LEGISLATIVE COUNCIL

Thursday 27 November 2008

The PRESIDENT (Hon. R.K. Sneath) took the chair at 11:02 and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:03): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers, and question time to be taken into consideration at 2:15pm.

Motion carried.

AUDITOR-GENERAL'S REPORT

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (11:04): I move:

That standing orders be so far suspended as to enable the report of the Auditor-General for the year ended 30 June 2008 to be referred to a committee of the whole, and for ministers to be examined on matters contained in that report.

Motion carried.

In committee.

The Hon. P. HOLLOWAY: To facilitate the process, I suggest we examine them in order of the three ministers and their portfolios. I recognise that the Department for Transport, Energy and Infrastructure's annual report is not there. The Leader of the Opposition has raised that with me, and we will deal with that next year when we return and the report becomes available.

The Hon. D.W. RIDGWAY: My question is directed to the Leader of the Government and Minister for Mineral Resources Development. Page 3 of the report provides a commentary on the authorisation of the minister to request audit reports from BHP which verify quarterly royalty returns.

Last year, the Auditor-General raised concerns about the fact that such reports have not been requested since September 1998. In response to last year's questioning, the minister simply clarified the department's reliance upon historical data for accuracy. It now appears from this year's report that the minister has gone ahead and requested reports for the four quarters ending 31 March 2008. Have any of these quarterly reports been received yet? If so, did they corroborate the calculations already made by PIRSA staff?

The Hon. P. HOLLOWAY: My advice is that we have not yet received them; however, the department is working with both OneSteel and BHP, because there are two separate indentures involved in getting that information in a format which is suitable for assessment.

I would like to make some more general comments in relation to this whole issue. The audit has acknowledged the steps that PIRSA has taken over the past year to improve controls on the collection of royalties. In relation to Roxby Downs, a primary action was to improve the controls on collection of royalties from the Olympic Dam operation in order to reinstate formal requests by myself to BHP Billiton for submission of an auditor's report within six months of furnishing any royalty return under the provisions of the indenture.

To ensure compliance with royalty provisions under both the indenture and the Mining Act, PIRSA identified the necessary steps that would ensure the validation of data within the Olympic Dam royalty returns. These steps were: BHP Billiton and I sign a royalty agreement reflecting a more transparent and verifiable process; we develop a revised template return; and that I request, pursuant to clause 32(5) of the indenture, an auditor's report on the said return by BHP Billiton's external auditor, and that PIRSA is to examine the auditor's report and test for reasonableness against expectations. PIRSA, with advice from the Crown Solicitor's office and the ODX task force, is finalising negotiations with BHP Billiton on an agreement that formalises the calculation of payment of royalties, as is provided for under clause 32(3) of the indenture and in accordance with section 17(9) of the Mining Act.

In parallel with finalising the agreement, PIRSA has provided to BHP Billiton a template return designed to ensure that the required level of comprehensive detail is provided by BHP when the company furnishes, as it says in 32(4)(a) of the indenture:

...to the minister a return showing all particulars necessary to enable the calculation of the royalty payable for the quarter immediately preceding the date of the return.

If the honourable member wants specific details in relation to his question in terms of dates, BHP Billiton was requested on 1 September 2008 to provide an external audit report on royalty returns for a full year encompassing the quarterly returns for 30 June 2007, 30 September 2007, 31 December 2007 and 31 March 2008. Under the indenture, this report is to be provided to me as promptly as practicable. While audit acknowledged the steps the department has taken over the past year to improve controls on the collection of royalties, it identified at the time of their audit in late July 2008 that BHP Billiton had not yet been requested to submit an external audit report and, as I mentioned, this has now been addressed.

There is no suggestion with the previous analysis that an oversight of controls has resulted in PIRSA not capturing an appropriate royalty return from Olympic Dam. In relation to the Whyalla steelworks acts, in recognition of the expanding iron ore production at Whyalla, PIRSA has commenced a number of steps towards achieving a more transparent royalty regime for OneSteel's operations at Whyalla. PIRSA has prepared a template form for OneSteel to report on production and sales in the formally-submitted six-monthly mining return. This improved form mirrors the current reporting requirements of the Mining Act 1971, and OneSteel has now provided this more detailed information to PIRSA in its June 2008 return.

On 1 September 2008, I requested the company undertake an audit on the six-monthly royalty returns provided to PIRSA for the December 2007 and June 2008 returns. PIRSA has prepared terms of reference that will guide the audit process to be conducted by an independent auditor engaged by PIRSA, which is currently working with OneSteel to progress the audit, as I indicated earlier. A considerable body of work has been undertaken by PIRSA over the past 18 months to review and amend business processes and strengthen controls on the administration of royalties.

Finally, for many years OneSteel has operated under an indenture that set a certain level of royalty on all production but most of that, up until fairly recently, was used in the steel-making process, for which the state receives significant benefit in terms of value adding. Now that BHP is moving more into export of steel—it is something like 4 million tonnes a year and it is hoping in the near future to move to 6 million tonnes a year of export—clearly, since that ore is being exported as a bulk commodity, it is appropriate that the state get the appropriate level of royalty in relation to those exports because, as I have said, the situation has somewhat changed from when OneSteel was a steel producer rather than a steel producer and an iron ore exporter.

The Hon. D.W. RIDGWAY: My second question largely has been answered by the minister but I ask for clarification. Page 3 of the report states:

As part of the previous audit, legislation impacting on the collection of revenue was reviewed and in 2007-08 approximately $62 million in royalties were collected from BHP in accordance with the Indenture Act.

The minister stated in answer to the previous question that the Olympic Dam task force was busy discussing and negotiating on the revised act and that the department was working through a process to review the current process of royalty calculation. As yet we have not seen any draft of the new indenture. The minister largely answered my first question, but what progress has been made on the review of royalty calculations? More importantly, when are we likely to see a draft of the new Indenture act?

The Hon. P. HOLLOWAY: Obviously those indenture negotiations are continuing. BHP will be in the relatively near future—probably early next year, I understand—making a decision on whether it moves from the pre-feasibility study into feasibility study. Concurrently with that, in relation to the Olympic Dam expansion, there has been a massive environmental impact statement going on and various studies under that to examine the various parts of the operation, and there have been several major project declarations.

The project has been split into two in order to examine many of the aspects of the Olympic Dam expansion. It is not just a question of the mine and mining royalties, but a lot of other issues that have to encompass it: the township; the desalination plant; the corridor for the pipeline for the desalination plant; potential transport issues, and, so on. It is a massive exercise. Negotiations on

royalties will inevitably be part of the overall detailed discussion with BHP Billiton in relation to many of these other aspects.

While I understand that significant progress has been made in relation to those negotiations, it will be a matter of tying these many issues together. At this stage, we cannot say much more than that, because there are so many different aspects to the Olympic Dam expansions. Royalties is just one of the many issues that will be part of those discussions. The level of royalties that apply and in what circumstances they apply will clearly relate to all the other negotiations the government is currently conducting through the Olympic Dam task force.

The Hon. D.W. RIDGWAY: Is the government considering a two-tiered approach to royalties being paid on the finished product and a different royalty regime for export of concentrate, which I think exists in other states?

The Hon. P. HOLLOWAY: It would be quite inappropriate to make comment on that matter at this stage. I do not really want to go further than what I have just outlined, other than to say that negotiations are continuing. Obviously, royalties are part of the overall scope. I think it would be counterproductive to the government achieving the best outcome for the taxpayers of the state if we were to conduct that negotiation in public. Perhaps at some stage in the near future, I can arrange some briefing on some of the issues for the honourable member as the shadow spokesperson. I think it would be inappropriate to make them public at this stage.

The Hon. D.W. RIDGWAY: I will move on to Planning SA, the component that is part of the minister's responsibilities. Page 1 of the report mentions the scope of the audit, including consultancy and service fees as a specific area of retention. Throughout this year's June estimates session, the then acting director of Planning SA stated the following with regard to a public relations consultancy:

> I am due to have further discussions with that company over the next two or three weeks about whether there is a need to have any more involvement at this time, or whether, when we release the code, we might establish another communications strategy in dealing with that.

Mr Hammond was referring to a Western Australian-based public relations firm, with which company the government had already spent some $60,000 on developing a communications strategy for the reforms. What was the outcome of those discussions and, in particular, have any further funds been committed as payment to this Western Australian company for promoting and advertising the planning reforms?

The Hon. P. HOLLOWAY: I will have to take on notice the question relating to that particular company. However, I will make the general comment that the planning and development review has been a major exercise. As we will be debating the bill later on today and next Tuesday, there is a massive amount of detail and there has been significant consultation involved with it. Clearly, to communicate to all South Australians, who potentially will be affected by this, there is a significant requirement for public information in relation to this code.

Most of the work that has been done over the past six months has been working with local government. We have had 'road testing', as it is called, involving 11 councils, I think, and 822 applications were considered as part of that. They were assessed for how they would operate under the code as it was then proposed and how the system would work if the existing system of the code was applied.

As I have said, there was a massive amount of work involved in that. Clearly, there is going to be a significant communication strategy required when this code is finalised, which we are hopefully on the verge of doing if the bill can pass in this chamber next Tuesday. That will give us the certainty to move forward in finalising the code, although members have been circulated with what we hope will be if not the final version extremely close to it. Obviously, if we identify technical drafting errors or things like that in the next month or two, we always reserve the right to make those changes. Of course, that will ultimately come before parliament through the Legislative Review Committee.

Once the bill passes the lower house, the regulations that have been circulated in their final form can be given effect to. There will be a significant public relations issue in respect of that, but I understand that there will be a different contract in relation to that particular part of the communications strategy, because it will be a major exercise to inform people of the implications of the new code if and when it comes into effect.

The Hon. D.W. RIDGWAY: Is the same Western Australian firm being used for that next component?

The Hon. P. HOLLOWAY: I do not think so.

The Hon. D.W. RIDGWAY: It would be good if we could use a South Australian firm. On page 9, 'Further commentary on the operations of PIRSA' refers to the establishment of Planning SA as a separate administrative unit from 1 July 2008. Implementation of the planning reforms is due for completion by 2011 and $1.2 million has been allocated each year thereafter for operating expenses. Is the $1.2 million exclusively in support of the changes made under the reforms, that is, is it in addition to the projected budget as it stood without the reforms?

The Hon. P. HOLLOWAY: In the last budget, we announced some significant one-off increases that were necessary to fund all the work that has to be done to implement the code. I announced some weeks ago that we have let a consultancy involving a number of groups in terms of developing the Greater Adelaide strategy, which is part of the planning review. Also involved in that was a consultancy looking at urban growth boundaries and the potential for those within the next few years.

I have just been advised that the $1.2 million will be raised from additional fees, and this will be allocated to Planning SA to deal with these issues. There was a budgetary increase that just covered the additional work that needed to be done. That will be done largely through the consultancy on the strategy and the boundary issues to give effect to those parts of the planning review. However, there is some ongoing funding, as a result of these fees, that will assist the new department in terms of moving forward, because clearly it has to stand on its own.

It will have other cost impacts and, of course, subsequent to this announcement in the Auditor-General's Report, there has been the merger with the Office of Local Government to form the new department. That will bring some beneficial synergies, I believe, in relation to the operation of that department. It does make sense to have planning and local government together but, clearly, given the increased role that we want the new department of planning to have, it will need some ongoing money, and there is that money from fee revenue going forward.

Whether that is sufficient for the new department is something that, obviously, we will have to look at into the future, but it is important that there is at least that additional revenue to recognise the importance that the new department of planning has in the context of achieving the goals of the government's Strategic Plan.

The Hon. D.W. RIDGWAY: I have a supplementary question, which the minister may wish to take on notice: how many full-time equivalents are currently within Planning SA and what is the total value of their remuneration? The minister may have those figures.

The Hon. P. HOLLOWAY: We probably have not, given that we have the PIRSA office here. They are no longer part of PIRSA. We probably had them at the end of the financial year. The actuals at the end of the financial year were 156.11 FTEs in Planning SA, and there were 22 at the time in the Office of Local Government. So, the new department, if it had been combined at the end of the financial year, would have had those numbers. They are the actuals. Of course, we might have been down actually on the allowance.

The FTE cap, if you like, that applies to the department will be five positions greater than that. I am advised that there is the capacity, with the extra money that is coming in, for up to 15 positions that will obviously reflect the new roles that Planning SA will take, so that has already been part of that budget. Of course, there are other pressures on the department as a new department and we will address those, as we move through the budget processes, very shortly as we prepare for the 2008-09 budget.

The Hon. D.W. RIDGWAY: This is a final question, but I indicate to the minister that I think the Hon. Caroline Schaefer has a couple of questions related to PIRSA when I complete this. Again, I think the minister has largely answered this, but I will just read it and then we can take it from there. Further commentary on the operations of PIRSA found on page 9 refers to the establishment of Planning SA as a separate administrative unit from 1 July 2008.

I remind the committee that the planning and development and review steering committee report stated that implementation of the proposed reform would vest considerable responsibilities with the agency, requiring not only more staff but arguably a far greater level of expertise than that which is currently present within the department. My questions are: will the minister provide details, including titles of each new position created within Planning SA, attributable to the reforms

attracting a salary of greater than $75,000; and how many of these positions have been filled thus far?

The Hon. P. HOLLOWAY: As I said, subsequent to that, of course, there has been a new Department of Planning and Local Government formed and Mr Ian Nightingale, the new chief executive, has been discussing with both my colleague the Minister for State/Local Government Relations and me the structure of that department in the hope that that will be finalised fairly soon. We will provide you with what information we can once that process is finished.

The Hon. C.V. SCHAEFER: As we all know, the decision not to proceed with allowing GM crops in South Australia was quite contentious. The government took a decision which was contrary to the decision of the advisory board. The members of each of the advisory boards and committees are listed on pages 38 to 41 of the supplementary report, and I note that all members of the GM crops advisory committee resigned or retired last year.

Can the minister advise me whether or not that committee has been replaced, whether there are new members, or who is now advising the minister on whether we proceed at some time in the future with GM grain?

The Hon. P. HOLLOWAY: It is probably best that we take that one on notice and get a response. I know, too, that the Minister for Agriculture, Food and Fisheries will be taking questions in the other place this afternoon, but that is one that we will take on notice.

The Hon. C.V. SCHAEFER: I must say that I am surprised at the number of advisory boards that are still in existence given that this government spent a lot of time saying that it would dismantle them. I can only assume that the government found that they were more useful than it had expected, but I note that the remuneration for these boards is quite low, and I happen to be one of the people who believe that they do a very valuable job. There is only one board member in 360 who is paid between $60,000 and $70,000, none is paid between $40,000 and $50,000, and two are paid between $30,000 and $40,000. Can the minister give me an idea, without naming that person, what position is filled by the person who is paid $60,000 to $70,000?

The Hon. P. HOLLOWAY: That is a person within the Brukunga technical group, which has been in existence for some time—in fact, it was set up by Rob Kerin, I think, when he was minister, when some issues arose in relation to the Brukunga mine site and contamination. He appointed, and I have continued the appointment of, Hume McDonald, who has played a very constructive and helpful role in relation to the issues associated with the Brukunga mine site. I think that committee has played a significant role in creating confidence within the community about the way that issue is handled.

So that the board could map a way forward, we established this technical group to look at some of these highly complicated issues of how to deal with the contamination at the mine. I understand that payment relates to some of the work done by one probably of those highly qualified consultants. As a result of that work, he has saved the state potentially millions of dollars. If we had gone ahead with some of the earlier planning it may not have been as effective as it could be. So I think in that case it has been money very well spent to get that technical advice.

The Hon. C.V. SCHAEFER: Further, with regard to the advisory committees, members of the FarmBis 3 State Planning Group all resigned, bar two. My understanding is that FarmBis 3 is no longer funded by the federal government and therefore no longer exists. I wonder, therefore, why there are still two people who remain on the FarmBis 3 State Planning Group.

The Hon. P. HOLLOWAY: We will take that on notice. Of course, these applied at the end of the financial year, so whether or not that has changed we will find out for the honourable member. If there are no more PIRSA questions for me, perhaps we can move to the next topic.

The CHAIRMAN: Are there any questions for the Minister for Correctional Services?

