LEGISLATIVE COUNCIL

Tuesday 6 June 2006

The PRESIDENT (Hon. R.K. Sneath) took the chair at 2.17 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Police (Hon. P. Holloway)—

Regulations under the following Acts—
Legal Practitioners Act 1981—Fees
Occupational Health, Safety and Welfare Act 1986—Amusement Structures
Dangerous Area Declarations—Statistical Return for the period 1 January 2006 to 31 March 2006
Road Block Establishment Authorisations—Statistical Return for the period 1 January 2006 to 31 March 2006

By the Minister for Urban Development and Planning (Hon. P. Holloway)—

Adelaide Hills Council—Miscellaneous Amendments Plan Amendment Report
Wattle Range Council—Primary Industry 2 Zone Plan Amendment Report

By the Minister for Environment and Conservation (Hon. G.E. Gago)—

Public and Environmental Health Council—Report, 2004-05
Upper South East Dryland Salinity and Flood Management Act 2002—Quarterly Report for the period 1 January 2006—31 March 2006
Rules under Acts—
Successor Fund Transfer from CCASP Plan—Local Government Act 1999
District Council of Yorke Peninsula—
By-law L—Port Vincent Marina

By the Minister for Mental Health and Substance Abuse (Hon. G.E. Gago)—

Controlled Substances Advisory Council—Report, 2004-05.

QUESTION TIME

POLICE STATION, LOXTON

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for Police a question about the Loxton Police Station.

Leave granted.

The Hon. R.I. LUCAS: As members would be aware, my colleagues—particularly the Hon. Mr Dawkins—have taken an interest in this issue. The subject of the Loxton Police Station has been of great importance to the people of Loxton, and the Riverland generally, for quite some time. Without going into all of the detail, late last year there was a resolution—or so the people of Loxton thought—in relation to the opening hours of the Loxton Police Station. Minister Maywald was quoted in the *Loxton News*, and she also asked a question in the House of Assembly. The article in *The Loxton News* states:

. . . 'we've now secured guaranteed opening hours of nine to five (regardless of whether or not the police are called out), she said. 'We were unable to get a commitment from them beforehand on that, and we now have that commitment,' she said. [She] said she planned to further pursue the matter with Minister Foley in State Parliament. . . to 'please explain' the administrative error. . .

In October 2005, there was also a story in *The Loxton News* entitled 'Councillors told of MP station role.' It states:

Loxton Waikerie Council chief executive officer Peter Ackland advised councillors that Member for Chaffey Karlene Maywald had a 'very positive outcome' over the issue of opening hours at Loxton's police station. . . 'Karlene took the issue up early this morning (September 20) and ensured an outcome which reflects the position put to (Police) Minister (Kevin) Foley by the delegation comprising of Karlene and council. . .'

Mrs Maywald told *The Loxton News* that after viewing the incorrect details, she phoned Minister Foley's office and 'demanded' that Loxton's relocated station be open 9am to 5pm weekdays.

I repeat that: minister Maywald told *The Loxton News* that she phoned minister Foley and demanded that Loxton's relocated station be open from 9 a.m. to 5 p.m. on weekdays. Mr Ackland went on to say that he felt it necessary to advise councillors of Mrs Maywald's actions in ensuring that the issue had been resolved. Of course, that was before the election.

Soon after the election, as with many other promises from the Rann government and minister Maywald, that election promise was broken. On 31 May, the headline in *The Loxton News* was 'Cutback at police station.' Again, without reading all of that story, it makes it clear that the commitment that minister Maywald and the Rann government gave prior to the election—that the Loxton Police Station would be open from nine o'clock to five o'clock on weekdays, whether or not the police had been called out—was now a broken promise. Minister Maywald is telling the media, both local and statewide, that this is an operational issue; that minister Maywald and the government cannot be involved in it because it is an issue solely for the police to determine.

The Hon. J.S.L. Dawkins: You can't have it both ways.

The Hon. R.I. LUCAS: Exactly. My questions are:

1. Will the minister explain why the Rann government and the member for Maywald have broken their election promise that the Loxton Police Station would be open from nine until five Monday to Friday regardless of whether or not police had been called out?

2. Given this broken promise, why should the people of Loxton ever believe minister Maywald or the Rann government again?

3. Will the Minister for Police ask his friend and colleague, minister Maywald, whether she thinks the people of Loxton are stupid when, before the election, she claimed credit for ensuring that the Loxton Police Station would be open from 9 a.m. to 5 p.m. on Monday to Friday but, after the election, when the promise is broken, she claims that this is an operational matter for South Australia Police?

The Hon. P. HOLLOWAY (Minister for Police): At any given time, the staffing of police stations will be a matter for the Police Commissioner. It is an operational matter for the Police Commissioner, from time to time. At any police station you may get a number of absentees, as police get sick occasionally with the flu and other illnesses; so, on occasions, if police are called out and it is a particularly large operation, my understanding is that it may be necessary for staff at stations to call for reinforcements. I am not familiar with the situation at Loxton. I will examine the information that apparently appeared in the local paper, but I am not prepared to accept that at face value. I will seek a report from the Commissioner of Police.

The Hon. R.I. Lucas: So, *The Loxton News* is not telling the truth?

The Hon. P. HOLLOWAY: No; I am not prepared to accept the Leader of the Opposition's statement that it is a broken promise.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Not your interpretation of it.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: You did not read it at all. The leader did not read out the article; he gave his interpretation of it. I have not seen the article, but I will get a response from the Commissioner of Police and bring it back. However, let me also say that I know that Karlene Maywald has been a very effective local member in lobbying for additional services to her electorate.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Before the Leader of the Opposition draws any inference based on a press report, I will find out the facts from the Commissioner of Police and bring back a response.

The Hon. R.I. LUCAS: I have a supplementary question. Given that the local police officer in charge has confirmed that there is to be a cutback in administrative staff, which has caused this particular cutback—

The PRESIDENT: Supplementary questions do not require an explanation.

The Hon. R.I. LUCAS: It is not. Given that is the case, is the Rann government funding its extra police officers through cutbacks to administrative staff in stations like the Loxton Police Station and across the state?

The Hon. D.W. Ridgway: They don't care about the bush, Mr President.

The Hon. P. HOLLOWAY: One could not let that provocation pass. Let me talk about the time when, back in the middle of the term of the previous Liberal government, police resources got back to 3 400. How could you have a service from 9 to 5 at Loxton (or anywhere else) when you had just 3 400 police officers, as there were then? We are now just below 4 000 officers and, at the end of the term of this government, we have given an undertaking that we will increase that number by an extra 400 operational police additional to the levels that existed when we came into office.

The Hon. R.I. Lucas: Why would we believe this rubbish?

The Hon. P. HOLLOWAY: Because we have delivered. Over the first four years of the Rann government, we have delivered an additional 200-300 police officers to this state and, because of that, we are able to improve the service provided by the police in regional South Australia. We will not accept this nonsense from members opposite. The additional police officers will be funded from this government, which has indicated its priority in the area of law and order. The fact is that we have delivered: any objective, statistical measure proves that. It is there in stark figures in terms of the number of police in this state. I will investigate the situation in Loxton.

If it involves administrative staff, they would not be dealing with law and order issues in that town. I am sure that the people of Loxton want a police force that is out there doing its job in terms of arresting criminals, and that is exactly what they will be doing. As I said, I will get some details from the Police Commissioner and bring back a response. I reject any allegation whatsoever that this government is cutting police resources, because the statistics show clearly and unequivocally that police numbers have risen dramatically under the Rann government.

NATIONAL PARKS

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about national park reclassification.

Leave granted.

The Hon. D.W. RIDGWAY: I raised the issue, by way of a press release on 15 April, that in January the former environment and conservation minister (Hon. Mr Hill) and the Department for Environment and Heritage had quietly announced public consultation about massive changes which would see seven of the existing categories of parks replaced by a new six-category system. Under the proposed changes, new categories of heritage park and nature park would be created and the category of recreation park would disappear altogether. On 27 April, once we returned to this chamber, I asked the minister a question about the reclassification process and what had happened. In her answer, the minister said:

> The Department for Environment and Heritage has reviewed the reserve classification system, as defined by the National Parks and Wildlife Act 1972. The review proposes a new category system for parks and reserves that will align with national and international standards on park classification categories and management objectives. Under this new category system, mining will not be allowed in national parks, conservation parks and game reserves but would be permissible in regional reserves and new reserve categories and such like.

A number of submissions were made to this consultation process and I thought, in the true fashion of a member of a strong and robust opposition, I would access those submissions under the freedom of information provisions. Yesterday, I received a response stating:

> There are 133 documents that fall within the scope of your request.

The request was for access to all submissions to the consultation process in relation to the changes to reserve classifications for South Australian parks. The FOI officer went on to say:

> I have determined to refuse access to all 133 documents.

The response goes on to state:

> Pursuant to clause 9(1)(a). . . Currently the department is in the process of considering the submissions. Finalisation of this process will result in a decision being made regarding the Government's future reserve classification system. At this stage of the decision-making process it is considered contrary to the public interest to release these documents.

My questions to the minister are:

1. Has the review taken place?
2. How can submissions made by members of the public to the government dealing with a public consultation process involving our public national parks not be in the public interest?

The Hon. G.E. GAGO (Minister for Environment and Conservation): As the honourable member has outlined, we are currently reviewing our parks classification system in order to bring it in line with national and international standards of park classifications and categories of management. I have been informed that a discussion paper was released for public consultation on 10 January 2006, with comments being sought by 31 March 2006. I have also been informed that those submissions are currently being analysed with a view to developing a proposal for amending the

National Parks and Wildlife Act in the latter part of this year. To the best of my knowledge—and I have been so informed—those submissions are still being analysed, and a decision has not yet been made in respect of those reclassifications or when the matter will come back to this parliament. In relation to other matters, I am happy to take them on notice and bring back a reply.

The Hon. D.W. RIDGWAY: I have a supplementary question. Why did the minister say on 27 April, 'The Department for Environment and Heritage has reviewed the reserve classification system', when she now says that the department has not reviewed the system?

The PRESIDENT: What is the honourable member's question?

The Hon. D.W. RIDGWAY: Has it been reviewed, or was parliament misled on 27 April?

The Hon. G.E. GAGO: It is really quite simple. The department did have a review. In light of national and international trends, the department looked at our current classification system and deemed that there were obviously some inconsistencies and that it was worthwhile to undertake a public consultative process to consider reviewing the whole system.

In that statement, which I made on that same day in terms of the opening comments the opposition spokesperson has quoted, I very clearly said that the submissions were currently being analysed, with a view to developing a proposal to amend the National Parks and Wildlife Act in the latter half of 2006. I stated that clearly then and, if I did not, I am stating it clearly now. It is quite a simple matter.

The Hon. D.W. RIDGWAY: As a supplementary question: why are public submissions into our public parks not in the public's interest, and why will the minister's department not release them?

The Hon. G.E. GAGO: I answered that. I said that I will take the question on notice.

CORRECTIONAL SERVICES, PRISON FACILITIES

The Hon. J.M.A. LENSINK: I seek leave to make an explanation before asking the Minister for Correctional Services a question about future infrastructure needs.

Leave granted.

The Hon. J.M.A. LENSINK: On 10 May this year I asked the minister about future correctional services needs. In her reply, the minister stated:

> Various options are being explored to establish the most cost-effective means of meeting future demand and rehabilitation needs for custodial facilities. It is important that we do not see piecemeal work.

In a Channel 9 interview, the minister stated:

> The government is not looking for a quick fix but looking for longer-term solutions.

The case for a rebuild of the women's prison was raised as early as the 2001-02 annual report of the Department for Correctional Services (DCS) in which the previous CEO, Mr John Paget, on page six, stated:

> During the reporting period, the department also commenced work on an outline business case for a public/private partnership proposal for a replacement Adelaide women's prison. It is anticipated that, in conjunction with Treasury, this work will continue into 2002-03.

My office has sought some information on this issue. Under freedom of information, we requested access to briefings and the like for a business case for a new prison, which is referred to in the Department for Correctional Service's 2004-05 annual report. We have been refused access to those documents on the basis that they were specifically prepared for cabinet. The schedule indicates that one document from the Chief Executive, Department for Correctional Services, to the minister is entitled 'Future prison infrastructure business case briefing'.

The second document (a cabinet submission), dated 20 October 2005 from the Minister for Correctional Services to cabinet, is entitled, 'DCS future infrastructure needs—Business case for infrastructure of site'. The final document in the list, dated 10 November last year, is a minute from the Minister for Correctional Services to cabinet entitled 'Correctional services infrastructure final business case'. My questions to the minister are:

1. How much longer must we wait for the government to provide the public with an answer as to how the future infrastructure needs will be addressed?

2. Is she concerned at the ongoing nature of the Adelaide Women's Prison?

3. Does the scope include the women's prison, and are the delays related in any way to additional site costs?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): First, I place on the record my disappointment at the behaviour of the honourable member. It is quite normal for shadow spokespeople to seek briefings and visits within their portfolio area. However, during her visit to the Northfield complex and without seeking permission, the honourable member invited the media to enter the grounds of Northfield, which, as I said, was disappointing because, of course, it is a high-security area.

Members interjecting:

The Hon. CARMEL ZOLLO: I have nothing to hide, but normally one seeks permission to enable someone to enter a high-security area.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: I have absolutely nothing to hide. Not only was the honourable member able to visit but also other people were able to visit, including my caucus subcommittee members. I am disappointed with her behaviour and that of the member for Bragg in the other place.

Members interjecting:

The PRESIDENT: Order!

The Hon. CARMEL ZOLLO: I have already responded in this place in relation to future prison infrastructure. Of course, the women's prison is part of that assessment. It is now being assessed. I will have some options to consider when the final business case is put to me. It should be no surprise to the honourable member that through FOI she cannot get cabinet in-confidence documents.

The Hon. J.M.A. Lensink interjecting:

The Hon. CARMEL ZOLLO: Well, you mentioned it in your explanation—so why is it a surprise to you? It is cabinet in confidence. I have responded already to that question. I am not looking for a quick fix. We need to look at things for the long term.

The Hon. J.M.A. Lensink: How long do we have to wait?

The Hon. CARMEL ZOLLO: I have already answered that question.

RIVERSIDE GOLF CLUB

The Hon. B.V. FINNIGAN: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the roof collapse at the Riverside Golf Club.

Leave granted.

The Hon. B.V. FINNIGAN: The collapse of the roof at the Riverside Golf Club at West Lakes was a tragic event. Two innocent people lost their lives, with others being injured. Given the number of people using the building at the time, it is fortunate that more people were not killed. The Coroner has investigated the incident and brought down his findings. One of his key findings is that no-one took ultimate responsibility for the work undertaken and its compliance with codes. The owner expected it of the building contractor; the building contractor expected it of the tradesmen; and the council was not properly notified.

The council relied upon truss computations from a manufacturer's software that was never independently assessed for compliance with the various codes and standards. Various tradesmen expected the other trades to do things for which they took no responsibility. I understand that the government, through the Development (Miscellaneous) Amendment Bill 2005, introduced some legislative reforms which passed both houses of parliament in December 2005. My question is: what actions have been, or are being, taken to ensure all industry participants understand their roles and responsibilities in order to prevent such a tragedy happening again?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I note the honourable member's commitment to building safety for all South Australians. On 2 April 2002 a portion of the roof at the Riverside Golf Club collapsed. As a result, two people were killed and eight were injured. As was stated by the honourable member in his explanation, it was indeed tragic. The event was immediately investigated by Workplace Services (now SafeWork SA), which by June 2002 had completed an investigation into the cause of the collapse and forwarded its report to the Coroner. Planning SA also carried out an investigation in terms of the application of the Development Act and the regulations. In June 2003, the Attorney-General authorised proceedings to commence for prosecutions against the builder and the club for procedural breaches of the Development Act. In February 2004, proceedings in the ERD court were brought to a timely conclusion, recognising the impact on the victims of protracted delays. This enabled the Coroner to proceed with his inquiry.

