted.

The Hon. R.D. LAWSON: As the council knows, on 14 July this year the Attorney-General announced the appointment of Don Farrell's sister, Leonie Farrell, as a judge of the Industrial Court. Section 19(3) of the Fair Work Act provides:

> Before the Governor assigns a District Court Judge to be a Judge of the [Industrial] Court, the Attorney-General must consult with the Senior Judge of the [Industrial] Court and the Chief Judge of the District Court about the proposed assignment.

I repeat: 'must consult with two judges'. This is an important provision because the judges who are required to be consulted may have some view about the capacity, the impartiality, the incompetence and the integrity of persons assigned to the court.

Indeed, on 14 July, an assignment appeared in the *Government Gazette*. It is a proclamation made by Her Excellency the Governor. The proclamation said:

> Made by the Governor
> after consultation by the Attorney-General with the Senior Judge of the Industrial Relations Court of South Australia and the Chief Judge of the District Court of South Australia and with the advice and consent of the Executive Council.

The proclamation issued by Her Excellency said that it was made after consultation.

The Hon. R.I. Lucas: She would have said that on advice.

The Hon. R.D. LAWSON: Yes. Surprisingly, the following week, 21 July, exactly the same proclamation appeared in the *Government Gazette*. However, this one had a preamble which referred to the earlier *Gazette* and said:

> It now appears that the assignment made by proclamation referred to. . . may have been ineffectual and so it has been decided to make a new proclamation.

The opposition has information that, contrary to the strict requirements of section 19(3), the Attorney-General did not consult with the judges. My questions are:

1. Does the Attorney-General deny that the statement in the Governor's proclamation of 14 July, namely, that it was made after the Attorney-General had consulted with the judges, was a truthful statement or was it a false and misleading statement?

2. On what date did the Attorney-General mention to the Senior Judge of the Industrial Court and the Chief Judge the government's proposal to assign Ms Farrell to the Industrial Court? (I am not saying on what date did he first consult, because it is clear on the information we have that he has never consulted in the appropriate sense.)

3. What is the basis for the statement in the proclamation which appeared on 21 July that the earlier proclamation was 'ineffectual'?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I will refer the questions to the Attorney-General and bring back a response. However, I am aware that Ms Farrell is highly regarded. She was appointed as a magistrate and, indeed—

Members interjecting:

The Hon. P. HOLLOWAY: Mr President, I thought it was very much against standing orders for members to reflect on members of the judiciary—

The PRESIDENT: If there was—

Members interjecting:

The PRESIDENT: Order! Members should not reflect on the Governor, other members of parliament or the judiciary. That is the correct interpretation, but I am not aware of what the honourable member was saying the reflection was. Was it by way of interjection? I am not aware of the point the minister is making. The standing order is correct, but I am not aware of the specific comment.

The Hon. R.D. LAWSON: I have a supplementary question. If, as the minister said in his answer, Ms Farrell is highly regarded as an industrial relations practitioner why did the Attorney-General not mention the fact that the government proposed to appoint her to that court?

The Hon. P. HOLLOWAY: Wait until we get the answer. The honourable member is making some allegation—

Members interjecting:

The Hon. P. HOLLOWAY: No, certainly not. The fact is that Ms Farrell has acted for some time, to my knowledge, as a magistrate in the Industrial Court and certainly to my knowledge her work there has been highly regarded by those parties who have been involved in that.

The Hon. J.S.L. Dawkins: She is not highly regarded by the left wing in your party.

The Hon. P. HOLLOWAY: That is not true. That is just untrue. That allegation—and I hope it goes on the record—by the Hon. John Dawkins that her appointment was not highly regarded by some members of the party is not true.

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

The Hon. P. HOLLOWAY: It is not true; it is untrue. How sleazy will the Liberal Party go?

Members interjecting:

The PRESIDENT: Order, the Leader of the Opposition and the Hon. Mr Cameron!

The Hon. P. HOLLOWAY: Don't they get it? It is a message to them if they read the polls this morning. They are going out backwards through the window and this is the reason why. Just keep it up.

Members interjecting:

The Hon. P. HOLLOWAY: Just keep it in the gutter and no-one will want to know you. You will be even lower than the Democrats if you keep this up.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. REDFORD: Mr President, I do this in your interests. In the last sentence there were a number of reflections upon you. He said you were down in the gutter; he said you were lower than the Democrats. He said a number of things about you, and I would ask him to withdraw it.

The PRESIDENT: I took no offence.

The Hon. A.J. REDFORD: He was saying 'You, you.'

Members interjecting:

The Hon. A.J. REDFORD: It was referring to you, Mr President, and I feel very hurt by that.

The PRESIDENT: He was referring to someone through me. I don't recall who but, nonetheless, I have a pretty thick hide. I have had a lot of experience at insults.

Members interjecting:

The PRESIDENT: Order!

FOOD SA

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the minister representing the Minister for Agriculture, Food and Fisheries a question on the state food Scorecard report.

Leave granted.

The Hon. CAROLINE SCHAEFER: The state food Scorecard report for the financial year 2004-05 is, I believe, due to be released tomorrow and the figures that it will show are indeed alarming for South Australia. The report reveals, amongst other things, that our food exports have fallen by 23 per cent, or $494 million, in the year 2004-05, from the year 2003-04—that is 23 per cent in one year. There has been a loss of 10 000 jobs in the South Australian food industry in the same year. Private capital expenditure invested in the food industry in South Australia fell by $15 million, and processed food exports are down by 3 per cent in comparison to the Australian figure of 13 per cent.

Much will be blamed, I am sure, as it always is, on seasonal conditions and the high Australian dollar. However, as the report itself points out, the 2003-04 figures were also affected by the high Australian dollar and do not explain the falls that we have in South Australia in comparison to the rest of Australia and, in fact, I will just quote some of the falls from the chart that is given to us on processed foods.

In South Australia, processed seaford exports fell by 24 per cent, in comparison to 6 per cent across Australia; cereal preparations fell by 15 per cent in South Australia, as opposed to a rise of 3 per cent across Australia; and, in total, our exports fell by 23 per cent, in comparison to a rise of 8 per cent across Australia. The South Australian food strategy was something that I was very involved in and very proud of. South Australia actually set the pace and was ahead of the rest of Australia at the time that we were in government. My questions are:

1. How does the government propose to reverse the collapse of the formerly successful state food strategy?

2. How on earth does the government propose to reach its much trumpeted target of $23 billion in exports by 2013 if it has no vision for the food strategy of this state?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The Hon. Caroline Schaefer just dismissed the fact that we do have a high Australian dollar at the moment and that we have just had two droughts. It is very easy to dismiss that. Apparently, if a state Liberal government is elected by some gross misfortune next March, presumably the Australian dollar will fall back to where it was when the Liberals were last in office, which was 49¢ in the dollar. That would be a 60 per cent fall. If we had a 60 per cent fall in the exchange rate against the US dollar then undoubtedly our exports would increase very significantly. Effectively it would be a 60 per cent price reduction relative to where we were in 2001. To dismiss that is just silly. Also, the volume alone of our grain exports has dropped considerably because we have had several years of extremely bad crops.

Members interjecting:

The Hon. P. HOLLOWAY: That's right. In relation to those food exports, it is not surprising that there would be some reduction. I have not seen the analysis yet. As the honourable member said, there was something in the press and it has been circulated to members. I guess we will look at that during the Premier's Food Council meeting tomorrow morning and there will be some analysis.

The honourable member mentioned processed seafood. Again, the value of those exports has gone down, but that is because the price of seafood in our markets has fallen. The world is much more competitive in relation to those markets. I was in Japan earlier this year and it was incredible to see what are the largest fish markets in the world. A number of other countries are entering that market, particularly with tuna. Far and away the largest seafood income for this state was southern bluefin tuna, but a number of other countries such as Mexico are entering those markets now, following the success we have had here. Because the volume of farm product is going up, the price is going down.

To meet our export targets, we have to expand into those areas of exports where our markets are being advantaged by economic conditions. The reason exports will rise very rapidly in other parts of the country is the prices received from mineral resources.

An honourable member interjecting:

The Hon. P. HOLLOWAY: Yes, coal is a classic case—70 per cent—if you have it. Iron ore has gone up by 60 or 70 per cent, and that is what is keeping the Australian dollar high. This state's export efforts are going into other areas, particularly services, where we have our strengths. What I have been particularly keen to do is to turn around the mineral exploration in this state, and that is what this government has done through the PACE program. However, it will be some years before all that effort turns into mines, but we have done it and the industry out there knows it. The Hon. Caroline Schaefer talked about population—

Members interjecting:

The Hon. P. HOLLOWAY: All they can do is interject. They do not want to listen to the truth. They do not want to listen to the people of South Australia. They do not want to listen to anyone.

Members interjecting:

The PRESIDENT: Order! The minister has the floor.

The Hon. P. HOLLOWAY: If they want to use up their question time, they can go ahead. The Hon. Caroline Schaefer talked about employment and, of course, this state now has the highest level of employment and the lowest level of unemployment we have ever had. So what is the purpose—

The Hon. Caroline Schaefer interjecting:

The Hon. P. HOLLOWAY: We have the highest level of employment in the state's history and the lowest level of unemployment. There has been a massive restructuring of the economy in our state, and it will go on. The Liberal government's policy in relation to industry assistance was to throw money around to get industries here, and most of them subsequently collapsed. We are going to—

Members interjecting:

The PRESIDENT: Order! There are too many unhelpful interjections.

The Hon. P. HOLLOWAY: A restructuring of industry is going on in relation to that and, as I said, if all these matters that the Hon. Caroline Schaefer mentioned were of concern then why do we have the highest levels of employment and the lowest levels of unemployment ever recorded? The economy of our state is restructuring as it needs to do,

because the nature of our trade with the world is changing very rapidly and to survive we need to change with it. Members opposite should start to forget what happened in the past and start looking towards what needs to be done in the future to take advantage of the opportunities available. That is exactly what this government is doing.

INDIGENOUS PROGRAMS

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about indigenous programs.

Leave granted.

The Hon. J. GAZZOLA: There is a critical relationship between the health, well-being and educational achievement of young people in our community. This is particularly the case with our indigenous young people, who are some of the most disadvantaged within our community. Will the minister report to the council on the indigenous program initiatives the government is undertaking to assist indigenous young people in the areas of health and education?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his important question and acknowledge his continuing interest in indigenous affairs as a member of the standing committee. This government is serious about indigenous programs that are aimed at a preventative approach to improve Aboriginal health and well-being through sport, recreation and the arts. The Premier established the Social Inclusion Board in March 2002, and it has been extremely successful under the chairmanship of Monsignor David Cappo.

One of the initiatives driven by the Social Inclusion Board is the concept of a South Australian indigenous sports training academy which, I am pleased to report to the council, was recently launched by the Premier. The aim of the academy is to make a significant contribution to the achievement of three overarching long-term outcomes for Aboriginal youth in better health, better education and better employment outcomes, and to strengthen community capacity. The emphasis is on achieving these outcomes through an integrated sports, health and education program based within the academy.

Students are expected to achieve academically as well as in their sporting ambitions. The philosophy of the academy is to build potential across the Aboriginal community so that all students can aspire to excellence in their chosen field and become role models to other Aboriginal children and young people within their communities. At the launch, Monsignor Cappo said that this program will make a significant contribution because the participants will be healthy and will have an educational qualification that will help them get a job by having those skills—and the whole Aboriginal community will benefit. That educational benefit will also carry on beyond their sporting careers and throughout their lives.

The academy will target not only the sporting elite but also students with a passion and commitment to pursuing a career in sports and health. The Social Inclusion Board will further support the development of the academy through a preventative approach to improve Aboriginal health and well-being through sports, recreation and the arts. This program will focus on the needs of individual young people and keep their families and communities connected to the program. The young person will be supported to stay at school longer, supported to complete their secondary education, and also supported to access traineeships, further education and employment, and also in the health, sport and recreation field. The young person will develop knowledge of health and related issues affecting Aboriginal people, and they will improve their own health and their own lives as well as the lives of others.

The program is based at the Para West adult campus of DECS and will incorporate a healthy lifestyle program, coaching, mentoring and physical events. It will be embedded into the SACE and VET qualifications and will be nationally accredited. South Australian and national sporting identities are patrons of the academy, and acceptances to date include Michael Long, Che Cockatoo-Collins, Leah Torzyn and Wilbur Wilson, all of whom were at the opening of the academy and were quite visible with their support on that day.

The Hon. A.J. Redford: Were there any Crows players?

The Hon. T.G. ROBERTS: I remember speaking to at least one—Mr Bassett, the great centre half-back for the Crows, who does a lot of work as an individual in developing Aboriginal health outcomes. He has also done some work in the prisons for correctional services, working with prisoners to get their life back on track. So, I thank Nathan Bassett for the work he does away from the Crows in the correctional services system, as well as the work he does for Aboriginal youth.

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

The Hon. T.G. ROBERTS: Do you want me to let the cat out of the bag?

ADULT LITERACY PROGRAMS

The Hon. KATE REYNOLDS: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for Employment, Training and Further Education, a question about cuts to funding for adult literacy programs.

Leave granted.

The Hon. KATE REYNOLDS: Last night, I was fortunate enough to attend the annual general meeting of the Hackham West Community Centre. I urge all honourable members who have not yet visited the centre to do so. It is one of more than 80 community centres or neighbourhood houses in South Australia, and it is a very busy centre, because it offers a huge range of programs for disadvantaged individuals and families in the Hackham West area and operates on community development principles. Mr Eric Bennett, who has been the chairperson of the Hackham West Community Centre for some years, tabled his chairperson's report and drew our attention to the only piece of bad news contained within it, namely, the state government has cut the centre's funding for adult and community education programs by 25 per cent.

Prior to entering this place, I spent many years working in the community neighbourhood houses and centres sector. Any member who knows anything about disadvantage and the principles of community development will understand the multiple benefits of investing in adult language, literacy and numeracy programs. At numerous events over the years, I recall many members of the ALP, whilst in opposition, calling for funds to be increased for the adult and community education program administered through TAFE, but it appears that, now those members are in government, these organisations have had the funding cut for their language, literacy and numeracy programs. So, whilst demand has

increased, the proof of their benefit has increased and the government has increased its efforts to have more organisations apply for this funding, the size of the pie has stayed exactly the same for at least the past five years.