The Hon. S.G. WADE: I refer to Part B, Volume 1, page 227 of the Auditor-General's Report which relates to the valuation of land and buildings. I want to confirm my interpretation of note 20, which suggests to me that the land that the government proposes to sell as part of the new prisons project is valued at $58.904 million. I presume that is the Yatala Labour Prison, the Adelaide Women's Prison and the Adelaide Pre-Release Centre.

The Hon. CARMEL ZOLLO: My advice is that that is the total value of all our properties, not just Yatala land.

The Hon. S.G. WADE: Could I clarify that? When the minister talks about all the properties, I do not understand that in the context of the note in the second paragraph under valuation of land and buildings. That note reads:

> Land at Yatala Labour Prison, Adelaide Women's Prison and Adelaide Pre-Release Centre was determined on the basis of market value as the land will not be held in the long-term for the existing use.

Considering that the land and buildings has two components—land at fair value (market value) and land at fair value (existing use)—and two other items, I interpreted the second paragraph of the valuation of land and buildings section as meaning that the only land that was valued at market value was those three portions which were part of the new prisons project. Therefore, I ask the minister to clarify what sites the $58.904 million relates to; and does it, as the note suggests, relate to Yatala Labour Prison, Adelaide Women's Prison and the Adelaide Pre-Release Centre?

The Hon. CARMEL ZOLLO: My further advice is that the $58 million, or so, is the total value of the land, as the note says, at Yatala Labour Prison, Adelaide Women's Prison and Adelaide Pre-Release Centre, which will be sold.

The Hon. S.G. WADE: Will the minister advise the committee the valuation for each of those sites—Yatala Labour Prison, Adelaide Women's Prison and the Adelaide Pre-Release Centre?

The Hon. CARMEL ZOLLO: I am advised that we do not have the split-up here today, but we can provide that to the honourable member.

The Hon. S.G. WADE: Will the minister advise whether the valuations were based on the whole portion of each of the sites being sold or, for example, on the basis that the government is retaining part of the campus as heritage or other assets?

The Hon. CARMEL ZOLLO: My advice is that it is based on the whole portion of each of the sites being sold.

The Hon. S.G. WADE: Part B, Volume 1, page 210 relates to employee benefits and expenses. What proportion of these additional expenses— which are indicated at $10.1 million—is due to the cost of paying custodial officers for recall shifts on the one hand and overtime on the other?

The Hon. CARMEL ZOLLO: We will need to take that kind of detail on notice and bring back a reply to the honourable member.

The Hon. S.G. WADE: Thank you; similarly, that may be necessary with the next one or two questions. I refer to Part B, Volume 1, page 224. Note 6 indicates that there has been an increase of 64 per cent in the number of DCS employees earning over $100,000. What proportion of these officers are custodial officers? I take it that the minister would prefer to take this question on notice?

The Hon. CARMEL ZOLLO: My advice is that, at this time, there would be 10 custodial officers.

The Hon. S.G. WADE: I will clarify that; 10 of the 41 are custodial?

The Hon. CARMEL ZOLLO: That is what I said, yes.

The Hon. S.G. WADE: I also note that, whilst there has been an FTE increase in employees of 22 earning between $100,000 and $120,000, there has been a decline in the number of employees earning over $120,000. Can the minister advise what led to that? Is that because positions have been abolished or left vacant? It just seems unusual.

The Hon. CARMEL ZOLLO: My advice is that the majority of the people in this threshold of over $100,000 is, as one would expect, due to an increase in the EB, etc. I am also advised that 13 additional employees were included in 2008 due to EB increases resulting in these employees earning over $100,000. In relation to the honourable member's latter question, there has not been an increase in the number of executives from the previous year.

The Hon. S.G. WADE: With all due respect, that was not my question. I can also read the line which says that there was no increase in the number of executives in the department in 2007-08. In fact, the minister seems to be presuming an implication which is not there. I am highlighting the fact that, in the bracket $130,000 and above, there has been a decrease in the number of officers. The minister may need to take that on notice. I would like to know why there

has been a decrease. Is it because positions have been abolished or because positions have been left vacant? There must be a reason.

The Hon. CARMEL ZOLLO: My advice at this time is that there has not been a decrease. We had some executives leaving and others coming on board. I can further clarify that some of the people who left were on a higher level.

The Hon. R.P. WORTLEY: My question is to the minister in her capacity as the gaming minister. Will the minister explain to me the gaming machine numbers—

The Hon. S.G. Wade interjecting:

The Hon. R.P. WORTLEY: I beg your pardon?

The Hon. S.G. Wade interjecting:

The Hon. R.P. WORTLEY: Am I in order, Mr Chairman?

The Hon. S.G. Wade interjecting:

The Hon. R.P. WORTLEY: Well, if she cannot answer the question, she will make it quite clear. She does not need you to tell me whether she can answer the question. So, sit there and let me ask my question. Is that okay? Is that in order, Mr Chairman?

The CHAIRMAN: Yes.

The Hon. R.P. WORTLEY: Thank you. Could the minister please explain the gaming machine numbers indicated in Volume 1, Part B, page 96 of the Auditor-General's Report?

The Hon. CARMEL ZOLLO: I thank the honourable member for his important question. A table appearing on page 96 of Volume 1 of the Auditor-General's Report on individual agencies shows gaming machine numbers at 30 June 2008 at 12,682, that is, 101 over the 2007 figures. The table may give the impression that there has been an increase in the number of gaming machines permitted in South Australia. However, it is important to note that the Auditor-General is reporting on live machines (those in operation at that point in time). The total number of gaming machine entitlements as at 30 June 2008 is 12,900. There were 218 fewer machines in operation (that is live) than there were entitlements.

Since the 2004 amendments to the Gaming Machines Act 1992, 2,218 gaming machine entitlements have been surrendered. This is 782 entitlements short of the government's 3,000 reduction target. The government is committed to reaching this target and reports on progress towards achieving this in terms of entitlements, that is, the maximum number of gaming machines that are permitted in the state.

Most of the 2004 amendments to the Gaming Machines Act 1992 commenced on 1 February 2005 and, at that time, the concept of entitlements was created. A total of 12,950 entitlements were created—2,168 fewer entitlements than the total number of gaming machines approved at that time. A compulsory reduction without compensation was achieved by applying a formula to existing venues at that time. Non-profit venues were not subject to the compulsory reduction in the number of machines.

Further reductions have been achieved through three trading rounds held on 11 May 2005, 21 September 2005 and 16 April 2007. As a result of the trading rounds, 21 venues sold all their entitlements. Not only have we seen a real reduction in the number of gaming machine entitlements since 2005, as at 30 June 2008 we actually have 218 fewer gaming machines in operation than there were gaming machine entitlements.

There will always be some variation to the number of live machines as gaming venues may not use all their entitlements; for example, during renovations to premises—and certainly this has been the case with a number of venues renovating premises. In its 2004 amendments inquiry, the Independent Gambling Authority recommended the removal of the fixed purchase price of $50,000 per gaming machine entitlement and the implementation of a market trading model. This recommendation is addressed in the draft bill amending the Gaming Machines Act, which, together with a consultation paper, has been the subject of a six-week consultation period. That consultation period has now closed and submissions are being considered prior to the introduction of the bill into this place.

The removal of the cap will increase activity through the approved trading system. As the approved trading system has a one in four cancellation requirement for entitlements traded by

hotels, the removal of the fixed price will accelerate the gaming machine entitlement reduction. The amendments will improve responsible gambling environments and reduce costs and risks associated with regulation. The key elements, aside from the removal of the fixed price to accelerate trading and therefore removal of entitlements, include improved responsible gambling environments—under that, we are looking at strengthening the social effect test for new venues through new powers for the IGA; extra responsibilities for late trading venues; prohibiting the location of gaming machines in smoking areas; extending responsible gambling provisions to airport gaming and strengthening the compliance and enforcement provisions; and formalising recognition of industry responsible gambling agencies.

Under reducing the costs and risks associated with regulation, there is a social effect certificate to address the social effects before costly development and other licensing applications; and reforming the regulation of financial arrangements to recognise that gaming machine entitlements are an asset and should be able to be used to secure finance. We will also be introducing proposed premises certificates to provide regulatory certainty during the construction phase where gaming machine licence applicants meet all the requirements. We will also be facilitating club sector reform through clarifying the transfer of gaming machine entitlements between clubs or Club One—and a club can be for a limited period or absolute—as well as eliminating unnecessary regulation of commissioning gaming machines.

I look forward to introducing these reforms into the parliament early in the new year. I do thank the honourable member for his important question. We believe that there are no other questions in relation to gambling, so again I do thank the honourable member for allowing me to place that information on the record.

The Hon. S.G. WADE: I would like to ask further questions of the minister, if the government is going to start observing the convention again of government members not stealing opposition time in this period. I refer to Part B, Volume I, page 224, 'Supplies and Services'. The fifth line shows that travel expenses of the department have increased by 50 per cent. What justifies such a large increase?

The Hon. CARMEL ZOLLO: We do not have that level of detail with us, so we will have to take that question on notice.

The Hon. S.G. WADE: On the same page (about six lines further down) it mentions that the department is spending $2.557 million on consultants. Then a footnote says that that includes $2.743 million in relation to the new prison and secure facilities project. This question may need to be taken on notice, but could the minister explain the split between consultants related to the new prison and secure facilities projects and other consultancies? I am happy to take that question on notice. However, I would be interested to know whether the minister would tell me why the figure inclusive of 2.743 is less than 2.743.

The Hon. CARMEL ZOLLO: My advice is that it is a typo: it should have been 2.473. They have reversed the figures.

The Hon. S.G. Wade: Unless the Hon. Russell Wortley wants to ask another question, I can find some more in the meantime.

The CHAIRMAN: Order!

The Hon. CARMEL ZOLLO: Mr Chairman, the Hon. Russell Wortley asked an important question on gambling and I understood that there were no other questions on gambling, so you should not be complaining.

The CHAIRMAN: Order! Any honourable member is entitled to ask a question.

The Hon. S.G. Wade: It's not the convention in this chamber. It hasn't been the practice.

The CHAIRMAN: I do not think that you have been in this chamber long enough to know what the practice is.

The Hon. S.G. Wade: I've consulted senior members.

The CHAIRMAN: I will decide what the practice is in this chamber—not you.

The Hon. J.M.A. LENSINK: Moving to the Lotteries Commission of South Australia, I note that some minor matters were raised in relation to Volume III, Part B, page 715, and the Auditor-General made a number of recommendations, which I will quote from the text. It says:

...including sign off of the gaming/general ledger system reconciliation process, improved recording of checks performed of daily gaming activity, and independence in the maintenance and review of changes to the accounts payable system creditors master file.

Do I take it from the Auditor-General's comments that he is satisfied that those changes have been made?

The Hon. G.E. GAGO: Yes; the audit opinion on the financial report was unqualified. The assessment of controls was that they are sufficient to provide reasonable assurance and, in the balance sheet, the current receivables decreased by $26 million and the current payables decreased by $26.2 million in 2007-08. The balance, at 30 June 2007, included a receivable from the national Lotto Bloc and a prize payable with respect to the South Australian winner of a $25 million Oz Lotto prize, won on 19 June. The prize was paid to the winner and settlement was received from the interstate bloc members on 4 July.

Property, plant and equipment decreased by $4.6 million in 2007-08, which included the disposal of components of the on-line lottery system, totalling $1.5 million. The minor recommendations were made for the control improvements, including sign off of reconciliations, improved recording of daily checks and review of creditors master file changes. I have been advised that these issues raised by the auditor were resolved by 5 August 2008.

The Hon. J.M.A. LENSINK: I refer to page 717 and note that the minister has responded to questions from government members relating to the distribution from the commission, which increased to what I understand would be the highest level in history, in 2007-08, to $91.7 million. One of the explanations is that it was partly due to an increase in gambling tax of $3 million and an increase in dividend payment of $2 million. My question is: in going forward, does the government anticipate that that distribution will increase; and, if so, what would it be attributed to?

The Hon. G.E. GAGO: I do not have the details of that with me, but I am happy to take that on notice and bring back a response.

The Hon. J.M.A. LENSINK: Going to Volume I of Part B, on page 90, the Auditor-General seems to criticise the Residential Tenancies Fund for lack of policies and procedures to manage bonds which are paid outside the statutory time frame, and the department has been given a deadline of December 2008 to implement the documentation. Can the minister advise what the process is and whether that deadline is expected to be met?

The Hon. G.E. GAGO: This relates to section 62 of the Residential Tenancies Act 1995, which requires landlords and agents to pay bonds to OCBA within specified time frames, and provides that failure to do so is an expiable offence. Audit identified that, whilst OCBA had measures in place to identify and monitor bonds paid outside the regulatory time frames, OCBA did not have documented policies and/or procedures which specified the extent to which possible breaches of this section of the act were to be investigated and enforced.

At the time this matter was identified OCBA gave an undertaking to the Auditor-General that the necessary policies and procedures would be documented by December 2008, which is acknowledged in the Auditor-General's Report. OCBA has now drafted the necessary policies and procedures for the Commissioner's consideration, and it is expected that these policies and procedures will be implemented in December 2008.

The Hon. J.M.A. LENSINK: Given that breaches of timetables are expiable offences, would it be fair to say that, because the policies were not in existence, these expiations were not being issued in the manner in which they should?

The Hon. G.E. GAGO: We do not have the answer to that question, but I am happy to take it on notice and bring back a response.

The Hon. J.M.A. LENSINK: I move to page 131 of the same volume, and note that the total income for the Residential Tenancies Fund increased by some 25 per cent from 2007—from $6.6 million to $8.3 million, a quite extraordinary amount. Does the government have trends information regarding that increase? Was it due to increases in rents or in volumes, or was it some combination of both?

The Hon. G.E. GAGO: The interest revenue comprises interest earned from three sources: balances held with the Department of Treasury and Finance; investments with the Public Trustee; and amounts received from the South Australian Housing Trust, based on the value of bond guarantees held by the fund. Interest revenue increased from $6.433 million in 2006-07 to $8.63 million in 2007-08—an increase of $1.63 million.

This can be attributed mainly to an increase in the interest received from the Public Trustee. Market interest rates increased during 2007-08 (we may have forgotten what that looks like these days) and, as a result, the interest revenue earned on investments held by the fund with the Public Trustee increased, due the value of the portfolio held by this fund. This increase was substantial. Interest received from other sources also increased, although the value of this was not quite as substantial.

The Hon. J.M.A. LENSINK: I am not sure whether the minister is able to answer this (the department may not keep this information), but is there some reflection in the cost of rentals to renters or in terms of volumes and so forth? Have rents gone up or has the number of renters increased and therefore impacted on the fund?

The Hon. G.E. GAGO: Again, we do not have a detailed answer, but I am happy to take it on notice and bring back a response.

The Hon. J.M.A. LENSINK: I refer to page 137 of the same volume, and 'Other expenses', which is listed as No. 5. The first listed item there is titled 'Decrement on revaluation of investments'. I do not understand what the word 'decrement' means (I am not sure whether it is in the *Macquarie Dictionary* these days or not); it is also a fairly significant amount of money—$1.776 million—and I note that it was not listed as an item in 2007. Can the minister provide an explanation of what that item means and why it is such a significant amount?

The Hon. G.E. GAGO: 'Decrement on revaluation of investment' simply means that there is a decrease in the value of the fund—I think they like to use this terminology so that no-one can understand it. The other expenses of the Residential Tenancies Fund increased from $0.864 million in 2006-07 to $2.896 million in 2007-08, which is mainly attributable to a decrease in the component of the fund invested with the Public Trustee. The value of the investments held by the fund with the Public Trustee decreased in 2007-08, and the portion of this decrease (or decrement) was perceived by accounting standards to be recognised as an expense of the fund, and that was $1.776 million.

The increase in expenses is partially offset by an increase in interest revenue—approximately $1.63 million—received from the Public Trustee. Market interest rates increased during 2007-08 and, as a result, the interest revenue earned on the investments held by the fund with the Public Trustee increased.

Mr Acting Chair, I am happy to extend the time for examination to allow the member an opportunity to complete her questions.

FAIR TRADING (TELEMARKETING) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (12:08): Obtained leave and introduced a bill for an act to amend the Fair Trading Act 1987. Read a first time.

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (12:08): I move:

That this bill be now read a second time.