The Coroner's hearings were held in September and October 2004, with his findings and recommendations delivered in June 2005. As a result of investigations of the collapse, improvements to the legislation were identified, including changes to the Development Act passed by the parliament in December last year. Key changes to the Development Act that relate to the Coroner's findings and recommendations are:

- provisions to make the designers and manufacturers of products incorporated into building work more accountable for the performance of those products;
- the strengthening of the requirements for council inspection policies;
- the introduction of expiation fees for some offences under the act; and
- the auditing of building rules' assessment functions performed by councils and private certifiers.

In addition to these initial legislative amendments, it is important to develop appropriate systems and procedures relating to the design, approval, manufacture, handling, installation and inspection of trusses. This may involve further legislative or regulatory changes. To their credit the Australian Institute of Building Surveyors undertook its own internal review of trusses, which it has forwarded to me for consideration.

Key industry bodies such as the Master Builders Association and the Housing Industry Association and industry participants such as truss nail plate manufacturers have recently supported the establishment of a ministerial task force and consider that it would be appropriate for it to be chaired by a member of my ministerial office who is an accredited building surveyor. I agree that the establishment of such a task force is necessary in order to identify reforms aimed at ensuring that rigorous, yet practical, measures are developed and implemented in conjunction with industry to prevent future tragedies of this nature.

I have therefore established an eight person task force in order to develop or review appropriate systems and procedures related to the design, approval, manufacture, handling, installation and inspection of trusses. The task force shall comprise the following members: George Vanco, my Ministerial Planning Adviser, as chairman; Demetrius Poupoulas, a member of DPAC and a private certifier; Robert Stewart, representing the Master Builder's Association; Kent Hopkins, representing the Housing Industry Association; David Mahon and Wayne Hondo, representing the truss manufacturing industry; Marija Vjestica, representing local government; and Claus Willinger, Chair of the AIBS Trusses Working Party. Given the urgent need of these reforms I envisage that the task force will meet regularly with the aim of providing recommendations for my consideration by the end of 2006.

MENTAL HEALTH

The Hon. A.M. BRESSINGTON: I seek leave to ask a question of the Minister for Mental Health and Substance Abuse.

Leave granted.

The Hon. A.M. BRESSINGTON: Given the concerns expressed last Thursday in this place about the use of appropriate non-stigmatising language in relation to mental illness, does the minister concede that the proprietors of the Off Ya Tree retail premises in Hindley Street, which sells paraphernalia to assist in consuming illicit drugs that are clearly linked to mental illness, should be outed and shamed for using such terminology in the naming of that business, and does the minister concede that the use of such terminology may be seen to minimise and desensitise the serious effects of drug use and the possibility of drug induced mental illness?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I thank the honourable member for this important question. It is time that we took stock of all the language that we use around substances that are abused. I have quite strong views concerning the language that is used to describe mental illness and the rights afforded to people who suffer from mental illness. I am interested in the issue raised by the honourable member and am happy to look into it.

The Hon. NICK XENOPHON: Will the minister make recommendations or submissions to the Office of Consumer and Business Affairs as to the appropriateness of the registration of names such as Off Ya Tree?

The Hon. G.E. GAGO: As I have stated, I am happy to look into this matter. I will then determine what course of action needs to be taken.

ALCOHOL AND SPORT

The Hon. I.K. HUNTER: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about alcohol and sport.

Leave granted.

The Hon. I.K. HUNTER: Society generally accepts moderate amounts of alcohol consumption. Many of the dangers of alcohol for those who drink and those around them are misunderstood, tolerated or, at worst, ignored. The harms associated with unsafe alcohol use (including drinking to intoxication) are well documented in research literature. Alcohol and sport historically are closely linked in Australia. Sport and recreation has always played an important role in our society, especially for our youth. Anecdotal evidence suggests that some community-based sports clubs may contribute to alcohol problems by accepting or turning a blind eye to or, worse, promoting excessive drinking and providing inappropriate role models for our young people. I ask the minister: will she advise what is being done by community sporting clubs to deal with the responsible management of alcohol and, indeed, tobacco use?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): The Good Sports program assists community sporting clubs to manage alcohol responsibly and create smoke-free environments. The program was developed by the Australian Drug Foundation and is being progressively rolled out across Australia through funding provided by the Alcohol Education and Rehabilitation Foundation and local partners such as Drug and Alcohol Services SA.

Additional funding in South Australia is provided through sponsorship by the RAA and the Motor Accident Commission. The program aims to assist sporting clubs to enhance their important role in the community by providing and promoting a safe and responsible environment for players, members, families and, of course, their supporters.

The Good Sports program consists of a three-stage accreditation framework that challenges community and club culture around excessive alcohol consumption, under-age drinking and drink driving. Program staff provide expertise, training and support to the clubs seeking to achieve accreditation. The program commenced in March 2004 and is being implemented across the state in conjunction with the following regional community partners: Eastern Eyre Health and Aged Care, South-East Drug and Alcohol Counselling Service, Mid North Regional Health Service, Mid West Health Service, District Council of Ceduna, and Lower Eyre Health Service.

Currently, 185 clubs are involved in the program. Good Sports has a target of working with 30 per cent of licensed sporting clubs by December 2006 (280 clubs); 40 per cent of licensed sporting clubs by December 2007 (360 clubs); and 50 per cent of licensed sporting clubs by 2008 (450 clubs). The program has received positive feedback, with specific clubs reporting increased confidence in managing alcohol and implementing smoke-free areas, as well as promoting their club as a family-friendly facility. I am pleased to say that this has resulted in increased participation rates, membership and recruitment of new sponsors.

A national evaluation report in 2006, produced by the Australian Drug Foundation, investigated the impact of the program on club membership and participation. It concludes that involvement in the Good Sports program increases club membership and participation. To promote participation across the state, I encourage all those licensed clubs to contribute to this scheme.

NATURAL RESOURCE MANAGEMENT

The Hon. CAROLINE SCHAEFER: I seek leave to make a very brief explanation before asking the Minister for Environment and Conservation a question about resource management.

Leave granted.

The Hon. CAROLINE SCHAEFER: The Natural Resource Management Act was proclaimed in 2004. Can the minister name one new on-ground project for natural resource management that has started since that time?

The Hon. G.E. GAGO (Minister for Environment and Conservation): The honourable member obviously fails to understand the progress of the new natural resource management transition arrangements. Currently, they provide transition arrangements for the management of the board and involve a complex process of combining catchment levies and pest control levies under one levy arrangement and setting out a plan for that NRM. The initial plans that have been approved so far, along with the levy structure, relate to the arrangements currently in place.

This was a period of consolidation and transition arrangements from the old system to the new. The new comprehensive plans for these boards are not due until next year, and they require a comprehensive consultation process with members of the boards, all key stakeholders and, of course, agency expertise when needed. The current arrangements are those of transition, pulling together a new levy structure and new employment arrangements for their employees. These employees have been transferred over to the public sector. It has been a huge process of putting these new boards in place, and they are under transitional arrangements. Whilst they have been clearly identified, the new comprehensive planning arrangements do not occur until the following year.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. CAROLINE SCHAEFER: How much money has been spent in the transitional period?

The Hon. G.E. GAGO: The Rann government has, in fact, increased funding support to these NRM boards. It provided an additional $5.5 million over four years from 2004-05. This funding is in addition to state budget funds which were previously provided to the old boards and which will also continue to be paid to NRM boards. In addition, NRM boards receive grant funding through various state and commonwealth programs, such as the Natural Heritage Trust. The other funds that the boards are receiving involve the levee arrangements, which I have outlined in this place previously and which consist of an amalgamation of the old catchment board levies and the pest control levies.

PREGNANCY ADVISORY CENTRE

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation, representing the Minister for Health, a question about counselling provided by the Pregnancy Advisory Centre.

Leave granted.

The Hon. D.G.E. HOOD: The Pregnancy Advisory Centre at Woodville Park is an abortion counselling service. Counselling is provided to women about the abortion procedure, and it includes the services of a consultant who will talk to women about their decision to abort, explain the procedure, explain the possible risks, provide women with information for care after the procedure if they choose to proceed, and answer any questions and provide further information about contraception. My questions to the minister are:

1. What percentage of clients went on to terminate their pregnancies after counselling at the pregnancy abortion clinic during the years 2001 to 2004?

2. Are women provided with the option of an ultrasound of the baby during the counselling visit?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I will refer these questions to the Minister for Health in another place and bring back a response.

INTERNET AUCTIONS

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation, representing the Minister for Consumer Affairs, a question about eBay scams.

Leave granted.

The Hon. R.D. LAWSON: Last week I told the council about two constituents who paid over $3 000 for a plasma television through the internet site eBay. The consumers had paid eBay through PayPal, the eBay payment system, and had not received goods. It is now evident from inquiries in Queensland, where the vendors are located, that they will not receive the goods and have lost their money. The Office for Consumer Affairs publishes information about consumer scams and, in particular, the *Little Black Book of Scams*, issued by that office contains a section on internet scams, particularly so-called investment opportunities. The 2004-05 annual report of the Commissioner for Consumer Affairs, the latest report tabled in this parliament, does not actually break down consumer complaints into this particular category. My questions are:

1. Is the minister aware that South Australians are being adversely affected by fraudulent behaviour on the on-line auction site, eBay?

2. Does the government have a strategy to protect South Australians from the type of fraud that I have described?

3. Will the government implement a consumer education program to alert South Australian consumers to the dangers and pitfalls of purchasing over the internet?

4. Will the government take steps to police the activities of South Australian sellers of goods who use the internet for dishonest purposes?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I thank the honourable member for his questions. I will refer them to the Minister for Consumer Affairs in another place and bring back a response.

ROAD SAFETY

The Hon. R.P. WORTLEY: I seek leave to make a brief explanation before asking the Minister for Road Safety a question about the current inattention advertising campaign.

Leave granted.

The Hon. R.P. WORTLEY: Inattention, which is generally caused by road users being distracted, is the most common factor reported by police in fatal and serious injury crashes in South Australia. Can the Minister for Road Safety outline what the government is doing to alert drivers to the dangers of inattention while driving?

The Hon. CARMEL ZOLLO (Minister for Road Safety): I thank the honourable member for this important question. Driving is a complex task which requires the use and coordination of various skills—physical, cognitive and sensory. Despite this, drivers still engage in other activities while driving—such as smoking, eating, conversing with passengers, adjusting the radio, using mobile phones and reading maps—which have all caused crashes on our state's roads. The facts speak for themselves. Last year in South Australia, 38 per cent of fatal crashes and 47 per cent of serious injury crashes were reported by police to be due to inattention. Each year, there are between 6 000 and 10 000 rear-end crashes on our state's roads.

In 2005, the Motor Accident Commission received about 2 800 motor injury claims, arising from rear-end crashes, with a total claims cost of $60 million. In order to reduce the number of crashes and encourage drivers to remain focused while driving, the state government has launched a campaign aimed at making drivers aware of the consequences of inattention. The campaign, which includes television, radio and advertisements on petrol bowsers, is running during this month of June. While aiming to reach all drivers, the campaign has a greater focus on young people and those driving to and from work. This is because these two groups are the largest users of mobile phones while driving. The use of mobiles is a significant concern; in fact, expiation fines for this offence increased by 50 per cent between 2001 and 2003.

The campaign schedule aligns with specific events and integrates with SAPOL operations. It consists of three phases, involving all three advertising mediums. It is clear from the campaign that distractions that occur in the car—such as talking, texting, being distracted by passengers in the backseat and changing CDs—significantly impair a driver's ability to react and make decisions while driving. In the radio commercials, the listener is told that the punishment for using a handheld mobile phone is a fine of $187, three demerit points or much worse. In the television advertisements, the voiceover explains that it takes only a split-second to lose your concentration. The final message in these ads is 'Good drivers just drive. Stop. Think.' While the television and petrol bowser advertising finishes at the end of the month, the radio ads will run again from August to September.

The Hon. J.S.L. DAWKINS: I have a supplementary question. Will the minister provide information about the advertising coverage across regional radio and television stations?

The Hon. CARMEL ZOLLO: My understanding is that it is across the state when we have advertising but, if it is anything different, I will bring back a response for the honourable member.

The Hon. A.M. BRESSINGTON: I have a supplementary question. Will the minister advise whether a campaign will be run to address impaired driving due to drug use, given the number of road crashes caused by substance abuse on the roads?

The Hon. CARMEL ZOLLO: I thank the honourable member for her question. I think it has been very well advertised. We will commence drug drive testing in the latter half of this year, and I will be able to come back then with some more information.

URANIUM MINING

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Mineral Resources Development questions about uranium enrichment.

Leave granted.

The Hon. SANDRA KANCK: The Premier has made a statement in parliament outlining the government's continued opposition to a nuclear power station in South Australia, for which we commend him. However, in that statement, the Premier failed to make any reference at all to the issue of uranium enrichment. We know that there are some very powerful mining interests in this state and interstate that are already lobbying for uranium enrichment in this state.

In November 1996, this chamber debated the Roxby Downs (Indenture Ratification) (Amendment of Indenture) Amendment Bill. At that time, I moved an amendment in the committee stage that would have prevented the enrichment of uranium in the Stuart Shelf area. The *Hansard* record shows that the minister, the Hon. Paul Holloway, voted against this amendment. My questions are:

1. Has the government received any communication from companies, or lobbyists for companies, canvassing the issue of uranium enrichment in South Australia?

2. Will the government totally rule out a uranium enrichment plant in this state?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): If there has been lobbying for a uranium enrichment plant, as the honourable member suggests, those lobbyists certainly have not spoken to me about this matter. There certainly has been a lot of debate in the newspapers. It seems that every commonwealth minister in this country has a view on nuclear power, and every single view is different. It appears that every federal minister has a different opinion, but I must say that the one whom I think makes the most sense on this matter is Senator Minchin, who obviously understands, being the finance minister, the economics of the industry, and I suggest that members opposite should listen to his views.

I certainly have not had any lobbying at all—and nor would I expect to in the immediate future. My understanding of uranium enrichment plants is that there would have to be at least 4 000 tonnes a year upwards and, at the moment, that would be the entire output for South Australia—and that is obviously contracted in the years ahead. If one sets aside all the other regulatory, political, economic and other requirements and looks purely at the practical requirements alone, clearly, one would have to tie up nearly all of the future output of BHP Billiton if that expansion goes ahead four or five years from now, or whenever it is scheduled to go ahead.

Clearly, there is a lot of water to go under the bridge. I do not believe that there really is an issue in relation to the enrichment question that is likely to come before this government during its current term. My understanding is that world demand is roughly in balance. It may well happen at some stage in the future, but I guess it is up to the government of the day to address that issue at that time. But, certainly, no-one has been knocking at the door of this government in relation to an enrichment proposal.

HINDLEY STREET

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Emergency Services, representing the Minister for the City of Adelaide, a question about Hindley Street traffic flows.

Leave granted.

The Hon. T.J. STEPHENS: Recently, Superintendent Paul Schramm of the Adelaide local service area commented to the media that traffic flows along Hindley Street and the availability of taxis was affecting the level of crime along the street. He said, 'If you can't get out, the risk of crime increases.' It has been reported to me also that it is nearly impossible to find a taxi to depart Hindley Street during weekend evenings, possibly due to the number of one-way streets in the area, and that most people have to walk up to King William Street or towards the casino taxi rank. Unfortunately, many of these people are intoxicated, which can only contribute to the risk of crime occurring in side streets and surrounding areas. My questions are:

1. Does the government agree with the superintendent's assessment that traffic flow and a lack of taxis is contributing to the level of crime in Hindley Street?

2. What is the government doing to assist Adelaide City Council in improving traffic flows and encouraging more taxis into the area, especially on weekends, when Hindley Street is at its busiest?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his questions relating to traffic flows in Hindley Street. I will refer his questions to the Minister for the City of Adelaide in the other place and bring back a response.

CYCLING, ROAD SAFETY

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Police, representing the Minister for Transport, questions about road accidents involving cyclists.

Leave granted.

The Hon. NICK XENOPHON: I refer to the *Today Tonight* story broadcast last night concerning Mr Grant Leonard, a young man who was left paralysed after a road accident on 21 March 2006. Mr Leonard was cycling down Norton Summit Road when another cyclist undertook a dangerous manoeuvre in front of him causing an accident. The other cyclist involved gave a false name and contact number before leaving the scene of the accident. Recently, I visited Mr Leonard at the Hampstead Rehabilitation Centre. He is a man displaying great courage and perseverance. He has been left with very serious injuries as a result of the accident.