Numerous letters have been written to the minister by community centres, councils and other organisations, particularly those which cannot absorb the costs from their existing budgets but which could, in past years, access ACE funds. I am also aware that meetings have been sought with the minister. In fact, in its September 2005 newsletter, the Community Neighbourhood Houses and Centres Association Incorporated stated that ACE programs were cut by approximately 25 per cent in the last round and that some centres did not receive any money after years of successful submissions and programming. CANH goes on to state:

> We are hopeful of meeting with Minister. . . Key soon in order to make her aware of the issues faced by our sector in providing adult and community education programs as a vital component of the neighbourhood development work we do.

Last night, I was told that, by losing 25 per cent of its ACE funding, Hackham West will lose five hours of tutoring for 10 people every week. That is 10 people who will find it even harder to get or keep a job, develop their independent living skills or enter vocational training. Assuming that those people on the government side have some basic numeracy skills, they will know that, when you multiply that by a couple of hundred organisations, the result is horrifying.

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. Such patronising comments as those made by the honourable member are out of order. They are giving opinion. If the honourable member is going to abuse it like that, we will withdraw leave.

An honourable member: What is the point of order?

The PRESIDENT: The point of order is that there is too much opinion in some of the explanations, which is a breach of the rules. That behaviour is confined not only to the Hon. Ms Reynolds; it is also the behaviour of many others. Because a point of order has been taken, I rule that there be no more opinion.

The Hon. KATE REYNOLDS: My questions are:

1. Why has the ACE funding remained the same under 3½ years of the Labor government when demand has increased so dramatically?

2. Will the government increase the funding to the ACE unit by 50 per cent in the 2006-07 financial year so that the need for adult community education programs can be met?

3. When will the Rann Labor government provide realistic and fair operational funding for community centres and neighbourhood houses in country areas and for those established in the past 10 years?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the appropriate minister in another place and bring back a reply.

DOMESTIC VIOLENCE

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Premier, questions about accusations of sex discrimination in state government domestic violence prevention material.

Leave granted.

The Hon. T.G. CAMERON: A prominent state men's group has accused Premier Mike Rann of sex discrimination in the government's domestic violence campaign material. Men's Information and Support Centre Executive Director, Mr Greg Moore, was quoted in *The Advertiser* as saying that the pamphlets and web site stereotyped men as perpetrators and women as victims. Mr Moore claims that men and boys are also victims of domestic violence. However, the state government's new strategy, entitled 'Our commitment to women's safety in South Australia', launched earlier this year, responded to violence against women but ignored men. He said:

> Domestic violence crisis groups are pushing a very strong feminist line that men are the perpetrators, women are victims. We would argue that the true figures would be about 50/50. Men who are victims of domestic violence don't actually say it because, in our society, if he says he's a victim of his female partner's violence, he gets laughed at. The Government has no strategy called 'Our commitment to men's safety in South Australia', nor a gender neutral strategy.

The men's centre has formally complained about the use of gender stereotypes. My questions are:

1. On what sources did the government base its domestic violence campaign?

2. Did these sources take into account unreported estimates of domestic violence against men, and were any men's groups consulted or asked to provide data?

3. How much did the current campaign cost, and does it provide in any of its outlets information for males or boys who may be victims of domestic violence and who are seeking advice and help?

4. Why was a gender neutral campaign against domestic violence not used by the government? Did the government consult with any men's groups on the information it contains, and will the government now consider using gender neutral material in any future domestic violence campaigns?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I assume the questions are for the Minister for Families and Communities. I will refer them to that minister and bring back a response.

PORT STANVAC OIL REFINERY

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Industry and Trade a question about the Port Stanvac Mobil site.

Leave granted.

The Hon. A.J. REDFORD: Yesterday, I asked questions of the Treasurer, through the Minister for Industry and Trade. The minister did not indicate that he would refer those questions to the Treasurer, so I am now adopting the tactic of addressing questions directly to the minister. Yesterday, despite denying it at a pre-question time press conference, the Treasurer admitted that he had given Mobil a further 10 years to remediate the entire Port Stanvac site after permanent closure, which, added to the six years given to Mobil to decide to close the site permanently, takes us to the year 2019, some 16 years after he signed the deal. Documents released to me under FOI show that senior officers at the Department of the Premier and Cabinet and the Treasurer's office were briefed on how long it took to clean up other similar contaminated sites around the world.

The briefing note revealed that it took six years to clean up the Mobil Woerth refinery in Germany, a site more than double the size of Port Stanvac. It took 2½ years to clean up the former gas works site at the Docklands in Melbourne. It took three years to remediate the BP commonwealth refinery at Laverton, Melbourne; although ground water remediation

in that case is still ongoing. Indeed, a document showing a conceptual remediation schedule in my FOI documents shows that remediation at the site would take seven years for Mobil to conduct—nine years less than the time that the Treasurer (Hon. Kevin Foley) has given Mobil.

In that respect, I am reminded of Kerry Packer's statement in relation to his sale and repurchase of Channel Nine for a profit of $1 billion: one gets only one Alan Bond in one's lifetime. The Mobil executives must now be saying that one gets only one Kevin Foley in one's lifetime! My questions are:

1. Why did the Deputy Premier (Hon. Kevin Foley) give Mobil until 2019 to clean up the site, when other similar sites around the world have been cleaned up in far less time?

2. Other than an opportunity to yell at Mobil, what outcomes were achieved from yesterday's meeting between Mobil and the Hon. Kevin Foley?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): The first question was asked directly of the Deputy Premier in the House of Assembly by the actual member for Bright, not the defacto member for Bright, or the person who thinks that he is the member for Bright. I suggest that the honourable member read that answer. As to the second question about the outcomes of those discussions, most of that, I think, was also included in that answer. If there is anything further to report, I will get that information from the Deputy Premier and bring back a reply.

The Hon. A.J. REDFORD: I have a supplementary question.

The PRESIDENT: Is it arising from the answer?

The Hon. A.J. REDFORD: What was achieved at the meeting yesterday between Mobil and the Hon. Kevin Foley?

The Hon. P. HOLLOWAY: As I said, with respect to the second part of the question, to the extent that that was not answered by the Deputy Premier in question time yesterday, I will get that information and bring back a reply.

The Hon. A.J. REDFORD: As a further supplementary question, in the meeting that occurred after question time yesterday, what outcomes were achieved?

The Hon. P. HOLLOWAY: I said that I will get an answer.

SENIORS CARD

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs, representing the Minister for Ageing, a question about the Seniors Card.

Leave granted.

The Hon. J.S.L. DAWKINS: Recently, I was contacted by a constituent who is a recipient of a Seniors Card. My constituent is concerned that the Department of Families and Communities makes it possible for companies to distribute unsolicited information to Seniors Card recipients. Such information is generally accompanied by a joint note from the department and the relevant company, which informs recipients that they were informed on their Seniors Card application form that carefully selected companies are occasionally granted approval to use the Seniors Card database for special mailings that may be of interest to the recipient. The note indicates that the accompanying offer is exclusive to Seniors Card holders. It also goes on and states:

> Please rest assured that the Seniors Card database is strictly controlled and no personal details of cardholders are given to any business providers. A Seniors Card approved mail house posts the offers to you on behalf of the company concerned and this offer has been provided to you at no cost to Seniors Card.

The only other information provided on the note is at the bottom, and in a much smaller font. It states:

> Seniors Card accepts no responsibility for goods and services offered to Seniors Card members by businesses listed in the directory or through direct mail.

My questions are:

1. Will the minister indicate who selects the companies that are granted approval to use the Seniors Card database?

2. Will the minister also indicate who selects the approved mail houses?

3. What levels of customer security apply?

4. What levels of remuneration do the selected companies pay to the department for this access?

5. Given that the department takes no responsibility for the goods or services offered to Seniors Card holders, why does it make it possible for such exclusive offers to be made through its database?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the Minister for Ageing and bring back a reply.

TERRAMIN AUSTRALIA LIMITED

The Hon. G.E. GAGO: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about Terramin Australia.

Leave granted.

The Hon. G.E. GAGO: Terramin Australia is a listed resources company based in South Australia with projects in Strathalbyn and Menninnie Dam, and other places. My question is: will the minister outline to the council the most recent developments at these sites?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for her question. Terramin has announced a total resource figure for the Angas zinc project, which is near Strathalbyn, of 2.78 million tonnes of ore at a grade of 8.9 per cent zinc, 3.3 per cent lead and 42 grams per tonne silver. Terramin has completed a pre-feasibility study that has concluded that the ore body can be mined at a rate of 400 000 tonnes per annum, which would yield an estimated net operating cash flow of at least $20 million per year.

Sempra Metals and Concentrates Corporation has signed a life-of-mine off-take agreement to purchase all concentrate production from the Angas mine project, and they will participate in the ongoing evaluation, development and investment needed to bring the mine into production in 2007. The total amount of the Sempra Metals investment is expected to be approximately $17 million. Macquarie Bank Limited has taken a strategic $1 million stake in Terramin, with a subscription for 4 million shares, giving the bank an initial 6.8 per cent interest.

PIRSA Mineral Resources Group has held several meetings with Terramin, including a site visit to identify issues relating to the environmental impact assessment for the project and to determine guidelines for the mineral lease application and assessment process. PIRSA has appointed a dedicated project facilitator to act as the main government contact for Terramin in relation to this project. Terramin has been actively engaging the community and other key

stakeholders, such as the Alexandrina council, local business and development groups, non-government organisations and government agencies, to ensure that all impacts and issues are identified.

Terramin posted 2 500 fliers describing the project and inviting response in the form of comment, expressions of interest for employment, environmental issues and company information. Ninety per cent of replies received were of a positive nature for the planned project. Terramin held a community open day on 11 September 2005 at the mine site. Attendees were transported by bus around the project site, and Terramin staff explained the proposed project, including the layout of the mine site and infrastructure.

Terramin intends to peg a mineral claim over the deposit and apply for a mining lease over the area in September 2005. Statutory approvals and Terramin board go-ahead are expected in early 2006, with mine development commencing in the third quarter of 2006 and mine production following six months later. When in operation, the mine will employ about 50 people.

In relation to the other project that Terramin has at Menninnie dam, it is located on northern Eyre Peninsula about 160 kilometres west of the lead smelter at Port Pirie. A substantial area of lead-zinc-silver mineralisation is known from previous exploration. Recent drilling by Terramin, including drilling part-funded by the PACE (Planning for Accelerated Exploration) initiative has encountered further mineralisation, including air core drilling intersections of 3.5 metres at 4.2 per cent zinc; 21.5 grams per tonne of silver; four metres at 3.9 per cent lead, 2.15 per cent zinc and 14 grams per tonne of silver; and two metres at 12.3 per cent zinc. Drilling of previously untested calcrete anomaly encountered one metre at 2.4 per cent copper, 3.5 per cent lead and 165 grams per tonne of silver, which Terramin suggests indicates the possibility of a new style of mineralisation at Menninnie dam.

In May 2005, Zinifex (which owns the Port Pirie lead and zinc smelter) entered into a joint venture with Terramin to spend up to $8 million on the Menninnie tenement. The first stage requires minimum expenditure of $2 million by the end of 2006 for no earned interest. The second stage is an additional expenditure of $3 million by December 2008 to earn 49 per cent equity, and the third stage, $3 million expenditure by December 2010, will earn 70 per cent ownership of the project. In June 2005, Terramin formed a new company, Menninnie Metals Ltd, to hold its lead-zinc-silver and copper/gold exploration assets in the Gawler Craton. Zinifex has also subscribed $500 000 for a 20 per cent share in Menninnie Metals. We are certainly pleased with the contribution that Terramin is making to the state's development.

The Hon. A.J. REDFORD: As a supplementary question, does the minister believe that what he just said will have any impact on the share price of this company?

The Hon. P. HOLLOWAY: No, because that information has been released to the stock exchange.

The Hon. A.J. Redford: Why did we just do that then?

The PRESIDENT: The Leader of the Australian Democrats has the call.

Members interjecting:

The PRESIDENT: The Hon. Mrs Kanck has the call.

The Hon. R.K. Sneath interjecting:

The PRESIDENT: Order!

GAWLER HEALTH SERVICES

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about caesarean section rates at Gawler Health Services.

Leave granted.

The Hon. SANDRA KANCK: A lot of fuss has been made in recent times about a perceived obstetrics crisis at Gawler Health Services. Some of us might agree that there is a crisis, but for very different reasons. The World Health Organisation guidelines recommend that caesarean section rates should not exceed 15 per cent in any one community or country. The World Health Organisation says:

> A rate higher than 15 per cent indicates over utilisation of the procedure for other than life-saving reasons. This is also dangerous for women's lives because of the unnecessary risk associated with any major surgical operation.

South Australia has the dubious distinction, based on the latest figures on pregnancy outcomes, that 30 per cent of pregnancies in South Australia are being concluded with a caesarean section—

The Hon. Kate Reynolds: Surgically managed.

The Hon. SANDRA KANCK: Surgically managed, with stitches and all the rest of it to deal with afterwards.

The Hon. Kate Reynolds: And the increased rate of postnatal depression.

The Hon. SANDRA KANCK: Exactly—an increased rate of postnatal depression. There are a lot of side effects with caesareans. However, it has come to my attention that, in that average of 30 per cent, one particular health service makes a very high contribution to that figure and that is Gawler Health Services, which I understand stands at 41 per cent, which is significantly higher than the 15 per cent maximum that the World Health Organisation recommends. My questions are:

1. Is it correct that caesarean section rates at Gawler hospital have hit 41 per cent? When did the government become are of this extremely alarming rate? How long has this situation taken to emerge and what have been the reasons?

2. Does the minister agree with the observations of the World Health Organisation about caesarean section rates?

3. In the minister's plans to address the perceived obstetrics crisis at Gawler, will efforts be made to reduce the number of caesarean sections?

4. As she has already made public statements about links to the Women's and Children's Hospital, will she follow the example set there of the establishment of at least one midwifery group practice for Gawler, in order to reduce the rate of caesarean sections?