This bill will amend the Fair Trading Act 1987 to provide for a cooling-off period on contracts for goods and services that result from a trader making unsolicited contact with a consumer by telephone. Due to an increase in the availability of personal information in electronic form, and the attraction to business of reduced trading costs, telemarketing activity has significantly increased over the past decade. The burgeoning telemarketing industry has led to an increase in consumer complaints about telemarketing practices. Consumers consider telemarketing calls unwarranted and inconvenient, particularly when they involve high pressure sales tactics.

The concern with telemarketing amongst the general community is reflected in the popularity of the commonwealth's Do Not Call Register, which now allows people to list their telephone number on the register and thereby opt out of receiving telemarketing calls. Within one month of coming into operation on 3 May 2007, over one million individual telephone numbers had been included on the register. It is now generally unlawful to make calls to these listed numbers. The commonwealth legislation also regulates permitted calling hours by telemarketers, the

disclosure of information by callers and the grounds for the termination of a call. It does not, however, provide for a cooling-off period on unsolicited telemarketing contracts.

Before the development of the Do Not Call Register, New South Wales and Victoria had legislated to specifically control telemarketing activity. In both states the telemarketing legislation goes further than did the commonwealth legislation in that it allows for a cooling-off period for contracts made as a result of unsolicited telemarketing calls. The New South Wales and Victorian cooling-off legislation is analogous to door-to-door sales provisions that still exist in most Australian jurisdictions. These door-to-door sales provisions were originally implemented as uniform legislation in all jurisdictions, and in South Australia they were incorporated into the South Australian Fair Trading Act upon its commencement in 1987. These provisions were introduced to protect consumers against the risk of agreeing to contracts that were not in their best interest. This possibly existed, given the high pressure sales tactics used by door-to-door traders and the consumer's lack of opportunity to compare competing products. Such tactics may also be employed by telemarketers.

This bill therefore extends the operation of the current door-to-door provisions of the Fair Trading Act to also regulate telemarketing activity in the same manner. In practice this ensures that vulnerable consumers, who may feel pressured to agree to be bound by a contract over the phone, will be provided with a cooling-off period within which they may determine whether to proceed with the contract. As it is likely that those who are not included on the commonwealth Do Not Call Register will be those most at risk—people who are unaware of their rights and who are at some disadvantage, who have limited life skills and, more than likely, those who have little money to spare—the bill ensures increased consumer protection for those most vulnerable to consenting to contractual obligations for unwarranted goods or services. As is already the case in New South Wales and Victoria, the passing of this bill will ensure that South Australian consumers are better protected against high pressure telemarketing sales tactics, and I commend the bill to members. I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Fair Trading Act 1987*

4—Substitution of heading to Part 3

It is proposed to extend Part 3 to cover telemarketing as well as traditional door-to-door trading and the heading is altered accordingly.

5—Amendment of section 13—Interpretation

A new definition of *contract summary* is inserted. If a contract to which the Part applies is made by telephone, a contract summary is required to be forwarded to the consumer.

The definition of *cooling-off period* is substituted. The cooling off period for a contract made by telephone is to be 10 days commencing on and including the day on which the contract summary is given to the consumer.

The remaining alterations to definitions flow from the extension of the Part to cover telemarketing as well as traditional door-to-door trading.

6—Amendment of section 14—Application

Subsection (1) governing application of the Part is altered so that the Part will apply where negotiations leading to the formation of the contract take place in a telephone call with a consumer ordinarily resident in South Australia. The requirement that the dealer's approach must be otherwise than at the unsolicited invitation of the consumer is to be applied to telemarketing in the same way as it applies to door-to-door trading.

The remaining amendments address an existing structural problem with subsection (2) and do not substantively amend the provision.

7—Amendment of section 17—Requirements in relation to prescribed contracts

New paragraph (1)(ca) is inserted to make it clear that if a supplier wants to limit the period for which a contract offer remains open (ie the period within which a contract to be entered into in writing must be signed by the consumer and returned to the supplier) a statement to that effect specifying the period must be included in the contract.

Paragraph (1)(d) is amended to clarify the manner in which a duplicate of a written contract is to be provided to the consumer by the supplier.

New subsection (1a) sets out the requirements to be met in relation to contracts entered into orally over the telephone.

The requirements are as follows:

- before the contract is entered into, the consumer must be informed orally of the following matters:
    - that the contract is subject to a cooling-off period of 10 days commencing on and including the day on which the consumer is given a written contract summary;
    - the total consideration to be paid or provided by the consumer or, if the total consideration is not ascertainable at the time the contract is made, the manner in which it is to be calculated;
    - if the contract provides for the carrying out of work of a prescribed nature—detailed particulars of the work (including any such particulars required by the regulations);
    - any other particulars required by the regulations;
- as soon as reasonably practicable after the contract is entered into, a written contract summary must be given to the consumer in accordance with the following requirements:
    - the contract summary must specify the day on which the contract was entered into orally;
    - the contract summary must set out in full all the contractual terms, including—
        - the total consideration to be paid or provided by the consumer or, if the total consideration is not ascertainable at the time the contract is made, the manner in which it is to be calculated; and
        - if the contract provides for the carrying out of work of a prescribed nature—detailed particulars of the work (including any such particulars required by the regulations);
- the contractual terms must be printed or typewritten (apart from any insertions or amendments to the printed or typewritten form, which may be handwritten);
- if the dealer is not the supplier, the contract summary must set out the full name and address of the dealer and identify that person as the dealer;
- the contract summary must contain conspicuously at the top and bottom of the document the statement 'THE CONTRACT IS SUBJECT TO A COOLING-OFF PERIOD OF TEN DAYS' printed in upper case in type not smaller than 18-point;
- the contract summary must be accompanied by—
    - a notice, in the prescribed form, explaining the right of the consumer to rescind the contract; and
    - a notice, in the prescribed form, that may be used by the consumer to rescind the contract;
- the notices must—
    - be printed or typewritten (apart from any insertion, which may be handwritten); and
    - set out the full name and address of the supplier and identify that person as the supplier; and
    - be separate from, and not attached to, any other document;
- the printing or typewriting of the contract summary, the statement and the notices, must be readily legible and conform with the requirements of the regulations;
- any handwriting (apart from a signature or initial) in the contract summary or a notice must be readily legible.

8—Amendment of section 18—Acceptance of consideration etc

Section 18 is amended to enable the regulations to provide for exemptions from the application of subsection (1) which prohibits the acceptance of consideration before the end of the cooling-off period. If an exempted contract is rescinded, section 24 relating to restitution would still apply.

9—Substitution of heading to Part 3 Division 3

While sections 19 and 20 of the Act apply exclusively to traditional door-to-door trading, section 21 will apply to both door-to-door trading and telemarketing and the heading to the Division is altered accordingly.

10—Amendment of section 19—Prohibition hours

The amendment makes it clear that the section is limited to door-to-door trading.

11—Amendment of section 23—Exercise of right of rescission

Section 23 governs how a notice of rescission of a contract may be served by the consumer on the supplier. The amendment expands the methods of service to include facsimile transmission and e-mail to a number or address provided by the trader on a notice given to the consumer under the Part. Notice of rescission by fax or e-mail is taken to have been given to the supplier at the time of transmission.

Debate adjourned on motion of the Hon. J.M.A. Lensink.

PRIMARY INDUSTRIES AND RESOURCES SA

Adjourned debate on motion of Hon. A. M. Bressington:

1. That a select committee of the Legislative Council be appointed to inquire into and report upon the conduct of PIRSA in relation to issues that are affecting the livelihoods of those involved in the fishing industry and, in particular—

   (a) (i) the licence fee structure;

   (ii) cost recovery process; and

   (iii) access to right of appeal process.

   (b) The scientific data provided to PIRSA to determine allocations to ensure resource sustainability for the 2008-2009 Pipi Quota for the lower lakes and Coorong cockle harvesters;

   (c) The validity and accuracy of catch and effort data and the impact that has on scientific stock assessment to guarantee resource allocation; and

   (d) The rationale of determining allocation for season quota 2008-2009 and the impact that has had on individual licence holders and multiple licence holders.

2. That Standing Order 389 be so far suspended as to enable the Chairperson of the Committee to have a deliberative vote only.

3. That this council permits the Select Committee to authorise the disclosure or publication, as it sees fit, of any evidence or documents presented to the Committee prior to such evidence being reported to the council.

4. That Standing Order 396 be suspended to enable strangers to be admitted when the Select Committee is examining witnesses unless the Committee otherwise resolves, but they shall be excluded when the Committee is deliberating.

To which the Hon. J.A. Darley has moved to leave out all words after '1. That' and to insert the words:

'the Legislative Review Committee inquire into and report upon the conduct of PIRSA in relation to issues that are affecting the livelihoods of those involved in the fishing of mud cockles in the marine scalefish fishery and the Lakes and Coorong pipi fishery and, in particular—

(a) (i) the licence fee structure;

(ii) cost recovery process for fishers; and

(iii) access to right of appeal process.

(b) The scientific data provided to PIRSA to determine allocations to ensure resource sustainability for the 2008-2009 quotas for mud cockles in the marine scalefish fishery and the Lakes and Coorong pipi fishery;

(c) The validity and accuracy of catch and effort data and the impact that has on scientific stock assessment to guarantee resource allocation;

(d) The rationale of determining allocation for season quota 2008-09 and the impact that has had on individual licence holders and multiple licence holders; and

(e) Any other relevant matter.'

(Continued from 26 November 2008. Page 953.)

The Hon. C.V. SCHAEFER (12:14): I sought leave last night to continue my remarks because of some confusion on my part as to the Liberal Party's stance on the two amendments. As a result of that, the Liberal Party will support an amalgam of the two amendments. I will move a further amendment that will support the narrowing of the inquiry, using the words of Mr Darley, so that it inquires purely into the pipi industries as they relate to the Lakes and the Coorong and the mud cockles on Eyre Peninsula.

We will be supporting a select committee, albeit, I hope, a brief select committee, to conduct that inquiry, as opposed to the Legislative Review Committee conducting the inquiry. That is probably a somewhat unusual decision, but it is felt that a select committee will give a broader

cross-section the ability to present their argument and to look broadly across the issues involved, as opposed to looking at the legislative framework only. I have an amendment standing in my name, which has just been circulated. I move:

Paragraph 1—Leave out all words after 'That a select committee of the Legislative Council be appointed to inquire into and report upon the conduct by PIRSA' and insert:

In relation to issues that affecting the livelihoods of those involved in the fishing of mud cockles in the Marine Scalefish Fisher and the Lakes and Coorong Pipi Fishery and, in particular—

(a) (i) the licence fee structure;

(ii) cost recovery process for fishers;

(iii) access to right of appeal process.

(b) The scientific data provided to PIRSA to determine allocations to ensure resource sustainability for the 2008-09 quotas for mud cockles in the Marine Scalefish Fishery and the Lakes and Coorong Pipi Fishery;

(c) The validity and accuracy of catch and effort data and the impact that has on scientific stock assessment to guarantee resource allocation;

(d) The rationale of determining allocation for season quota 2008-09 and the impact that that has had on individual licence holders and multiple licence holders; and

(e) Any other relevant matter.

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (12:16): In speaking to this motion, I am pleased to see the amendment moved by the Hon. John Darley last night to send this matter to the Legislative Review Committee, and I indicate that the government will support that amendment. The government believes that the place for the matter to be investigated, reviewed and reported on is the Legislative Review Committee, a standing committee of this parliament; because it involves a regulation. It is for these types of matters that standing committees of our parliament have been set up.

I understand that the budget for select committees set up by this chamber has really got to the extent where it is far in excess of what one would expect. I understand that, for the Select Committee on Families SA, we are looking at $60,000—

An honourable member: For one committee?

The Hon. CARMEL ZOLLO: For one committee—and for Peak Oil, $20,000. This is a great cost to the taxpayers of South Australia, and it is an enormous indulgence on the part of members opposite. We have currently seven select committees of this chamber, and during the year there have been up to 11. Members opposite and the Independents in this chamber are treating select committees like standing committees.

As I have said, we have a standing committee to look at regulations, and that is where this particular issued should be referred. Also, appointing staff for these select committees takes them away from the roles they should be performing for this chamber and for this parliament. As I have said, we on this side of the chamber really are disappointed that those opposite choose to indulge themselves.

Before I continue, I should really respond to some of the comments and information placed on the record by the Hon. Ann Bressington, because I really do think it is important to place the facts on the record. The minister in the other place recently made a ministerial statement to the house in relation to the saga of Goolwa pipis. The minister commenced by informing the house of his disappointment at the manner in which this serious and complex issue has been dealt with by the opposition in this chamber and the opposition and crossbenches in the other place (meaning this chamber here). He went on to say:

Political mischief combined with disingenuous lobbying by a small group of commercial fishers who have never caught a pipi or who have a relatively small catch history have caused needless uncertainty and damage.

I wish to also inform the council of my disappointment in relation to the treatment of this issue in this chamber. Every member in this place is aware of the exhaustive consultative process the Minister for Agriculture, Food and Fisheries, his department (Primary Industries and Resources SA), PIRSA Fisheries, and all stakeholders have engaged in. This has been reported to the council previously. To suggest that PIRSA Fisheries, its officers or the minister's office have conducted

themselves in any way other than a professional, considered, informed and genuine manner is offensive.

Members interjecting:

The PRESIDENT: Order! Honourable members will come to order. The minister has the floor.

The Hon. CARMEL ZOLLO: Thank you, Mr President. I am advised that the Minister for Agriculture, Food and Fisheries wrote to the Hon. Ann Bressington on 21 November 2008 to advise her that her understanding of this issue was incomplete and that various individuals had provided her with selective information to further their own cause. Consequently, having blindly accepted this information, the minister believes that the honourable member has misled parliament and urges her to correct the *Hansard* record at her earliest convenience.

I draw the council's attention to the statements made by the Hon. Ann Bressington on 12 November 2008 and I will illustrate their deficiency as advised in the correspondence aforementioned paragraph by paragraph. In relation to paragraph 1, the Hon. Ann Bressington stated:

> I am, again, absolutely baffled at how a person can go to the public and give inaccurate information. I am not talking about what he can do as the Minister for Agriculture, Food and Fisheries: I am talking about the fact that he has stated that there were no alternatives put forward to him, when there were. The alternatives that were put forward to him would have ensured that the small-time cockle harvesters—and when I say 'small-time' make no mistake: their livelihoods still depend on this—would still be able to have a quota allocated to them that would have seen them able to sustain their small business. The 60:40 quota put to the Hon. Rory McEwen showed that the big-time cockle harvesters (who would have received 60 per cent of the allocation of the quota) would still be making a bucket load of money.

There have been no alternative allocation formulae put to the minister following the disallowance of pipi quota regulations. The 60:40 option was put forward to the independent Allocation Advisory Panel (AAP) for their consideration, and it was not recommended by the panel for a number of reasons, but principally because it recommended that 40 per cent of the quota be allocated on access and 60 per cent on catch history, but that the catch history allocation was to be split equally amongst all parties which is effectively not using catch history as a proxy for past effort and investment at all.

This was considered to be unreasonable and inequitable as it would result in a significant redistribution of wealth. The AAP reported to the minister in July 2007 in the lead-up to the decision by cabinet to establish a quota system through regulations. The 68:32 allocation formula proposed in the AAP's report was subsequently agreed when the minister met with licenceholders and parliamentary members at Parliament House in October 2007. Since the regulations have been disallowed, no viable alternative options have been proposed by the Hon. Ann Bressington. In relation to paragraph 3, the Hon. Ann Bressington stated:

> As a matter of fact, the people who are now literally pushed out of this industry were the ones who established the rotational sustainable harvesting of pipis. It was an accredited process. They were the ones who went out and got information on how to bring that about. They were the ones who went out and established best practice on this, and they are the ones who, I think, for about seven years have been practising that. It equates to about 70 per cent of the industry. But, they are the ones whose quotas have been reduced to the point where it is no longer viable for them to stay in business.

I am advised that no-one has been pushed out of this industry. Every person who has a cockle rake endorsed on their licence was allocated quota under the formula in the regulations. This includes some people who never took a single pipi but who nonetheless had their access right recognised. In addition, anyone with catch history in the period July 2003 to December 2006 was allocated a proportion of the remaining quota to recognise their investment in pipi fishing and economic reliance on that species.

Under this formula, licenceholders who have targeted pipis have a reduced share of the fishery compared to the past, in favour of those who have never taken any pipis but nonetheless have an access right—a cockle rake endorsed. Therefore, to ease the impact of the shift in shares, the formula in the regulations was phased in over two years. Under this two-year phase-in, some licenceholders with no catch history did not receive any quota in year 1.