He is now a paraplegic, being paralysed from the chest down. Doctors have assessed him as having a 5 per cent chance of ever walking again. Because cyclists are not covered by the compulsory third party scheme, which applies to other motor vehicle users when a cyclist is responsible and the identity of the other cyclist is unknown, Mr Leonard is left without any source of civil recompense to assist him to

pay medical bills, ongoing costs associated with his rehabilitation and to make modifications to his home and vehicle to enable him to live independently with a disability (let alone issues of compensation for his financial loss), apart from the relatively limited Criminal Injuries Compensation Fund that may be available to him. My questions to the minister are:

1. How many cyclists have been responsible for road accidents that have resulted in injuries to others on our roads, and how many of those cyclists have sustained serious injuries?

2. Have costings been obtained for the compulsory third party insurance scheme to extend to cover those injured as a result of the negligence of a cyclist?

3. Has any consideration been undertaken into a system of registration for cyclists and, if so, what consideration has been given to implementing such a scheme in South Australia?

The Hon. P. HOLLOWAY (Minister for Police): I expect that the answer to the first question is, 'Not very many', but I will refer those questions to the Minister for Transport in another place. Clearly, the honourable member has raised an issue which involves a rather unusual set of circumstances but which, clearly, has significant implications. I will take the questions on notice, refer them to my colleague the Minister for Transport and bring back a reply.

TASMAN RESOURCES

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about a new drilling program planned for an area west of Port Augusta.

Leave granted.

The Hon. J. GAZZOLA: I understand that initial searching by Tasman Resources at its prospect west of Port Augusta has encouraged the company to expand its search area. Will the minister provide details of Tasman's drilling program?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I thank the honourable member for his question—

Members interjecting:

The Hon. P. HOLLOWAY: I am not quite sure what the problem of members opposite could be. I thought that they would be very keen to hear about some of the very exciting things that are happening in the mining industry in our state, one of which involves Tasman Resources, which did launch an initial drilling program at its Parkinson Dam prospect, about 60 kilometres west of Port Augusta, last December. The drilling discovered epithermal gold-silver mineralisation of three metres at 3.4 grams per tonne of gold, 80 grams per tonne of silver and 21 metres at 0.4 grams per tonne of gold and 7 grams per tonne of silver.

As pointed out by the company in its statement of 24 May, epithermal gold and silver deposits are especially attractive as they can contain very high grades. Tasman Resources has also announced that recent field work at the prospect has identified some new areas of interest for gold and silver. According to the company, that work has revealed outcropping mineralisation containing up to 1 gram per tonne of gold and up to 15 grams per tonne of silver, extending the company's area of interest at Parkinson Dam. Consequently, the company is now expanding the area it intends searching in a new drilling program scheduled to begin early next month.

That program will also target areas to the west, east and north of the mineralisation found during the initial drilling in December. Of further interest is the fact that the field work undertaken by the company at the Parkinson Dam prospect has also found uranium mineralisation in the form of fine grade uraninite. This uranium mineralisation was originally discovered in the 1980s by exploration company PNC, which never drilled to test the uranium potential of the area. While uranium is not the principal target for Tasman, the company has indicated that it will include uranium mineralisation in the new drilling program.

The new drilling being planned by Tasman is further evidence of the minerals and resources exploration boom that is under way in South Australia. Thanks to the Rann government's highly successful plan for accelerating exploration, South Australia is just $600 000 short of reaching $100 million worth of exploration for a year. As members would know, the PACE program was established in 2004. It is a five-year $22.5 million initiative to boost minerals and resource exploration towards the South Australian Strategic Plan target of $100 million a year by 2007. According to the Australian Bureau of Statistics, the value of exploration in South Australia last year was $99.4 million—which means that PACE has been so successful that the strategic plan target has been reached almost two years ahead of schedule. As previously stated, Tasman's new drilling program of 23 holes in the Parkinson Dam prospect is due to begin early next month. I will be happy to update members on the company's progress as that information becomes available.

ONESTEEL

The Hon. M.C. PARNELL: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about the OneSteel Whyalla steelworks.

Leave granted.

The Hon. M.C. PARNELL: Members would know that there is a national health-based standard for particulate dust pollution, which is set out in a national environment protection measure. Dust levels, which are based on that standard, are measured at a monitoring station at Walls Street, Whyalla, which is across the road from Whyalla Town Primary School. My question is: how many times this year has the national environment protection measure standard for particulate matter been exceeded at the Walls Street monitoring site?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): I will have to seek that information. One would hope that once the work of OneSteel's Project Magnet is completed that figure would be dramatically reduced. As I understand it, some of the preliminary work at Whyalla is due for completion shortly. In relation to the specifics, I think the information is probably kept by the EPA but, with the help of officers in my department and my colleague the Minister for Environment and Conservation, I will get the statistical information which the honourable member seeks.

WATER TRADING

The Hon. S.G. WADE: I seek leave to make a brief explanation before asking the Minister for Environment and Conservation a question about water trading.

Leave granted.

The Hon. S.G. WADE: In a ministerial statement in the other place on Thursday 1 June, the Hon. Karlene Maywald advised that South Australia has an in-principle agreement with Victoria and New South Wales to a mechanism that will enable permanent water trading between the states. She advised that this expansion in trade seeks to ensure that our precious water is used for the most productive outcomes. I refer to a report issued yesterday by the CSIRO, entitled 'Without water: the economics of supplying water to five million more Australians'. In the report the CSIRO highlights the capacity of water trading to ease pressure on urban water prices. My question is: as the minister responsible for the water trading regime, will she indicate whether government purchasers of water will be allowed to trade freely in the market; and, if not, is the government's policy consistent with the state's obligations under the national water initiative and the national competition policy?

The Hon. G.E. GAGO (Minister for Environment and Conservation): South Australia has been proactive in promoting interstate water trade and has signed a bilateral agreement with Victoria in order to facilitate expanding interstate water trade between the two states. Also, we have developed some arrangements with New South Wales, which was a most important initiative in being able to meet our commitments nationally. I will seek information regarding the details of the honourable member's question and bring back a response.

SALISBURY RAIL CROSSING

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Road Safety a question about a Salisbury rail crossing.

Leave granted.

The Hon. J.S.L. DAWKINS: In a question yesterday I highlighted growing community concern about the congestion at the Park Terrace level crossing in the heart of Salisbury. This concern is exacerbated by media reports of police figures showing that more than 200 people ran red lights at that crossing in a 12 month period. *The News Review Messenger* has followed this issue closely. I refer to an extract from its coverage in the 31 May edition, which states:

> Traffic congestion is damaging trade in Salisbury's town centre and has prompted the council to resurrect the idea of a bridge over the Park Terrace railway line. Mayor Tony Zappia said the Salisbury CBD was so congested people were avoiding Salisbury's shops. 'I believe the delays are causing people to shop elsewhere rather than come into the city centre,' he said. 'It's impacting on the viability of local businesses.'
>
> Changes to Park Terrace's traffic signals, following the fatal collision between the Ghan train, a bus and a car in October 2002, are causing significant waiting times for drivers. Mr Zappia said the idea of an overpass or underpass in Park Terrace was suggested by the council after the accident. The idea was dropped after 'we were told there wasn't enough room to build a bridge.' 'But I'm not so sure that that's the case. I'd like to revisit the possibility,' he said.
>
> Mr Zappia said the council had hoped the new Mawson Connector road would divert some traffic away from Park Terrace. However it now had decided the problems could no longer be ignored. 'If we cannot make any changes to Park Terrace then we need to find alternate ways for traffic to enter the city centre,' Mr Zappia said.

Will the government respond to calls from the community and the Salisbury council to create a new rail crossing in the Salisbury area?

The Hon. CARMEL ZOLLO (Minister for Road Safety): I thank the honourable member for his question and appreciate his concerns. The question he asks about the possibility of an overpass would best be directed to the Minister for Transport in the other place. I will refer the honourable member's question to the minister and bring back a response.

DEVELOPMENT (PANELS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 June. Page 270.)

The Hon. M.C. PARNELL: I rise to support the second reading of this bill. The Australian Greens are generally supportive of the objectives of the bill; however, we do have some reservations about aspects of it and we are still actively consulting with people in the community who continue to make submissions to me, as they do to other members. As members would know, this bill has its origins in the somewhat misnamed sustainable development bill of two years ago. That bill (which, I might add, had I been here I would have opposed on the basis of its name because it did nothing to achieve sustainability) was ultimately split into two parts to allow its less controversial aspects to pass through this place whilst the trickier bits were further debated.

The controversial elements have now been further divided into, as I understand it, four bills, the first of which is now before us. I should say at the outset that the issue of the composition of council development assessment panels is not the most pressing issue facing the planning scheme. In my opinion, far more important than the composition of panels is the question of how we as a community incorporate ecological sustainability into our planning schemes so that the decisions made under those schemes properly reflect the environmental objectives of government and of the community, especially in relation to buildings and other forms of development.

It never ceases to amaze me that in the 21st century we have a planning system that still enables and, in some cases, encourages the clearing of native vegetation for housing. This just seems mind-boggling in a state where in settled areas the vast bulk of the native vegetation has been cleared, yet we are still clearing bushland for housing. I think that we need to fix up the accountability measures in the Development Act so that important planning decisions are open to scrutiny, particularly appeal rights when the proposed development has a significant impact on communities or on the natural environment.

Of concern to me is the lack of accountability in relation to planning decisions that affect the commons, in particular the marine environment, where the government seems determined to prevent the owners of that resource—the owners of the commons, that is, the general public—from having any rights of comment or certainly any rights of appeal over development in the sea. What we are seeing from the government is, effectively, the privatisation of the sea for exclusive industrial use, but that is a debate for another day.

In this bill we are considering the issue of development assessment panels, how they are comprised and what their role should be. At the heart of the bill is a single question, namely, whether the task of assessing individual development applications is primarily a political task or a technical task.

This is the basic question. If it is a political task, the best decision makers are the elected representatives, who are accountable and responsive to their local communities. On the other hand, if the development assessment task is primarily a technical task, it may be best performed by experts who are trained in the assessment of proposals and assessing them against the technical criteria in planning schemes.

In my view, the answer to the question is that the development assessment task comprises both political and technical elements. At a political level, the question might well be in relation to whether a proposed new industrial development will adversely impact on an existing residential area. This is primarily a political question for which local knowledge is important. The technical dimensions of such a question might relate to maximum building heights or setbacks, things which can be quantified and for which there are tables and charts to refer to.

I think that it is a recognition of the fact that the development assessment task is both political and technical that the government has put a proposal that has both politically elected members and non-elected experts on the council development assessment panels. At the committee stage, we will debate whether or not this mix ought to reflect a majority of politicians or a majority of technocrats. However, the basic proposition I support is that a mix is appropriate. I do not support having entirely one group or the other, but I am open to considering various viewpoints on where the appropriate balance should lie.

I should also say that my views on this subject are very much influenced by my professional experience over the past 16 years in the community conservation sector and, in particular, the past 10 years as a public interest environmental lawyer with the Environmental Defender's Office, where I worked not exclusively but overwhelmingly in the planning jurisdiction. In my role as a public interest planning lawyer, if you like, I advised and represented hundreds of clients who were unhappy with planning decisions.

My clients were mostly what are known as 'third-party objectors'. In other words, they were individuals or groups who wanted to exercise their right to challenge what they saw as inappropriate development decisions. Mostly, I would help clients in this jurisdiction by helping them help themselves. I would provide them with information about how the planning system worked. I would talk to them about planning schemes—how to read and understand them. I would talk to them about the councils, or panels, or the employed staff officers who would be making the decision, and the types of considerations those decision makers are obliged to take into account.

Often, my advice to clients was that there was nothing that they could do if they were unhappy with inappropriate development. And that was because of the public notice and appeal categories, which are a major part of the Development Act, and where those rights are clearly stacked in favour of developers who, in almost every case, have a right of appeal if they are unhappy with the decision made by a development assessment panel or a full council, or the Development Assessment Commission. Yet, third parties have only very limited opportunities to challenge planning decisions.

On a number of occasions, I have taken cases on behalf of clients to the Environment, Resources and Development Court to argue that the original decision making was wrong, or that the decisions that they had imposed were not correct, and I have sought to have overturned decisions made by councils, and the Development Assessment Commission on development applications. The last planning appeal in which I was involved revolved around a question of whether a new building was going to cast such an unreasonable shadow over an existing residential building that it ought not be allowed.

The thrust of that case revolved around a fairly technical assessment of whether the existing building was going to get two hours of direct sunlight into its habitable windows. The case revolved around two very experienced architects, both of whom presented to court with computer models. One architect said, 'This development is fine. We are going to cast only two hours of shadow. One is five minutes more and one is five minutes less.' It was terribly technical, and it was on that basis that the case revolved. In the end, the court allowed the developer to effectively move one of the buildings slightly in one direction just to allow that little bit of extra sunlight to get in.

My point in giving that example is that the development assessment decision was overwhelmingly technical-based on a technical understanding of the City of Adelaide development plan and its solar access requirements. Assessing the court records does not necessarily give you the best yardstick against which to judge the quality of decisions that are made by local councils or the Development Assessment Commission, because both bodies are capable of making good or bad decisions. Here, we are focusing on the capability of elected members on local councils and how good or bad a decision they make.

I must say that my court record against the expert-based Development Assessment Commission was at one stage 10-nil. It was 10 to us and nil to them. That was because that particular expert-based body was, in my opinion, fairly slack in its consideration of the planning scheme and its requirements, and it was too deferential to the primary industries department. So, 10-nil was the outcome in those early aquaculture cases. My point is that elected members on panels do not have a monopoly on making bad decisions, and neither do the experts have a monopoly on making good decisions. The only consistency that I find in the decision-making process is that, whenever conservationists did have a win in court on planning, the government would step in with special regulations to make sure that the development was not impeded by uppity conservation groups who were exercising their legal right.

When members of the conservation community (of which I was a proud part for 16 years) discussed this very aspect of the bill—the composition of panels—two years ago when the sustainable development bill first came up, we posed questions of each other: do we get better decisions for the environment out of elected members on the panels; or do we get better decisions out of panels with experts; or do we get the best decisions out of decisions that have been delegated to council planning officers?

The answer to that question—and we thought about it long and hard—was pretty universal, and that was that everyone had experiences of bad decisions on development applications made by elected members, where those elected members clearly did not understand the role of the development assessment panels. If they did understand the role, they chose to disregard their legal responsibilities and, instead, take a populist political decision, even if it were against all of the planning principles and policies or against the advice of planning staff. By no means was it a universal situation, but all of us could think of examples where that had happened—where the elected members had not understood their role as

members of panels, as distinct from elected members under the Local Government Act.

We found that the elected members would often make a popular decision to appease their constituents, rather than making a decision that was consistent with the planning scheme. Often, this resulted in the very difficult situation where the professional council planning staff—against whose advice the elected members had made their decision—found that they were dragged along to court on appeal where they were under some pressure to support an elected member's position that they did not personally agree with. This is not something that a professional planner can easily do and, if called on by the court, they are legally and professionally obliged to disagree with their employer.

So, as a lawyer, I would often give advice to clients that they should subpoena the council planning officer to give evidence against the council that that officer worked for. That is not to say that professional planners are infallible; in fact, when you look at the planning profession—and the consulting planning profession, in particular—many of them are clearly just guns for hire in the same way that the lawyers who engage them are guns for hire, and they will say what their client wants them to say. This has resulted in much criticism in the Environment, Resources and Development Court from the bench where so-called independent planners are, in effect, acting as advocates for the parties rather than as impartial experts.

One theme that I discerned from much of the material that was provided to me, and I think to all other honourable members here, from the local government representatives was that it was the development industry which had the most to gain from these proposed changes to the composition of panels. The argument went along the lines that the elected members were more likely to support vocal groups of residents opposing development than they were to support the developers, and in this way it was said that the bill simply plays into the hands of the development industry and that communities and the environment will be the losers. However, I do not think that this view is borne out by the evidence. In my experience, the elected members on panels are just as likely—or, in some cases, even more likely—to support inappropriate development against the provisions of a planning scheme, particularly in the country areas and in cases where the objectors are bringing environmental concerns.