The Hon. J.S.L. Dawkins: Good question.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): It is a good question and it perhaps puts a new perspective on some of the issues in relation to that organisation. That is not my area. I will refer that question to the Minister for Health in another place and bring back a reply.

NOVA INVESTMENT SOLUTIONS PTY LTD

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for

Consumer Affairs, questions in relation to Nova Investment Solutions Pty Ltd.

Leave granted.

The Hon. NICK XENOPHON: I have been contacted by Neil and Elizabeth Hudson, a South Australian couple who were telephoned by telemarketers in mid-2004 on behalf of Nova Investment Solutions Pty Ltd, a company whose head office is based in Brisbane, Queensland. After expressing interest in the investment scheme operated by the company, Mr and Mrs Hudson received a glossy brochure referring to the massive returns of the 'Logic 200 System' with a number of benefits including 'proven figures'.

The scheme is, in fact, a horse racing tipping service based on a software program. The brochure goes on to state, 'If you want to gamble, this is definitely not for you.' It also boldly states, 'If instructions are followed, the rewards are there for the taking.' The Hudsons were also told that they were specially selected for this program and there were only two vacancies left to join the program nationally. As a result of representations both orally and in writing and a guarantee given by a company representative about the income they would receive from such a scheme, namely, that they would earn a $10 000 profit over eight months, the Hudsons parted with $3 000, their long saved for holiday money, as a downpayment on the program. After eight months in the scheme, not only did the Hudsons fail to earn the promised $10 000 but the $3 000 they invested was, in effect, worthless.

The Hudsons have been referred by OCBA in South Australia to the equivalent Queensland office, notwithstanding independent legal advice I have received from a commercial law barrister that the representations were made in South Australia as they were received and acted upon here. The Office of Consumer and Business Affairs web site provides a list of examples of such schemes, labelling them 'scams' but does not indicate what if any action has been taken against scam operators or any action to ban such schemes. My questions are:

1. What steps have been taken to clamp down on such schemes, given the warnings on the OCBA web site?

2. Why is there no warning on the OCBA web site about the company in question?

3. How many complaints has OCBA received in the past three years about these schemes and what, in general terms, were the steps taken?

4. Does the minister concede that OCBA has the jurisdiction to deal with such matters on behalf of South Australians stung by such schemes and would it be more appropriate for OCBA to take up the fight for South Australians ripped off by such schemes rather than referring them off to an interstate office?

5. Has the minister considered making a formal complaint to ASIC over possible breaches of Corporations Law by the company and, in particular, whether there ought to have been a prospectus with respect to the offer made?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): It sounds to me like a pirating scheme that needs to be investigated. Bearing in mind that speaking like a pirate was two days ago, I am a little bit late. It is an important question. Scams like these are drawn up and operate generally out of either a Gold Coast address or a Brisbane address, and it is difficult for state authorities to track them down but, with the use of the internet and complementary legislation, efforts are being made to try to keep those scams from reappearing periodically, which is generally what they do. The pressure gets hot, they go to ground and then they appear again. I will refer that important question to the Minister for Consumer Affairs in another place and bring back a reply.

SPEED LIMITS

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Industry and Trade, representing the Minister for Transport, a question about speed limit changes.

Leave granted.

The Hon. D.W. RIDGWAY: I was recently out in the western suburbs meeting with some constituents. During that meeting a number of residents raised a concern about the change to the speed limit on Grange Road at Henley Beach between Military Road and Cudmore Terrace. In the past six months it had been changed from 60 km/h down to 50 km/h. I made some inquiries of the council and the City of Charles Sturt was not aware of this change. It is coincidental, and it may be totally unrelated, that this speed limit change on Grange Road at Henley Beach is very close to the member for Colton's home. My questions are:

1. What is the process for changing the speed limit on suburban roads?

2. Who requested the change for the speed limit from 60 km/h to 50 km/h?

3. When did the change occur?

4. Was there any public consultation for this change?

5. Was there any correspondence from the member for Colton to the minister in relation to this change?

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I find it amazing how the honourable member asks questions having made all sorts of allegations first. I will refer that question to the Minister for Transport in another place and bring back a reply.

BROKEN HILL PROPRIETARY COMPANY'S STEEL WORKS INDENTURE (ENVIRONMENTAL AUTHORISATION) AMENDMENT BILL

In committee.

(Continued from 21 September. Page 2664.)

Clause 1.

The Hon. SANDRA KANCK: I have had a look at the *Hansard* from yesterday and I want to make a few more comments about what the Hon. Paul Holloway had to say. He was suggesting that, because the Premier made an announcement on 12 May, this had given me time enough to prepare amendments, and because OneSteel executives had briefed me that was reason enough for me to have prepared amendments. Unfortunately I did not see a bill. I do note the Hon. Mr Holloway's comments that the bill was circulated and the bill was available. I am afraid I do not know who it was circulated to; certainly nobody had the courtesy to provide me with an advance copy. The first I saw of it was when the minister introduced it to this parliament.

The Hon. R.I. Lucas interjecting:

The Hon. SANDRA KANCK: That is exactly right. This is the sixth working day. I made mention in my second

reading speech of Mr Rann's media release of 12 May, but I will repeat what it said:

> This bill will further amend the 1958 act to ensure OneSteel delivers investment, jobs, export targets—

and I stress this—

> and strong environmental improvements.

So here I was believing that we were going to get a bill that had strong environmental improvements. When the bill arrived it was absolutely to the contrary. How could I draft amendments to a bill that I had not seen based on the Premier's press release that said that there would be strong environmental improvements?

The Hon. R.I. Lucas interjecting:

The Hon. SANDRA KANCK: But this is part of the Hon. Mr Holloway's attacks on me yesterday saying that I should have been ready. I said, and I agreed with him, that I had been briefed by OneSteel executives. That was on 7 September and I have my notes from that meeting. I asked them about the opposition to the licence conditions that the EPA had put in place on 1 January and they told me that they had to oppose the licence conditions because if you want to oppose one of them you have to oppose every one of them but that 'there are a large number' that they agreed with.

Again, on the basis of what OneSteel told me on 7 September, I might have been expecting a bill that upheld many of the licence requirements that the EPA put in place at the beginning of this year. Unfortunately, when I got the bill I found out that the EPA has just been walked all over and none of these requirements are there in the bill at all. How I was supposed to have prepared amendments between 12 May, on the basis of the Premier's promise of strong environmental improvements, and this bill, that gives none of them, is beyond me.

Clause passed.

Clause 2.

The Hon. SANDRA KANCK: I move:

> Delete the clause and substitute:
>
> 2—Commencement
>
> This act will come into operation on 31 December 2010.

This is, I suppose, a catch-all clause. It keeps the existing environmental licence in operation for the next five years. Because of the way the bill is being bulldozed through, and because the opposition came to me yesterday and said that it would not support a further adjournment, I have not been able to get my planned amendments drafted—and many of them would have reflected the existing conditions that the EPA has in place. Because I am forced to be so limited in time, this clause, as amended, would keep the current conditions in place.

The Hon. P. HOLLOWAY: Obviously, the government will oppose the clause because it effectively negates the bill. You may as well just vote against the bill if you are going to do this, because it completely defeats the purpose of the bill to delay the start of the operation. There would be no regulatory certainty and therefore there would be no purpose to the bill.

The Hon. T.J. STEPHENS: I indicate that the opposition will not be supporting the amendment, for the reasons outlined by the Leader of the Government. We are, in fact, keen for OneSteel to have some certainty and to continue with its development as quickly as possible, because that will give some of the environmental reductions with regard to dust that people are looking for.

The Hon. NICK XENOPHON: Can the minister indicate what time frame the government is considering in terms of the bill to 'come into operation on a day to be fixed by proclamation'?

The Hon. P. HOLLOWAY: I think we would bring the bill into operation as soon as that is practicable. Obviously, it has to pass both houses of parliament before that can happen. But, for the reasons we expressed yesterday when we were debating clause 1, obviously the passage of the bill by the parliament would at least provide a level of certainty, which is what the bill is all about. Obviously, we would want to formalise it as soon as possible.

The Hon. R.I. LUCAS: My question follows on from that of the Hon. Mr Xenophon. Given that this bill is being considered this afternoon, has the government made arrangements for the House of Assembly to sit this evening to consider the passage of this legislation, given the screaming urgency the government is claiming in relation to its consideration by the parliament? I seek the Leader of the Government's response as to what arrangements he has entered into with the Premier in relation to the House of Assembly and this evening.

The Hon. P. HOLLOWAY: I have not entered into any arrangements with the House of Assembly. Obviously, if this bill is dealt with reasonably quickly (and I do not think that there is any reason why it should not be), it may be possible for the House of Assembly to deal with it this afternoon.

The Hon. R.I. Lucas: Well, assuming we finish by five o'clock.

The Hon. P. HOLLOWAY: I would simply let the House of Assembly know that I would hope that the bill could get there fairly quickly. I am not in a position to determine what the House of Assembly does.

The Hon. Sandra Kanck interjecting:

The Hon. P. HOLLOWAY: Well, as I said yesterday, what is very important is the matter of certainty. If any company is making an investment of $325 million (and the work is already under way), I think it would want some level of comfort in relation to that investment, and that is not at all unreasonable. Obviously, any amendment, such as the one before us, would effectively negate the bill, if it were carried, and it would be 'goodnight regulatory certainty'. I imagine that any company would prefer to see this resolved as soon as possible so that any doubt, even a slight doubt, is removed.

The Hon. R.I. LUCAS: The background to my question is that the minister was critical of the discussions the former government had with Mobil in relation to legislative and regulatory changes. Will the minister outline what guarantees the company has given the government in relation to its long-term future in Whyalla as a result of the changes that have been entered into and what guarantees it has given in relation to investment and jobs? Indeed, will he outline any other guarantees the government has sought from the company as a result of its negotiations?

The Hon. P. HOLLOWAY: I think that OneSteel's commitment has been made public in relation to going ahead with Project Magnet, which was conditional on the regulatory certainty, as has been outlined. It extends the life of Whyalla to 2027. This is all contained in the second reading explanation, which, unfortunately, I do not have with me. If the Leader of the Opposition reads my answer, he will see that I was defending his position in relation to Mobil. I used his comments to remind the Hon. Angus Redford that, in fact, governments of whatever persuasion have to be responsible in dealing with large companies. In fact, the then opposition supported the Leader of the Opposition and the bill in November 2001.

The Hon. R.I. LUCAS: Do I understand that the minister is saying that no guarantees have been given by the company, other than the general statements the minister repeated in his second reading speech, which is on the public record? There have been no formal negotiations with the company by government officers saying, 'Okay, we will provide this regulatory certainty,' and, in exchange for that, 'This is what we, the company, will undertake.' It is only what has been outlined in the second reading speech.

The Hon. P. HOLLOWAY: There have been significant negotiations with the company. Indeed, there is a requirement for the company to make certain commitments and reach certain sign posts in relation to progress on its investment in Project Magnet. Clause 9 of the bill sets out the various commitments required of the company in relation to that investment.

The Hon. R.I. LUCAS: Obviously, I am aware of the provisions of clause 9; I am just seeking clarification. The answer may well be that there is nothing; so be it. I do not intend to delay the committee; I am just seeking an answer from the government. In terms of the negotiations and discussions, has there been any formal agreement that the company must spend so many dollars within a certain time frame as part of the regulatory deal the government has entered into?

I am aware of the general statements made by the company in relation to the project, which is the substance of the bill. If the answer is that they are general statements of the company and that, ultimately, it is a commercial decision for the company about how it continues its operations over the coming years, so be it. As this bill has been rushed through the council within the space of a week, I am seeking advice from the minister on whether that is it, or whether or not the government has any formal agreement with the company about the size and extent of the investment that has been publicly announced by the company.

The Hon. P. HOLLOWAY: Obviously, the negotiations were conducted by my department—the head of Mines and Energy. I was involved with that at various stages, and I have certainly sent correspondence to the company. There has been an exchange of letters about the levels of investment in relation to the project as required as part of these measures being put in place. Unfortunately, the adviser who would probably have a copy of those documents has not yet arrived. If necessary, maybe I can supply the leader with that information when it arrives.

The Hon. R.I. LUCAS: Will the minister indicate who conducted the negotiations on behalf of the government?

The Hon. P. HOLLOWAY: It was Jim Hallion, Chief Executive of PIRSA, and Paul Hiethersay, the Executive Director of the Mines and Energy Division. Of course, crown law was heavily involved, and Mr Greg Cox, who will be here soon, was involved with the legal side of it. As I have said, I had an overview in relation to that, and certain correspondence was sent to the company in relation to these matters to ensure that the commitment to the investment would be made. This legislation was conditional on the company meeting certain time frames and investments.

An honourable member interjecting:

The Hon. P. HOLLOWAY: What the status of that is, I am not certain. That is a legal question.

The Hon. R.I. LUCAS: Is the Leader of the Government prepared to table copies of the formal exchange of letters which outline these conditions upon the regulatory framework and which have been outlined in this legislation?

The Hon. P. HOLLOWAY: I cannot give that undertaking, because, if anything is involved with the company, I would need to consult the company. I am not prepared to unilaterally decide that. Certainly, if he wishes, I can give the leader a briefing in relation to those matters.

The Hon. R.I. LUCAS: I understand why he might not be able to table copies of the letters, but will the minister outline the conditions that were included in the correspondence, so that members of the committee can be aware of the conditions the government required of the company in the correspondence for this legislation to be introduced and supported by the government in the parliament?

The Hon. P. HOLLOWAY: My advice is that the government said that the legislation would not be proclaimed unless the benchmarks that had been agreed to in relation to this project were achieved. Effectively, that is how the government can ensure that that investment is undertaken.

The Hon. R.I. LUCAS: As I understand it, from what the minister has just said, the government will not proclaim the legislation until the company has achieved certain benchmarks—or some similar word the minister used. Will the minister therefore indicate those benchmarks that the company must meet prior to the government's being prepared to proclaim the legislation?