In year 2, those licenceholders then received quota and the fishers who targeted pipis were to receive less. Year 1 of the formula was applied for the 2007-08 pipi season. At the end of that season, the regulations were disallowed. No solution has been found and, in October 2008, licence conditions were imposed to carry on the arrangements from the previous year. These

arrangements have been established for one year to provide time for a long-term solution to be found.

It is important to note that in the first year of quota, the total allowable commercial catch was set at 1,150 tonnes. In that first year, only 610 tonnes was caught. There are serious sustainability concerns for the fishery, and the total catch limit for 2008-09 has been set at 600 tonnes. Therefore, everyone in the fishery now has a share of 600 tonnes rather than 1,150 tonnes. There is not a formal or recognised rotation harvesting of pipis. It serves the interests of some in the industry to suggest that there is.

There have been dedicated pipi fishers in this industry for many years who only fish pipis and do not fish for the other major species in the fishery, that is, mulloway, mullet, golden perch and carp. This is supported by fishers' catch and effort returns. There are many Lakes and Coorong net fishers who have access to pipis but who only take finfish species, predominantly mulloway, mullet, golden perch and carp. These fishers do rotate their fishing effort among different components of the net fishery according to the availability of fish and the market conditions.

Catch records demonstrate that these fishers have not targeted pipis as part of their rotational harvesting strategy except on rare occasions. Rather, their catch records indicate that they only targeted finfish and that the rotational argument for pipis is essentially a myth. The dedicated pipi fishers who have historically only targeted pipis have built up an economic reliance over a long period of time based on targeted fishing for pipis. The dedicated net fishers have historically targeted finfish using nets and have similarly built up an economic reliance on the range of finfish species that are harvested using nets.

If quota management arrangements were introduced for the main finfish species, a longstanding economic reliance by the net fishers on these species would be given the same recognition as that of the dedicated pipi fishers through the pipi quota allocation process. In relation to paragraph 4, the Hon. Ann Bressington stated:

> Rather than the minister looking at a slight shift to a 60:40 quota, instead of 68 per cent to the big guys and 32 per cent to the little guys, once those regulations were disallowed, he whacked them all over the head with his big ministerial stick and suspended licences, and suspended these people from even going onto the beach this year.

I place on record that the minister has not suspended any licences. All the Lakes and Coorong fishing licences are valid and active. The minister has not suspended any person from going onto the beach this year. Rather, he has continued, in effect, the arrangements implemented under the regulations in the 2007-08 season for the 2008-09 season while we continue to work towards a solution.

Two area closures have been implemented. The first restricts commercial licence holders to fishing on the Coorong beach. The second restricts recreational fishers on the Goolwa beach. This reflects the primary fishing areas of the two sectors. The closures serve to physically separate the two sectors and ensure that additional recreational pressure is not exerted on the primary commercial grounds. The price of four pipis as bait has increased, and there is great incentive for recreational fishers to travel to the area to take their own pipis rather than purchasing them. There are also increased risks of illegal sales.

In relation to paragraphs 4 and 5, the Hon. Ann Bressington stated:

> However, they are still expected to pay the same amount in administration fees, even though they cannot go onto the beach, unlike the guys with 68 per cent of the quota who are currently making $18,000 a week from the quota that they have been given—$18,000 a week.
>
> They are paying the same administration and licence costs as the guys who cannot go onto the beach and rake for cockles, who cannot now trade their licences, and who cannot trade the quotas. Those administration fees—make no mistake—are not small amounts of money. One of them told me that his administration fees will be over $6,000 and are due at the end of January, but he cannot rake his cockles; he cannot go onto the beach. If he does not pay those administration fees, the information I have is that it is within the minister's power to revoke his licence to rake.

The licence fees set for each licence were established on 1 July 2008 by regulation, as they are for all commercial fisheries. These fee regulations are separate to the Lakes and Coorong fishery regulations that contain the fishery management rules. These fees generated a debt to the Crown based on licences and their endorsement as at 1 July 2008. As the disallowed regulations have now changed the fishery, the minister is seeking approval from the Treasurer, under the appropriate Treasurer's Instruction, to not collect parts of the fees. It is not a simple process to

change the fee arrangements. Licence holders have been advised that the fee arrangements are being reviewed to not pay any fees until further notice and that they will not be charged late fees.

In relation to paragraph 6, the Hon. Ann Bressington stated:

> There is something very wrong with this system. We have been inundated with emails, letters and phone calls from the West Coast-Coffin Bay mud cocklers. They are also facing exactly the same situation with the regulations that I have been given notice of motion to disallow. The West Coast mud cocklers' situation is a little different, but it is pretty much the same; there are slight differences. Rather than maybe 13 or 14 families being put out of business, as with the Lower Lakes and Coorong cocklers, in terms of the mud cocklers from the West Coast there are something like 150 people who will lose their livelihood.

This is totally misleading and factually untrue. No-one has been put out of business. Under the allocation formula for mud cockles, every person who took any mud cockles between 1997 and 2006 has received some quota. Anyone who did not receive quota did not take any mud cockles, according to their own records.

There are 344 marine scalefish fishery licences and 67 northern zone rock lobster licences with marine scalefish fishery access. Of these 41 licences, 164 (that is, 153 plus 11, obviously) have cockle rakes endorsed on them. Less than a third of this number of licence holders took mud cockles in the past 10 years. All licences have access to over 50 other species, including valuable species such as King George whiting, snapper, garfish and calamari. If licences were not used to take mud cockles, they were used to target other species or not used at all. It is therefore untrue to suggest that the allocation of mud cockle quota has put 150 people out of business.

Likewise, pipi licence holders (Coorong cocklers) have not been put out of business. Everyone who has taken pipis has received quota. In addition, licence holders who have never taken a pipi received quota under the disallowed formula. The allocation of quota under the regulations created a transferable property right that has value and has not put anyone out of business.

Members should also note that the disallowed regulations contain provisions increasing the number of agents allowed to work in the pipi fishing operation from two to four. This has been removed, and therefore the allowable number reverts to two. This has created significant distress for dedicated pipi licence holders who are no longer able to offer employees work and who are having to lay off workers. In relation to paragraph 7, the Hon. Ann Bressington stated:

> But, through the actions of this one minister, we are now condemning probably another 200 people to the unemployment line.

This throw-away comment is unsubstantiated and completely inaccurate. In paragraph 8, the Hon. Ann Bressington stated:

> For the Lower Lakes and Coorong cockle harvesters, there are, I think, three licence holders who now have 100 per cent of the quota, while the other small guys are literally up against the wall.

Again, this is completely incorrect. Under year 1 of the formula and the regulations, 20 licences received quota. These arrangements have been continued in effect for the 2008-09 season to provide time for a solution to be found to the situation. Information about licences and entitlements is available on the public register established under the Fisheries Management Act 2007. In paragraph 8, the Hon. Ann Bressington stated:

> The Hon. Rory McEwen tried to make out to his own party, the Liberal Party, to everybody else, and to me, that this whole kerfuffle about the cockle quota was all about one man: Mr Steve Alexander.

The Hon. Rory McEwen is not a member of any political party: he is the Independent member for Mount Gambier. Any references to Mr Steve Alexander were raised as a consequence of other members in the chamber specifically citing his circumstances. In relation to paragraph 9, the Hon. Ann Bressington stated:

> Mr Steve Alexander became the target of all this. He was the cause. I was told in a briefing that he was the only one who was dissatisfied. Not so! Steve Alexander was the one who was going to be hurt the most by this, but he was prepared to compromise. He was actually the one who previously, I think, had recommended that a quota system was necessary to sustain the resource. He had no opposition to that at all, but his quota was cut down to 1 per cent.

Under the formula and the regulations, Steve Alexander received quota entitlements in excess of the amount of pipi he had ever taken. Part of the quota that he received was allocated in recognition of exceptional circumstances, which were assessed by an Exceptional Circumstances Panel through a transparent and agreed process involving Garry Hera-Singh, Rod Ayres, the member for Hammond and the member for Finniss. The member for MacKillop was an apology and

did not attend. Mr Alexander's quota is not less than 1 per cent of the fishery: it is 2.09 per cent. In 2007-08, Mr Alexander was allocated 20.88 units (or 24 tonnes) of pipi quota. This was not only more than double his eligible catch history, but it also exceeded the amount of pipis he had ever taken when there were no restrictions on catch. In relation to paragraph 10, the Hon. Ann Bressington stated:

> It is all supposed to be based on previous catch history. He claims that his previous catch history was not recorded properly and not estimated properly, and therefore his allocated quota is inaccurate.

Under the regulations, catch history was calculated using catch and effort returns submitted by licence holders. These returns are a statutory requirement. It is a serious offence under the legislation to provide false and misleading information. Mr Alexander's catch history was calculated using the figures he submitted to SARDI Aquatic Sciences. In relation to paragraph 11, the Hon. Ann Bressington stated:

> The minister claims that a huge amount of consultation went into developing this pipi quota system and allocated quotas, but I hear from one side they were completely railroaded into the meetings chaired by the Hon. Rory McEwen and that, when they got up to speak, they were told to sit down.

The consultation developing the quota management system was long and involved, and this fact is on the public record. All parties had numerous opportunities to work with PIRSA Fisheries in developing the system and in putting their particular views and allocation mechanism to the Independent Allocation Advisory Panel for its consideration. The minister and acting minister also met with licence holders, as did the Director of Fisheries. The minister held a three-hour meeting in Parliament House with all licence holders and parliamentary members to get some firm resolutions on the allocation system.

All parties compromised at this meeting and everyone agreed to the quota management arrangements, including the 68:32 allocation formula. In paragraph 13, the Hon. Ann Bressington stated:

> It is his job to find a medium ground where not everybody will be absolutely happy but where at least half or 70 per cent of the industry is not going to be bankrupted. That is poor government policy and poor government practice. That is not a government that is serving the best interests of all their constituents, because there is no need for 70 per cent of this industry to be sent bankrupt. There is a solution.

Quota systems are inevitably introduced at times when there are sustainability concerns for a fishery and there is a need to reduce catch.

It is the minister's responsibility to find solutions and that is why his department engaged in a long process to develop these solutions, and why independent advice from an expertise-based panel made of up of a retired district court judge, an economist and an independent finishing member was sought. It is absolutely untrue that 70 per cent of the industry will be sent bankrupt as a result of the disallowed regulations. There is no evidence to support this assertion. In relation to paragraph 15, the Hon. Ann Bressington stated:

> Then the minister stated on radio that I had suggested that we have an open Olympic scale system where it is a free-for-all on the beaches. At no time have I ever recommended in this place or outside that open slather be allowed. He still could have set the total allowable catch at 600 tonnes and let them go out there and whoever gets their quota first, well and good. He has misled listeners on the radio, and my staff have given me feedback that people have come up to them in social situations and said, 'Why would Ann Bressington want open slather on the beaches for pipi quotas? What is she thinking?' My staff have had to explain that that is not what I proposed at all. So, if the minister cannot win fairly and squarely, if he cannot get his own way, he is not above spreading a few furphies in order to prove his argument.

Setting a total allowable commercial catch limit and then allowing unrestricted harvesting up to that limit is precisely what an olympic quota system is.

An olympic quota system requires higher compliance costs and it induces a 'race for the fish', which leaves fishers unable to plan their harvest over the season to maximise market access and price. It is never a preferable arrangement for a fishery. People are right to question why would you suggest it. In relation to paragraph 16, the Hon. Ann Bressington stated:

> I know that there is a report out there relating to this quota and how it came about. However, if we simply rely on these reports written by bureaucrats, government department CEOs and whoever else and never truly listen to the constituents who are affected by this, tell me how we will know it is working for them, and tell me how we will know that we are getting it right?

The report to which the honourable member presumably refers is the report of the independent allocation advisory panel. This panel, again as I have already placed on record, comprised a retired

district court judge, an economist from the University of Adelaide and an independent fishing industry member, who was the former president of the Australian Seafood Industry Council.

The independent allocation advisory panel conducted their own extensive consultation process before developing the report. The report was not compiled by bureaucrats. This report has been tabled in parliament and referred to in several statements in parliament. To suggest that the decisions have been based on reports by bureaucrats and not involving constituents is misleading.

The minister has outlined extensively the many opportunities for everyone in the fishery to have their say, which they did. Consultation means listening to everyone, but it does not mean agreeing to everything that everyone wants. In relation to paragraph 19, the Hon. Ann Bressington stated:

> I have also been told that there is some pretty hefty evidence of the fact that there is an agenda involving a level of self-serving in the undertone of some of these decisions that have been made (not necessarily by the minister, I might add).

It is difficult to understand your comment here, but if it is to suggest that there has been some impropriety on behalf of the department or the minister in relation to the quota, the assertion is wrong and unsubstantiated.

The Hon. A. Bressington: I said 'not the minister'.

The Hon. CARMEL ZOLLO: I am saying either the minister or the department. It is wrong and unsubstantiated. For example, the recommendation to implement a quota system came from an industry workshop facilitated by an independent and well respected fishing industry consultant from another state, involving all licence holders who unanimously supported the proposal at the workshop.

Secondly, the minister was provided with recommendations on quota allocation from an independent allocation advisory panel, as referred to many times in statements to parliament. The minister then consulted with all licence holders and made a number of unanimous agreements with them at a meeting at Parliament House. He established an exceptional circumstances panel, which had two Liberal parliamentarians and two licence holders as members.

After considering the panel's advice and taking exceptional circumstances discussions into account, the final decisions on allocation were made. No-one has had an opportunity to impose any personal agendas on this process. This protracted process has created an enormous amount of anxiety for fishers and their families. Despite the minister endeavouring to approach this difficult issue with bipartisanship and inclusive consultation, some have chosen to play politics with it.

As I said when I commenced this contribution, it is, I think, a dreadful indictment to take this course of action when we have a standing committee, a Legislative Review Committee, whose job it is to actually review regulations and seek information and reports and then come to a conclusion of which this parliament is advised. Instead, as we have said, we have another select committee being set up with funding and taking the officers of this chamber to perform extra duties; if nothing else, simply for political grandstanding. It is political grandstanding, and I think it is a shame that this is regularly happening in this chamber. As I have said, I cannot possibly support this motion, because we do have a standing committee to which matters such as this are referred. It is set up for just that reason and, as a standing committee, it has membership of a cross-section of members of parliament from both houses.

Clearly, the government supports the amendment of the Hon. John Darley, and I urge all members of this chamber to rethink this matter if they were not going to support that particular amendment. The Legislative Review Committee is just the place for this matter to be resolved, and I know that many anxious people in the industry are waiting for members in this chamber to act in a responsible manner.

The Hon. A. BRESSINGTON (12:47): I thank honourable members for their input into this debate. I have an eight-page response to the comments that the Hon. Carmel Zollo has just made about my contribution. I understand that there are two or three different points of view on this matter, and that is probably why I called for the select committee inquiry. What the minister is saying about people being satisfied with the outcome of the quota system, and about people not being put out of business over this, is in direct conflict with the information that we are getting from the constituents. The reason that I wanted it to go to a select committee inquiry was that I wanted to sit on that committee and hear the evidence—both sides of it—including PIRSA's evidence, and be well informed about this matter after the inquiry.

This is the same script that we heard from the government when we wanted the Families SA inquiry established: that it was a political stunt and political grandstanding. It seems that everything that the crossbenchers or opposition do in this place must be a political stunt. It could not possibly be that some of us are interested in hearing the truth from the people themselves who have been adversely affected by the decisions of this government!

I do not sit on the Legislative Review Committee any more, and that is why I have asked for the select committee. The Liberal Party has given its commitment to endorse and support that particular motion, and all the evidence that I have I will make available in the select committee, particularly as it relates to the comments of the Hon. Rory McEwen. I point out that the Hon. Rory McEwen seems to believe that, just because a member in here has disagreed with his point of view, that it is somehow misleading parliament. I have put information onto the record here in good faith, and I believe that saying it was misleading parliament would have to be proven.

I have responded to the letter sent by the Hon. Rory McEwen and have said that I will go through that and, if I find that I have misled parliament, I will be more than happy to correct the record. From the information I have received so far regarding that letter, I do not have the evidence that I have misled parliament. However, if I discover that I have then I would be more than happy to admit that I have been wrong.