A case in point would be one of the longest planning appeals that I was involved in a few years ago, which was over a proposed international health clinic and residential subdivision on the outskirts of Coffin Bay, on Lower Eyre Peninsula. This proposed development was earmarked for a block of bushland which was just outside the township, and it would have resulted in the clearance of some of the best remnant native vegetation in the region. The native vegetation in question was in far better shape than the Coffin Bay National Park down the road. This particular block did not have ponies (to start with) or rabbits in it, and it had not been affected by fire to the same extent that the Coffin Bay National Park had.

So, the government scientists who inspected this block of land sided with the resident environmental objectors and advised against its clearance. Nevertheless, the Lower Eyre Peninsula District Council approved the development. It is not that hard to see why they did so, even though it was clearly against the provisions of the development plan in relation to premature development, water resources and fire. If you put yourself in the position of the elected members in a country council who can see their children soon leaving the district and going off to Adelaide to find work, and a developer comes along with the promise of a local development that will create jobs in hospitality, cleaning and manufacturing, you can see why the elected members of local councils think that they are doing the best thing by their community in approving developments like this.

The fact that the planning scheme speaks strongly against development of this type in this location is easily dismissed. The result was that, the local council having approved the development, it cost the resident objectors several thousand dollars of their own money and two full weeks in court, involving a dozen or more expert witnesses, with the court handing down a decision that this might be a good development but this is not the location for it—a decision that the council should have come up with in the first place. Clearly, the development should never have been approved in the first place.

The question that relates to this bill is: would a panel comprising fewer of the elected members and more technical experts have made a better decision? My view is that they probably would have; it would have been hard for them to have made a worse decision. At least the elected members would have had on their panel some people who were more aware of the planning system and its legal requirements, and they could have reminded those elected members that it was not their job to make populist decisions on the basis of their own subjective views but that their job was to apply the development plan for the area.

The Coffin Bay case is an example of where elected members often have difficulty in understanding their role as elected members under the Local Government Act or as panel members under the Development Act. When members of the Local Government Association came to see me (for which I thank them), as many other councils have done, they said, 'Well, okay, Mark; there's one example. Do you have any others?' I will not go through them all now, but I am sorry to say that there are lots of examples, and they tend to be dominated in country areas, where local councils have made bad decisions, largely because they have not properly understood their role in applying the development plan.

I know that the Hon. Sandra Kanck circulated to members a photograph of a house that she was very unhappy about in the Streaky Bay council area, and I have plenty more in the archives in relation to that particular council. I refer also to Kangaroo Island, similarly approving houses on primary sand dunes in coastal locations—clearly against the policies and objectives in the planning scheme. The Regional Council of Goyder has approved cattle feed lots that will use vast amounts of water, with a couple of farmers being left to successfully fight the council and the developer and their army of experts. So, there are lots of examples of where the elected members have been part of the problem of getting development decisions wrong.

It is worth pointing out that the role of a relevant authority under the Development Act is to make decisions on individual development applications that are consistent with the provisions of the act. The act sets out those requirements in sections 33 and 35. Section 33 requires that the relevant authority assess the proposed development against the relevant development plan. That is its job: to assess it against the plan. It is not a popularity contest. In fact, the only consideration in relation to the granting of a development

plan consent is an assessment against the plan. The act provides:

> A development that is assessed by the relevant authority as being seriously at variance with the relevant development plan must not be granted consent.

That is the task of the decision-maker in relation to development applications. If a matter ends up in court, the court stands in the shoes of the original decision-maker and decides the matter de novo. The court's job, therefore, is to assess the proposed development against the development plan and decide whether or not the proposal is consistent. If it is seriously at variance, it will not be granted consent.

Despite the quite good efforts of individual councils and the Local Government Association in particular, I am not convinced that the message is universally understood by elected members: that when they are sitting on panels their role is a different one from when they are acting as a democratically elected member. What causes some difficulty for councils is the practice of which we are all aware in this place, namely, the lobbying of elected members in relation to individual development applications. I know that many councils go to great lengths to tell their elected members who are sitting on development assessment panels that they should not allow themselves to be lobbied, but we all know that it happens. In fact, I used to tell my clients that they should lobby their elected members, especially if I knew that the other side was doing it.

Members in this place, I think, would have received in the post the same anonymous letter I received about a proposed development at North Haven. That letter enclosed a copy of advice from a planning consulting firm addressed to the Cruising Yacht Club. Without getting into the merits or otherwise of the development, the letter advised the yacht club to lobby the decision makers at Port Adelaide Enfield to try to get a favourable outcome in relation to a proposed rezoning exercise. The letter also advised the members of the yacht club to get their members to exercise whatever political influence they could to get the result they wanted.

It is no secret that this is how the system works. People with power, influence and money will pull whatever strings they can. However, what is interesting about the North Haven situation is that the lobbying was envisaged to take place at two levels: first, at the level of the elected members in their capacity as the primary authors of planning schemes (in other words, those responsible for rezoning); and, secondly, in the capacity of those members as potential decision makers on an individual development application. Developers and those opposing individual specific developments do not care about the niceties of the planning system. They do not care whether or not it is appropriate to lobby an elected member in this or that situation.

Basically, people will do what they can to get the outcomes they want. I do not think that this panel proposal is particularly weighted towards either developers or objectors. However, I do accept that some risks are involved in having only some but not all the elected members on a development assessment panel. One elected member said to me the other day when I discussed this, 'Mark, you know that I would never get on a panel, don't you?' This elected member had a strong environmental record, but he was not in any major faction in his council.

He said, 'Well, people like me who are actually quite good at this job will not get on if the whole council has only three from which to choose.' Yes, I think there is a risk of panels being stacked; or, probably more accurately, that some good candidates for panel membership might miss out as a result of some back-room factional deal. One of the government's rationales for this bill is to provide greater separation of the role of policy making from the role of the assessor of individual development applications.

The proper role, it is argued, for elected members is to focus more on writing planning policy rather than deciding the individual applications. I believe that it makes sense, although there is not necessarily a problem with the author of a policy also being the decision maker on an application being assessed under that policy. One letter I received the other day from my local ward councillor on this issue made the point that, in this person's opinion, councillors should be involved in both the task of writing policy and the task of making decisions under it, otherwise, it was argued, the bulk of the elected members do not get to experience the consequences of their policy decisions as reflected in developments being built on the ground.

I have some sympathy with that view, but I am not entirely convinced that the bulk of the elected members who are not on the panel will still not be able to participate in planning through not only writing the policies, certainly, but also through the representation of constituents in making submissions to the panel on category 2 and 3 developments.

What I think the government is trying to do here is to focus the minds of elected members on the important task of getting planning policy right, and making sure that those policies best reflect the vision of the community for future development in their area. From the perspective of elected members, however, I can see that this is a frustrating task, particularly because of the delays and uncertainty with the plan amendment reports, which take years to get through the system. Most of the blockages, as I understand it, are probably more at the state level than in council. In many ways I think it is a shame that we have carved up the old sustainable development into bite-sized chunks like we have because, like the Local Government Association, I very much want to see the new PAR bill, for want of a better term.

I think there will be some important issues there. If we could have dealt with that bill and this bill side by side, some of our views might have changed. In any event, we are doing it in this order, so I will speak to this bill. I acknowledge a letter I received recently from Mayor John Rich, President of the Local Government Association, who was writing to the minister urging the early release of the PAR bill. I support calls for having that bill before us as quickly as possible.

Leaving aside the problem of delay, the message that this bill gives to local councils is clear; that is, if you do or do not want certain types of development, make sure that that this is reflected in your development plan. I call them planning schemes. If we are going to change the name, I would prefer to change it from development plan to planning scheme, because people get confused by the phrase 'development plan' when they are really talking about the developer's plans; so I am using the phrase 'planning scheme' throughout this contribution.

There is no point in elected members in suburban Adelaide councils voting against medium density housing if that is what the planning scheme says is appropriate for the area. If elected members and the people they represent do not want that type of development, it is largely their responsibility to ensure that it is not in the planning scheme, because to oppose for political reasons development that is clearly supported by the planning scheme only results in unnecessary court appeals.

People in the conservation movement have long known that getting the ground rules right is far more important than fighting individual battles over and over. I think there is a good case for getting the elected members to focus on planning policy rather than having them all involved in the assessment of individual development applications. I understand that the position I have taken so far on this bill is likely to be disappointing to many in local government. I can say that I have listened very carefully to what people are saying. I thank representatives of the Local Government Association, and the staff and the elected members of a number of councils, in particular Mitcham and Burnside councils. Where I disagree with the thrust of where those local government people are coming from is around the issue of the appropriate role of democratically elected members; and my view, as a qualified town planner with a masters degree in the subject—and probably the only person in this place with that level of qualification—is that it is not the role of democratically elected people to make planning decisions purely on the grounds of what their constituents want.

As a member of the planning law profession, I have many colleagues who represent local councils in court. In a public forum they will do their job properly to defend the position of their clients, but, when you get them off to one side privately, often those lawyers will say, 'We have more trouble with the decisions coming from the elected members on the panels than we have with the delegated decisions or the panels with more experts on them.' I know there are very many dedicated elected members serving their local communities on development assessment panels. They are doing a fine job, they are doing it effectively, and they are doing it for no return other than the rewards that come from community service. However, my experience over the past 16 years tells me that there are problems with the system, particularly in the country areas. A more professional approach to decision making could and should result in better decisions and less need for court appeals.

One approach put to me by elected members of councils is that we should be tackling the problem of elected members not understanding their roles properly through education, rather than by forcing all but three of them off the panel for each individual council. I have some sympathy with that view. I think we should be making the education of panel members compulsory and a requirement for being on a panel. I would make everyone on the panel, whether it be an outside expert or an elected member, do some training unless they were qualified already in town planning and understood the system. I think such an education system would work best with smaller panels (as envisaged by this bill), because there would be a great deal of difficulty making training compulsory and then trying to remove councillors from a panel because they had not attended the course.

There are a couple of areas where I think this bill exposes some inconsistencies in the planning system. In particular, one of them actually goes to the heart of one of the rationales for this bill, which is to free up the elected members to lobby, advocate or represent the interests of their constituents in representations before panels. One likely scenario might be that you have a council comprising 12 members, with three members on one side of the table (as the panel) and nine on the other side who are basically doing some lobbying or helping constituents with submissions either for or against a particular development.

Using this example of a council of 12 members (three on the panel and nine taking a position), if you say that those nine are strongly and vocally opposed to the proposed development—they are not on the panel, so they are not the final decision makers and do not have a conflict of interest—it could trigger the minister's stepping in and taking away the decision from the council's development assessment panel on the basis that the non-decision makers (the nine elected members of the council) had prejudged the issue.

The minister's power to take away the decision from local councils in such situations is set out in section 34 of the Development Act, which provides that if, in the minister's opinion, the council has demonstrated a potential conflict of interest in the assessment of the development because of a publicly stated position on a particular development, then that triggers the minister's taking the decision-making power away from the council and giving it to the Development Assessment Commission. I think that is inconsistent with a model which actually envisages that the elected members (those who are not on the panel) will take that advocacy role.

My view is that section 34 is inconsistent with the government's bill. I do not think you can have it both ways. If you want to free up the elected members to represent their constituents, you cannot penalise the community by taking the decision away from their council just because some of its members who are not on the panel may have formed a view on the appropriate outcome of the application.

A key part of the bill—probably its most controversial part—is that councils will no longer be able to constitute their development assessment panels in the manner of their own choosing. The bill provides that councils must delegate their role as the relevant authority under the act to one of the following: first, its development assessment panel; secondly, any regional development assessment panel (which is more likely to apply in country areas); or, thirdly, appropriate staff (usually employed town planners).

What this bill does not do—I think this is important—is provide any guidance as to appropriate delegation. As the Local Government Association and others have pointed out, the vast bulk (95 per cent or so) of development applications are delegated to the employed planning staff; they do not even appear on the agenda of the panels. I think that level of delegation is appropriate, given that most development applications are not contentious. The Local Government Association uses this as a reason to oppose the bill, citing the fact that panels will be dealing with only a tiny fraction of the development assessment task—and that is true. However, it is that tiny proportion of the task that represents the most controversial developments; in particular, the ones that do not neatly fit within the scope of the desired developments set out in the planning schemes.

There are also occasions, I believe, where councils delegate very controversial development applications to staff—in my view, inappropriately. I think there should be more direction given to councils about the type of development applications that can be delegated to staff and the type that should be determined by the panel. The most basic distinction between the types of development applications that are appropriate for delegation relates to those which attract public participation rights. In particular, category 2 and 3 developments in my view should always be determined by panels. Clearly, that makes sense when you have representatives: people who want to come along to the local council to get in their three-minute submission. That is about all it is with many local councils. You are invited by the president of the panel to state your piece and you have three (sometimes five) minutes to do it—very quick justice.

On the other hand, if you take it to court, you can have as long as you want; you can have two or three weeks. So, you get a much better hearing from the court than from the panels or the Development Assessment Commission. It is clear that those categories 2 and 3, where there are representers and objectors, need to be determined by panels. I would argue that, even where there are no objectors, it should still be the case that the panels deal with categories 2 and 3 because, clearly, a delegated council officer cannot consider his or her decision in public. Public hearings are relevant only when you have a group of people who have to try to come up with a decision.

As I understand it, the practice of many councils is that, if no representations are received, the panel does not bother with it: it goes straight to delegated staff. I know that is the situation in my council because I checked its web site last night, and that is its stated policy. I think that the panels should continue to deal with those as an additional measure of scrutiny. In particular, people who might not have made a representation might nevertheless still want to attend the panel meeting to find out how a category 3 application is being dealt with. Someone might have only narrowly missed the 10-day deadline. If you do not get your submission in within that very strict deadline, you do not have any right to comment, but you might still want to hear the deliberation. My preference is that all those categories 2 and 3 should go to the panels rather than being delegated.

Of course, the bulk of the work in this regime will always be done by council staff. However, if you have the panel as the formal decision-maker, at least the panel has the opportunity to quiz the staff and ask them questions about decisions that they are recommending be made. In addition to those categories 2 and 3, we have category 1 applications which, in the main, are not controversial, but sometimes they are. A typical category 1 might be a dwelling in a residential area. Clearly, that is what is envisaged, and it should not have to go to a panel. It does not go to public consultation, and it is fairly straightforward. However, some category 1 applications are incredibly controversial, particularly those I referred to before, with Streaky Bay and Kangaroo Island councils approving dwellings in a coastal zone, on top of the primary sand dune and in an incredibly inappropriate location. Delegated staff have no right to public participation whatsoever in such cases.

I would also prefer that, when we are giving direction to councils about appropriate delegation, we do not allow them to delegate that type of development, particularly in the coastal zone. That should always be dealt with more thoroughly by the panels. It is worth remembering that the categorisation of development for the purposes of public consultation does not always overlap with indicators of controversy. Certainly, most but not all non-complying developments are category 3.

I have almost finished, but I want to touch on a couple of issues that have been raised in the debate, particularly comments made by the Hon. David Ridgway. I think that he was surprised to see me taking notes while he was talking; apparently we do not do that. Other people take notes, and we read them the next day. One issue he raised was concern over the concurrence of the minister in the appointment of panels. I, too, share those concerns. I do not think that a real case has been made for ministerial interference with such appointments. In fact, one issue put to me was that if a local council, the majority of whose members have been foisted on it by the minister rather than of their own choosing, were to make a bad decision that was overturned in court, resulting in a whole pile of legal costs, would the council be responsible for those costs? Well, yes, under the present system it would be, even though it might claim that morally it was not its fault that such a bad decision was made because its members were not the people who made it.

As to the qualifications for membership, I do not think that they should be overly prescriptive for expert independent membership. I think that the panels should include people with environmental expertise, but you do not necessarily have to be a qualified town planner to be a member. Cost shifting, as the Hon. Mr Ridgway put it, is an issue. Clearly, it will cost more money if councils have to pay sitting fees to extra members to go on these panels. Should it be an extra impost on local councils, and should they have to close the local library to pay the extra costs? In my view, certainly not. In this regime, if it is a costs recovery system, it is not difficult for the government, through regulation, to readjust the fees for development applications to reflect the extra costs the councils will incur in having to pay sitting fees to extra members on the panels.