The Hon. P. HOLLOWAY: I will further explain that it is my understanding that the company has already achieved the benchmarks. The company says that it has achieved them but, obviously, we would have to be satisfied of that. We would require advice from the department that it had achieved that. Certainly, the company says that it has. I just put that on the record. There are a series of benchmarks—30 per cent or 50 per cent achievement in relation to purchasing, planning and construction of particular items.

It is quite complex and involved, and it spans all parts of Project Magnet. The company had to achieve certain targets—30 per cent or 50 per cent, whatever the relevant percentage might be in particular cases of purchasing, planning and construction of the various parts of the project. As I said, my advice is that the company says that it has achieved those targets. Consistent with my answer earlier, that would mean that, if this bill is successful, and if we can be satisfied that that is the case from the regulators, the bill would be proclaimed because the company would have met those benchmarks. Obviously, if it had made that commitment, that level of investment, the project would proceed.

The Hon. R.I. LUCAS: Will the minister therefore give the committee an assurance that there is no way that the publicly-announced investment and project can be either reduced significantly in size or not continued for commercial reasons on the understandings that the government has received from the company?

The Hon. P. HOLLOWAY: As I say, the benchmark has already been set and was set such that, having made that commitment, the company has already, as my adviser puts it, crossed the rubicon in terms of having gone so far across the project that it is highly unlikely, in the judgment of the department, that that would be reversed. But, obviously, if in the most unlikely event that happened, parliament could then deal with the matter. However, we really do not expect that would be the case because, as I said, significant investment was required and has been made in relation to Project Magnet. As I say, the benchmarks were right across the operation—all aspects of it and not just one part. There were benchmarks at each stage of that operation.

The Hon. R.I. LUCAS: Given that it is a project of some $300 million plus, is the government in a position to be able to indicate what level of expenditure has already been expended? The government says that it has already met the benchmarks and that now it has only to satisfy itself that that is the case. What is the level of expenditure that the company has already expended towards this $300 million plus total cost of the project?

The Hon. P. HOLLOWAY: I would have to get detailed advice on that. That is obviously one of the pieces of advice that I will be relying on from the department when it does its analysis before recommending to me that the company has satisfied the requirements. In other words, I will be getting that information in due course. It is really up to the company. There are various figures floating around, but I really think it is up to the company to release those rather than for us to provide that information at this stage. Until we get it formally as part of the process of implementing this act, I will not advance that. But, clearly, it would be substantial.

The Hon. R.I. LUCAS: I take it then, because we are speaking in the abstract, that, when the minister was talking about the company having to meet benchmarks which required 30 per cent and 50 per cent of something, that 30 per cent and 50 per cent are not in relation to interim expenditure towards the first stage of the project, or total expenditure. Does his 30 per cent and 50 per cent refer to other issues rather than total project costs or, indeed, costs of one particular stage of the total project?

The Hon. P. HOLLOWAY: That is what was set out in my letter of 11 May. They are broad milestones. Construction purchasing in some cases would probably readily translate to a dollar figure, and in other cases such as planning it might be more difficult. I would imagine that the company would allocate its own cost for that sort of project if it is done internally. But, as I say, it is really up to the company to supply the information as to what the actual dollar amounts are, and the Department of Primary Industries and Resources would then audit that to ensure that it has been spent. But, until we get the bill through, it is a bit hard to talk about figures that we have not audited.

The Hon. R.I. LUCAS: What advice has the government received in relation to jobs and employment at the operations?

The Hon. P. HOLLOWAY: In the main, there were several reasons for introducing this bill. First, to finally clear up the fugitive dust issue. What we all want to see is improvement in that fugitive dust issue. Of course, there will be two lots of jobs. There will be jobs related to the construction phase and the impact on ongoing operations. Certainly, the second reading explanation indicates that there will be extra revenue of over $3 million in royalties, as a result of the extra expansion. As I said, the most important part and the main reason for this bill is to address the fugitive dust problem and also to extend the life of Whyalla.

Of course, if this project did not proceed, basically Whyalla's life, as far as OneSteel is concerned, would end with the finishing of the exploitation of the haematite resource, whereas we have this significant magnetite resource which is below the haematite. The principal economic benefits, as I would see them, are to extend not only the life of the mine and therefore Whyalla but also the significant environmental benefits of addressing the fugitive dust problem as a result of this big investment.

The Hon. R.I. LUCAS: I assume from that that the government has not received any advice in relation to the ongoing impact on jobs at the operations in Whyalla. I understand the issues in relation to the construction stage. Has the government received any advice in relation to the ongoing employment opportunities in Whyalla, as a result of the very significant investment that the company is making, together with the support that the parliament will provide in terms of regulatory certainty for the company and its operations?

The Hon. P. HOLLOWAY: These matters were discussed by my department. Unfortunately, the officer is not here to check the actual figures, but I am certainly happy to provide them. Obviously there is the expansion of some operations through the export of the haematite which would be involved in this. Of course, the most important benefit for the state is the continuation of Whyalla and the significant addressing of the fugitive dust problem.

The committee divided on the amendment:

AYES (4)

Gilfillan, I.	Kanck, S. M. (teller)
Reynolds, K.	Xenophon, N.

NOES (16)

Cameron, T. G.	Dawkins, J. S. L.
Evans, A. L.	Gago, G. E.
Gazzola, J.	Holloway, P. (teller)
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stefani, J. F.	Stephens, T. J.

Majority of 12 for the noes.

Amendment thus negatived; clause passed.

Clauses 3 to 5 passed.

Clause 6.

The Hon. SANDRA KANCK: I move:

Page 5, lines 7 to 17—
Delete proposed new section 16.

This removes new section 16 from the proposed new act. It is headed, for those who are reading *Hansard* and do not have a copy of the bill, 'Revocation of other environmental authorisations'. I prefer to call it 'The government sells the EPA up the river'. It states:

> (1) The minister may, by written notice to the Environment Protection Authority and the Company, revoke an environmental authorisation that—
>
> (a) has been granted to the company by the Environment Protection Authority; and
>
> (b) relates to relevant Company operations or developments, or proposed relevant Company operations or developments.
>
> (2) An environmental authorisation may only be revoked by the Minister under this section after consultation between the Minister and the Company.

As I say, this sells the EPA up the river, takes away all its powers and, instead, creates a cosy little relationship between the minister and the company, and they will make all the decisions in future, thank you very much. I am afraid that is not acceptable to the Democrats and that is why we are moving for this to be deleted.

The Hon. P. HOLLOWAY: Before dealing with this amendment, I will just refer to a previous question. In relation to ongoing jobs, the advice I have received is that there are likely to be minor ongoing increases in jobs as a result of the investment. More importantly, during the construction phase itself there are likely to be 300 jobs, and some of that activity is already evident in Whyalla where other companies and contractors and the like have moved there. The fact that the

life is to be extended to 2027 will be a significant employment boost because that will extend the jobs, as well as the slight increase in the ongoing ones.

In relation to this amendment, the government opposes it. The Hon. Sandra Kanck has suggested that, again, what she wishes to do is basically negate the effect of the whole scheme. I do not know that we really need to go into any detail of it other than we have already had the debate. Either you believe in what we are doing here in trying to provide certainty to enable this investment to happen as quickly as possible and address in a significant way the fugitive red dust problem, or else you go back to where we were in the past, where the current operations continue with the effects of that. What the government and the people of Whyalla want to see, or 99 per cent of them, is the investment made so that the jobs will be—

The Hon. Sandra Kanck: No! All of them do. Don't put down those people in East Whyalla.

The Hon. P. HOLLOWAY: They want a long-term fix and they will get it, and it is not that long term. Investment is already under way. This will be happening within a relatively short period of time, and that will address the fugitive dust problems. We need a significant investment and that is what this is all about. A lot of work has gone into this over the last few months just to try to guarantee that investment will take place as quickly as possible to address the problem. As I say, the clause is about whether you agree with this approach or not.

The Hon. T.J. STEPHENS: I indicate our opposition to the amendment. As I have stated previously, in my lifetime, this is the most significant project that is going to reduce dust emissions and give the people of Whyalla some certainty about the continuity of their jobs and the lifestyle that they cherish. The opposition will not be supporting the amendment.

The Hon. NICK XENOPHON: I support the amendment moved by the Hon. Sandra Kanck. My concern is that if you revoke the environmental authorisations from the EPA you are, in effect, taking away the rights of those residents who have obtained authorisations that reflect their concerns as to the environmental impact of red dust. I would have thought that the EPA does not have a reputation for being a radical organisation or of being gung-ho in the way that it makes its orders or issues authorisations, and for that reason I believe it is important for the EPA safeguards to remain.

The Hon. R.I. LUCAS: Can the minister advise whether the proposed scheme, as outlined in section 16, already applies in relation to other indentures or other companies?

The Hon. P. HOLLOWAY: I am advised that this is a technical amendment, but it is necessary for the scheme to operate. Rather than having two schemes operating concurrently, this brings existing authorisations and approvals under the new scheme—in other words, it just transfers the existing authorisations under the new scheme. That, of course, is if OneSteel chooses to do so and if I agree to it. It may not choose to do so, given its existing authorisations.

The Hon. R.I. LUCAS: Does this apply only to existing authorisations?

The Hon. P. HOLLOWAY: Yes. It says:

> The minister may, by written notice to the Environment Protection Authority and the company, revoke an environmental authorisation that—
>
> (a) has been granted to the company by the Environment Protection Authority; and
>
> (b) relates to relevant company operations or developments. . .

The Hon. R.I. LUCAS: That is a bit ambiguous.

The Hon. P. HOLLOWAY: It is a technical measure.

The Hon. R.I. LUCAS: It refers to existing ones, but is the minister saying that this provision cannot relate to any future ones if the EPA was, in some way, to issue another environmental authorisation that the minister and the company did not like? I am assuming (from some of the correspondence that the opposition received on this) that this is being viewed in terms of if the EPA did something in the future in relation to an authorisation and the minister and the company—either one or both—did not like it, then the minister and the company can agree to stop the EPA from doing it. Is the minister saying that that is not correct and that it is only in relation to the existing authorisations? In other words, is it just a technical tidy-up to allow this whole legislation to make sense?

The Hon. P. HOLLOWAY: I am advised that it applies only to those authorisations that OneSteel already has, and that in the future OneSteel could seek authorisation from the minister or indeed, if it wished, from the EPA, and it could then seek to have them brought under the scheme. It could do so if it wished, but it is a highly unlikely set of circumstances that it would go to the EPA and then come back. The principle purpose of this clause, as I understand it, is just to deal with existing authorisations to ensure that they can be brought under this scheme rather than having two sets of schemes.

The Hon. R.I. LUCAS: I am not clear on this. Will the minister clarify whether he is saying that it is not possible, under this provision, for some future authorisation from the EPA to be overridden by the minister in the future?

The Hon. P. HOLLOWAY: My advice is that that could be the case but, for that to happen, OneSteel would have to go to the EPA seeking authorisation, which is not what we would expect would happen. Technically, if it sought authorisation from the EPA, and I agreed, this provision could apply, but it is not expected that that would be the case.

The Hon. R.I. LUCAS: I accept that it is unlikely that the company—

The Hon. P. HOLLOWAY: We are not talking about the impact of the bill as a whole. We are talking about just new section 16.

The Hon. R.I. LUCAS: We are talking about environmental authorisations from the EPA.

The Hon. P. HOLLOWAY: My advice is that a number of exemptions already exist under the Environmental Protection Act. If the company wishes, it could use this clause to bring those under the new section 15 scheme, but it would have to come via the minister for that to happen. I would have to approve it, and then you would have to cancel the old lot. In other words, if they have existing authorisations from the EPA, which they do have, this scheme allows them to carry them over, if you like, into the new scheme, which is set out in new section 15, but that would be subject to the minister's approval. I am advised that it operates into the future and, if the company were to go to the EPA and seek authorisation, it could also apply to have that incorporated into the new section 15 scheme, subject to ministerial approval.

The Hon. SANDRA KANCK: I found that interchange quite curious. To say that this is merely technical is rather interesting. I am not using this as a prop, sir, but, in my folder on this matter, I have a copy of the current licence conditions the EPA put in place at the beginning of the year. This clause gives the power to remove all 24 of those 24 pages. The

Hon. Paul Holloway has described this as being simply technical, but I think it is much more than that. The question asked by the Hon. Mr Lucas about whether this would apply to future decisions is a very valid one. Clearly, with words in such as this, the EPA is being told to back off and that it will not be allowed to do anything. That is one of the fundamental objections to this new section 16. In his last answer, I think that the Hon. Mr Holloway indicated that some of the licence conditions, which are currently in place and which will be put in place at the beginning of January under the new section 15, could be carried over. Did I mishear the minister?

The Hon. P. HOLLOWAY: I draw the honourable member's attention to schedule 1, the transitional provisions, which provides:

> The licence granted to the Company under Part 6 of the Environment Protection Act 1993, licence number 13109, will expire on the date of commencement of sections 6 and 7 of this Act.

Apparently, there are a whole number of other instruments, work approvals and other exemptions which apply. All we have in section 16 is a means of cancelling the old scheme in favour of the new scheme—that is, if the company applies to bring them under the new scheme.

The Hon. SANDRA KANCK: All this year, OneSteel has been opposing these licence conditions in the ERD Court. We now have a bill that will allow the company that has opposed those licence conditions to go to the government and say, 'Yes, we would like to have these imposed now.' Is that what the minister is trying to tell us is happening here?

The Hon. P. HOLLOWAY: Under this legislation, those conditions that apply under the current licence (licence No. 131109) will expire, but they will be brought under the new scheme to the extent of the conditions set out under schedule 3, which will be the new conditions.

The Hon. SANDRA KANCK: So, there is no likelihood that the current conditions in the licence will be requested to be further incorporated by OneSteel. Is that the case?

The Hon. P. HOLLOWAY: Obviously, there were negotiations between OneSteel and the government as to the conditions. They are set out in schedule 3 of the act, and they incorporate the majority of conditions that applied under the previous licence. Of course, they were varied on 1 January this year, and I think that is where the litigation began. They are the issues that obviously led to this matter arising, and it was that matter that had the potential to derail the investment in relation to Project Magnet. So, those conditions, along with some new conditions, have been incorporated under schedule 3, and they are now set out in the act. So, the act itself, rather than the old licence, will contain those conditions. There have been some deletions and additions as a result of those negotiations.