The committee divided on the Hon. Mr Darley's amendment:

AYES (8)

Darley, J.A. (teller)	Gazzola, J.M.	Holloway, P.
Hunter, I.K.	Kanck, S.M.	Parnell, M.
Wortley, R.P.	Zollo, C.	

NOES (9)

Bressington, A. (teller)	Brokenshire, R.L.	Dawkins, J.S.L.
Hood, D.G.E.	Lawson, R.D.	Lensink, J.M.A.
Lucas, R.I.	Schaefer, C.V.	Wade, S.G.

PAIRS (4)

Gago, G.E.	Stephens, T.J.
Finnigan, B.V.	Ridgway, D.W.

Majority of 1 for the noes.

The Hon. J.A. Darley's amendment thus negatived.

The Hon. Caroline Schaefer's amendment carried; motion as amended carried.

The council appointed a select committee consisting of the Hons A. Bressington, J.S.L. Dawkins, I. Hunter, C.V. Schaefer and R.P. Wortley; the committee to have power to send for persons, papers and records, and to adjourn from place to place; the committee to report on 17 June 2009.

[Sitting suspended from 13:02 to 14:18]

VOLUNTARY EUTHANASIA

The Hon. SANDRA KANCK: Presented a petition signed by 106 residents of South Australia, concerning making voluntary euthanasia legal. The petitioners pray that the council will support a referendum on voluntary euthanasia at the next general election.

WATER SUPPLY

The Hon. SANDRA KANCK: Presented a petition signed by 40 residents of South Australia, concerning extraction of water from the River Murray. The petitioners pray that the

council will do all in its power to promote the buy-back of water allocations by state and federal governments in order to improve environmental flows and support sustainable agriculture.

RECREATIONAL WATER CRAFT

The Hon. R.L. BROKENSHIRE: Presented a petition signed by 162 residents of South Australia, concerning recreational water craft fees. The petitioners pray that the council will call upon the Treasurer to immediately withdraw the aforesaid new registration fee rates and consult properly with stakeholders for fairer and equitable fees for recreational water craft users.

STORMWATER INITIATIVES

The Hon. R.L. BROKENSHIRE: Presented a petition signed by 407 residents of South Australia, concerning stormwater. The petitioners pray that the council will call upon the state government, as a matter or urgent priority, to invest in stormwater harvesting for metropolitan Adelaide.

VOLUNTARY EUTHANASIA

The Hon. M. PARNELL: Presented a petition signed by 1,515 residents of South Australia, concerning voluntary euthanasia. The petitioners pray that the council will enact voluntary euthanasia legislation.

ANSWERS TO QUESTIONS

The PRESIDENT: I direct that the following written answers to questions be distributed and printed in *Hansard:*

RAIL LINE, NORTHERN SUBURBS

161 The Hon. D.G.E. HOOD (24 September 2008). Will the Minister for Transport commit to reserving the corridor of land known as the old 'Northfield line' rail corridor for a possible future rail line to the northern suburbs?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Transport has advised:

I refer the honourable member to the response tabled in *Hansard* on 14 October 2008, page 252.

MINISTER'S OVERSEAS TRIP

182 The Hon. R.I. LUCAS (12 February 2008).

1. What was the total cost of any overseas trip undertaken by the Deputy Premier and staff since 2 December 2006 up to 1 December 2007?

2. What are the names of the officers who accompanied the Deputy Premier on each trip?

3. Was any officer given permission to take private leave as part of the overseas trip?

4. Was the cost of each trip met by the Deputy Premier's office budget, or by the Deputy Premier's department or agency?

5. (a) What cities and locations were visited on each trip; and

(b) What was the purpose of each visit?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Deputy Premier has provided this information for the period 2 December 2006 and up to 1 December 2007:

1. Cost of Trip[1.]	2. Accompanying Officers	3. Private Leave Taken	4. Cost met by Minister's Office or Dept/Agency	5.(a) Cities & Locations Visited	5.(b) Purpose of Trip
$36,239	Patrick McAvaney,	Nil	Department of Trade and	New York (14 to 22 Jan	To support South Australia's trade

1. Cost of Trip[1.]	2. Accompanying Officers	3. Private Leave Taken	4. Cost met by Minister's Office or Dept/Agency	5.(a) Cities & Locations Visited	5.(b) Purpose of Trip
	Ben Tuffnell		Economic Development	2007)	involvement in Australia Week, G'Day New York and meet with defence and finance sector officials
$8,674	Suzanne Sproule	Nil	Department of Trade and Economic Development	Singapore (25 to 27 Mar 2007)	Trade mission
$36,067	Paul Summerton, Esther Roberts	Nil	Department of Trade and Economic Development	Beijing, Baoding, Wuhu, Shanghai and Kuala Lumpur (14 to 24 Apr 2007)	Trade mission
$87,999	Sylvia Rapo, Patrick McAvaney	Nil	Department of Trade & Economic Development, Department of Treasury & Finance and Defence SA	Bari, London, Manchester, Munich, Frankfurt, and Madrid (7 to 22 Sep 2007)	To attend the Fiera del Levante General Trade and Exhibition Fair, the Defence Systems & Equipment International Exhibition and undertake strategic discussions with a range of defence companies and firms involved in the UK Government's Public Finance Initiative program

[1.] Figures may vary slightly from those reported previously to take account of adjustments and expenses since brought to account.

PAPERS

The following papers were laid on the table:

By the President—

Reports 2007-08—
City of Victor Harbor
District Council of Wudinna

By the Minister for Mineral Resources Development (Hon. P. Holloway)—

Reports 2007-08—
Adelaide Festival Corporation
Art Gallery of South Australia
Attorney-General's Department and Department of Justice
Courts Administration Authority
JamFactory Contemporary Craft and Design Inc
Legal Practitioners Conduct Board
South Australian Museum Board
State Coroner

The Disability Information and Resource Centre
OneSteel Manufacturing Pty. Limited Licence—Environmental Authorisation pursuant to, and for the purposes of, the Whyalla Steel Works Act 1958 (SA)

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

Reports 2007-08—
The Administration of the Development Act 1993
The Planning Strategy for South Australia

By the Minister for Correctional Services (Hon. C. Zollo)—

Reports 2007-08—
Department for Correctional Services
Mining and Quarrying Occupational Health and Safety Committee
SafeWork SA Advisory Committee
South Australia Police
The South Australian Fire and Emergency Services Commission.
Regional Communities Consultative Council - Report, 2005-2007
Fair Work Act 1994—Industrial Proceedings Rules 1005—Amending Sub-rule 83(10), (11) and (13)
Workers Rehabilitation and Compensation Act 1986—Workers Compensation Tribunal Rules 2005—Amending Rule 9 and 10
Workers Rehabilitation and Compensation Act 1986—Workers Compensation Tribunal Rules 2005—Amending Rule 23

By the Minister for State/Local Government Relations (Hon. G.E. Gago)—

Reports 2007-08—
Coober Pedy Hospital and Health Services Inc
Eastern Eyre Health and Aged Care Inc
Environment Protection Authority
Environment Protection Authority—Administration of the Radiation Protection and Control Act 1982
Hawker Memorial Hospital Inc
Mid-West Health Inc
Privacy Committee of South Australia
Quorn Health Services
South Australian Heritage Council
The Whyalla Hospital and Health Services
TransAdelaide
Deaths of Petrus Jacobus Jong, Helena Alida Maria Jong and Miranda Gertrude Maria Jong on 3 July 2004—Report of action taken in response to Coronial recommendations

By the Minister for Consumer Affairs (Hon. G.E. Gago)—

Commissioner for Consumer Affairs—Report 2007-08

PUBLISHING COMMITTEE

The Hon. J.M. GAZZOLA (14:20): I bring up the 1st report of the committee for 2008 and move:

That the report be adopted.

Motion carried.

QUESTION TIME

GROCERY UNIT PRICING

The Hon. J.M.A. LENSINK (14:27): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about unit pricing.

Leave granted.

The Hon. J.M.A. LENSINK: I note that the government in past responses to questions about unit pricing (in particular, from former member the Hon. Ian Gilfillan) did not support that measure. However, there are moves at the federal level and, in particular, on 5 August this year the federal government released an ACCC grocery inquiry and stated it would consider the implementation of unit pricing. I have also received information from Choice, which is the Australian Consumers' Association, to the effect that in one of its surveys unit pricing was supported by 89 per cent of its respondents. My questions are: has the government changed its mind on this matter, and does the government support the Queensland model, which has a range of approaches that are outlined in a draft fair trading amendment regulation?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (14:28): Obviously, the price of groceries is an issue that affects all of us, and the advent of websites such as GROCERYchoice is directly linked to the price pressures of today's globalised economy. These pressures explain why there is increasing momentum around the nation to bring in measures such as unit pricing to give consumers more value for money and to help them make smarter, more informed choices in a simple way.

Obviously unit pricing gives consumers a better idea of how much value they are getting for their money by allowing easy price comparisons, because it provides a volumetric price on each product. That means that items are expressed not only in terms of their total price but also in terms of the amount per kilogram or litre, depending on the appropriate unit.

This transparency in pricing helps consumers compare the cost of similar items in a supermarket without having to take their own calculator to do their own calculations. The uniform trade measurement legislation already requires unit pricing for goods such as fruit, vegetables, cheese, dressed poultry, meat, fish and smallgoods, unless packed in specified weights, rigid containers and so on. This has helped consumers compare the value of those food products. We are quite used to that method of pricing. There is a national push to go down the path of unit pricing.

The ACCC recently released a report which inquired into the competitiveness of retail prices for standard grocery items. The ACCC recommended that a nationally consistent unit pricing scheme for standard grocery items be implemented. So, that recommendation has been made. In response to that report, the commonwealth government has indicated that it will finalise the design of a national pricing scheme by the end of the year, with the scheme becoming operative as soon as possible thereafter.

Prior to the implementation of that scheme, the ACCC has recommended that a cost-benefit analysis be undertaken and, as such, the commonwealth government has released an issues paper calling for comment on the design elements of what a national system might look like. South Australia is supportive and remains supportive of the proposal to implement a national unit pricing scheme. South Australia will continue to work with the commonwealth government to ensure that the system provides an appropriate and adequate mechanism to inform consumers of the unit price of grocery items.

At this point I am not aware that any particular model is proposed to be adopted. I think that we need to wait to see the outcome of the work the commonwealth has put in place and be advised by that. Certainly, South Australia continues to be supportive of it and continues to participate in an attempt to move towards a nationally-consistent approach.

YATALA LABOUR PRISON

The Hon. S.G. WADE (14:32): I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about G Division.

Leave granted.

The Hon. S.G. WADE: The government is putting non-recalcitrant prisoners on canvas in G Division contrary to commitments given to the Ombudsman in 2003. In a letter dated 8 December 2003, the Ombudsman advised a complainant that the government had abandoned the practice of placing all prisoners on canvas regardless of the reasons they were in G Division at the Yatala Labour Prison. The Ombudsman quoted a departmental memorandum outlining the training of policy to staff. That memorandum states:

...overflow protectees admitted to G Division are to be issued normal clothes and bedding and progress to regime 3 unless during the holding cells admission process their behaviour is problematic or their mental condition is in question.

Given that the department assured the Ombudsman that the regime had been changed, when did the government decide to return to putting non-recalcitrant prisoners on canvas, and was the Ombudsman advised?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:33): It appears that, between yesterday and today, the honourable member has dropped the accusation that we are placing people recovering from operations in G Division. Someone is obviously telling him a few tales. Generally, protectee prisoners who are admitted to G Division are provided with standard issue clothing. That is certainly my advice. The prisoners who are admitted to G Division for medical issues relating to self harm are placed in observation cells on canvas for their own protection.

On occasions, protectee prisoners who are transferred from a regional prison may be placed in G Division prior to and after receiving medical treatment if they do not need to be accommodated in the infirmary, because, obviously, this is the safest and most responsible way of managing protectee prisoners. I do want to place on record that certainly any prisoner who is transferred to G Division or a mainstream unit would be there only after being medically cleared to do so by a doctor. Again, generally, protective prisoners who are admitted to G Division are provided with standard-issue clothing.

PHOTOGRAPHER

The PRESIDENT: The cameraman who is in the gallery behind me and who had permission of the President to come in and take a photo of the Hon. Ms Kanck (who obviously has become camera shy at the last minute) can now leave the gallery. Perhaps he would like to go to the Hon. Ms Kanck's office to take his photographs.

QUESTION TIME

BUILDING ADVISORY COMMITTEE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:35): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the checking of structural engineering calculations.

Leave granted.

The Hon. D.W. RIDGWAY: I will spare the minister's adviser from any reference to him in this particular question today. In September this year, I asked the minister a question about the discussion paper that had been circulated by the Building Advisory Committee in relation to the checking of structural engineering calculations and the reason for doing so. In his opening remarks in response, the minister said:

The Building Advisory Committee has indeed been considering the issues of the checking of structural information by private certifiers who may not have engineering qualifications. The reason they are doing that is—and I will refer to several complaints that I have received from councils...I have one here, dated 3 June 2008.

That letter was from the Port Adelaide Enfield council dated 3 June 2008. He subsequently referred to complaints from the City of Onkaparinga and the City of Marion, although he has not tabled them.

It is interesting to note that the reason this discussion paper was circulated was that the minister had received several complaints. It is also interesting to note that the discussion paper was released in April 2008 and public comment closed on 1 June 2008. However, the letters were received by the minister after the discussion paper was circulated and after the time for public comment closed. Will the minister explain why letters and complaints from councils received in June are the actual reasons he instigated a discussion paper in April, some three months earlier?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:38): As I indicated at the time, the principal reason why issues of structural calculations had come into question arises from the Coroner's report into the collapse at the Riverside Golf Club. Of course, that led to the ministerial taskforce on trusses, but the issue of checking was discussed as part of that report. However, I had received some correspondence from councils in relation to the issue of checking,

which was the matter raised by the Coroner. When the honourable member asked the question, I referred to and tabled two letters I had subsequently received from councils.

Let me assure the honourable member that they were by no means the first. Indeed, in some cases, I will often be provided with advice before we receive the actual formal complaint. Certainly those letters that I tabled may have been received after the date referred to, but I had received almost continuing correspondence from councils in relation to the issue of checking and private certifications. I think that, when the honourable member last raised this question, I referred to two more letters that I did not propose to table because one of them concerned a matter leading to subsequent investigation.

I was rather expecting the honourable member to ask this question because, of course, he received a letter from the Australian Institute of Building Surveyors, on 18 November, when it raised this matter. Perhaps I should make some comments on that letter from the Australian Institute of Building Surveyors. I am sure that this will be of some interest to members who have been listening to the questions that the honourable member has asked, and to my responses, in relation to this whole question about private certification. The letter stated:

> To state from the outset, I am disappointed and dismayed at the various inferences by you in parliament that a section of the building surveying profession, that is private certifiers, is putting the safety of the community at risk by not undertaking appropriate and proper assessment of buildings or compliance with the building rules.

All I have said is that this is an issue. Anything involving a certification does relate to building safety and obviously is a matter that we should take seriously. What I am disappointed about is that the Australian Institute of Building Surveyors should have been involved in the partisan way that it has been in supplying information to the Leader of the Opposition, including complaints about members of my staff, and then it makes totally inaccurate comments such as that. I was not given the history of it, but of course I was not the least bit surprised that when the AIBS wrote to me, with a copy sent to a number of other members of parliament, including the Hon. David Ridgway, he should choose to raise that point in this council.

I have invited the AIBS to comment on these important matters. It is important that we do make the right decisions. I have previously indicated that in these matters there is always a trade-off as between extra red tape, extra regulation and, therefore, the associated cost. With safety, it is a difficult juggling act; a decision has to be made and clearly it is one in which we need to weigh up all the facts, and that is exactly what I am going to do. I believe that it is counterproductive to have that sort of debate, but when I was asked by the honourable member to provide evidence from councils—and I have done so—I think it is a bit rich then to be criticised by the institute for doing exactly that.

Nevertheless, I will continue to deal with the AIBS and I hope that it will do the same in a thoroughly professional manner; it has an important task to undertake. It is important that we get this right, and I am prepared to listen to its reasoned arguments, but these attacks on members of my staff and other individuals—which the Leader of the Opposition has facilitated—really do nothing at all in terms of advancing what is a very serious debate. The only point that I have been trying to make is that issues of private certification are important matters, and I certainly have not suggested, necessarily, that private certifiers have acted inappropriately, although clearly in some cases that has been investigated.