During the debate it was also pointed out that it would be difficult, especially in country areas, to find appropriate people for the panels. My view is that the regional development assessment panel model is underutilised. I think that especially those councils that have small populations (I think that a third of councils have fewer than 5 000 members) might want to share their resources—their development assessment panels—in the same way as they share their waste management facilities. We see councils sharing waste; we could see them sharing panels as well. It was stated that we should avoid the prospect of the professional panel sitter, the person whose entire job consists of driving around to country councils and sitting on their panels. I do not know whether that is a real danger, but there might be some room to move on limiting the number of panels on which any one person can sit.

In conclusion, whilst generally supportive of what the government is trying to achieve with the bill, I am still keen to discuss it with constituents. I note that the National Environmental Law Association is holding a seminar on this topic next week. I will be there, and I urge other members to attend. I look forward to the committee stage of the bill.

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I thank all honourable members for their contribution to this important bill, which is a key element in ensuring that council development assessment panels assess and determine applications in an impartial, transparent, consistent and timely manner. The development assessment procedures are set by the Development Act and regulations, and the planning consent decisions are to be based on the policies in the relevant development plan.

I note that all speakers recognised the need to improve the decision-making process, but there were variations on what was considered the best approach. I have been forwarded the following advice, which was sought from a prominent QC with expertise in the planning field, by the Adelaide Hills council:

> . . . what must be avoided, is the creation of state affairs in which there might be a perception of bias which would be demonstrated to exist on the part of the DAP. This advice indicated that there is a range of actions that cannot be taken by an elected member who is on the CDAP compared to an elected member who is not on the CDAP.

In particular the legal advice indicated the following:

> In the role as the relevant authority, the council is not acting as a local government authority wherein it might be subject to, or receptive of, the views of its constituents. Acting in a dual capacity in this way would distort the council's obligations under the Development Act as a relevant authority.

I note that the Hon. Mark Parnell expressed similar views in relation to the role of the development assessment panels as opposed to the role of members as councillors. It is important for this chamber to understand that the council development assessment panel is not a council committee under the Local Government Act but a statutory authority exercising authority under the Development Act.

In recognition of the role of CDAPs, a number of elected members have resigned or not sought nomination on CDAPs because they wish to represent their constituents rather than fulfilling their obligations under the Development Act. In taking this action, they recognise the conflict between the two roles. The bill proposes a mix of elected members and specialist members to avoid allegations of bias or distortion of the obligations under the Development Act. The bill does not specify any of the qualifications, skills or experience councillors should consider when appointing specialist members of the CDAP. This will be a decision to be made by each council based on the nature of the applications likely to come before the CDAP. The mix of specialist members required in a coastal or rural council will be different to those along the River Murray or the City of Adelaide.

At this stage, the government does not have any intention to introduce any regulations to specify the qualifications or experience required. It is important that specialist members have an understanding of their role on the council development assessment panels and bring additional skills and knowledge to the panel. Of the councils that have appointed specialist members, there has been a broad cross-section of skills and experienced members. The specialists appointed to date include planners, lawyers, architects, people with conservation and natural resource expertise, landscape architects, heritage architects, and a wide range of community representatives with experience in business or general involvement in the community. It is important to recognise that these people do not need to be qualified planners, lawyers and/or architects, as the emphasis is on people with an appropriate mix of life skills and experience. The specialist members are required to have suitable life skills and experience to fulfil the role of the CDAP.

In response to the question raised by the Hon. David Ridgway, I am confident that small rural councils will be able to attract three or four eminently suitable people in those circumstances where the council areas have a population of fewer than 5 000 people. I am advised that the Mid-Murray council development assessment panel already has four specialist members, two of whom are community representatives with broad local knowledge, and two community representatives with business knowledge. The Tumby Bay CDAP has two specialist members. One is a lecturer at the TAFE, and the other is a person with tourism knowledge. I believe that there is a range of people who would be prepared to contribute to their community in a fair and impartial manner but who may not be able to give the time commitment needed to be spent by elected members of councils in representing their constituents. I note that the LGA statement in the *Leader Messenger* of 17 May 2006 states:

> The changes aimed at outnumbering elected members when making planning decisions removes the democratic rights of councils to determine approvals.

Some members of this place have also expressed sympathy for an accountability argument although recognising its weaknesses. I previously quoted the advice of a prominent QC in which it was indicated that the CDAP is not acting as a local government authority, wherein it might be subject to and receptive of the views of its constituents. Acting in a dual capacity in this way would distort the council's obligations under the Development Act as a relevant authority.

To make elected members responsible through the ballot-box for properly undertaking their statutory duty is inappropriate. If the LGA does not understand this, it is little wonder that there is confusion and apprehension about impartiality. The democratic process should hold elected members responsible for the degree to which they have been involved in strategic planning and developing clear policies for future development and conservation of their local areas and the region. It is, of course, this policy work contained in development plans against which development assessments must be made, but the quality of specialist members appointed and the level of confidence and the impartiality of the council development assessment panel is also a valid test at the ballot-box.

I remind members that local government will retain its democratic right to develop and review its development plans which set out the policy. In other words, local government should be judged by its community based on the rules it sets for its own area. To simply avoid this process and just rely on the unfettered power to refuse development applications contrary to council's own rules is not democratic. It does not provide certainty to applicants or the community. It is certainly not transparent and impartial decision-making. In fact, some may argue that it is simply poor governance. It is important to note that those are the decisions that mostly get appealed in the ERD Court, and those are the appeals that councils lose which cost their ratepayers tens of thousands of dollars. For what? For trying to defend the indefensible.

On a similar note, the Hon. Sandra Kanck mentioned that she had been approached by an elected member who was concerned that other elected members are not making informed decisions based on the council's development plan. It was also mentioned that the person concerned did not want to be named, and I respect that. While I understand the concerns of members in this chamber, I do not understand the benefits of having a majority of elected members on a council development assessment panel that is not obliged to act as local government authority. This seems to be making it harder for those elected members and specialist members who want to fulfil their obligations under the Development Act.

The points raised by the Hon. Sandra Kanck about the fear of elected council members' retribution on making comments in favour of changes to CDAP operations questions whether having a majority of elected members adds to the democratic process. If some members fear retribution, it seems to be rewarding those who may distort their obligations. The LGA has stated that there is no need to change the current system where, in 2003, 94.4 per cent of planning consents were determined by council staff acting under delegated authority.

The position of the LGA was read out by the Hon. David Ridgway in good faith as part of his second reading speech. The LGA failed to mention to the opposition that this is the state average gained from a survey of most councils. The point about an average is that this means that there are many

councils where significantly fewer delegated decisions are being made; in fact, more than one-third of 62 councils that responded to the system indicated requirements have less than 90 per cent of decisions made under delegation. Based on the system indicated data, provided by councils for the first three months of 2006, there were 12 councils where fewer than 70 per cent of decisions were made under delegation.

In particular, the Hon. Nick Xenophon referred to an essay that he had received in which the LGA figure of 94.4 per cent was quoted. It should be noted that the author of the essay is a member of a council where only 67 per cent of planning consents were issued under delegation in the first quarter of 2006. Thus, a combination of this bill and a refinement of the delegations in line with the standard practices in most councils could save the ratepayer significant costs in terms of significantly reducing legal appeal costs and potential sitting fees. While the percentage of delegation is of interest, I point out that data provided by councils indicated that CDAPs themselves made more than 500 planning consent decisions in the first quarter of 2006.

I turn now to the minister's concurrence role. As I stated earlier, it is important that CDAPs are not only impartial but also seen to be impartial. This bill requires councils to appoint specialist members who are independent and impartial. The government believes it is necessary for there to be a proper set of checks and balances to increase the likelihood of the independence of the specialist members appointed by the council. However, I note that the opposition's amendments propose to remove the ability for such checks and balances. Let me state categorically that such powers are effectively reserve powers, and I sincerely hope that they would never need to be used. However, legislation requires an appropriate level of checks and balances.

I remind members that the minister is directly accountable to parliament—a local council is not. Should its preferred panel appointees have blatant conflicts of interest at the appointment stage, how will such an issue be appropriately addressed? The amendments, which propose to completely remove these measures, are of concern in regard to accountability. The government, therefore, believes that some form of concurrence is a necessary safety net, but I am sure that we will discuss that matter further in committee.

As to sitting fees, the bill does not specify that the specialist presiding member or the specialist members must be paid a CDAP sitting fee. This is a decision made by each council when establishing the panel. Any sitting fee paid to specialist members is likely to vary depending on the approach taken by the council and the level of applications considered by the CDAP. For instance, a council that establishes a five-person CDAP will require only three specialist members compared to four specialist members in a seven-person CDAP. Some councils deal with very few applications and, therefore, may need to hold a scheduled meeting only if there is an application that is not to be determined under delegation. Some councils may decide to establish a regional DAP and, hence, share any sitting fees with the specialist members.

In some circumstances, a reduction in legal witness costs associated with appeals could cover, or at least contribute to, any sitting fees. Information provided by councils that have submitted data indicates that local government spent $496 898 on legal and witness fees, including GST, on appeals in the first quarter of 2006. This figure excludes staff time and wages. This equates to $1.986 million in a full year if the first quarter trend were to continue.

The Hon. Sandra Kanck, in her second reading speech, provided figures indicating the sitting fees set for the City of Marion CDAP specialist members. Given the complexity of the issues in Marion, other councils may be likely to set lower fees. As part of the program to improve the state planning and development system, the development application fees are being considered. Of course, this will depend on the success (or otherwise) of these important reforms but, in any case, it is time that fees were reviewed in order to take into consideration the additional complexity of development assessments that has occurred over the past decade. The government had previously flagged increases in two previous budgets, but these were placed on hold pending the success of the reforms initially proposed by the sustainable development bill 2005 and now with the Development (Panels) Amendment Bill 2006.

I am prepared to consider whether the relevant authorities, such as councils, should receive an increase in application because the income, such as fees other than CPI, has not been revised since 1994. I am prepared to do that when this bill is passed. In addition to this, I note that a range of councils already have a budget line for CDAP specialist members' sitting fees. Given that this bill was introduced on 2 May 2006, I anticipate that many councils have already discussed this matter as part of their budget considerations.

Turning to the question of openness of meetings, the Hon. Nick Xenophon stated that it is important that submissions to CDAPs on proposals be required to be made in public. Section 56A(11) of the Development Act already requires CDAPs to hold the hearings of submissions on proposals in public. This bill reinforces the open hearing requirement by limiting confidential information provisions to those set out in clause 10(12).

As to awareness training, a number of the contributors to the debate spoke about the need to require proposed elected and specialist members of council development assessment panels to undertake a recognised awareness program on the role, responsibilities and obligations of CDAP members. Such a provision is already in the bill and is set out in clause 11. Informal discussions have previously been held between Planning SA and the LGA on the potential to jointly undertake such awareness programs.

Referring to the role of public officer, the Hon. David Ridgway pointed out that the LGA had indicated that it did not object to the requirement to appoint a public officer to the CDAPs as long as the provision clearly stated that the officer does not undertake the investigations but is responsible for making sure that independent investigators are appointed.

I am pleased to say that clause 10(26), relating to section 56A(24), does not require the public officer to undertake the complaint investigations. This provision was modified before the introduction of the bill, on the basis of earlier LGA comments. The timetable for the development plans bill is a matter that was raised by a number of members, including the Hon. Mark Parnell, who has just spoken. This government is very active in implementing improvements to the state's planning and development system. When I introduced this bill on the first business day of the parliament, I also indicated that there would be a suite of other bills to follow.

The Hon. David Ridgway sought information on the progress of the bill to improve the timeliness of development plan amendments, and I am pleased to inform the council that the Development Plan Amendment Bill 2006 is being settled by parliamentary counsel and will be introduced into this council in the very near future. I also make the comment that

the bill will be very familiar to those who have looked at the relevant sections of the sustainable development bill from last year. I commend the bill to the council.

Bill read a second time.

RIVER TORRENS LINEAR PARK BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 203.)

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): I understand that all members who wished to speak have spoken on this bill, and I thank them all for their contribution to the bill and for the general support it has received. This bill will ensure that the River Torrens Linear Park will be kept in perpetuity for future generations of South Australians. It will avoid the situation created under a previous government, where parts of the linear park were sold to private interests and the uninterrupted hills to sea linear park along the banks of the River Torrens was placed in jeopardy.

In response to the matters raised by those members who have risen to speak on this bill, and the Local Government Association of South Australia, which has made submissions to me, I make the following comments. The Hon. Andrew Evans raised questions relating to clauses 6 and 7 of the bill and, in particular, the abuse of the processes set out in the Roads (Opening and Closing) Act 1991. Theoretically, a devious government or council could declare parts of the linear park a road and later attempt to sell that land to avoid having to put the proposal before both houses. In practice, however, this will not happen, as that act has procedures within it to stop such a cynical use of the Roads (Opening and Closing) Act processes. The Surveyor-General must review each process order made under that act, and they may take any expert advice in coming to a decision. Where a road process is being used to subvert the operation of this act, I am confident that the Surveyor-General will refuse such an order. In my view, this check and balance is sufficient to allay concerns that members may have in this respect.

Additionally, submissions also have been made to me that this bill should deal with matters such as the preparation of management plans and issues pertaining to the care, control and management of land within the linear park. Let me say that this bill intentionally does not touch and concern these matters, as they are sufficiently covered in the Local Government Act 1999. This government, and I in particular, believe that such duplication of processes and procedures in legislation should be avoided at all costs. The introduction of these measures would add another level of red tape and bureaucracy that I am committed to removing. If councils want to make management plans for the land in the linear park, they are free to do so, under their own legislation. It is not for me to mandate another level of bureaucracy upon these councils. This bill does not deal with these matters, as it is a land tenure act only.

The government is concerned with and committed to keeping the River Torrens Linear Park in public hands. This bill will specifically exclude the Adelaide Parklands, as it is sufficiently protected by the Adelaide Park Lands Act 2005. It will also exclude all privately held land along the linear park zone. The GRO plan will exclude these items from the ambit of operation of the act, so the act does not concern this land. The bill does not affect the sale of privately-held land, its value or its ability to be transferred in any way. However, should the minister wish, this bill allows for the acquisition of such land at a later date to supplement the already existing land within the River Torrens Linear Park. Finally, I assure all members that consultation on the GRO plan before it is deposited with the Registrar-General will occur with all interested persons. I commend the bill to the council.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

The Hon. P. HOLLOWAY: I move:

Page 3—
Line 14—
After 'sold' insert:
or otherwise disposed of
Line 16—
After 'sale' insert:
or other disposal

The government has introduced these amendments in response to the comments received from the Local Government Association. The amendments provide that land may not be sold or otherwise disposed of, to ensure the transfers for no monetary consideration are captured by this clause.

Amendments carried; clause as amended passed.

Clauses 6 to 9 passed.

Clause 10.

The Hon. P. HOLLOWAY: I move:

Page 4—
Line 14—
Delete 'The Governor' and substitute:
Subject to subsection (3), the Governor
After line 21 insert:
(3) A regulation cannot be made under this act unless the minister has given the Local Government Association of South Australia notice of the proposed regulation and given consideration to any submission made by the association within a period (of between three and six weeks) specified by the minister.

Again, the government has introduced the amendments in response to the comments received from the Local Government Association. The amendments ensure that the minister will give the Local Government Association the ability to make submissions on any proposed regulations made pursuant to this act. The LGA will have a period of three to six weeks to make such submissions.

Amendments carried; clause as amended passed.

Schedule and title passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

CRIMINAL LAW CONSOLIDATION (DANGEROUS DRIVING) AMENDMENT BILL

In committee.

Clause 1.