The Hon. SANDRA KANCK: The minister, in his answer, said that the conditions the EPA had imposed had the potential to derail Project Magnet. I would be very interested to know who said that they had the potential to derail Project Magnet and what the evidence is for that.

The Hon. P. HOLLOWAY: One needs only to read the comments of the spokesperson for OneSteel in the media over the past few days to confirm that.

The Hon. SANDRA KANCK: I would like to know whether OneSteel executives actually told the government that they would pull the plug on Project Magnet if these conditions were not removed.

The Hon. P. HOLLOWAY: It was not a question of pulling the plug; it was a question of making the decision to invest. It was made quite clear that the board was very concerned about making the investment, given the uncertainty that existed as a result of some of the challenges.

The Hon. T.G. Cameron: But did they tell the government that they would not invest?

The Hon. P. HOLLOWAY: Negotiations are not conducted like that. The Hon. Terry Cameron would well know that companies, when they discuss such matters, are very capable of getting their point across without necessarily putting it in black and white terms.

The Hon. T.G. Cameron: They left you with that impression, then? Is that what you are saying?

The Hon. P. HOLLOWAY: I am saying that the board of OneSteel had to make this decision, and the board was clearly concerned about the circumstances leading up to it. That is why the board came to see the government. What would have happened, in my judgment, would certainly have been a deferral of that, if nothing else, given that these matters were before the court. Put yourself in the position of the board—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: If the Hon. Terry Cameron is serious, he can listen. However, if he does not want to listen, let us move on. I am happy to provide the information, but he obviously does not want to listen.

The Hon. R.I. LUCAS: Certainly, we have been led to believe that an attitude might have been expressed at the local South Australian level in relation to the regulatory environment, and when the project and regulatory environment went to the board and to the eastern states some significant concern was expressed—I imagine by lawyers in the eastern states—in relation to how some of the conditions and provisions might have been interpreted. I cannot quite find it at the moment, but I remember reading somewhere that one of the spokespersons for the company outlined that a provision said that there shall be no dust, or something, on roads.

I am sure that it is not as specific as that. In essence, it was a provision in relation to roads, or something. The spokesperson was making the point, on a strictly legal basis, how that might be interpreted by the EPA or the regulatory authorities. On some occasions it would be almost impossible to comply with that condition or requirement. The question the Hon. Sandra Kanck raised is not unreasonable, but the company has given some examples. That is one that I have seen publicly.

There was this provision and, if it was interpreted strictly and literally by an over-zealous inspector or someone from the EPA, it had the capacity of being impossible for any industry to meet, let alone OneSteel. Again, I have not been following this in great detail. I suspect that, when they look at the conditions and requirements, lawyers in the eastern states will say, 'We are spending $300 million plus. What happens if the officer from the EPA interprets this condition or requirement in this literal way? It has the capacity to halt the whole box and dice of the company.'

The Hon. Terry Stephens has greater knowledge of this area than I do, but the opposition has taken an in-principle decision to support the government's position on this. Those sorts of explanations are part of the reasons why we have agreed. A board might say, 'We are reluctant to invest $300 million plus because there are these conditions which, if interpreted by an over-zealous EPA person in a particular way, might close down the business.' Understandably, this government, this opposition and this parliament need to be aware of those things, and that is why we are debating this issue—

The Hon. T.J. Stephens: It would solve the red dust problem.

The Hon. R.I. LUCAS: Yes. That is why we are debating this issue, albeit in a hurried fashion.

The Hon. P. HOLLOWAY: I believe that the opposition is correct. I thank the leader for bringing that into the debate. The other aspect that would concern the company is the power to halt production. A steel works is not like any other factory. You have molten steel, and furnaces must be operated. You cannot turn them on and off like a tap. Clearly, there are these concerns and special conditions related to the nature of a steel works which, obviously, are of concern. As I said, if you are a director of a company that is making investments, as the Leader of the Opposition suggests, you will get lawyers going through these sorts of things with a fine toothcomb. They will be very nervous about it, because it is the particular nature of the steel business.

The important thing we should not forget is that, as a result of the investment, the whole process will change, which will do more than anything else to address the fugitive dust problem. The circuit breaker here is the investment to change the way things are done. Clearly, if you are going to get that investment, the directors of companies have a responsibility, and they will get their lawyers, as the Leader of the Opposition just suggested, going through the fine print and looking at these sorts of issues. Frankly, in this day and age the directors would be negligent if they did not do that.

The Hon. SANDRA KANCK: The minister keeps on saying things that force me to want to reply. Sometimes he should just stop talking. Project Magnet was going ahead. The government had given approval for the River Murray water that will be diverted for the slurry pipeline. Approval had been given for the massacre of native vegetation (which is going on at the moment) so that it could be built. OneSteel itself told me that Project Magnet will result in a 5 per cent reduction in its production costs, which will bring its production costs below the price of Chinese production. Of course it was going to do it, and we did not need to sell out with this bill.

The Hon. P. HOLLOWAY: The board of OneSteel did not make the decision to go ahead with Project Magnet until this was agreed by the government earlier this year. Obviously, it had faith that it would be delivered.

The Hon. KATE REYNOLDS: I would like the minister to know that I could not hear his remarks in relation to the Hon. Sandra Kanck's comments about selling out the people of Whyalla. The minister was sitting down and not speaking into the microphone. He was speaking very quietly. I look forward to seeing those remarks in *Hansard*.

The committee divided on the amendment:

AYES (5)

Evans, A. L.	Gilfillan, I.
Kanck, S. M. (teller)	Reynolds, K.
Xenophon, N.	

NOES (14)

Cameron, T.G.	Dawkins, J. S. L.
Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Ridgway, D. W.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stefani, J. F.	Stephens, T. J.

Majority of 9 for the noes.

Amendment thus negatived.

The Hon. SANDRA KANCK: I move:

Page 6, lines 1 to 9—

Delete subclauses (3) and (4) and substitute:

(3) In this section—

'the Minister' means the Minister having the administration of the Environment Protection Act 1993.

I pointed out in my second reading contribution that there is a conflict here because the Minister for Urban Development and Planning is also the Minister for Mineral Resources Development and, in my view, that is a clear conflict of interest. The EPA is set up under the Environment Protection Act, which is administered by the Minister for Environment and Conservation. It is therefore appropriate, particularly given the conflict of interest that exists, that 'the minister' in this case should refer to the Minister for Environment and Conservation, who at least has a department that could back him with some sensible decisions with the environment in mind.

The Hon. P. HOLLOWAY: The government opposes the amendment. The task of performing functions under the Development Act is to be given to the Minister for Mineral Resources Development, not the EPA. The amendment would give it to the Minister for the Environment. This is contrary to the scheme of this bill which places all regulatory tasks in the hands of the Minister for Mineral Resources Development. To do otherwise potentially would lead to inconsistency in approach in respect of the setting of regulatory requirements. So the government opposes the amendment.

The Hon. T.J. STEPHENS: The opposition also opposes the amendment. For the reasons outlined by the government, we cannot support this amendment.

The committee divided on the amendment:

AYES (4)

Gilfillan, I.	Kanck, S. M. (teller)
Reynolds, K.	Xenophon, N.

NOES (15)

Cameron, T. G.	Dawkins, J. S. L.
Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	

Majority of 11 for the noes.

Amendment thus negatived.

The committee divided on the clause:

AYES (14)

Cameron, T. G.	Dawkins, J. S. L.
Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stefani, J. F.	Stephens, T. J.

NOES (4)

Gilfillan, I.	Kanck, S. M. (teller)
Reynolds, K.	Xenophon, N.

Majority of 10 for the ayes.

Clause thus passed.

Clause 7.

The Hon. SANDRA KANCK: I move:

Schedule 3, page 11 after line 21—Insert:

4A. The Licensee must take all reasonable and practicable steps to ensure that the Australian Health Standard

> National Environment Protection Measure for Particulate Matter (PM10) is not exceeded more than five times per annum as recorded at the Whyalla Town Primary School monitoring site.

I made mention of this issue of air exceedances in my second reading speech and I want to elaborate on that a little more. The Australian Health Standard National Environment Protection Measure (NEPM) for particulate matter (PM10), is that it should not exceed more than 50 micrograms per cubic metre in a 24-hour period. You would think that might be a fairly reasonable standard to have in place, but at one of the EPA monitoring sites at East Whyalla, which is only 20 metres from the East Whyalla Primary School, already this year that standard has been exceeded 18 times. If we care about our kids we should not tolerate air exceedances this number of times. If the government is absolutely convinced, as it appears to be, that Project Magnet is going to solve all the problems, then of course there will not be these air exceedances any more, in which case the government will have no problem in accepting my amendment.

The Hon. P. HOLLOWAY: I do have problems accepting the amendment. The National Environment Protection Measure guidelines on ambient air quality relate to measuring the amount of pollutants such as fine dust (PM10) in the air in a regional sense. Our own State of the Environment Report for 2003 states at page 18:

> The Air NEPM standards do not apply to locations adjacent to individual sources such as an industrial facility where peak concentrations may be expected, but relate to the exposure of the general population in residential zones or areas.

To now seek to apply such guidelines near the boundary of the OneSteel site would be inappropriate. It would also be largely irrelevant, as much of the plant that causes the fine red dust, that is, the crushing and screening plant, is about to be removed from the Whyalla site out to the mine site some 60 kilometres away. In short, there is dust in Whyalla from a number of sources. It is a dusty environment, not solely due to OneSteel. We need to look at this from the regional standards, but to impose an indenture on OneSteel and to expect that to be responsible for all dust, not just its own dust, is, I think, a little unfair.

The Hon. T.J. STEPHENS: I indicate that the opposition will not be supporting the amendment and I think, as I have stated before, in my lifetime there have only ever been two real solutions to reducing the red dust emission from the pellet plant: first, the closure of the plant, which would be the demise of the city; or, secondly, this particular Project Magnet, which is going to significantly reduce the red dust. Without Project Magnet, it is not going to happen, so we cannot support the amendment.

The Hon. SANDRA KANCK: The current licence conditions read as follows:

> The Licensee must:
> (1) develop an ambient PM10 monitoring program to the satisfaction of the authority for particles present in the receiving environment which may arise from the conduct of all processing activities at the site;
> (2) ensure that the PM10 monitoring program required by paragraph (1) incorporates ambient monitoring equipment to operate at each of the following locations: Hummock Hill, Whyalla Croquet Club, Whyalla Town Primary School.

I will not go into all this because there are eight paragraphs as part of this section. What I have done is to take one location out of those that are currently in the licence conditions, the one at a school or very close to a school where we should be concerned about children's health. I have a question: does the minister consider that the 18 exceedances so far this year at Whyalla Town Primary School are acceptable from a health perspective? The second question is: what air monitoring is going to occur in Whyalla for red dust once this bill has been passed?

The Hon. P. HOLLOWAY: In relation to the opinion on the health occurrences, that really is not relevant, as I have just indicated, to the debate on this clause. What I have said is that the NEPM standard is a regional standard, but to impose on OneSteel a condition that is a regional standard is inappropriate. Obviously fugitive dust is an issue and we want to keep it as low as possible, which is why we have this bill, which is why we are trying to get OneSteel to make the investment which it is doing with Project Magnet.

In relation to monitoring, it was actually the imposition of this standard, which was a regional standard, which was the subject of much of the legal debate that has been going on and has caused most of this problem. There is this issue about a regional standard that the State of the Environment Report itself says is inappropriate for being close to an industrial facility. Is it appropriate to put that in as a condition? That is really where most of this issue began but, in relation to monitoring, I guess that is up to the EPA where it chooses to—

The Hon. Sandra Kanck: There is no EPA officer up there.

The Hon. P. HOLLOWAY: It is up to the EPA where it chooses to put its activities and monitoring. In my role as the Minister for Mineral Resources Development, I am saying it is inappropriate to put a standard into an act that the State of the Environment Report itself says is inappropriate for such a condition as this.

The Hon. SANDRA KANCK: Will the minister confirm that he is talking about the same State of the Environment Report that Paul Vogel of the EPA was forced by the government to amend, but which still exists in its original state on the department's web site?

The Hon. P. HOLLOWAY: I have no idea what happens in the EPA. I am not responsible for the EPA. I am not sure what the 2000 report is or whether it is a draft report. It is a public report, but I am not quite sure what happened to the drafts. It is not really my business. I know it is inappropriate to have a regional standard next to an industrial, and that is what we are talking about here. That is the issue. Let us not go beyond what is in the clause.

The Hon. NICK XENOPHON: I indicate that I support this amendment. Notwithstanding the debate about standards, I would have thought the appropriate standard would be the monitoring of air quality at a place where residents are and that, to me, is the key criterion.

The Hon. Sandra Kanck interjecting:

The Hon. NICK XENOPHON: As the Hon. Sandra Kanck quite rightly points out, the ones that are being affected by it. My question to the minister is: notwithstanding the debate about which is the appropriate standard to apply, will the EPA still have, under this legislation, the ability to monitor air quality, or will it be fettered in any way in its ability to monitor air quality by virtue of this bill and, in particular, section 16, which we have just passed?

The Hon. P. HOLLOWAY: Fettered other than in relation to that specific part of the bill. In terms of monitoring what will be the standards applied, they are not fettered, as I understand it, at all. It is really up to the EPA as to how it is monitored, and so on, but what we are doing is putting in the legislation the actual conditions that will apply. There is

provision for alterations to those conditions should that be warranted. That is specifically set out as part of the act. The bill provides regulatory certainty. As I understand it, it does not detract from the ability of the EPA to undertake its function of monitoring those conditions, which will be set out in the act.

The Hon. SANDRA KANCK: I would like to tease out what the minister has said about a regional standard. As I have pointed out, in the current licence the three spots where OneSteel was required to comply, in terms of exceedances, were: Hummock Hill, Whyalla Croquet Club and Whyalla Town Primary School. Clearly, they have been chosen because it is the area affected by red dust. Is the minister suggesting that samples should be taken where there is no red dust problem and averaged with those where there is a red dust problem to give an accurate sense of what the people of East Whyalla are experiencing?