Rather, the issue involving engineering calculations is complex and relates to the level of checking required on significant structural projects, and whether there should be some requirement that the person who does the checking is appropriately qualified in that subject to undertake that task.

BUILDING ADVISORY COMMITTEE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:44): Can the minister explain the interesting coincidence that the Chairman of the Building Advisory Committee is a consultant to all the councils from which he has received complaints (that he has made public to us)—Port Adelaide, Onkaparinga, Marion and the Barossa?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:44): It is quite clear from where this information comes. Again, I make the point that I hope that the Australian Institute of Building Surveyors—particularly since it has not made a decision on it yet—would act professionally and—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: The individual whom the honourable member is talking about is a member of that institute. I think, from memory, that we have about 28 building surveyors in this state (or something of that order). Some of them have accreditation for engineering structures and some of them do not, and some of them are level 1 and some are level 2. There is not a particularly large number. I will check out the actual number and bring it back. It is therefore not surprising that those senior building surveyors who have accreditation would do work for councils; for whom else would they do work? If you are a building surveyor most of your work, as a private certifier, will involve councils. That is what you do—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: I am trying to explain that it is not a coincidence, that it is not unbelievable—in fact, it is highly likely. There is only a handful of senior building surveyors, and that particular individual is one of those who has engineering qualifications (not all of them do). As I understand it, he is a life fellow of the institute; I believe he is also a part-time commissioner on the ERD Court. I am sure someone that well qualified would be used by councils.

That is why I continued his appointment. I believe he has been a member of the Building Advisory Committee for some time; he certainly predated me becoming a minister. He has the appropriate qualifications and, given how few people there are, I am not the least surprised that he works for a number of councils.

UNLEY CITY DEVELOPMENT

The Hon. B.V. FINNIGAN (14:47): My question is to the Leader of the Government and Minister for Urban Development and Planning. Adelaide's inner suburbs have a distinctive feel and charm that distinguishes our city. Will the minister provide details of work being carried out to identify and preserve the unique character of the City of Unley?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:47): I thank the honourable member for his question. Adelaide does have its own distinct charm. Much of this is due to the layout of the city and its parklands, but it is also due to the character of its inner suburbs. With Adelaide's urban fringes already running into the natural barriers of the gulf and the hills to the west and east, and the Barossa and McLaren Vale wine-growing districts to the north and south, there is significant pressure to provide additional housing within our existing suburbs. The challenge for this government and metropolitan councils is how to balance this demand while retaining our heritage and character.

Part of the answer to this challenge is to provide urban renewal in older, developed areas by harnessing industrial land for high-density housing—indeed, as the government intends to do at the Clipsal site in Bowden. The government, with the City of Playford, is also embarking on a project to renew some of the tired, post-war suburbs in Adelaide's north, and this government's commitment to electrify Adelaide's metropolitan rail network also allows us, for the first time, to begin considering harnessing neglected transit corridors—particularly rail corridors—to create commuter friendly communities.

Homeowners have always been keen to live within Adelaide's dress circle suburbs and, while many of the heritage and character homes have been well maintained, the remaining vacant blocks and rundown housing stock provide some opportunity for redevelopment within those suburbs. These opportunities have to be managed so as not to clash with existing heritage and character, and the best way to achieve this is through a development plan. That is why I have been working with the City of Unley for the past two years to create a draft new development plan that clearly recognises the unique local heritage and character aspects of that part of Adelaide's inner suburbs.

My approval for the introduction this week of the City of Unley Village Living and Desirable Neighbourhood Development Plan (a very substantial document), and its immediate effect through the interim powers given to me in the Development Act, provides appropriate recognition of heritage areas and the distinctive qualities that give the inner suburbs to the south of Adelaide this special and endearing character. The planning policies contained within the new development plan identify a new residential historic conservation zone that encompasses all the heritage areas of the City of Unley. The development plan also includes a residential streetscape zone that encompasses all the distinctive character areas that provide the City of Unley with its unique look

and feel. This plan allows the council to protect Unley's special qualities while still responding to the continued demand for growth and the development of new communities within this area.

Establishing character areas with a distinctive look and feel will also assist the local council to adopt planning policies to better manage the nature of redevelopment in these particular streetscapes. Buildings within these identified residential streetscapes can be demolished only if a replacement is assessed by the council as being consistent with the specific character of that part of Unley. The performance of the new development plan is to be monitored during the next 12 months to ensure that the objectives of identifying and conserving heritage and character are achieved.

I hope this 12-month pilot study of the Unley plan will assist other councils to undertake the task of identifying their local heritage areas and defining character features. Stage 2 of Unley's development plan amendment process will consider the long-term vision for this council area and the opportunities for continued population growth close to the city. I suspect that this will be achieved by increasing housing density and diversity in some of the remaining residential areas of the council not included in the local heritage or character zones, and this will probably mean substantial upscaling along existing rail and traffic corridors and within key activity centres within the City of Unley.

I acknowledge the work of the Department of Planning and Local Government in helping the City of Unley to develop this pioneering development plan. I also thank the mayor of Unley (Richard Thorne), his fellow councillors and council staff for their patience and cooperation and the enormous amount of work that was critical to this successful outcome.

SEATBELT EXEMPTIONS

The Hon. D.G.E. HOOD (14:52): I seek leave to make a brief explanation before asking the Minister for Road Safety a question about exemptions on the use of seat belts.

Leave granted.

The Hon. D.G.E. HOOD: This is a fairly simple question, but I was contacted by a constituent who was genuinely confused. I will call him 'Grant' for the sake of this exercise.

The Hon. R.I. Lucas: If it is a simple question, 'Russell' would be appropriate.

The Hon. D.G.E. HOOD: It is the end of a long week: I will not acknowledge interjections as they are out of order. I can supply the minister privately with his full name, if she would like. 'Grant' is a delivery driver for Australia Post, and recently he contacted me about whether or not he had to wear a seat belt while delivering mail. On 26 September this year he was pulled over by a police officer, but he was told that he was exempt from wearing a seat belt because of the nature of his work. The worker has also heard of another three cases of police officers informing work colleagues that they too are exempt from wearing seat belts. On four separate occasions he and his colleagues were told that they are exempt.

However, on 7 November this year 'Grant' was pulled over and this time was fined for driving without a seat belt. He was fined $250 and received three demerit points. He contacted my office to ask what rules applied in this matter and exactly what was the law for mail deliverers wearing seat belts. He also advised me that following his fine all the delivery agents at the Netley Australia Post depot are now confused as to whether or not they should wear seat belts. I informed him that my understanding of rule 267 of the Road Rules is that he is not usually required to wear a seat belt but that he should get legal advice and dispute his ticket with the Expiation Notice Branch, if appropriate. Rule 267 is somewhat vague. It reads that drivers are exempt from wearing seat belts if:

> The person is engaged in the door-to-door delivery or collection of goods or in the collection of waste or garbage and is required to get in or out of the vehicle or on or off the vehicle at frequent intervals.

Some Australia Post drivers are not engaged in door-to-door deliveries but instead go from post box to post box. So, are they included under this rule 267? Although 'Grant' does do door-to-door deliveries, some of his workmates do not and they have requested that I seek clarification from the minister to put on the record. My questions to the minister are:

1. Will she clarify the exact rule for postal delivery agents in the circumstances which I have described?

2. If I supply further information about 'Grant's' case in particular, will she undertake to look at it specifically?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:55): I will certainly undertake to look at not just rule 267 and its technicalities and how they apply to Australia Post delivery people but, in particular, to the constituent the honourable member has just mentioned. I will approach him after question time and endeavour to have a response for him as soon as possible.

QUESTIONS WITHOUT NOTICE

The Hon. J.S.L. DAWKINS (14:55): I seek leave to make a brief explanation before asking the Leader of the Government a question about questions without notice.

Leave granted.

The Hon. J.S.L. DAWKINS: On 21 November 2007, I sought leave to make an explanation prior to asking a question about regional development board funding, and I quote from that explanation, as follows:

> Seven of the 13 regional development boards in this state will have their current five-year resource agreements expire on 30 June 2008. In addition, the other RDBs, the resource agreements of which were to expire on 30 June 2007 but which were given a 12-month extension, will have their agreements expire at the end of this financial year.
>
> I understand that the minister took this decision so that all boards would be in funding alignment and to allow for the implementation of new key performance indicators in closer integration with the economic targets under South Australia's Strategic Plan.
>
> The level of state government funding under the RDB resource agreements has not increased during the term of the current government. The opposition understands that RDBs have been provided with draft resource agreements to commence in July 2008. These draft resource agreements apparently make no reference to state government funding allocations and largely focus on changes to the membership of the boards, particularly relating to the ministerial representatives becoming full voting members. When will the regional development boards be provided with the details of their funding allocation from 1 July 2008?

On 13 November 2008, almost 12 months later, I received the following answer from the Minister for State/Local Government Relations:

> The Minister for Regional Development has provided the following information:
>
> 'The regional development boards are currently funded by a state/local government partnership under a five-year resource agreement. The regional development boards will be provided with their funding allocation for the next resource agreement following the handing down of the state budget for 2008-09.'

The answer, which took eight days less than a year to reach me, included a small portion of the information that was in my explanation. It also referred, in future tense, to the 2008-09 budget, an event that occurred six months ago. Further, it implied a lack of respect for the regional development board network and the local government funding partnerships, which are linked to state government funding levels. My question is: what action will the Leader of the Government take to ensure that answers to questions in this place are, first, much more timely; secondly, do not provide information that is already in the explanation; and, thirdly, do not incorporate information that is months out of date?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:58): This government seeks to endeavour to answer the questions that are asked of it. Obviously, how timely the answers to some questions will be depends on the complexity of the detail required. In some cases, there may be a need to check with other departments, and so on. As I have said, this government's intention is to answer questions as quickly as it can. Some questions can be and are answered relatively quickly. Obviously, some questions may, for all sorts of reasons, take longer to answer.

QUESTIONS WITHOUT NOTICE

The Hon. J.S.L. DAWKINS (14:59): I appreciate the minister's answer, but will the minister undertake to look at the circumstances I have just described, which show that in the 12-month period in question no detail was gone into and no work was done, and the reply has just come back as a fob-off after 12 months?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:59): Given that the honourable member has raised this matter, I will look at it. Whether it had to with the change of minister at the time, I am not sure, but I will look at that matter for the honourable member.

BLACK SPOT PROGRAM

The Hon. R.P. WORTLEY (15:00): I seek leave to make a brief explanation before asking the Minister for Road Safety a question about the projects that were successful in achieving funding from the level crossing black spot program.

Leave granted.

The Hon. R.P. WORTLEY: The state government recently wrote to 11 councils advising that 19 programs across the state that were nominated for level crossing blackspot funding had been successful. Will the Minister for Road Safety please outline where these level crossing improvements will be made and what type of works will be undertaken?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (15:00): I thank the honourable member for his question. In July this year, I informed the council of a partnership between state and local governments in regard to tackling road safety at level crossings on local roads.

The partnership involves a 50-50 funding split between state and local governments, and the program will deliver a significant boost to level crossing safety over the next four years for council-nominated improvements. The program is directed at improving level crossing safety by identifying and treating level crossings on local roads that have one or more of the following:

- minor safety deficiencies;
- an established record of near-miss incidents; and
- identified risk.

Today I am pleased to update members on the progress of this program. The 11 councils that will benefit from the 2008-09 Level Crossing State Blackspot Program are: the Adelaide Hills Council, Alexandrina Council, Barossa Council, City of Charles Sturt, Light Regional Council, District Council of Mount Remarkable, The Rural City of Murray Bridge, City of Port Lincoln, City of Prospect, City of Salisbury and District Council of Tumby Bay. Examples of some of the works to be undertaken include:

- installing pedestrian crossings;
- installing stop signs;
- vegetation trimming;
- narrowing the width of crossings;
- line marking;
- removing defective and non-compliant signs and replacing them with new signs;
- installing a solar powered street light; and
- installing advanced warning signs for heavy vehicles to detour.

Councils have until June 2009 to complete the works. Safer level crossings play an important role in achieving South Australia's road safety targets. The implementation of cost-effective road improvements to address sight distance deficiencies, pedestrian issues, traffic queueing and lighting issues will go a long way to reduce the risk at level crossings.

I thank the Department for Transport, Energy and Infrastructure and the Local Government Association for their role in expeditiously processing these nominations. From late July until now, the department and the association have sought nominations and selected the successful projects. There are 1,140 level crossings in South Australia, and about 80 per cent are on local roads. This collaborative program is therefore vital in improving level crossing safety throughout the state.

VACSWIM

The Hon. J.A. DARLEY (15:03): I seek leave to make a brief explanation before asking the Minister for Correctional Services, representing the Minister for Recreation, Sport and Racing, a question in relation to the Vacswim program.

Leave granted.

The Hon. J.A. DARLEY: For over 20 years Vacswim has been using the Royal Life Saving Society's Swim and Survive program to teach the children of South Australia the importance of water safety as well as essential skills to survive in emergency situations. The Swim and Survive program is used by all other states in Australia. It is internationally recognised as an exemplary water safety education program and was developed and run by the Royal Life Saving Society.

The program comprises seven levels which students must complete in succession. It aims to develop swimming technique, water safety, water confidence, survival and endurance. Swim and Survive aims to reduce the number of Australians drowned by increasing their awareness in and around water. Given the tragic news of yet another drowning in a residential pool on Monday, I am sure that all members recognise the importance of water safety.

Recently, the state government replaced the Swim and Survive program with another program. The RLSS has raised serious concerns in regard to this new program as it believes that it is not only inadequate in teaching water safety education but also teaches students practices that are potentially dangerous. The Royal Life Saving Society is the peak water safety body in Australia and was not consulted in developing this new program.

When questioned by the Royal Life Saving Society representatives about the departure from the Swim and Survive program, the Office for Recreation and Sport reported that it was due to negative community feedback about the Swim and Survive program, and to save on costs. Given that the program has a 98 per cent satisfaction rate and was provided free of charge to Vacswim, my questions to the minister are:

1. Why has the successful Royal Life Saving Society Swim and Survive program been abandoned?

2. Who was responsible for writing the new program?

3. Was the Royal Life Saving Society not consulted on the new program and, if not, why not?

4. What research or consultation had the department conducted into the efficacy or otherwise of the new program prior to its implementation?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (15:05): I thank the honourable member for his questions in relation to the Vacswim program and the Royal Life Saving Society. I will ensure that the Minister for Recreation, Sport and Racing in the other place considers the questions the honourable member has asked and bring back a response.

SUICIDE PREVENTION

The Hon. C.V. SCHAEFER (15:06): I seek leave to make a brief explanation before asking the minister representing the Minister for Mental Health a question about suicide prevention.

Leave granted.

The Hon. C.V. SCHAEFER: Last week's *Stock Journal* states:

> Every four days, a farmer in Australia suicides, according to anti-depression agency beyondblue.
>
> Recent research from Flinders University also shows that farmers are more likely to commit suicide than other people living in rural communities.

The article goes on to outline some of the difficulties and reasons for such a high rate of suicide which, of course, is being exacerbated by the current drought and hard economic conditions. The article states:

> LOXCARE coordinator Carolyn Wood...says community awareness is the key to combating depression and the prevention of suicide.

She goes on to speak most enthusiastically about local recognition of the signs of suicide and community support such as that offered by the CORES group that has been so successful in Tasmania and, indeed, which presented a workshop in Loxton.

My question is: will the state government reconsider its current negative position on funding the community-based suicide prevention group CORES and, if not, why not?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:08): We know that our farmers can from time to time do it very hard and, given their remoteness from support services, they can end up in situations of great stress. We also know that this unprecedented drought has exacerbated those pressures.

I certainly know that in my former role as the minister for mental health it was an issue that occupied a great deal of our time, energy and planning—and also funding. On many occasions I outlined in this chamber in detail the number of programs and the extensive breadth of programs and the significant additional funding that the state government has put into providing extra support services for farmers and other people living and working in regional areas because of the drought. So, I am happy to refer this question to the minister in another place and bring back a detailed response.

WHITE RIBBON DAY

The Hon. I.K. HUNTER (15:10): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about White Ribbon Day.

Leave granted.