The Hon. R.D. LAWSON: I spoke on this bill on 31 May. The bill itself was introduced on 2 May and, on 11 May, the government invited the Law Society to make a comment on the bill's provisions. I deprecate the fact that it was not until after the bill was introduced that the government sought the opinion of the Law Society on this matter, because, as the committee well knows, the contribution the Law Society makes to measures of this kind are often helpful to the committee. It was not until 31 May that the Law Society wrote to the Attorney-General. I believe that, at the

outset of the committee stage, it is appropriate to put on the record the comments of the society. The letter from the Law Society states:

I refer to a letter (11 May 2006) from your Chief of Staff (11 May 2006) in which Mr Louca invited the society to consider and provide comments on the above bill. The bill has been considered by the society's Criminal Law Committee. The bill introduces the specific aggravated offence concerned with dangerous driving with the intent of escaping pursuit by a police officer, or to entice a police officer to engage in a pursuit.

The public policy behind the legislation is well established given the number of offenders that engage in this type of activity and the danger occasioned by such activity. In essence, that public policy is concerned with police pursuits by motor vehicle.

Usually the offender's activity occurs in the context of a police pursuit. Police pursuits of vehicles are dangerous in themselves or give rise to a risk of danger.

The present wording of proposed section 19AC does not appear to require an actual police pursuit. The provision suggests that not only is it concerned with a driver committing this conduct intending to 'escape pursuit by a police officer' but also to 'entice a police officer to engage in a pursuit'.

The first limb 'to escape pursuit by a police officer' suggests that a pursuit is already in progress. The wording is somewhat uncertain. Whether or not a pursuit is in progress may depend on all sorts of factors. 'Pursuit by a police officer' may or may not involve the police officer driving a motor vehicle. Essentially the policy in the bill is concerned with just that type of police pursuit activity, by motor vehicle, but this should be made clear. It would be appropriate to include words to make it clear that the offence is committed when police pursuit by motor vehicle has commenced, and that it was known to the offender that there was a police pursuit.

The second limb concerned with 'entice a police officer to engage in a pursuit' should also be directed to police pursuit by motor vehicle. Given the policy in the proposed legislation the reference to 'police pursuit' without express reference to 'police pursuit by motor vehicle' gives rise to potential for ambiguity. The bill should include a definition of police pursuit accordingly. In this context police pursuit by motor vehicle (whether by motor car, motorcycle, helicopter, boat, aeroplane is contemplated) should be defined accordingly.

Section 19AC(3)(b) ought to be removed. This provision takes away an important trial and jury function which operates in the interests of justice. That is the consideration of an alternative verdict. The report to the bill makes it clear that a section 19AC offence would indeed be an alternative to an offence under section 29 of the Criminal Law Consolidation Act.

Furthermore, section 19AC(3)(a) contemplates that the two offences can be charged on the one charge document and in those circumstances there can only be a conviction for one or other offence. That makes sense and is appropriate. Therefore, that provision also makes it clear that a section 19AC offence would be an alternative to a section 29 offence. However, it should not be left to the person concerned with laying the charge as to whether or not the alternative offence under section 19AC arises. It is only in those circumstances where both offences are charged that the section 19AC would be an alternative offence. That limitation is not appropriate. Rather, the alternative verdict in section 19AC should be available in the interests of justice and in any event.

The concern raised in the report at page 3 'to avoid complicating every prosecution in which the alternative is possible on the facts, it should only be put to the jury if the prosecution charges that an instrument of charges an alternative. This minimises the complications of directing a jury in these kinds of cases,' simply does not arise.

If the section 19AC offence is charged on the same charge sheet with a section 29 offence, then the jury must be directed about the alternative verdict in respect to section 19AC. This is an ordinary incident of all of these types of cases and does not give rise to any particular complication.

If the alternative section 19AC offence is available on its facts then it should be left to the jury. It is the nature of the evidence at trial that should determine whether the section 19AC offence should be left as an alternative to the jury, not the choice of charges on the charges document which is artificial and not in accordance with usual principles that recognise the circumstances in which it is appropriate to leave an alternative verdict open for the jury. Otherwise, the risk is of acquittal on the section 29 offence and no alternative offence under section 19AC being left open to the jury to convict upon.

Furthermore, it should not be a matter to be left to the prosecution whether or not it charges because this invites overcharging. It is overcharging and therefore laying only the section 29 offence without the benefit of the alternative offence under section 19AC offence that gives rise to all sorts of complications in the administration of justice including trial delays, etc. Overcharging or its potential is to be discouraged.

In any event, the interests of justice ought to prevail to enable the alternative verdict to be left where it is not charged. The section 19AC offence may or may not be charged in the early stage of a prosecution for all sorts of reasons. It may unfold at trial that the evidence supports the alternative section 19AC charge. That it was not charged would lead to injustice. That it can be charged in selective circumstances and still be left to the jury as an alternative charge where it is charged in combination with a section 29 offence makes it clear that the provision in section 19AC(3)(b) is not in the public interest, undesirable and impractical.

If as stated in the report that 'every prosecution in which the alternative is possible on the facts' arises, then the alternative verdict for section 19AC offence arising in every such prosecution ought to be available to the jury regardless of whether or not it is charged on the charge document.

The letter is signed by Deej Eszenyi, President. I ask the minister to indicate whether or not the government has received that letter; and has the government responded to the letter? In any event, what is the government's response to the serious issues raised by the society?

The Hon. P. HOLLOWAY: In relation to the first question, the government has received the letter from the Law Society. Secondly, the government has not responded to that letter. A number of issues were raised within that letter. If the honourable member at a later stage wishes to go through them individually we can do so. In general terms the government believes it has interpreted the legislation correctly, but the government does not agree with the policy interpretation that the Law Society draws from it.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. NICK XENOPHON: I withdraw the first set of amendments tabled in my name and move:

Page 2, after line 13—Insert:

(1a) Section 5AA(1a)(d)—Delete '.15 grams' and substitute '.08 grams'.

(1b) Section 5AA(1a)(e)—Delete 'or 47' and substitute ', 47 or 47BA'.

This amendment seeks to expand the circumstances of aggravation. Paragraph (1a) of my amendment relates to the prescribed concentration of alcohol. Paragraph (1b) relates to drug driving offences in respect of the offence of causing death by dangerous driving. Essentially, the circumstances in which an aggravated offence is considered by the court will be expanded if my amendment is successful. I emphasise to members that the court still has a discretion relating to what the offence will be, but it will be treated as a more serious aggravated offence by virtue of the level of alcohol or drug driving on the part of the offender.

The Hon. P. HOLLOWAY: The government had some discussions with the Hon. Nick Xenophon after he tabled his first set of amendments. We will not oppose this amendment subject to the caveat that we will need to cost the implications of this amendment during the passage of the bill between the houses. I think the Hon. Nick Xenophon is aware of that. So, we will not oppose it at this stage, but we will need to look at the possible cost implications in more detail before the bill reaches the House of Assembly.

The Hon. R.D. LAWSON: Will the minister indicate what type of costs it is envisaged would be incurred if this amendment were adopted? Also, will he say why the government selected a blood alcohol concentration of .15 but now seems to be happy to embrace .08? What was the basis for the .15 in the first place?

The Hon. P. HOLLOWAY: The government originally chose .15 because that is the level prescribed in the Statutes Amendment (Vehicle and Vessel Offences) Act 2005. Section 5AA, which relates to aggravated offences, refers to .15 grams of alcohol. So, we were being consistent with that measure, and that obviously arose out of the McGee royal commission. Regarding the nature of the costs, if we widen the net significantly we will need to try to get an estimate of how many people fall within that net and what implications that will have for courts and corrections, etc.

The Hon. R.D. LAWSON: Is it proposed to amend that legislation to which the minister referred by reducing the prescribed alcohol level?

The Hon. P. HOLLOWAY: My advice is that that is exactly what the Hon. Nick Xenophon's amendment does: it changes that.

The Hon. R.I. LUCAS: The Liberal Party has adopted a similar position to the government regarding the Hon. Nick Xenophon's amendments. We will not oppose the amendments, but if the government were to come up with an extraordinary estimate in terms of costs we may reconsider our position. We do not believe that will be the case during the passage of the legislation between the houses, so we do not oppose this amendment or this series of amendments.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 3, line 8—Delete '.15 grams' and substitute '.08 grams'.

This amendment relates to police pursuit offences. Similarly, my third amendment, which I will move shortly, relates to drug driving offences. It expands the circumstances in which an incident can be regarded as an aggravated offence.

The Hon. P. HOLLOWAY: The same comments apply as to the preceding amendment.

The Hon. R.D. LAWSON: The Hon. Mr Xenophon said that this amendment relates to dangerous driving to escape police pursuit. That is not my understanding. His next amendment does, but I am not sure whether I am looking at the same bill.

The Hon. NICK XENOPHON: This relates to section 19AC. It relates to police pursuit provisions. I hope that clears it up for the honourable member.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 3, line 11—After 'section 47' insert 'or 47BA'

This amendment relates to police pursuit matters. It includes drug driving as a factor of aggravation.

The Hon. P. HOLLOWAY: A similar answer applies as to the previous amendments: we will look at the implications between the houses.

Amendment carried; clause as amended passed.

Clause 5.

The Hon. R.D. LAWSON: Proposed section 19AC(3)(b) provides that, if a person is tried on a charge of an offence against section 29, an offence against proposed section 19AC(1) 'is not available as an alternative verdict to the charge under section 29 unless the offence against subsection (1) was specified in the instrument of charge as an alternative offence'. The Law Society's specific comment is:

> Section 19AC(3)(b) ought to be removed. The provision takes away an important trial and jury function which operates in the interest of justice. That is the consideration of an alternative verdict. The report to the bill makes it clear that a section 19AC offence would indeed be an alternative to an offence under section 29 of the Criminal Law Consolidation Act.

I ask the minister to justify the removal of this provision with a possibility of an alternative verdict.

The Hon. P. HOLLOWAY: This offence could be an alternative to a section 29 offence, depending on the facts of the case. Under common law, if we said nothing else on any trial for a section 29 offence, the trial judge would have to leave the alternative to the jury, if it is reasonably open on the facts, whether the prosecution relied on it or not. It is the government's view that, in this case, the prosecution should rely on it.

The Hon. R.D. LAWSON: I am not satisfied with that explanation because it seems to me that the Law Society has a point here. Section 29 of the Criminal Law Consolidation Act contains those offences of reckless endangerment, causing serious harm, etc. So, this section envisages that, where a person is charged with an offence against section 29—for example, reckless endangerment of life, which is the sort of charge one might well lay against the driver of a vehicle who engaged in a high-speed car chase with police—they cannot be found guilty by a jury of the lesser offence of dangerous driving to escape a police pursuit because of this provision, unless those charging choose to put both offences on the information. I am simply not satisfied that the government has given a good explanation as to why that right of a jury ought to be taken away in this particular case.

The Hon. P. HOLLOWAY: I point out to the committee that, in any event, there is an alternative charge of reckless driving that is available. It is the government's view that the prosecution should be able to prosecute the offender with whatever charge the prosecution believes they should be charged with. It is essentially as simple as that.

Clause passed.

Clause 6 passed.

Bill reported with amendments; committee's report adopted.

Bill read a third time and passed.

SUPPLY BILL

Adjourned debate on second reading.

(Continued from 5 June. Page 293.)

The Hon. T.J. STEPHENS: I rise today to support the second reading of the Supply Bill. As I rise to speak on this bill, I note that we have already seen some disturbing signs and forecasts of what is to come from this government in its second term. I have my own forecast to share with honourable members—my own view on what this government will deliver to the people of South Australia in the next four years. My forecast is that it will deliver nothing, just as it did in the past four years.

In the past four years, the Rann government came up with a tramline extension that nobody wants; trams that do not work when the temperature gets too hot; a River Murray levy that all South Australian taxpayers pay for, even if they do not use the water from the River Murray; between 8 000 and 9 000 extra public servants; a Thinkers In Residence program that is of no real use to the majority of South Australians; and bridges for the Port River that will probably need a thinker in residence to work out whether they are going to be opened

or fixed, and how much they are actually going to cost the taxpayer.

After doing so little with a record amount of GST payments from the federal government, this highest taxing of South Australian governments has trumpeted the fact that it won the air warfare destroyer contract, even though the federal finance minister said it was won in spite of Mr Rann and not because of him, but rather because South Australia had four very persuasive and effective federal ministers lobbying for the project.

The government then went on to use millions of dollars of taxpayers' money promoting victories such as the aforementioned project before finally issuing the writ for the election and commencing what the then state secretary and senate hopeful David Feeney described as a 'shock and awe' campaign of Rann getting results. I have mentioned that I have already seen disturbing signs of what is to come from this second term government. These signs have revealed themselves in the way of a transport infrastructure project that has blown out by possibly up to $800 million. It is funny that, when this government has finally had the courage to begin some major spending on infrastructure, it has already started to fall apart miserably before it has even properly begun.

The removal of the transport department's CEO and his impending pay-out, not to mention the pay-outs to public servants that Labor promised would be safe, were possibly to avoid the kind of campaign our good friends in the PSA launched against the Liberal Party during the state election campaign. The most alarming sign of what is to come is that the government will not be bringing down its budget until September, citing delays caused by the state election. I normally look forward to football finals in September, as I would being a Crows' supporter, and now I also look forward to the added bonus of a September budget.

I have chosen to refer to these signs and the minimal achievements of this government as I have been forced to sit back and listen to government members opposite sing to the high heavens about how brilliant this government and its fiscally prudent Treasurer have been in running the economy. I have sat back and listened as members have spoken of the Treasurer's glorious deeds whilst attacking those of his predecessor. Government members have spoken about the failings of the federal government, which has delivered a record amount of money to this government by way of GST payments, while members opposite have spoken about the past but have opted to not recall anything earlier than 1993. The Hon. John Bannon and the State Bank seem to have mysteriously fallen off the Labor radar screen.

I realise that we must now focus on the future but, going by the results of the past four years, I really do worry about our state's future. The Rann government has been able to keep the economy in relatively good shape because it surfed the wave of the success that the federal Liberal government has created through its diligent economic management. Unfortunately, on the form shown to us so far by the second term Rann government, it will continue to miss opportunities such as increasing our state's exports—an area in which we used to lead the nation—and creating more opportunities in the mining industry instead of continuing to stick to a ridiculously outdated ALP policy of 'no new uranium mines'.

Members opposite have argued that a decision will be made on its no new uranium mines policy in due course. What about the investment opportunities that have been lost already? How could would-be investors seriously consider investing millions of dollars in searching for uranium deposits when they do not yet know the future of the industry in this state? The Rann government is an administration that chose to do relatively nothing in the past four years except to ride on the coat tails of the successful Howard government. It has decided to take very few risks, has imposed record property taxes on the people of South Australia, and has collected an extra $2 300 million more in revenue this financial year than the former Liberal government collected in its last year.

Besides a strong national economy that has in turn boosted our local economy, what have we really seen in the past four years for the people of South Australia? The answer is nothing. I am very concerned about where this government is going in the next four years, and I very much look forward to the details of the September budget. I support the bill.

The Hon. J. GAZZOLA secured the adjournment of the debate.

NATURAL RESOURCES MANAGEMENT (TRANSFER OF WATER LICENCES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 June. Page 276.)

The Hon. A.L. EVANS: This bill is part of the government's initiative to encourage the community to participate directly in fostering and improving the health of the River Murray. The content of the bill relates to what the government has referred to as 'one important water recovery mechanism'—that is, voluntary donation of water to environmental watering projects. The government believes that such voluntary donation represents a potentially significant opportunity to increase environmental flows at priority sites in South Australia. In principle, my constituents are supportive of this initiative. It will provide sufficient flexibility for persons to benefit the environment without interfering with the water requirements of their business.

In order to attract voluntary donations of water, the government has already made necessary amendments to regulations to remove certain fees and charges for water donated to an accredited environmental watering project. In addition, the government now seeks to amend the Natural Resources Management Act 2004 to remove stamp duty on water allocation and water licences to environmental licences. The passage of this bill is necessary to enable regulations to be made under the act to exempt the stamp duty payable on the transfer of a water licence or water allocation for a period of five years or less. I note that the environmental donation licences will be permitted to be used only on accredited environmental watering projects—that is, those accredited by the Natural Resources Management Board. This ensures to some extent the integrity of the process.