The Hon. P. HOLLOWAY: I am saying—and it was in the State of the Environment report itself—that the NEPM standard is not appropriate for the purposes of this act. It is appropriate for the EPA to look at dust standards across a community. One cannot put the onus or blame, if you like, for all of that dust standard on one company, which may be a major contributor to a fugitive dust problem in the vicinity of the crushing plant—which is, of course, why it is removing it—but which is not the sole source of dust in Whyalla. That is the whole purpose of it. That is why we need to deal with a national regional standard differently from placing a requirement on a particular company.

The Hon. SANDRA KANCK: I am perplexed by the answer. Let us take red dust out of it. Let us say that you live on South Road where there is pollution from car exhausts. Would you do a measure of particulate matter near those houses as a measure of what those people are experiencing, or would you measure it out in the country somewhere and say, 'They're not experiencing it'? This does not make sense to me.

The Hon. P. HOLLOWAY: You measure it where you like, but you do not attribute that pollution to one particular car that is going past. That is the point. Here we are imposing conditions on OneSteel. The honourable member is saying that OneSteel must meet these conditions, but the company's objection—as I understand it—is that it is being required to meet conditions over which it does not have full control. In other words, there are other contributing factors to the dust, not just the company's operations. Essentially, that is the issue. That is what has been before the courts this year, as I understand it, which has caused many of these problems. It is an important philosophical issue, but let us not forget that what we want to do is cure the dust problem in Whyalla, and that is why we want the investment.

The Hon. SANDRA KANCK: I suspect that what the minister is trying to say is that Whyalla has ambient dust simply as background to the town. There is no doubt that that is the case, but surely something can be put in place that measures what the background dust level is and then take that into account? Surely, it is not beyond the bounds of scientific realities to be able to do something like that.

The Hon. P. HOLLOWAY: It is not the monitoring of dust: the issue is what one does with that information and how one apportions the responsibility, if you like. There are all sorts of different standards. I do not claim to be an expert in this, but people who are say that the NEPM standard is an inappropriate standard for this purpose. It is not inappropriate to measure it, to have standards or to monitor them, but it is inappropriate to use them in this way.

The Hon. T.J. STEPHENS: I would like to make one small point to the Hon. Sandra Kanck. As you know, I lived in the city for some period of time without fear, and was privileged to be able to send my children to St Theresa's Primary School, across the road from the Whyalla Town Primary School. I sent them there without hesitation, and their health and the health of those around them always seemed to be quite impeccable. My daughter then progressed to Loreto College on Portrush Road here in Adelaide, and I would bet London to a brick that the air she enjoyed in Whyalla was quite a bit better for her than the environment she was in at Loreto, with the traffic going past on a regular basis five days a week. I really do believe that the health of the people who choose to live in Whyalla is generally a hell of a lot better than some of the things we live with in the CBD of Adelaide.

The committee divided on the amendment:

AYES (5)

Evans, A. L.	Gilfillan, I.
Kanck, S. M. (teller)	Reynolds, K.
Xenophon, N.	

NOES (13)

Cameron, T. G.	Dawkins, J. S. L.
Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Ridgway, D. W.	Roberts, T. G.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	

Majority of 8 for the noes.

Amendment thus negatived.

The Hon. SANDRA KANCK: I move:

Schedule 3, page 11, after line 30—

Insert:

5.3 The licensee must, within seven days after the end of each calendar month, forward the data received from the above monitoring equipment during that month to the authority.

5.4 The licensee must present all data received from the above monitoring equipment, as soon as possible after its receipt, on an electronic register and maintain the data on the register so that it is accessible by the public through the internet for a period of not less than ten years.

I have moved this amendment because I find the wording to be somewhat peculiar.

The Hon. Kate Reynolds interjecting:

The Hon. SANDRA KANCK: The Hon. Kate Reynolds laughs. Yes, we could say that about the whole bill. We are dealing with this provision in respect of record keeping and monitoring. I was given a departmental briefing on the bill, and I followed it up with a telephone call about why anyone would want to register any complaints with OneSteel in the first instance. This clause provides that it is required to keep the date and time of the complaint, the details of the complaint, the name and address of the complainant, the temperature, the wind speed, the wind direction and the rainfall at the time of events giving rise to the complaint (and there is a little more than that, but that is enough for anyone reading *Hansard*). However, the bill then fails to state what happens to that information.

It seems a pretty pointless exercise to require the licensee (as it is called) to maintain this register if no-one checks it. My amendment requires that, at the end of each month, the licensee—that is, OneSteel—will forward that information to the EPA and also that it will be available in an electronic

form—basically, on a web site—so that members of the public can inspect it. I think this is a fairly commonsense provision, because it does not make sense to have this requirement for keeping records when no-one is required to do anything with them.

The Hon. P. HOLLOWAY: Of course, data should be available when the EPA needs it. However, if the EPA wanted data forwarded every month, it would have been in the current licence. It is not in the current licence because it is not needed. The EPA already has powers under section 87(1) subsections (e), (f) and (k) of the Environment Protection Act to produce documents, copy documents and require the answers to questions. All those powers already exist in the EPA act. This is not necessary.

The Hon. T.J. STEPHENS: I indicate that the opposition will not be supporting the amendment, for the reasons outlined by the minister.

The committee divided on the amendment:

AYES (5)

Evans, A. L.	Gilfillan, I.
Kanck, S. M. (teller)	Reynolds, K.
Xenophon, N.	

NOES (14)

Cameron, T.G.	Dawkins, J. S. L.
Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Ridgway, D. W.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stefani, J. F.	Stephens, T. J.

Majority of 9 for the noes.

Amendment thus negatived.

The Hon. SANDRA KANCK: I move:

Schedule 3, page 21, lines 17 to 29—Delete all words in these lines

I am particularly concerned about the impact this will have on some of the claims in court at the present time. At the moment, 12 claims of civil action are in the courts. As it is worded here, eight of those claims will be cut out straight-away by the passage of this bill, including this section I am trying to delete. We are not talking about rich people. Many of them are pensioners on retirement incomes who are really absolutely stretched emotionally by all this. It would be absolutely devastating for them to have the rug pulled out from under them by virtue of this clause.

The Hon. P. HOLLOWAY: The government opposes the amendment. This really goes to the heart of the bill. Clearly, if this amendment were carried, there would be no purpose in having the bill. In relation to the latter issue, I answered the question yesterday. I am advised that the bill will have no impact on any remedies sought in those actions that are to make restitution for damage already caused by red dust.

The Hon. NICK XENOPHON: Following the comments of the Hon. Paul Holloway, can he confirm that, in a sense, the remedies for Whyalla residents will not be affected? If the environmental authorisations are rescinded by this bill, that could affect the remedies residents may seek for any breaches; therefore, that takes away any potential remedies. They may have remedies at common law, which would obviously be much more problematic and expensive to pursue. But, in a sense, this bill will take away some of the rights and remedies of residents. That is what this bill is doing as a consequence of what the government seeks to do with the whole framework of this bill.

The Hon. P. HOLLOWAY: My advice is that an action that has been instituted already does not get the benefit of any of the defences which apply under this section.

The Hon. T.J. STEPHENS: I indicate on behalf of the opposition that we will not be supporting the Hon. Sandra Kanck. My advice is that this will have no impact on those people who are already seeking some sort of restitution. We cannot support the amendment.

The committee divided on the amendment:

AYES (5)

Evans, A. L.	Gilfillan, I.
Kanck, S. M. (teller)	Reynolds, K.
Xenophon, N.	

NOES (14)

Cameron, T. G.	Dawkins, J. S. L.
Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Roberts, T. G.	Sneath, R. K.
Stefani, J. F.	Stephens, T. J.

Majority of 9 for the noes.

Amendment thus negatived.

The committee divided on the clause:

AYES (14)

Cameron, T. G.	Dawkins, J.S. L.
Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Roberts, T. G.	Sneath, R. K.
Stefani, J. F.	Stephens, T. J.

NOES (5)

Evans, A. L.	Gilfillan, I.
Kanck, S. M. (teller)	Reynolds, K.
Xenophon, N.	

Majority of 9 for the ayes.

Clause thus passed.

Schedules and title passed.

Bill reported without amendment; committee's report adopted.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That this bill be now read a third time.

I have some information that was requested earlier. OneSteel has spent $30 million to 30 June, and most of that was in June. Since then, it has spent approximately $6 million per week. I thank members for their support of this very important bill, which will enable the fugitive dust problem in Whyalla to be addressed.

The Hon. SANDRA KANCK: I do not know whether I have ever called as many divisions in one afternoon in my almost 12 years in parliament. I have done so in protest at the travesty of democracy that has occurred in the way that this bill has been bulldozed through. I made it very clear yesterday afternoon that I was not happy to do this in this rushed time frame, and I want to make it very clear that the amendments that I have moved today, which have been soundly defeated, would have been more substantial if I had had an opportunity to develop them, and I suppose most members here are glad that I did not get that opportunity.

I mentioned yesterday that one of the people with whom I was consulting was an expert on environmental health. He sent me an email yesterday afternoon about proposed amendments and he said, 'I don't like your chances because South Australia has now only a shell of a democracy in place.' I think that the bulldozing through of this bill this week is a perfect example of that. The government wants it bulldozed through, and it wants to get it off the *Notice Paper* as soon as it possibly can. Why? Because it has sold out the working class people of East Whyalla. This is the party that claims to represent the working class and it has sold them out. The longer this bill stays on the *Notice Paper*, and the longer this bill stays in the parliament, the longer this sell-out is there for all to see. So, the government does not want it to be there, and it does not want a reminder there for any length of time that the people of East Whyalla have been betrayed. I said at the beginning of my speech two days ago that this bill was about betrayal and sell-outs, and what has happened in the ensuing 48 hours has simply proved that.

The Hon. T.J. STEPHENS: Again, I reiterate that the opposition suppors the government on this bill. I put my hand up to handle this on behalf of the opposition because I have local knowledge. Proudly, I have lived in Whyalla for some 38 years. By choice, I bought a house in the eastern part of Whyalla, which is deemed to be in the affected area. Some of the happiest times of my life were spent in that house, and it was only because my circumstances changed that we left that area. As I said earlier, I have only ever seen two possible solutions to the red dust problem: first, the total closure of the plant, which would devastate the town and turn it into a shell; and, secondly, Project Magnet. Project Magnet is the only tangible thing that I have ever seen that would reduce the dust problem, because it shifts the crushing plant some 60 kilometres out of town. The sooner that happens, and the sooner we get some tangible results for the people of East Whyalla, the better. Let's get on with it.

The council divided on the third reading:

AYES (14)

Dawkins, T. G.	Gago, G. E.
Gazzola, J.	Holloway, P. (teller)
Lawson, R. D.	Lensink, J. M. A.
Lucas, R. I.	Redford, A. J.
Ridgway, D. W.	Roberts, T. G.
Schaefer, C. V.	Sneath, R. K.
Stefani, J. F.	Stephens, T. J.

NOES (5)

Cameron, T. G.	Gilfillan, I.
Kanck, S. M. (teller)	Reynolds, K.
Xenophon, N.	

Majority of 9 for the ayes.

Third reading thus carried.

Bill passed.

DEVELOPMENT (SUSTAINABLE DEVELOPMENT) AMENDMENT BILL (No. 1)

In committee.

(Continued from 20 September. Page 2635.)

New clause 8A.

The Hon. SANDRA KANCK: I move:

Page 6, after line 19—Insert:

8A—Insertion of section 54C

After section 54B insert:

54C—Protection of solar collectors

(1) A person must not—

(a) undertake development involving the construction of a building if the building would, when constructed, adversely affect the operation of an existing solar collector located on a building on adjacent land by reducing the access of direct sunlight to the solar collector; or

(b) permit a tree on land owned by the person to adversely affect the operation of an existing solar collector located on a building on adjacent land by reducing the access of direct sunlight to the solar collector.

(2) However—

(a) subsection (1)(a) does not apply if the development is to be undertaken pursuant to a development authorisation granted on the basis of an application made before the relevant solar collector (or an earlier solar collector that has since been replaced) was placed or installed on the building (and if the development involved 2 or more applications for 2 or more consents before the granting of a final development approval then the first application for consent will be the one taken into account for the purposes of this paragraph); and

(b) subsection (1)(b) does not apply if the relevant tree is a significant tree and a relevant authority has refused to grant a development approval in order to allow the tree to be removed or cut back; and

(c) subsection (1) does not apply—

(i) if the owner of the adjacent land consents to the construction of the building or to the size of the tree (as the case may be); or

(ii) in any other circumstances prescribed by the regulations.

(3) A person who is applying for a development authorisation in respect of the proposed construction of a building must declare—

(a) that the building would not, when constructed, be in breach of subsection (1)(a); or

(b) that the owner of adjacent land consents to the construction of the building under subsection (2)(c)(i); or

(c) that subsection (1) of this section does not apply on the basis of circumstances prescribed by regulation under subsection (2)(c)(ii).

(4) A relevant authority may (without further inquiry) rely on a declaration under subsection (3) in connection with granting a development authorisation under this Act unless the relevant authority knows, or has reason to believe, that the declaration is false or misleading in a material particular.

(5) No fee is payable under section 39 in relation to an application made by a person in order to remove or cut back a part of a significant tree in order to comply with subsection (1)(b).

(6) For the purposes of this section, an adverse effect on a solar collector will be disregarded if it is trifling or insignificant.

(7) In this section—

solar collector means a device comprising 1 or more solar panels designed to provide power or to heat water (or both).

This is my third attempt to do this, that is, ensure that people who have solar collectors do not have them overshadowed. I have a private member's bill on the *Notice Paper* at the moment to do this, and I moved a similar amendment this year with the much wider bill, the original Development (Sustainable Development) Amendment Bill 2005, and on both occasions the government has spoken against it and said it is a policy question. I find that a peculiar response and, although I know that the government will oppose it again, I am still determined to move it again because it is such a

crucial issue. I do not think the government fully understands how crucial it is.