The Hon. I.K. HUNTER: As members would know, Tuesday 25 November was a United Nations day for the elimination of violence against women—White Ribbon Day. It is a day for the community—and men in particular—to say 'no' to violence against women. Will the minister inform the council of the work the government is doing to educate the community about violence against women?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:10): I thank the honourable member for his most important question and his ongoing interest in these very important policy areas. In 1999 the United Nations General Assembly declared 25 November the International Day for the Elimination of Violence Against Women, and the white ribbon has become a symbol of that day. The campaign is increasing in profile as time goes on and as more and more men become involved in the elimination of violence against women in our community.

The state government is dedicated to ensuring the safety of all South Australians, and that is why we have committed $868,000 over four years to the Anti-Violence Public Awareness Campaign. The campaign aims to draw attention to legislative changes, change community attitudes, increase awareness for workers who respond to perpetrators and victims, encourage a culture of perpetrator accountability and highlight the important work being undertaken by the South Australian government.

I am pleased to announce the Anti-Violence Public Awareness Campaign community education grants. The grants will offer organisations a chance to receive up to $10,000 per organisation towards an anti-violence education project. Grants will be awarded this financial year and in 2009-10, with up to $100,000 to be awarded in total. The community education grants are targeted at those groups who are unlikely to be reached through a mainstream community education campaign. This may include Aboriginal and Torres Strait Islander young people, young people living in rural and remote communities or young people who are new arrivals and refugees.

Organisations eligible for grants include groups such as not-for-profit incorporated foundations, service clubs, schools, sporting bodies, Aboriginal groups, ethnic communities, church groups, youth organisations, local government bodies and other sections of the general community. These grants build on the momentum of tough new rape and sexual assault laws which came into effect in South Australia just last week. We are also progressing legislative reform to domestic violence legislation and developing a community awareness campaign in which we can use these reforms as a catalyst to change community attitudes—particularly those of young men—about violence towards women.

Violence against women, as we know (and I am sure that every member shares the same view), is completely unacceptable. Women still suffer from relationships which destroy their lives, and violence continues to cause physical and mental anguish in the homes of South Australian women. I understand that violence against women is one of the highest health risk factors to women—apparently it is even higher than health factors such as obesity, high blood pressure and smoking. It is a significant health risk for women.

Some of the other statistics I want to share with the council include the fact that one in three women experience physical violence in their lifetime and violence towards women costs Australians around $8.1 billion a year. As I have said, violence towards women is identified as the single biggest health risk for women aged between 15 and 44 years. Also, 60 per cent of women who are murdered are murdered by an intimate partner.

I am sure members will agree that these things are appalling and totally unacceptable—and they do not even take into consideration what we believe to be an extremely high rate of under reporting in relation to domestic violence. The antiviolence public awareness campaign community education grants will enable the wider community to become aware of this vital issue and, no matter what form violence takes, obviously it should not be tolerated.

Honourable members: Hear, hear!

SUNDRY TRADERS

The Hon. R.D. LAWSON (15:15): I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about sundry traders.

Leave granted.

The Hon. R.D. LAWSON: In the annual report of the Commissioner for Consumer Affairs tabled by the minister today, there are contained (as usual) details of actions taken by the office of the commissioner against sundry traders. It includes assurances given by certain persons who apparently have been investigated under various occupational licensing arrangements such as the Plumbers, Gas Fitters and Electricians Act, the second-hand dealers act, the Building Work Contractors Act, the Fair Trade Act, etc. It also contains particulars of some 42 court actions.

My questions really relate to the details of assurances sought in 27 cases. In these cases, an undertaking has been extracted from certain named persons that they will refrain from carrying on business without a licence or will, for example, refrain from issuing misleading or deceptive statements. In other words, an undertaking that they will comply with the law that already exists and they will do what they are required to do, in any event. There is no detail at all of whether or not, following that undertaking being given, the particular person has sought and obtained the necessary licence or any follow-up by the department. My questions are:

1. What is the point of obtaining an undertaking that a person will comply with the law when we are all obliged to comply with it, in any event?

2. What particular consumer benefit does the minister see in publishing undertakings without also providing some details as to whether or not those undertakings have been complied with or whether licences have been obtained?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:17): I am not too sure why the honourable member did not attend the committee debate on the Auditor-General's Report earlier today.

The Hon. R.D. Lawson interjecting:

The Hon. G.E. GAGO: Sorry; I thought you referred to the Auditor-General's Report.

The Hon. R.D. Lawson: The Commissioner for Consumer Affairs.

The Hon. G.E. GAGO: I beg your pardon. I do not have the details in relation to the questions asked by the honourable member, but I am happy to take them on notice and bring back a response. I understand that undertakings are something that are used to assist the commissioner in bringing about behaviour that better complies with legislation and regulation. My understanding is—and I am happy to clarify this—that it is a way, if you like, of being less heavy-handed but working with agents to ensure that they do bring about better practices. As I said, I am happy to provide detailed information and bring back a response.

WOMEN'S EDUCATION PROGRAM

The Hon. M. PARNELL (15:19): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the proposed closure of the Women's Education Program at the Mount Barker TAFE.

Leave granted.

The Hon. M. PARNELL: I have spoken previously in this place about concerns raised over a national agenda to privatise the technical and further education system. Despite the issue of contestability being taken off the forward agenda of COAG by the Deputy Prime Minister, Julia Gillard, at the recent Ministerial Council for Vocational and Technical Education meeting (which was held on 20 November), it appears that South Australia is one of the few states pushing ahead with this privatisation agenda, with the ambition for 50 per cent contestability of TAFE by the year 2012.

One of the most disturbing aspects of this agenda for me is the pre-emptive loss of critical entry level job training, as TAFE colleges prepare for contestability by ditching their less profitable courses. One example is the Women's Education Program, which provides a crucial first step for marginalised women who wish to gain skills and confidence to enter further training or employment, especially in regional areas.

My office has been contacted by a number of women studying and connected with the Women's Education Program, who are highly distressed at the news that this course will be cut from the Mount Barker Campus; a decision that was confirmed this morning by a spokesperson from DFEEST (the relevant department), who rang the ABC 891 morning show, to respond to the many women who have rung in and spoken in defence of the Women's Education Program over the past few days. These women have described how crucial this program is, especially the important face-to-face to face contact, which is provided by the teaching staff, which helps them to get back into study or into the active workforce.

Students currently studying at Mount Barker TAFE will now apparently only be given the choice of accessing online teaching or will be forced to travel to the city. I have been told that the primary reason for cutting the on-campus program is the poor completion rates; however, as I understand it, the reason that many women do not complete the course is that they actually succeed in obtaining a job or that they move into more specialised training. So, what is actually a remarkable success story is being used as a justification to shut down this program. My questions to the minister are:

1. Were you, your ministerial office or the Office for Women consulted about the closure of the Women's Education Program at regional campuses, including Murray Bridge and Mount Barker and, if so, what advice was provided?

2. Do you as Minister for the Status of Women support the loss of on-campus teaching as part of the Women's Education Program at the Mount Barker TAFE?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:22): I will refer the honourable member's questions to the appropriate minister (the Minister for Employment, Training and Further Education) in another place and bring back a response. He is the minister responsible for the policy area of further education and training.

These are often very difficult decisions that have to be made. They are very difficult policy decisions in terms of the level and breadth of services that we supply, in respect of the types of curricula that are developed and made available. Obviously, there needs to be an adequate number of interested parties who are prepared to enrol in them and, of course, then go on to complete these courses.

Every public dollar is precious, and we obviously have to ensure that we drive that dollar and get the best value out of it as we possibly can. Other than those general statements, as I said, for further details about those particular courses I will refer the questions to the Minister for Employment, Training and Further Education.

WOMEN'S EDUCATION PROGRAM

The Hon. M. PARNELL (15:23): I thank the minister for referring my questions to a fellow minister, but my question was: were you as the Minister for the Status of Women consulted about the closure of these course and, if not, why not?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:23): I have given a response to that question. I will refer the questions to the minister in another place.

WOMEN'S EDUCATION PROGRAM

The Hon. SANDRA KANCK (15:24): Will the minister ascertain whether any qualitative research has been done in regard to the positive impact of women's studies on students and, if there has not been, will she urge her counterpart to undertake such studies?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:24): Again, I will forward on the Hon. Sandra Kanck's questions to the appropriate minister in another place and bring back a response if that information is available. I am sure that those sorts of considerations are part of—as I said—some of the very difficult policy decisions that we make in terms of the way that we plan and roll out our courses.

WOMEN'S EDUCATION PROGRAM

The Hon. M. PARNELL (15:25): I have a further supplementary question. Does the minister, as the Minister for the Status of Women, support the closure of women's education courses at Murray Bridge and Mount Barker?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:25): The honourable member is going around in circles. I have responded and given my answer to the question. Obviously I am very supportive of all education for women; in fact, I am very supportive of any support provided to women, whether it is in their work or family life, their education, etc.—even self-defence. All those things are useful and helpful, and I support those things that assist women in their daily lives.

However, and as I said in my initial response, these are part of very difficult policy decisions that have to be made. Every public dollar is precious to us, and we have to make sure that we get the best value, in terms of services and support systems, for every single dollar that this government provides right across the community. As I have said, I have already provided an answer to the question.

WOMEN, DISCRIMINATION

The Hon. J.M. GAZZOLA (15:27): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question regarding the United Nations Convention on the Elimination of All Forms of Discrimination Against Women.

Leave granted.

The Hon. J.M. GAZZOLA: The Rudd Labor government is clearly committed to the rights of women. For example, it has established a national council to develop strategies to eliminate violence against women, and Prime Minister Kevin Rudd is a White Ribbon Day ambassador. The Rudd Labor government has also expressed its commitment to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. Will the minister provide an update on the status of the optional protocol to that United Nations Convention?

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy) (15:28): I thank the honourable member for his most important question. I am very pleased to have this opportunity—albeit, a very small window of opportunity—to provide a brief answer. I am very excited to say that on Monday this week, on the eve of International Day for the Elimination of Violence against

Women, Australia formally moved to become a party to the optional protocol to the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Members interjecting:

The PRESIDENT: Order! We have a long day in front of us.

The Hon. G.E. GAGO: There is a little squeaking mouse in the room, Mr President, sitting across from here. CEDAW has often been described as an international bill of rights for women. Although Australia has been a party to CEDAW since 1983, the Howard government refused to sign the optional protocol when it was adopted in 2000, despite countries such as the United Kingdom, Canada, New Zealand and a number of our Asia-Pacific neighbours doing so.

Under the optional protocol, women in Australia would be able to make a complaint to the UN Committee on the Elimination of Discrimination against Women about alleged violations of Australia's obligations under CEDAW. This can occur only after other legal options have been exhausted. The protocol also permits the UN investigation process. By becoming a party to the optional protocol, the Rudd Labor government has demonstrated its commitment to the promotion and protection of the rights of Australian women both at home and abroad. This important document reaffirms their human rights, dignity and worth. Australia's instrument of accession to the optional protocol will be launched shortly in New York and will come into force for Australia before International Women's Day on 8 March 2009.

Australia is taking other important steps to eliminate discrimination against women, in particular, inquiries into pay equity and the commonwealth Sex Discrimination Act highlight the importance of gender equity on the current agenda. I am pleased to announce that Australia is formally becoming a party to the optional protocol and I look forward to further achievements in eliminating discrimination against women.

ANSWERS TO QUESTIONS

ENVIRONMENT AND HERITAGE DEPARTMENT

In reply to the **Hon. J.M.A. LENSINK** (29 July 2008).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Environment and Conservation has provided the following information:

1. The Department for Environment and Heritage (DEH) reviewed the departmental fencing policy in 2006. The Fences Act 1975 does not require the government to pay for fences along the boundary of land parcels more than one hectare in size. Responsibility for fencing, if required by the adjoining landowner, such as to prevent stock straying onto reserves, is the responsibility of that landowner.

Whilst in general there is no legal obligation for DEH to contribute to the cost of fencing adjoining land, the fencing policy states that where a boundary fence is required for a specific reserve management purpose, the government, through DEH, will contribute to the cost of boundary fences. Reserve management purposes include preventing unauthorised vehicle access from neighbouring land and protection for threatened species.

Further, where DEH requires a fence of a standard greater than that required by the adjoining landowner, the department will contribute to boundary fencing on a negotiated basis.

2. I am advised that the majority of fences adjacent to parks north of Port Lincoln is the cyclone type fencing which the honourable member made mention of in her question. It was not clear in the question if the land is adjacent to a reserve or if the replacement fencing related to a heritage agreement. A standardised plain wire fence is used for heritage agreement type fencing in order to allow for a set payment per kilometre.

Either way, the honourable member should encourage her constituent make contact with the Port Lincoln office of the Department for Environment and Heritage to better explore what options are available that will lead to a mutually acceptable outcome.

JAMES NASH HOUSE

In reply to the **Hon. R.D. LAWSON** (31 July 2007).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Mental Health and Substance Abuse has advised:

In the former minister's answer to the honourable member's initial question, the minister stated that we have set aside $1.4 million to assist staff with relocation costs.

There is a one off cost of $1.423 million required in 2010-11 to meet with the cost associated with recruitment, training and relocation assistance to Mobilong. These funds have been approved as part of the forward estimates for the 2010-11 financial year. The budget papers will be updated to include this figure as part of the mid-year budget review process.

GLENSIDE HOSPITAL

In reply to the **Hon. J.M.A. LENSINK** (2 May 2007).

The Hon. G.E. GAGO (Minister for State/Local Government Relations, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister Assisting the Minister for Transport, Infrastructure and Energy): The Minister for Mental Health and Substance Abuse is advised:

The medical centre located on Glenside campus primarily provided care and mental health treatment for frail aged mental health patients as a result of chronic co-morbid medical conditions. It did not provide, as the name might suggest, acute general medical care.

In the event that any patient of Glenside campus needs acute general medical care they are assessed by a medical officer and if necessary are transferred to the Royal Adelaide Hospital (RAH) for assessment and treatment.

In November 2006 the new purpose built facility for Aged Mental Health Care Services (AMHCS) opened at the Repatriation General Hospital and 30 AMHCS beds were transferred from Glenside campus to the new facility.

With the transfer of these beds to the new Repatriation General Hospital facility, the services previously provided by the medical centre were consolidated within alternate wards of AMHCS on Glenside campus. These wards were upgraded to accommodate this group of frail aged mental health patients.

A medical officer forms part of the emergency response team that provides rapid response to any medical emergencies occurring on Glenside campus. There has been no reduction in medical offers on site to deal with emergencies.

When necessary, patients are transferred by ambulance to the RAH emergency department for further assessment and treatment.

In addition to emergency medical responses for patients, there are comprehensive psychiatric and medical support services available to patients of Glenside campus.

CRIME PREVENTION UNIT

In reply to the **Hon. R.D. LAWSON** (28 April 2008).

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): The Minister for Police has provided the following information:

SAPOL's Project Compass undertook a review of SAPOL'S approach to crime prevention through the Crime Prevention Structures Review, completed in October 2007. Crime prevention was previously supported across SAPOL by a number of central functions and delivered by Crime Service, Operations Support Service and Local Service Areas.

The review recommended a new approach to crime prevention via the development of a SAPOL Crime Prevention Strategy, creation of new organisational structures to support crime prevention and the development of a new Problem Solving Strategy. The implementation of the State Crime Prevention Branch subsequently occurred on 2 January 2008.

To complement the new structure and focus on a new approach, the current Community Programs Sections in Local Service Areas (LSA) will be disbanded and new crime prevention sections created. The sections will be resourced by a combination of extra positions from Recruit

400 and upgrading of existing positions. The crime prevention sections will lead SAPOL's crime prevention strategy and drug strategy in the LSA and oversee the use of problem solving in the LSA.

The strategy aligns with the objectives of the South Australia Strategic Plan 2007 and further aligns with SAPOL's Future Directions Strategy 2007-10 for crime prevention. It is a crime prevention intervention model focusing on:

- Problem solving
- Crime analysis and Information
- Program research and development
- Community education and community engagement
- Response and investigation
- Early intervention and program delivery
- Workforce education and capacity building
- Evaluation and continuous Improvement

It is linked to SAPOL's crime prevention objectives of:

- Reduction in alcohol and drug related issues
- Reduction in car and property crime
- Protecting property and targeting repeat offenders
- Prevention of domestic violence, child abuse, sex crimes, violent assaults and robbery
- Curbing youth crime involvement and working with indigenous communities to prevent crime
- Preventing e-crime and internet vulnerability
- Disrupting motor cycle gangs and organised crime
- Making public places and public transport safer
- Reducing death and injury on our roads

SAPOL's new Crime Prevention Strategy has been designed to meet SAPOL's current and future needs.