As members of this council are aware, Family First strongly supports the protection and wise management of our state's natural resources wherever possible. Accordingly, I commend the government for its commitment in respect of this bill, and I would like to see more of these sorts of initiatives introduced in this term of parliament. I believe that encouraging the community to take responsibility for management of our natural resources is a step in the right direction for several reasons. Not only does it pool the much needed efforts of the community, particularly in relation to the River Murray, but also it creates the right mindset and

attitude towards the environment for future generations. Such an approach facilitates a responsible attitude towards the environment. For the above reasons, I support the second reading of the bill.

The Hon. B.V. FINNIGAN secured the adjournment of the debate.

GAS PIPELINES ACCESS (SOUTH AUSTRALIA) (GREENFIELDS PIPELINE INCENTIVES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 June. Page 277.)

The Hon. SANDRA KANCK: I rise to support the second reading of this bill, which sets out the regulatory conditions for new gas distribution networks in Australia. In the first instance, it will apply to that great mirage of the proposed natural gas pipeline running from Papua New Guinea to Australia, which the energy industry has been talking about for more than a decade. That pipeline will run from the PNG highlands to Port Moresby, down to Gladstone in Queensland then to Moomba in South Australia in order to provide a new source of gas for south-eastern Australia. Hopefully, we will pay the people of Papua New Guinea an appropriate amount and not do what we have done with East Timor.

The retreat of governments from the provision of infrastructure such as new gas distribution pipelines greatly increases the importance of regulatory regimes. Personally, I believe that the retreat of government from the provision of infrastructure has gone way too far. Governments, not consumers, gain when private enterprise funds the provision of monopoly infrastructure. Governments avoid the political pitfalls of managing major infrastructure development and carrying intergenerational debt—a fact that our energy minister, Patrick Conlon, has a great feeling about at the moment, I am sure. Consumers get lumbered with the bill for both the capital costs of the infrastructure and the profits of the private investors.

Having said that, the Democrats support the expanded use of natural gas as a fuel source—it being a good interim means of reducing greenhouse gas emissions, as compared with coal. We realise that, if this and other gas distribution projects are to go ahead, this bill is necessary, hence our support.

The Hon. B.V. FINNIGAN secured the adjournment of the debate.

TOBACCO PRODUCTS REGULATION (PROHIBITED TOBACCO PRODUCTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 June. Page 294.)

The Hon. SANDRA KANCK: The Australian Democrats enthusiastically support this bill and all measures aimed at reducing tobacco use in the community. Fortunately, I cannot attest to whether or not it is true, but I have heard it said that kissing a smoker is like licking an ashtray and that, generally speaking, the taste of tobacco is not part of its attraction. I have heard many people tell stories of their first episode of smoking, and it is not uncommon for them to report that they vomited as a bodily response to the inhalation of the smoke.

Just as we have seen alcohol marketed at young people through the 'ready to drink' sweetened variety of spirits, we now see a push by tobacco companies to appeal to the tastebuds of younger smokers with fruity cigarettes: with liqueur and lolly flavours, the big tobacco and nicotine pushers seek to hook a new market. Tobacco is addictive. The following comes from the web site www.tobaccofacts.organisation/tob-truth/soaddictive:

> Nicotine is considered addictive because it alters brain functioning and because most people smoke compulsively. Very few people can smoke occasionally. Nicotine is a 'reinforcing' drug—smokers want it regardless of its damaging effects. It is considered a reinforcer because it causes many smokers to continue to smoke in order to avoid the pain of withdrawal symptoms.
>
> Addiction to tobacco (nicotine) is not immediate. It may take weeks or months to develop. People who begin smoking when they are in their teens tend to be more dependent than those who start smoking after age 20. Unlike cocaine, heroin or alcohol abuse, the more dangerous effects of tobacco use are not obvious in the beginning. As well, the pleasurable effects of tobacco may outweigh the abstract possibility of health consequences in the minds of many smokers.

So, it is very clear that hooking young smokers will return a good market for ongoing tobacco sales. I understand that the technology used to deliver the fruity and other flavours is called PPT (or polymer pellet technology), so it has nothing to do with fruit at all. There is little research into the health risks of this technology. As it masks the harshness of the taste of the tobacco, it may be inhaled more deeply into the lungs.

A Harvard School of Public Health press release of 10 November 2005, entitled 'Internal documents show cigarette manufacturers developed candy-flavoured brands specifically to target youth market, despite promises,' states:

> Tobacco companies are using candy-like flavours and high tech delivery devices to turn a blow torch into a flavoured popsicle. . . this isn't any different than adding sugar to contaminated meat a century ago. The only difference is that today one is regulated by the FDA and the other is not.

Clearly, the tobacco companies have noted well the success of the mixer drinks that are favoured by young women and, dare I say, girls. I think they have various names but, as far as I can see, they tend to be very brightly coloured, have a vodka base and various fruit flavours, which cleverly disguise the alcohol. I have tried them and, to all intents and purposes, you could be drinking cordial: there is no way you can tell that you are drinking alcohol. It is known that these drinks are the drug of choice for a lot of teenage girls—and under-age ones at that.

As a society, we have turned a blind eye to that form of drug use and abuse, so it is not surprising that the tobacco companies have taken a leaf out of the book of alcohol marketing. It is clearly a way of luring young people into taking up the habit: disguise the awful taste, and you are half-way there. I note that the minister says that the flavours available are vanilla, strawberry and apple, which probably give an image of fun and youth. I understand that in the US the flavours have very calculated names, such as dark mint, cool myst, midnight berry, and mocha tobacco. So, they are names that hint at after-hours activity and forbidden worlds and adult recreation pursuits. If we do not have these flavoured cigarettes known by that name at this stage, it is very good that we are taking action now, before it gets to that point.

I should say for the benefit of the minister that, having addressed her bill in a timely way, I look forward to her giving similar support to the bill which I introduced on the same day and which will be at least as positive as her bill in

encouraging young people not to take up cigarette smoking in the first place.

The Hon. R.P. WORTLEY: I rise to discuss a worrying phenomenon that is affecting our children and costing our country an estimated $21 billion a year in health care. One would have thought that the sun had long set on the Marlboro Man riding across the horizons, but his lingering crusade is returning in the form of apple, strawberry and vanilla flavoured cigarettes.

Tobacco has been smoked, sucked and chewed by a number of different societies for many centuries. However, the development of the manufactured cigarette in the late nineteenth century substantially changed smoking habits for ever. Following the Second World War, it was estimated that 45 per cent of men and 30 per cent of women smoked in Australia. Smoking was entrenched as a social norm. How times have changed since then. No longer do ashtrays appear in hospitals, aircraft, buses, school staff rooms and doctors' surgeries.

Labor federally fought hard to control this ever-growing popular addiction. In 1986, smoking was banned in work-places. We also created smoke-free travel on domestic aircraft in 1987, and we put an end to tobacco advertising nationally in the print media in 1989. Today, we are still combating this so-called glamorous act.

The power of advertising is one of the greatest forces of delivering a message, which is why Labor is committing $200 000 towards graphic television advertisements which show links between smoking and the onset of gangrene. We are committed to cutting the number of smokers in South Australia. Since December 2004, smoking restrictions have been rolled out in our pubs and clubs to reduce the effects of passive smoking, and since 1 March this year companies have been required to print new graphic images on cigarette packets depicting the effects of smoking.

In 2005, the government became aware of the sale of flavoured cigarettes in South Australia. While the market is small in South Australia, there is the worrying potential for it to grow and significantly increase the number of young smokers, and this is why we must be proactive in stopping flavoured cigarettes. Obviously, flavoured cigarettes are about recruiting new and young smokers to this addictive habit. With the enticing fruity flavours and the pastel-coloured packaging, I doubt that many 50-year olds will be racing out to try one. With millions of customers either dying from tobacco illnesses or quitting each year, tobacco companies are always trying to come up with new ways to market their product.

Unfortunately, they are targeting our youth. Being a father I do not want to see my child or any other child going through chemo and radiation treatments for the sake of being able to enjoy the taste of a cigarette. The concerning fact is that, if kids start smoking before they are 15, they are more likely still to be smoking as adults, because they will have become addicted to nicotine, one of the more than 4 000 chemicals in cigarette smoke. Enticing kids with different flavoured cigarettes will only increase our encouraging declining figures.

The rate of youth smoking has reduced from 27.9 per cent in 2004 to 21.7 per cent in 2005. Our youths may think they are only enjoying the smooth taste of their strawberry death stick, but they will also be inhaling tar, carbon monoxide and poisons such as arsenic, ammonia and cyanide. Apart from the loss of one's smell and taste, and mood swings, cigarette smoking has even more unpleasant effects awaiting our youths who buckle under the peer pressure of smoking. Smokers are 10 times more likely to get heart disease, lung disease, major heart attacks or develop diabetes.

Smoking causes over 80 per cent of all drug-related deaths in Australia. With children as young as 12 admitting they smoke, the sale of flavoured cigarettes could only lower this disturbing young age further. Young people attracted to the imagery they may associate with smoking, such as appearing tough, cool and sexy, are acting in a form of rebellion. They are using cigarettes to create a social image they want to present to others. We need to prevent today's generation from increasing the figure of 19 000 tobacco-related deaths in Australia.

There are no ifs or buts about smoking: it is our biggest killer. Tobacco smoking is the largest single preventable cause of death and disease in Australia today. In fact, a cigarette is the only consumer product which, when used as intended, kills. Thankfully, growing concern over the increasing economic cost to society and present advertising commercials have resulted in smoking not being as accepted in social situations. We need to protect our children from a drug which is more addictive than heroin or cocaine. Preventing the sale of flavoured cigarettes will help to discourage children from smoking.

Also, I support the banning of tobacco products, such as the new packet covers. Using images of women and bare-chested men and football colours to sell this harmful drug, again, will encourage our youth to take up smoking. I cannot say that I agree that covering up graphic images of smoking-related diseases to prevent people from smoking is a novelty fashion accessory. Flavoured cigarettes are the tobacco companies' answer on how to sell death to a new generation of smokers. For the benefit of our future generations, it is important that the sale of this product is banned in Australia.

I leave members with the words of the late Jim Bacon, the former Labor premier of Tasmania, who, at 53, faced the biggest obstacle of his life when diagnosed with lung cancer. He said:

> I accept full responsibility for the condition I now have. I have been an idiot. I have not listened. I kept smoking. I now accept that I am paying the price for my stupidity. The message from me to everyone is: please don't be fooled like me. Don't keep smoking.

The Hon. NICK XENOPHON: I support the bill, and I commend my colleagues, the Hon. Sandra Kanck and the Hon. Mr Wortley, for their comments. The opening lines of the Hon. Mr Wortley's contribution on this bill were almost poetic. I raised this issue on World No Tobacco Day (31 May 2005) when I asked what action the government would be taking in relation to it. It is somewhat disappointing that it has taken this long to act given that the previous health minister, the Hon. Lea Stevens, did raise the issue of fruit-flavoured cigarettes in May last year.

Let us put this legislation in context. Certainly, it is a laudable piece of legislation. It is the right thing to do. I believe that it will make some difference to young people being attracted to smoking in the first place, but so much more needs to be done. I have been provided with material by Action on Smoking and Health (ASH), which I consider to be the lead lobby group against the damage caused by tobacco in this country. Anne Jones, Chief Executive Officer of ASH, is certainly someone for whom I have an enormous amount of respect. A media release from ASH dated 24 May this year states:

A powerful alliance of tobacco sellers has become the tobacco industry's key partner in promoting tobacco as a 'normal product' and lobbying governments behind closed doors to reject plans to move tobacco displays out of sight in shops.

This legislation needs to be seen in context. I see this legislation as a good step forward but, in many respects, it camouflages the lack of action in other aspects of tobacco control. I note that the Hon. Sandra Kanck has her bill, which, certainly, is a step in the right direction. The media release from ASH further states that, this month, before the New South Wales Parliamentary Inquiry into Smoking, the alliance of retailers said:

We successfully lobbied cabinet members to drop plans by New South Wales and SA ministers to protect children by requiring that tobacco displays be stored out of sight in shops.

It goes on to give references as to where the witness statements to the New South Wales parliamentary inquiry can be found, and South Australia gets a special mention.

It is a good thing that this legislation is before us. It ought to be passed as speedily as possible, given that it was first flagged by the government some 12 months ago. My concern is that much more needs to be done. I know that the government opposed moves to have a nicotine replacement patch trial of 1 000 participants. That was opposed by the government in this place. The opposition and the crossbenchers, such as my colleague the Hon. Ms Kanck, supported that amendment to the tobacco control legislation at the end of 2004 or early 2005. I understand that the trial has now been undertaken; and I am not sure of the results of that trial. That is the sort of thing we ought to be looking at, given the enormous revenues that the commonwealth gets from tobacco, and, in an indirect sense, as I understand it, from the GST windfall that the states have received.

I have figures for tobacco excise which show that, in 2003-04, there was $5.247 billion in tobacco excise; it went down slightly in 2004-05 to $5.237 billion; and for 2005-06 the estimate is $5.09 billion in tobacco excise. I believe a lot more can be done, and I believe the commonwealth bears significant responsibility in relation to tobacco control measures in order to help people quit smoking and to stop people, particularly young people, from taking up smoking in the first place. But that does not absolve the state of its responsibility, and this piece of legislation is an indication of what is being done. When one considers that the state does get a benefit from GST revenue, it ought to be much more actively involved.

I also understand that the funding for the Quit campaign has been constant for a number of years. That is simply not good enough. The fact that we are waiting for smoking bans in public places in hotels' and clubs' pokie rooms and the casino until 31 October 2007, when we have had smoking bans for a number of years in the dining areas of this state, indicates a double standard of governments—and I say governments plural, both Liberal and Labor—in not taking strong measures where it would affect the government's revenue base; in this case the government's gambling taxes where the estimate is that there will be an appreciable drop-off in gambling taxes once those bans are implemented.

Let us see this measure for what it is. It is welcomed, but when one considers that the government squibbed on a ban on the display of tobacco products, when it had an opportunity to do so, as a result (according to the evidence of a New South Wales parliamentary committee) of the intense lobbying of the tobacco industry—tobacco retailers in particular—this is a small step in the right direction. I implore the government to have the courage to take many further steps to tackle this killer in our community.

The Hon. I.K. HUNTER secured the adjournment of the debate.

GOVERNMENT FINANCING AUTHORITY (INSURANCE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 June. Page 296.)

The Hon. P. HOLLOWAY (Minister for Police): I thank the Leader of the Opposition for his indication of support for the second reading. He did ask a number of questions. I have supplied him with the answers, but I think I should put them on the record. The leader commented:

Have there been occurrences in the past four years or so where the Under Treasurer has disagreed with the policy position of the advisory board? Is the proposed structure under the amalgamation to be the same? That is, does the Under Treasurer ultimately have the capacity to make a decision by himself, even contrary to a unanimous view of the advisory board?

The answer is that discussions and decisions of the advisory board, including advice, are recorded in minutes as required by sections 18D(9) and 18G(3) of the Government Financing Authority Act 1982. Copies of minutes from advisory board meetings are provided to the Treasurer. Section 26(1a) of the act requires SAFA's annual report to include details of any advice of the advisory board that the Treasurer or the authority have decided not to follow and the Treasurer's or the authority's reason for that decision, subject to confidentiality exclusions.

There have been no occurrences in the past four years where the Under Treasurer in his capacity as the authority has disagreed with the policy position of the advisory board. The relationship between the advisory board and the Under Treasurer will remain the same following the amalgamation. The Under Treasurer in his capacity as the authority takes into account the advice of the advisory board in making decisions. As discussed, any advice from the advisory board not followed must be included in SAFA's annual report. The Leader of the Opposition commented:

. . . I believe that the minister ought to provide the chamber with a summary of the advice of the Crown Solicitor—that is (I assume) that the Crown Solicitor confirms the view of parliamentary counsel that there is no substantive change in the functions and powers of the authority as it relates to the existing powers and functions of SAICORP, under its regulation.