Only yesterday I received an email from someone asking me if I knew any legal precedent for protection of solar collectors and my response was no, I did not. I decided last year that this protection needed to be there because I knew of a couple of examples in Adelaide where that was threatened. In one case I know the council has made the developer of the building that would have overshadowed go back to the drawing board, but mainly because the design was not in keeping with the other buildings in the street. The decision really was not about the overshadowing of solar collectors. In the other case, the builder concerned went bankrupt so the development did not go ahead. That really is not much reassurance for people who are putting up solar collectors.

The email I received yesterday told me of a person who has installed $40 000 worth of solar collectors and is about to have a building go up next door that will completely overshadow all of the $40 000 worth of solar collectors and make them completely worthless. That is why things such as this are important. This government says that it is concerned about global warming and how we need to switch to alternative energy sources—

The Hon. Nick Xenophon: As long as it is wind power.

The Hon. SANDRA KANCK: Well, as long as it is wind power, or is paid for by the federal government, it seems to be, if it is solar. I look at some things that we have done, and in the original Development (Sustainable Development) Amendment Bill and the Development Act there are clauses that refer to significant trees. Somewhere along the line parliament could have said, 'No, that is an individual council decision.' But parliament decided that this is a policy issue, and a big policy issue and one that needed parliament to take a stand. I think parliament needs to take a stand similarly on this one. Since I introduced the private member's bill and the government said, 'This is an individual policy decision for local government,' I do not know of any local government that has put in place by-laws to give that protection. So it is not a priority for local government. If it is not a priority for local government, then parliament (state government) needs to take that responsibility.

It is a commonsense thing. If you take, for instance, airconditioners that most people have in their houses, would we say this was a matter for individual councils if someone had a means of trapping all the air or evacuating all the air around an airconditioner so no air could be brought into the system so that the airconditioner could not operate? We would not sit back and wait for the local council to make a decision about that. I am certain that parliament would react to that and say, 'We have to do something about that; we have a right to air', but for some reason or other, when it is sunlight, we will say, 'We will leave it up to individual councils to do something about it.' It is 12 months since I introduced my bill, and it is 12 months since the government said that it is up to individual councils, yet no-one has done anything.

The Hon. NICK XENOPHON: I support the amendment of the Hon. Sandra Kanck. I believe that we as a parliament have an obligation to deal with this issue. The interjection I made earlier to the Hon. Sandra Kanck about wind power was facetious. There seems to be a very heavy emphasis on wind power, despite the question marks about its effectiveness and also its environmental impact on local residents. Myponga is an area about which I have been approached recently by residents who are concerned about the impending wind farm. I would have thought that the state government ought to show some leadership and adopt this amendment, which is eminently sensible. I think it is outrageous that, in the instance given by the Hon. Sandra Kanck, the person who has spent $40 000 doing the right thing and putting up solar panels—making a huge investment in something that is environmentally sustainable—will have it ripped apart because of arcane planning laws which do not give protection to people who deserve protection.

The Hon. P. HOLLOWAY: The government cannot support this amendment. It is one of those matters which should have been addressed in the No. 2 bill. As indicated by the Hon. Sandra Kanck, the government is opposed, in principle, to having this policy matter dealt with in the development plan. The Development Act only relates to procedures and processes relating to the formulation of policy and the assessment of applications. That has been the case since the act was enacted in 1993, and it has been followed, quite rightly, by successive governments. For that reason alone, we would oppose it. It is worth pointing out some of the problems that we would have. The proposed approach by this amendment places the existence of a solar panel, regardless of its condition or effectiveness, over and above the policies in the development plan, which have been developed after community consultation and considered by the ERD committee of parliament.

Given that there are no appeal rights against the views of the adjoining owner, this not only contradicts the appeal structure in the act but also means that the views of the landowner of a single panel exceeds that of the policies in the development plan and the development assessment role of the planning authority concerned. The policies relating to building, location and design—as they relate to a whole range of matters, including the protection of solar panels—are a matter for the development plan. In my speech on the initial bill (4 July 2005), I indicated that I had instructed Planning SA to draft suitable policies for inclusion in the better development plan program. One of the things that I would see happening under this, if this were to become part of the act, is that by setting up a solar panel someone could prevent any development happening next door.

This is what the Hon. Nick Xenophon and the Hon. Sandra Kanck have called commonsense. For instance, if someone sets up a solar panel—it does not even have to face towards the sun—they could use it to prevent any development happening next door because there are no appeal rights. So, if someone did not want someone to build next door, they could erect a solar panel and point it towards them and they could then prevent their building. These issues are much more complex than that. It is easy to say, 'Yes, we should be promoting solar energy'—well, we are. This government has done a lot in relation to solar panels. Certainly we need to address this at a planning level, but it is a very complicated matter.

Finally, I also notice that the LGA is not supporting this issue because it has quite rightly pointed out that councils should be afforded the opportunity to consult with their communities, as is the normal process in undertaking an amendment to their development plans. This is a complex matter: it is not a simple matter of giving absolute rights to a solar panel. As with all other planning issues which impact upon neighbours, there needs to be some proper process and assessment in coming to these decisions. The government is sympathetic to the issue being addressed, but it does not believe that this amendment provides the proper answer.

The Hon. NICK XENOPHON: Further to the minister's response, given what he says are the complexities of this matter, will the minister indicate what steps are being taken to address these issues? I believe the issues identified by the Hon. Sandra Kanck are relevant. Is there a working party? Are officers in the department looking at these issues with a view to coming up with a solution which is acceptable to the government and which will address the concerns of the Hon. Sandra Kanck? Just to say 'it is complex' and leave it at that concerns me, unless we know there is some approximate timetable to come up with a set of proposals that the government believes would be workable.

The Hon. P. HOLLOWAY: I have instructed officers of my department to consider this issue as part of the Better Development Plan process. That is being progressed currently in conjunction with councils. I have not put a deadline on that. Obviously, there has been some feedback from the department about how difficult it is. I have given instructions that they should start work on that particular program. I would be happy to try to get some indication—now that the work is under way—as to how long it may take.

The Hon. CAROLINE SCHAEFER: The opposition has voted against the Hon. Sandra Kanck's amendment twice before and it intends to do so again. We all have sympathy with solar energy and all forms of renewal energy, but this amendment, if it was taken to its literal end, could mean that someone could have a solar pump on the roof of their outside toilet and a $5 million development next door would be prevented from taking place with no right of appeal. While the Hon. Sandra Kanck's intentions may be good, they are far from practical and anti-development. We will not be supporting the amendment.

New clause negatived.

Clauses 9 and 10 passed.

Clause 11.

The Hon. CAROLINE SCHAEFER: I move:

Page 7, lines 14 to 18—

Delete all words in these lines and substitute:

building assessment auditor means a person employed or engaged by the minister's department, or by another administrative unit designated by the minister by notice in the *Gazette*, who holds qualifications prescribed by the regulations and who has been authorised by the minister to conduct audits under this section.

Under the bill, private certifiers and councils will be audited. Our amendment requires that they must be audited by a public officer, for instance, consumer affairs, and that a fee may be charged.

The Hon. P. HOLLOWAY: The bill requires private building certifiers and councils to be subject to auditing by a prescribed person or body as set out in the regulations. The bill also requires the auditor to report to the minister any failure of any private certifier or council building branch to comply with the requirements of the Development Act for the building rules. The opposition's amendment specifies that the prescribed auditor must be an employee or engaged by the minister's department or another department designated by the minister.

The opposition's amendment is not supported, for the following reasons. The bill's provisions enable the best model of auditing to be developed in consultation with key industry stakeholders. I am advised that we are the only state in Australia not to have a system of auditing in place. The government is committed to implementing the recommendations of the Coroner in relation to the collapse of the roof at the Riverside Golf Club. One of those recommendations is that industry participants take the appropriate responsibility as prescribed by the Development Act in the regulations. It is pointless having rules if the relevant authorities are not properly applying those rules.

A system of auditing is aimed at ensuring confidence in our system of building control and, most importantly, to ensure that lives are not lost due to tardiness by the very professionals in which the community puts its faith. It is, therefore, important to have this head power introduced into the Development Act in order to progress consultation with all stakeholders—that is, both industry and government—based on an actual head power and not merely on a maybe.

Such consultation will be held with the Office of Consumer and Business Affairs within the portfolio of the Minister for Consumer Affairs as part of its builders licensing and related roles, the Local Government Association, the Australian Institute of Building Surveyors, the Insurance Council of Australia and other relevant parties. As mentioned earlier, the bill in its current form provides the necessary head power to enable a system of auditing to be developed and implemented. This would enable the options provided by the opposition's amendment to be implemented, but it will also provide the ability for a series of models to be developed and evaluated in consultation with industry stakeholders, rather than simply imposing a single model.

The head power will also enable the final best practice model to be implemented via the regulations. Any such regulation will, no doubt, be reviewed by the parliament's Legislative Review Committee and can be disallowed (although I certainly do not expect this to be the case) should either house deem them to be inappropriate. I am asking the committee to support the bill in its original form. It will provide the head powers we need to address this issue. It will also give us the greatest flexibility to negotiate these issues with the LGA and those other affected bodies that I have mentioned so that we can achieve the best practice model. As I said, if the opposition or others still wish to go down the track at the end, there is the capacity to do so through disallowing regulations. However, I think it is important that we have the flexibility to properly consider and negotiate this issue with all the concerned stakeholders in coming up with this best practice model first.

The Hon. SANDRA KANCK: I think I am supportive of the government's arguments. Does this mean that, with those head powers, ultimately we will see some regulations put in place?

The Hon. P. HOLLOWAY: Yes. The head powers just provide for regulation. It is just that the opposition's amendment states that this auditing function has to be of a particular sort, that is, one particular agency employee. The amendment states that 'building assessment' means a person employed or engaged by the minister's department or by another administrative unit designated by the minister by notice in the *Gazette*. We are saying that we should discuss this with the LGA and other bodies first, and it may well be that what the opposition is asking for is ultimately adopted. However, given that we have the commitment to negotiate with local government, and so on, I think it is better that we have that process first. We clearly have to come up with something. It is urgent that we act on this because, as I said, we are the only state not to have this function. Clearly, the Coroner's report into the Riverside collapse demands that we do something.

The Hon. NICK XENOPHON: I indicate support for the government's position. I believe there are sufficient safeguards in what the government has proposed, particularly as

the parliament will have an opportunity to scrutinise any regulations once they are made.

Amendment negatived.

The Hon. P. HOLLOWAY: I move:

Page 8, after line 43—insert:

(9a) An auditor must, before finalising a report for the purposes of this section, give a copy of the report to the council or private certifier and allow a reasonable time for the council or private certifier to provide a response with a view to correcting any error of fact.

This amendment provides a certifier an opportunity to review an audit on their certification to enable them to correct any error of fact contained in it prior to its being finalised. This provides procedural fairness to a certifier.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 10 after line 5—insert:

(18a) A regulation cannot be made for the purposes of this section unless the minister has given the LGA notice of the proposal to make a regulation under this section and given consideration to any submission made by the LGA within a period (of between 3 and 6 weeks) specified by the minister.

This amendment provides that regulations made under the building rules audit provisions must be consulted upon with the Local Government Association prior to the minister introducing them. The amendment requested by the LGA was agreed to as the regulations directly affect the operation of the council.

Amendment carried; clause as amended passed.

Clause 12.

The Hon. P. HOLLOWAY: I move:

Page 10, lines 31 and 32—Delete ', in the opinion of the designated authority,' and substitute 'the person applying for the development authorisation and the designated authority agree'.

This amendment reflects the amendment filed by the opposition to ensure that land management agreements are voluntary. It simply inserts a new requirement in section 57A(2)—'Land management agreements—development applications'—that the applicant and the development approval agree that the proposed agreement is relevant to the proposed development.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 10, lines 35 to 37—Delete all words in these lines and substitute 'However, the parties proposing to enter into an agreement must have'.

This reflects an amendment moved by the opposition originally and inserts a new requirement for the applicant, as well as the designated authority, to ensure that the terms of the agreement have regard to development plan policies and are not being used as a substitute for amendments to the relevant development plan.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 11 after line 4—Insert:

(3a) An agreement under this section cannot require a person who has the benefit of the relevant development authorisation to make a financial contribution for any purpose that is not directly related to an issue associated with the development to which the agreement relates.

This also reflects an opposition amendment and inserts a new subsection, with the intent of restricting financial contributions under this section to any purpose directly related to an issue associated with the development to which the agreement relates. The government has accepted it as part of our consideration of this split bill.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 11, line 13—Delete 'Category 2A,'.

This is a technical amendment to remove reference to the proposed new category 2A development, as the provisions relating to category 2A notification have not been included in the split bill and will be subject to further discussion prior to the remainder of the bill being considered by parliament. In other words, a category 2A development is not part of a split bill.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 12, lines 1 to 4—Delete subsection (15)

This subsection is deleted on the advice of crown law that it could create legal conflict with other provisions of the LMA clause.

Amendment carried; clause as amended passed.

Clause 13.

The Hon. P. HOLLOWAY: I move:

Page 12, after line 40—

Insert:

(4c) A regulation cannot be made under subsection (4a) unless the minister has given the LGA notice of the proposal to make a regulation under that subsection and given consideration to any submission made by the LGA within a period (of between 3 and 6 weeks) specified by the minister.

This amendment provides that the minister may not make a regulation with respect to a building inspection policy without giving the LGA notice of a proposal to make such an amendment and giving due consideration to any submission made by the LGA. The LGA will have a period from three to six weeks, as specified by the minister, to make its submission.

Amendment carried; clause as amended passed.

New clause 13A.

The Hon. P. HOLLOWAY: I move:

After clause 13—

Insert:

13A—Amendment of section 89—Preliminary

Section 89(6)—delete 'under' and substitute:

for the purposes of

This is a technical amendment to improve the drafting of the act.

New clause inserted.

Clause 14 passed.

New clause 14A.

The Hon. P. HOLLOWAY: I move:

Page 13, after line 4—

Insert:

14A—Amendment of section 93—Authority to be advised of certain matters

Section 93—after its present contents (now to be designated as subsection (1)) insert:

(2) A private certifier must, in notification furnished under subsection (1)(b)(i), specify any variation that has been made to any plan or other documentation on account of a requirement under this or any other act (and such a variation may then be taken into account for the purposes of providing any development authorisation under this act).