The answer I have provided is that advice has been received from the Crown Solicitor confirming that the bill replicates the existing functions of SAICORP under section 12 of the regulations and the Government Financing Authority Act, through a combination of the expansion of SAFA's existing functions under section 11(1) and SAFA's existing powers under section 11(2). The leader said:

. . . I seek confirmation that the slight change in wording from 'prior written approval' (highlighting 'prior') before any actions are taken makes it clear that, in terms of precedent or case law, these various functions—which will now be carried out under the general heading of 'the approval of the Treasurer'—we are talking about the prior approval of the Treasurer as opposed to any retrospective approval that the Treasurer might give for the actions of the subsidiary.

The answer I have provided is that it has not been possible to obtain formal legal advice in terms of precedent or case law, in the context of the specific functions of SAICORP, in the

time available as to any repercussions from the slight variation in wording. However, I am informed that the approval of the Treasurer in the context of section 11(2) of SAFA's act necessarily implies that before SAFA can exercise any of those stated powers it requires the prior approval of the Treasurer, which is consistent with SAFA's operational practices and policies. The leader commented:

> However, as a general question we are seeking reassurance from the government that the slight changes in wording of the functions do not involve substantive changes in terms of the functions of the new body, which will incorporate SAICORP. Certainly, that has been the nature of the assurances in the second reading explanation and that has been the nature of assurances given in the briefings, and we seek confirmation that the Crown Solicitor's legal opinion, sought by the government, has also confirmed that that is the case.

The answer is that advice has been received from the Crown Solicitor confirming that the bill replicates in the Government Financing Authority Act the existing functions of SAICORP under section 12 of SAICORP's regulations. This confirms that SAFA's functions and powers are only changed to this extent.

The leader sought clarification of those examples of the current relationship between SAICORP and SAFA and clarification of any other current formal understanding or arrangement between the two bodies, even prior to the legislation. The answer I have been provided is that SAFA currently provides advice to SAICORP regarding strategies for the investment of insurance funds. SAICORP invests its cash and fixed interest investments with SAFA. From an operational perspective, both SAFA and SAICORP are staffed by employees of the Department of Treasury and Finance. Certain work has been undertaken in preparation for the amalgamation should it be approved by parliament. The leader then said:

> I am also seeking clarification about the investment of funds by the new authority, that is, the funds from the old SAICORP. Again, my understanding is that currently SAICORP uses external managers for property, equity and inflation-linked products. What will the proposed arrangements be?

The answer is that, following the amalgamation, the investment arrangements will not change and external managers will be used for property, equity and inflation-indexed investments. The leader then asked:

> What are the current arrangements in relation to SAFA and Funds SA, for example, and the proposed arrangement under the amalgamation proposals between Funds SA and the new body?

The answer provided is that SAFA does not currently utilise Funds SA for investment of funds. Going forward, SAFA may utilise Funds SA for property, equity and inflation-indexed investments relating to the insurance funds. Funds SA currently has a borrowing facility with SAFA. The leader asked:

> Is either SAFA or SAICORP a prescribed public authority under the Public Finance and Audit Act at the moment; and is the proposed authority to be a prescribed public authority under the Public Finance and Audit Act?

The answer I have been provided is that the Public Finance and Audit Act applies to 'prescribed public authorities' in the context of sections 23 and 36 of the Public Finance and Audit Act dealing with the provision of financial statements by those entities to the Auditor-General and the Auditor-General's Report to comment on the financial statements of these entities. Both SAFA and SAICORP are 'prescribed public authorities' by virtue of this definition in the Public Finance and Audit Act. The Public Finance and Audit Act also applies to semi-government authorities that are declared to be such for the purposes of the Public Finance and Audit Act. Both SAFA and SAICORP have been declared semi-government authorities and following the amalgamation SAFA will continue to be a semi-government authority for the purposes of the Public Finance and Audit Act. The leader asked:

> Is either SAFA or SAICORP a prescribed public authority under the current Funds SA legislation, or is the proposed authority to be a prescribed public authority under the Funds SA legislation?

The answer is that neither SAFA nor SAICORP is a prescribed public authority under the Funds SA legislation. It is proposed that both SAFA and SAICORP be prescribed as such for the purposes of the Funds SA legislation. The prescription of SAICORP will not be relevant after the amalgamation. The next question is:

> Can the minister clarify whether or not SAICORP was a semi-government authority under the current definition included in the government financing authority legislation?

The answer is that SAICORP is currently not declared a semi-government authority pursuant to the Government Financing Authority Act. The leader then said:

> I am seeking confirmation from the government as to whether or not SAFA or SAICORP is a statutory corporation under the Public Corporations Act.

The answer is that both SAFA and SAICORP are statutory corporations under the Public Corporations Act. Neither are public corporations, however SAICORP is a subsidiary for the purposes of that act.

The leader asked whether SAFA, with its new functions, will be a statutory corporation under the Public Corporations Act. The answer is that SAFA will remain a statutory corporation, but not a public corporation. There is no current intention for the Public Corporations Act to apply to SAFA. Finally, the leader asked:

> I seek clarification or confirmation from the minister during the Legislative Council debate as to whether the answers that the minister provided need further detail or clarification in relation to the fees to be paid to the board members of the new authority.

The answer is that the fee paid to SAFA Advisory Board members is $24 200. The fee paid to the Chair of the SAFA Audit Committee is $5 450 and for other members the fee is $4 750. Government employees are not entitled to receive a fee. I trust that answers the honourable member's questions. I again thank the council for its indication of support for the bill.

Bill read a second time.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT (JURISDICTION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 June. Page 279.)

The Hon. S.G. WADE: I rise to address this bill on behalf of the Liberal Party. The bill has four key elements: first, the Magistrates Court will no longer have the jurisdiction to hear summary and minor indictable offences under the Environment Resources and Development Court Act; secondly, the monetary jurisdiction of the Environment Resources and Development Court will be raised to $300 000; thirdly, the ERD Court will be able to remand for sentence in the District Court if the offending is so serious that the offender should be subject to higher penalties; and,

fourthly, a defendant in the ERD Court may elect for trial by jury in the District Court.

I focus my remarks on the fourth element. In the other place, the Attorney-General highlighted the practical impacts of a current anomaly in the act in cases of serious environmental offences. The most serious environmental offence in South Australia has a maximum penalty, for a corporate offence, of a fine of $2 million and, for a natural person, a fine of $500 000 or imprisonment for up to four years, or both. It is a minor indictable offence because it carries a maximum penalty of imprisonment that is less than five years. However, the defendant is liable to a range of very significant civil orders.

The Liberal Party agrees that it is important that people accused of such serious environmental offences should be given the standard legal safeguards afforded to defendants in non-environmental criminal charges of equal seriousness. These include the right to be tried by a court experienced in applying the rules of evidence in criminal procedure and in applying criminal sentences, to have the opportunity to be tried by a judge and jury, and to be able to know the case against them before trial. We accept that it is not appropriate to give the ERD Court the powers and functions of a superior criminal trial court. For the sake of protecting the rights of people charged with serious environmental offences, among other reasons, the Liberal Party supports the bill.

The Hon. B.V. FINNIGAN secured the adjournment of the debate.

CITY OF ADELAIDE (REPRESENTATION REVIEW) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Environment and Conservation): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill amends the *City of Adelaide Act 1998*.

The Bill proposes to delay the Adelaide City Council election that would otherwise take place in October and November of this year. It proposes to delay the election but only for as long as necessary to conduct a comprehensive review of the Adelaide City Council's representation structure, and implement the results of that review before the election is held.

In April 1997, the then Premier, John Olsen, appointed a Governance Review Advisory Group to report to the Government about the governance of the City of Adelaide. The Advisory Group's final report was submitted to the Premier in January 1998. Among other things, it recommended abolition of wards and that the City Council be comprised of no more than ten elected members, including the Lord Mayor.

Despite these recommendations, the *City of Adelaide Bill 1998*, as it was introduced by the then Liberal Government, provided (in addition to the Lord Mayor elected at large) for 8 members elected from 3 wards:

- 3 members from a northern ward, named "Light" in recognition of Colonel William Light, taking in the area north of the Torrens
- 3 members from a central ward, named "Kaurna" in recognition of the original inhabitants of the Adelaide area, taking in the area south of the Torrens, with an uneven but broadly horizontal southern boundary dissecting the City right to left along Wakefield Road, Wakefield Street, Hutt Street, Halifax Street, Sturt Street, around the top of Whitmore Square, Wright Street, West Terrace and Burbridge Road
- 2 members from a southern ward, named "Mitchell" in recognition of Dame Roma Mitchell, consisting of the remainder of the Council area.

During debate on the *City of Adelaide Bill* the Bill was amended so that it provided for:

- elections at large, and
- returning to the Council the capacity to choose its own composition and ward arrangements after a period of time.

The result of this 1998 debate is reflected in the current wording of subsection 20(5) of the *City of Adelaide Act 1998*.

That subsection prevents the Adelaide City Council reviewing its representation structure until after the 2006 periodic election. The 2006 periodic election was originally scheduled for May 2006, but the *Statutes Amendment (Local Government Elections) Act 2005* introduced 4 year terms for Local Government and shifted Local Government elections from May to November. Subsection 20(5) also requires the Adelaide City Council to conduct a representation review after the 2006 periodic election. The intention in that provision therefore, is that changes made after the 2006 election would be implemented at the following election, in 2010.

The North Adelaide Society and the South-East City Residents Association have been campaigning to re-introduce Adelaide City Council wards, that is the re-division of the City Council district into separate electoral areas to be represented, in future, by councillors elected from each of those defined areas. Those two associations raised the matter as a State election issue for the electorate of Adelaide.

At a meeting on 27 February 2006, the ACC resolved to support the re-introduction of wards. Subsequently, on 14 March 2006, the ACC decided to approach the State Government to seek the repeal of sub-section 20(5) of the City of Adelaide Act, to permit an immediate review of the ward system.

The Minister for State/Local Government Relations received the City Council's request soon after her appointment as Minister for State/Local Government Relations. She immediately sought further clarification from the Lord Mayor on several matters. Her questions were considered by the City Council on 24 April 2006 and the Lord Mayor wrote on 26 April:

> In response to your specific queries, the Council resolved to support;
>
> (a) a full comprehensive review pursuant to Section 12 of the *Local Government Act 1999*;
>
> (b) a 12 months delay in the Adelaide City Council periodic elections till November 2007 to provide sufficient time for the comprehensive review to be completed;
>
> (c) that the new Council would sit for a term of three years so the Adelaide City Council could be brought back into line with the rest of Local Government regarding timing for periodic elections; and
>
> (d) that the next Representative Structure Review takes place one year prior to the 2014 elections.

The Bill gives effect to the Adelaide City Council decision. The Bill does not propose the re-introduction of wards to the Adelaide City Council. There are arguments for and against wards but it is not necessary for present purposes for the Parliament to form any opinion on the respective merits of these arguments.

Rather, the Bill proposes that the arguments for and against wards, or any other form of representative structure be dealt with in the manner prescribed for all councils by section 12 of the *Local Government Act 1999*.

Some commentators have expressed criticism that the Adelaide City Council election should not be delayed to accommodate this process of review. The view has been expressed that it should take no more than a couple of weeks to determine whether or not to introduce wards and implement that decision.

However, the Adelaide City Council has requested, and the government has agreed that the review of the Council's representative structure should be a comprehensive one, as envisaged by section 12 of the *Local Government Act 1999*. Neither the Government nor the Adelaide City Council wishes to see a review that is less than thorough or comprehensive. A comprehensive review, as section 12 makes clear, involves considering more than simply one option. It requires, at a minimum:

- preparation, by a qualified person, of a *representation options paper*;
- a period of public consultation on the representation options paper, including the chance to make written submis-

sions and appear personally before the council or a council committee;

· finalisation of a council report to be referred to the Electoral Commissioner along with copies of all public submissions;

· a determination by the Electoral Commissioner that the requirements of section 12 have been satisfied; and

· publication of a notice in the *Gazette.*

The Electoral Commissioner has advised that a period of six to eight months is required to carry out this process.

It is not simply a matter of determining whether or not wards are appropriate. There are many related questions. For example, a review needs to determine how many councillors are required to adequately represent the ratepayers of Adelaide, and secondly how they should be elected. It is possible to have both councillors elected from wards, and others elected at large, as representatives of the entire City.

Both residents and commercial landowners will have views on these matters, and it will take time to adequately seek out and consider their views, as section 12 of the *Local Government Act 1999* requires.

If the proposed representation review report were to propose the re-introduction of wards, it would be necessary for the Adelaide City Council to seek the assistance of the Electoral Commissioner to draw up maps to reflect the proposed new ward boundaries. Finally, the Electoral Commissioner would need some time to adjust the electoral rolls to reflect any new boundaries.

It also takes much more preparation time to conduct a postal ballot than it does to conduct an election for the State Parliament. The Electoral Commissioner advises that a period of three months is required, between the close of electoral rolls for a local governme-nt election and the conclusion of voting.

For the local government elections scheduled to conclude in November 2006, the Electoral Commissioner would be closing the rolls, thereby commencing the process, on 11 August 2006.

For these reasons it is impossible to have the Adelaide City Council review its representation structure in 2006, in sufficient time to permit the Adelaide City Council election to be held at the same time as other local government elections in October and November 2006.

The Adelaide City Council has asked to delay its election for a full 12 months to enable the representation review to proceed. However, it is probably not necessary for the delay to be as long as that. Provided that the Parliament approves this Bill before rising at the end of June, the government is advised and expects that the election should need to be delayed only eight months, not twelve.

If the Parliament approves this Bill, and the Adelaide City Council can commence a representation review as early as July 2006, then that review should be finalised in January or February 2007. After allowing time for the Electoral Commissioner to update the electoral roll, the process of conducting a postal ballot based on a new representation structure should be able to commence no later than April and be finished by July of 2007.

It is possible, however, that some of the processes may take longer. The Electoral Commissioner will not certify a representation review as complete unless the Electoral Commissioner is satisfied that the requirements of section 12 have been met. The Electoral Commissioner may, for example, require a council to revise its final report, and undertake a second round of public consultation.

To guard against that possibility, this Bill does not set the date for the close of voting at the earliest and most likely achievable date. Rather, it requires the Electoral Commissioner to set a date for the close of voting, with the proviso that the date must be no later than the last business day before the second Saturday of November in 2007. As has been explained, it is likely that a date much earlier, in July 2007 will be achievable, but November 2007 will be the very latest the election may be concluded.

Well before that time, it will be the responsibility of Adelaide City Council to satisfy the Electoral Commissioner that all the requirements of section 12 of the *Local Government Act 1999* have been satisfied and that the Council has conducted a thorough representation review.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Amendment provisions

Clauses 1 and 2 are formal.

Part 2—Amendment of *City of Adelaide Act 1998*

3—Amendment of section 20—Constitution of Council

Clause 3 proposes amendments to section 20 of the Act which deals with the constitution of the Adelaide City Council. It removes the requirement that there be 8 members other than the Lord Mayor and the requirement that each member be a representative of the area of the Council as a whole.

Clause 5 also proposes to alter the provisions requiring the Council to conduct a comprehensive review under section 12 of the *Local Government Act 1999*. The current section 20 provides that no change can be made to the composition or representative structure of the Council prior to the conclusion of the 2006 Council periodic election, and that the Council must conduct a review as soon as practicable after the conclusion of that election. The proposed amendment provides that such a review must be conducted as soon as practicable after the commencement of this measure, with the proposal resulting from the review taking effect from the polling day for the next periodic election for the City of Adelaide.

4—Amendment of Schedule 1—Special provisions for elections and polls

Clause 4 proposes to insert a new Part into Schedule 1 of the Act as follows:

Part 2—Special provision for next Adelaide City Council election

2—Election date

This clause provides that despite section 5 of the *Local Government (Elections) Act 1999*, the next periodic election for the City of Adelaide must be held as soon as practicable after the returning officer is satisfied that the representation review processes under section 12 of the *Local Government Act 1999* have been completed, with such date being no later than the last business day before the second Saturday of November 2007.

5—Expiry of certain provisions

Clause 5 provides for the expiry of the proposed new provisions in clauses 3 and 4.

The Hon. J. GAZZOLA secured the adjournment of the debate.

ADJOURNMENT

At 5.48 p.m. the council adjourned until Wednesday 7 June at 2.15 p.m.