This amendment provides that a private certifier must notify a relevant authority of any variation made to a plan or other document at the building rules consent stage on account of a requirement under this or any other act. In particular, the Building Code of Australia may require a variation such as the inclusion of a swimming pool safety barrier that has not

been shown on the development plan consent documentation. The relevant authority will be able to take such a variation into account when issuing its development approval without the need to grant a new development plan consent.

New clause inserted.

New clause 14B.

The Hon. SANDRA KANCK: I move:

Page 13, after line 4—
Insert:
14B—Insertion of section 104A
After section 104 insert:
104A—Emergency protection—heritage
(1) If a council is of the opinion—
(a) that a place has sufficient local heritage value to justify its protection under this act, or that a place should be evaluated in order to determine whether its heritage value justifies its protection under this act; and
(b) that an order under this section is necessary to protect the place,
the council may make an order requiring a person to stop any work or activity, or prohibiting a person from starting any work or activity, that may destroy or reduce the heritage value of that place.
(2) An order under subsection (1) takes effect on service of notice of the order on the person and ceases to have effect 12 business days after that service unless confirmed by the court under this section.
(3) If a council makes an order under subsection (1), the council must immediately apply to the court for an order under this section.
(4) On application under subsection (3) the court may—
(a)—
(i) confirm the council's order; or
(ii) make, in substitution for the council's order, any other order that the court thinks necessary to protect the place; or
(iii) revoke the council's order; and
(b) make any consequential or ancillary order.
(5) The court may, on subsequent application under this section, vary or revoke an order that has been made under this section.
(6) A council may, at any time, vary or revoke an order that the council has made under this section.
(7) A person who contravenes or fails to comply with an order under this section is guilty of an offence.
Maximum penalty: Division 2 fine.

This amendment is designed to give local councils emergency protection for heritage buildings. It is, effectively, a stop order. I had the same amendment drafted back in June for the Heritage (Heritage Directions) Amendment Bill, and I was advised by minister Hill's advisers that the Development (Sustainable Development) Amendment Bill was the appropriate place to have it, not in the Heritage (Heritage Directions) Amendment Bill. Hence I am moving it here.

The Hon. P. HOLLOWAY: This amendment seeks to introduce new policies in the Development Act for the stated purpose of protecting heritage buildings, even though they have not been subject to a heritage survey or included in an approved development plan, as required by sections 24 and 25 of the Development Act. I note that this amendment is identical to that moved by the Hon. Sandra Kanck during the debate on the Heritage (Heritage Directions) Amendment Bill in July. That amendment was defeated, because the proposed amendment was more relevant to the provisions of the Development (Sustainable Development) Amendment Bill relating to the local heritage PAR processes. The bill contains important provisions relating to the designation of local heritage places by councils, through the preparation of amendments to local heritage lists in development plans, based upon advice from qualified heritage consultants. Those provisions are, of course, in the other split bill, and the reason is that there were amendments and they were controversial. That is why we have included them for discussion in bill No. 2, where further discussion needs to take place.

I think it is worth pointing out that the Hon. Sandra Kanck introduced a series of amendments to those provisions which are now in bill No. 2 and which would water down the intent of the provisions in the bill to ensure more comprehensive and timely listing of local heritage places. It is not appropriate to support the proposed amendment to section 104A at this time without considering it in the context of the other changes proposed in the second part of the Development (Sustainable Development) Amendment Bill. That is why I ask the committee to reject the amendment at this stage. As I said, we need a broader discussion in relation to these issues in bill No. 2. Those provisions were left out because of the number of amendments that have been moved to them.

The Hon. NICK XENOPHON: I indicate that I support the amendment of the Hon. Sandra Kanck. I share her concern that issues of heritage have been whittled away under current legislation. I think that the Fernilee Lodge demolition is an example of the sorts of instances we have seen where the current framework does not protect important issues of heritage. I, too, have a number of amendments to bill No. 2 dealing with heritage issues, and I hope that they will be dealt with before the end of this year, because they are of concern.

The Hon. P. Holloway: It is highly unlikely.

The Hon. NICK XENOPHON: But I think that these issues are still important. In terms of the matters raised in this amendment, I think they are a pointer that more needs to be done to protect heritage issues. I did not move these amendments, on the basis that my understanding is that this bill is largely to deal with the Coroner's findings arising out of the Riverside tragedy and that the contentious provisions would be dealt with in bill No. 2. I am disappointed that it seems unlikely that we will deal with the more contentious provisions before the end of the year, but the government, and indeed the opposition, need to know that many residents, particularly in suburbs such as Unley, Burnside and Prospect, are really concerned about heritage issues and the importance of maintaining the unique character of their suburb. These issues need to be dealt with in due course.

The Hon. CAROLINE SCHAEFER: My understanding of the amendment is that it seeks to buy some time, if you like, in the case of a demolition order, such as that involving Fernilee Lodge, when the council pleaded at the time that it had no authority to stop such a demolition. However, it appears to me, in my somewhat limited understanding of the amendment, that it uses a sledgehammer to crack a nut.

I would, however, seek assurance from the minister that, should there be an appeal to you by either the LGA or other interested groups, this amendment will be given some genuine consideration between the two houses. I think that is quite unlikely, given that you are keeping us here tonight to pass it, and I imagine it will go through very quickly the next time the assembly sits in three weeks. So, if there is a group out there that feels passionately about that, I would ask that it be taken into consideration in another place. I note that the LGA has also said that it has not had the opportunity to consult with its council with regard to this amendment. As such, the opposition will be opposing the amendment.

The Hon. SANDRA KANCK: It was made very clear yesterday by the Hon. Mr Holloway that the sustainable development bill No. 2 is unlikely to be dealt with in this parliament, in other words, in the remaining four weeks. The minister is suggesting that this is not the appropriate place for

it, and that it needs to be in sustainable development bill No. 2, which means that it will not get to us. That means that we have six months until the election, and I expect a minimum of two months after that by the time we get a government formed and it gets its act together and gets legislation drafted, and so on. Here is an opportunity to put some emergency stop orders in place.

We could revisit it with sustainable development amendment bill No. 2, or whatever it is called in the new parliament, with any amendments that we find are necessary, if there are any flaws in what I have here. If members vote against this amendment, we do lose an opportunity now for at least eight months to give this emergency protection. And, yes, there are environment and heritage groups that are watching things like this very closely, and they tend to be in Liberal held electorates, and I do not think they will take too kindly to hearing that this amendment has been voted down.

The Hon. P. HOLLOWAY: I think that I should just point out that we did have some provisions in the original sustainable development bill which would have provided some interim listing of items on the heritage list, I think it was. As I said, there are amendments that the honourable members indicated that they were opposed to, but I am happy to take it on. We have three weeks now before this bill will go to the other place. That is time to have a look at it, but the point that I was making earlier is that the whole subject of heritage and this vexed but important issue—it is important, and there are issues out there—is that the government is keen to address it. It was part of our sustainable development bill, but the LGA has indicated that, in relation to this amendment, it has not had the opportunity to have an adequate look at it.

It is still my view that it would be better addressed with all the other measures that were in bill No. 2, but, we will certainly have a look at it between the houses. I just want to make quite clear that it was not the government's wish that the question of heritage protection was not addressed, but it was quite clear that it was one of those issues within the bill that would have had the potential to derail it. We will certainly have a look at this between the houses. I can give that undertaking.

The committee divided on the new clause:

AYES (4)

Gilfillan, I.	Kanck, S. M. (teller)
Reynolds, K.	Xenophon, N.

NOES (15)

Cameron, T. G.	Dawkins, J. S. L.
Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	

Majority of 11 for the noes.

New clause thus negatived.

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I move:

That standing orders be so far suspended to enable the sitting of the council to be extended beyond 6.30 p.m. to enable the business of the day to be completed.

Motion carried.

Clause 15

The Hon. SANDRA KANCK: I move:

Page 13, after line 13—

Insert:

(3) Section 108—after subsection (8) insert:

(9) A regulation cannot be made under item 9 of Schedule 1 unless the minister has given the LGA and the Conservation Council of South Australia notice of the proposal to make a regulation under that item and given consideration to any submission made by either entity within a period (of between 3 and 6 weeks) specified by the minister.

Members interjecting:

The ACTING CHAIRMAN (Hon. J.S.L. Dawkins): Order! The Hon. Sandra Kanck is having some difficulty with her voice and there are other voices drowning her out. I ask them to desist and I call on the Hon. Sandra Kanck.

The Hon. SANDRA KANCK: This amendment is about consultation. We spent a fair amount of time earlier today talking about a bill where the government was first going to consult with OneSteel on any changes that it made to environmental authorisations. I think it is not an unreasonable thing to consult with the LGA and the Conservation Council of South Australia.

The Hon. P. HOLLOWAY: The government opposes the amendment. The government already has an agreement to consult the LGA on matters that affect local government, so this amendment is not required as far as consultation is concerned. Our position was put into legislation via a couple of amendments, which we moved earlier today, and we have taken a position on a couple of others, because we needed to consult with the Local Government Association. That is why we would oppose those amendments. But this amendment also requires the minister to consult with the Conservation Council before bringing in a regulation that specifies any qualifications or training people need to be members of panels or hold other positions. The government has included in the bill reference to the LGA and those instances where it has a direct and significant impact on councils. I refer to regulations relating to the code of conduct, development assessment panels, building rules and auditing requirements. This amendment is not supported, as it proposes that the Conservation Council be the one body included, above a number of other well-meaning community or industry groups.

I think the trouble is that, once you start going down the track of putting one of these groups in, then you would also have to put a lot of others in. Clearly, the LGA has a special role, because local government is responsible for handling so much of the Development Act, and obviously we will consult with them in accordance with our agreement. With other groups such as the Conservation Council, it is inevitable that the government will, where appropriate, consult these bodies anyway. However, regarding a legislative requirement, once you start putting one group in, you really have to start looking at others.

The Hon. SANDRA KANCK: I was not going to divide on this but, on the basis of the patronising attitude just expressed by the Hon. Paul Holloway, I feel compelled to do so. The Conservation Council is not just a well-meaning community group: it is the peak environment body in South Australia, and it represents over 60 groups. It might have escaped the minister, but there are an awful lot of development decisions that have an impact on the environment.

The Hon. CAROLINE SCHAEFER: The opposition opposes this amendment because, although the Conservation

Council may well be a peak body, so too, for instance, is the Housing Industry Association. We would then require a great deal of consultation.

I am sure that all members have been in this parliament long enough to know that many people consider themselves to be a peak body. I agree that the Conservation Council is one of those peak bodies, but it is not the only peak interest group related to development. The LGA, in fact, as a result of its being an elected body, has an obligation in its own right to consult with peak and interested groups within a development area. The government, under this act in particular, has a number of obligations to consult with whatever peak body is appropriate at the time. I think that, in this case, it is quite inappropriate to single out the Conservation Council; and, as such, I have no hesitation in opposing the amendment.

The Hon. KATE REYNOLDS: I will be brief. For the record, 68 local councils in South Australia are represented by the Local Government Association. The Conservation Council, as the Hon. Sandra Kanck just said, represents more than 60 organisations. They are both membership-based bodies. I think that the government's arguments are very hollow and shallow, and I agree that they are very patronising—60 plus and 60 plus equals two very significant bodies that could both be specified in the legislation if the government had the will to do so.

The Hon. P. HOLLOWAY: I am sorry that the Democrats have taken my comments as being patronising. Certainly, I did not intend to demean the role of the Conservation Council. Clearly, in a number of areas, it is the appropriate body to be consulted, and it is. Conservation Council members sit on a number of committees in my areas, and they make a very valuable contribution to those debates. We are talking about a statutory requirement to consult, and the point has been made.

I was not trying to be patronising to the Conservation Council but, as the Hon. Caroline Schaefer said, there are a number of other bodies: the Housing Industry Association, Business SA, the Property Council SA and many other stakeholders. If you are going to single out some then, to be fair, you would need to mention many others. In the course of these matters, inevitably, there will be consultation under all major matters that affect these groups, anyway. We are really talking about a statutory requirement. I certainly do not mean in any way to diminish its role, or to be patronising to the Conservation Council; rather, I make the point that, if we are going to require in statute consultation with particular peak bodies, we must consider a lot of others as well.

The committee divided on the amendment:

AYES (4)

Gilfillan, I.	Kanck, S. M. (teller)
Reynolds, K.	Xenophon, N.

NOES (15)

Cameron, T. G.	Dawkins, J. S. L.
Gago, G. E.	Gazzola, J.
Holloway, P. (teller)	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I.

NOES (cont.)

Redford, A. J.	Ridgway, D. W.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Stephens, T. J.	

Majority of 11 for the noes.

Amendment thus negatived; clause passed.

Clause 16 passed.

New clause 17.

The Hon. P. HOLLOWAY: I move:

Page 13, after line 16—
Insert:
17—Amendment of Schedule 1
After item 45 insert:
46. The fixing of an expiation fee in respect of any offence against this Act or the regulations (being a fee equal to 5 per cent of the maximum fine that a court could impose as a penalty for the particular offence or a fee of $315, whichever is the greater).

This allows the fixing of expiation fees in respect of an offence against the act or regulations being a fee equal to 5 per cent of the maximum fine a court could impose or $315, whichever is the greater. This amendment forms part of the recommendations of the coronial inquest into the deaths at Riverside Golf Club. Expiation fees mean that councils can undertake compliance action without the high costs of going to court for prescribed minor offences.

New clause inserted.

Schedule and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

MENTAL HEALTH POSITION

The Hon. P. HOLLOWAY (Minister for Industry and Trade): I lay on the table a copy of a ministerial statement relating to the investigation of a person holding out to be a nurse made earlier today in another place by my colleague the Minister for Health.

GUARDIANSHIP AND ADMINISTRATION (MISCELLANEOUS) AMENDMENT BILL

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

PARLIAMENTARY COMMITTEES (PUBLIC WORKS) AMENDMENT BILL

The House of Assembly agreed to amendments Nos 1, 2, 4 and 5 made by the Legislative Council without any amendment; and disagreed to amendments Nos 3 and 6.

ADJOURNMENT

At 6.44 p.m. the council adjourned until Monday 17 October at 2.15 p.m.