SAPOL is represented at senior management level on the Victims of Crime Ministerial Advisory Council. An information update on the work being undertaken by SAPOL will be provided to the Council at an appropriate time.

WIRE ROPE SAFETY BARRIERS

In reply to the **Hon. D.W. RIDGWAY (Leader of the Opposition)** (23 September 2008).

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): I am advised:

1. The Department for Transport, Energy and Infrastructure considered that wider research and consultation undertaken at a national level, was sufficient to make an informed decision about the use of wire rope safety barriers.

2. The typical installation costs of safety barriers are:

- Wire rope safety barrier $140 per metre
- W-beam steel barrier $120 per metre; $160 per metre double sided
- Concrete (new jersey) barrier $350 per metre

The wire rope safety barrier is selected because of its containment capabilities and inherent characteristics to minimise occupant injury—not because of the cost consideration.

WIRE ROPE SAFETY BARRIERS

In reply to the **Hon. J.S.L. DAWKINS** (23 September 2008).

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): I am advised:

Centre line audio tactile line marking (ATLM) has not been used in South Australia but is being investigated and monitored closely in other states. The typical installation cost of the ATLM is approximately $3.60 per metre ($3,600 per kilometre) in the centre line situation. ATLM is designed as a fatigue countermeasure and alerts the driver, through an audio and vibration effect, when they deviate from their lane. It is not an alternative to safety barrier treatment.

FIRST HOME OWNER GRANT

In reply to the **Hon. D.G.E. HOOD** (16 October 2008).

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business): The Treasurer has provided the following information:

The First Home Bonus Grant of up to $4,000 will continue to be paid. The newly announced federal 'boost' will apply in addition to the assistance that is currently provided by the state government.

POLICE, APY LANDS

In reply to the **Hon. R.L. BROKENSHIRE** (29 July 2008).

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs): The Minister for Police has provided the following information:

The two duplexes proposed at each Amata, Pukutja and Mimili in the APY Lands will house four officers who will work and reside in each of these APY communities as recommended by the Mullighan report.

A total of twelve new residences in six duplexes will be built in the APY Lands.

It is anticipated that the building contract for this project will be tendered in the near future once necessary approval processes have been completed.

It is anticipated that the Amata duplexes will be commissioned in July 2009 to be followed by Pukutja in August 2009 and Mimili in September 2009.

BUILDING ADVISORY COMMITTEE

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:30): I seek leave to make a personal explanation.

Leave granted.

The Hon. P. HOLLOWAY: During question time the Leader of the Opposition asked me a supplementary question about the Chair of the Building Advisory Committee. In my answer I incorrectly stated that the appointment of the Chair of that committee pre-dated me as Minister for Urban Development and Planning. I am advised that he was appointed by the previous government to the Building Rules Assessment Commission and that he has been a part-time commissioner of the ERD Court since 1994. In relation to the number of building surveyors, I have been unable to check the exact number, but I am advised—

The Hon. D.W. Ridgway: I didn't ask you that.

The Hon. P. HOLLOWAY: No, but I referred to the number. The number of total building surveyors may be several hundred. The number with engineering qualifications is likely to be much smaller, and the Chair of the Building Advisory Committee has qualifications in both engineering and building surveying.

NATIVE VEGETATION (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:34): I move:

That this bill be now read a second time.

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

Leave granted.

In July last year, the initiation of new directions for native vegetation management in South Australia was announced. This Bill is one component of new arrangements that aim to strengthen biodiversity conservation in the State, and at the same time support sustainable development.

Early last year, key interest groups and government agencies (covering conservation, mining, development, farming, natural resources management, local government and tourism interests) were consulted on a draft Bill to amend the *Native Vegetation Act 1991* and draft variations to the *Native Vegetation Regulations 2003*. The same group was consulted on how the administration of the native vegetation legislation might be improved, and specifically its interaction with the *Natural Resources Management Act 2004* and the *Development Act 1993*.

Reflecting on the submissions received, the new directions aim to improve the overall relationship between native vegetation management, natural resources management and industry and will involve changes to both legislation and administrative arrangements. This will be an ongoing process that will involve further consultation.

Already a new Native Vegetation Council has been established which has closer links with natural resources management, including a presiding member common to both the Native Vegetation and NRM Councils. The new Council has moved quickly to focus on the development of policy for native vegetation management across the State. It has done this by delegating decision-making on clearance applications to a sub-committee of the Council. Development of State-wide policies by the Council will facilitate further delegation of decision-making with the aim of reducing red tape and ensuring decisions are made in a more timely manner. For example, local government will be invited to process clearance applications for house sites.

The new arrangements include the development and implementation of processes to better integrate native vegetation into the early stages of the planning cycle to ensure that better and earlier advice is provided to developers.

NRM boards will be provided with the opportunity to develop regionally specific native vegetation management policies, and to work with the Native Vegetation Council and developers to identify strategic areas for achieving offsets for vegetation clearance.

The Department of Water, Land and Biodiversity Conservation has been asked to work towards the development of a standardised assessment process that is more accessible and transparent.

Before discussing the key features of this Bill, I wish to make it clear that the reforms are not intended to alter the central purpose of the *Native Vegetation Act 1991*, which is to control the clearance of significant native vegetation in this State and to ensure, where clearance occurs to support our economic development, that the loss of biodiversity is offset by a significant environmental benefit.

The continuing health and prosperity of all South Australians depends on the health of our environment, our landscapes and our biodiversity. The effort required to improve and restore the health and resilience of our environment is enormous and will rely on the efforts of South Australians across the State.

The extensive modification of the South Australian agricultural landscape—necessary to support the strong rural base for this State—will not sustain viable populations of many plant and animal species in the limited habitat remaining. With climate change placing more pressure on our native species, we face the risk that SA could lose 30 per cent to 50 per cent of our terrestrial biodiversity over coming decades. The *Native Vegetation Act 1991* and the Regulations under the Act are key legislative instruments supporting South Australia's Strategic Plan 'no species loss' target.

However, innovative changes are needed to connect and accelerate the effort to support biodiversity conservation and to support the 'no species loss' target. The changes initiated for native vegetation management are part of that innovation, and this Bill is one of the building blocks.

The key features of this Bill are to:

- increase flexibility in the delivery of significant environmental benefit offsets for vegetation clearance;
- add new expertise to the Native Vegetation Council;
- make minor modifications to existing powers and penalties to improve the administration of the legislation and to provide better integration with the *Natural Resources Management Act 2004*.

Significant environmental benefit offsets

The requirement in the Act for the clearance of native vegetation to be offset by a significant environmental benefit is in itself an innovative way to support necessary development for this State whilst also achieving biodiversity conservation objectives.

All remnant native vegetation has value and it is important that the impacts of a proposed development on native vegetation should be avoided or minimised. Even where clearance of native vegetation is exempted from the control provisions of the Act, a proponent must satisfy the Native Vegetation Council that there is no practical

alternative that would involve no clearance, or the clearance of less native vegetation, or the clearance of native vegetation that is less significant or that has been degraded to a greater extent than the vegetation proposed to be cleared. Requirements for significant environmental benefit offsets provide a mechanism for redressing impacts that cannot be avoided or minimised.

A number of amendments are proposed in this Bill to provide more flexibility for the delivery of significant environmental benefit offsets, including:

- providing for offsets to be delivered where they are most needed, including outside of the region of the original clearance;
- providing that the Native Vegetation Council, when considering a proposed significant environmental benefit offset outside the region of the original clearance, must have regard to guidelines prepared and published in accordance with section 25 of the Act;
- making it clear that a credit may be registered, against future requirements for offsets, where an offset is delivered that exceeds that which is required to offset the related clearance of native vegetation.

In normal circumstances, the loss of biodiversity associated with clearance of native vegetation should be offset by works on the same property or within the same region that clearance has occurred. However, there may be circumstances where clearance occurs in well represented habitats and a more significant environmental benefit might be achieved by regenerating more significant (less well conserved) native vegetation associations (eg vegetation that provides critical habitat for threatened species) outside the region where the related clearance occurs.

Such decisions should not be taken lightly and it is necessary that the Native Vegetation Council be satisfied that, where an offset for native vegetation clearance is proposed in another region of the State (from that where the clearance occurs), it will result in a more significant environmental benefit than works that might be taken in the region where the clearance occurs.

The consultation package for the Bill included draft guiding principles for the operation of the out-of-region offsets. The guidelines clarify that the offset mechanism is limited to avoid the potential for critical habitat to be offset with habitat that is already well conserved. Section 25 of the Act will be amended to require that the Native Vegetation Council prepare guidelines in relation to out-of-region offsets. The guidelines distributed as part of the Bill's consultation process, inclusive of suggestions for amendment as a result of that process, will be forwarded to the Native Vegetation Council for its consideration.

Offset credits

The Native Vegetation Council has a policy of recognising conservation works previously undertaken when considering offset requirements. Consistent with this, the Council has supported, and sometimes encouraged, a landholder to undertake offset works that exceed requirements. Reasons may include:

- conservation outcomes being delivered before they are needed to offset clearance;
- maximising conservation outcomes—eg feral animal control can only be effective if applied over a larger area;
- minimising impacts—eg a requirement to fence a small offset area within a larger area may result in more clearance.

The provisions in the Bill make it clear that the value of a 'credited offset' is determined at the time it is extinguished (i.e. when it is used to offset clearance).

Membership of the Native Vegetation Council

The Bill changes the membership of the Native Vegetation Council. That change replaces the Commonwealth Minister for the Environment's nominee with a person who has expertise in planning or development nominated by the Minister responsible for administering the *Native Vegetation Act 1991*.

The Commonwealth Minister for the Environment has decided not to continue to nominate a representative to the Council. With the change in emphasis for the Council to developing policy, it is appropriate that this position be designated to provide appropriate expertise in planning or development that results in the clearance of native vegetation. A person from the mining sector (currently mining developments are resulting in the most extensive clearance of native vegetation) or with expertise in industrial or urban development or general planning is likely to have the requisite experience. The Minister is provided with appropriate flexibility in nominating a suitable person for appointment.

The inclusion of a member with expertise in these areas on the Native Vegetation Council is sought in a number of recent submissions on the review of the Act.

Miscellaneous amendments

The Bill includes other miscellaneous amendments that:

- make minor modifications to existing powers and penalties to improve administration of the legislation and to provide better integration with the NRM legislation;
- provide that a breach of a heritage agreement is a breach of the Act to correct an inadvertent omission resulting from changes made in 2002;

- clarify that the Act applies to that part of the City of Mitcham consisting of the suburbs of Belair, Bellevue Heights, Blackwood, Coromandel Valley, Craigburn Farm, Eden Hills, Glenalta and Hawthorndene, which will support efforts to protect Grey Box and other native species valued by residents in these areas.

The Bill also makes a related amendment to Schedule 1 of the *Heritage Places Act 1993* to include certain early Native Vegetation Heritage Agreements and Monarto Aesthetic Heritage Agreements in the agreements that are dealt with by the transitional provisions in that schedule. These agreements were entered into under the *South Australian Heritage Act 1978* by the then Minister in his capacity as Trustee of the State Heritage. These agreements become, by force of this amendment, heritage agreements under the *Native Vegetation Act 1991*, allowing them to be managed appropriately under the Act.

Conclusion

The new directions for native vegetation management in South Australia, announced during 2007 and supported by the amendments included in this Bill will strengthen biodiversity conservation in the State, while improving flexibility for business and promoting economic development that will contribute to attaining sustainability and losing no species.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Native Vegetation Act 1991*

4—Amendment of section 3—Interpretation

This clause makes consequential amendments to the definitions of certain terms used in the Act.

5—Amendment of section 4—Application of Act

This clause inserts new subsection (2a) into section 4 of the Act, setting out the parts of the City of Mitcham to which the Act applies (being the suburbs of Belair, Bellevue Heights, Blackwood, Coromandel Valley, Craigburn Farm, Eden Hills, Glenalta and Hawthorndene).

The clause also makes consequential amendments to the section to reflect the inclusion of new subsection (2ab).

6—Amendment of section 7—Establishment of the Council

This clause inserts a new subsection (3) into section 7 of the Act. The new subsection provides that the Native Vegetation Council is subject to the general direction and control of the Minister, but prevents the Minister from directing the Council in respect to advice or recommendation that the Council might give or make, or in relation to a particular application that is being assessed by, or that is to be, or has been, assessed by, the Council.

7—Amendment of section 8—Membership of the Council

This clause deletes paragraph (f) of section 8(1) of the Act (which states that 1 member of the Council must be nominated by the Commonwealth Minister for the Environment) and substitutes a new paragraph (f) that provides that 1 member must be a person with extensive knowledge of, and experience in, planning or development nominated by the Minister.

8—Amendment of section 9—Conditions of office

This clause inserts new paragraph (e) into section 9(2) of the Act, which allows the Governor to remove a member of the Council for breaching, or not complying, with a condition of his or her appointment.

9—Amendment of section 12—Validity of acts of the Council

This clause repeals redundant subsections (2) and (3) from section 12 of the Act, as the immunity etc provided by those subsections is now dealt with under the *Public Sector Management Act 1995*.

10—Repeal of section 13

This clause repeals redundant section 13, as matters related to conflict of interest etc addressed by the section are now dealt with under the *Public Sector Management Act 1995*.

11—Amendment of section 14—Functions of the Council

This clause substitutes a new subsection (2) into section 14, requiring the Council, when performing a function or exercising a power under the Act to take into account and seek to further the objects of the Act and the relevant principles of clearance of native vegetation, and also to take into account relevant NRM plans. The new subsection also requires that, in any event, the Council must not act in a manner that is seriously at variance with the principles of clearance of native vegetation.

12—Amendment of section 21—The Fund

The clause inserts a new paragraph (cc) into subsection (3) of section 21 (which sets out what the fund consists of) to include amounts paid into the Fund in accordance with any provision made by the regulations.

The clause substitutes a new subsection (6) (which sets out how certain money in the Fund must be used) so that money may now be used to preserve etc existing native vegetation in the region where the relevant land is located.

The clause inserts a new subsection (6a), which enables the Council to use money of a kind referred to in subsection (6) to be used to establish etc native vegetation in a region of the State other than the region where the relevant land is located if the Council is satisfied that the environmental benefit to be achieved in the other region will outweigh the value of achieving a significant environmental benefit within the region where the relevant land is located, the native vegetation satisfies certain criteria and the establishment etc of the native vegetation is carried out in accordance with relevant guidelines adopted under section 25 of the Act.

The clause also inserts new subsections (6b) and (6c) which set out procedural matters related to the operation of new subsection (6a).

The clause also amends the definition of relevant land in subsection (7) to include (if new subsection (3)(cc) applies) land on which the native vegetation that is relevant to the operation of the particular regulation was grown or was situated.

13—Amendment of section 25—Guidelines for the application of assistance and the management of native vegetation

This clause amends section 25 of the Act, adding the establishment etc of native vegetation under section 21(6a), and any other matter required by the regulations, to the list of matters the Council must prepare guidelines for.

The clause also inserts a new paragraph (ab) to subsection (2), requiring the Council to submit draft guidelines prepared by the Council to the Minister for comment.

14—Amendment of section 26—Offence of clearing native vegetation contrary to this Part

This clause increases the expiation fee for an offence under subsection (1) or (2) of section 26 to a fine of $750, up from $500.

15—Amendment of section 28—Application for consent

This clause makes consequential amendments to section 28 of the Act.

16—Insertion of section 28A

This clause inserts a new section 28A into the Act. The new clause enables a person, acting in accordance with a consent to clear native vegetation, to receive credit for environmental benefits achieved by the person that exceed the value of the minimum benefit needed to offset the loss of the cleared vegetation, provided the Council is satisfied that the additional benefit is of a significant value. The clause also sets out procedural matters in relation to such credits, including that a determination of the Council for the purposes of the section cannot be the subject of an appeal under Part 5A of the Act.

17—Repeal of section 31

This clause repeals redundant section 31 of the Act (the substance of which is now effected by the definition of *breach* in section 4 of the Act, as amended by this measure).

18—Amendment of section 33B—Powers of authorised officers

This clause repeals subsections (4), (5) and (6) of section 33B of the Act in order to make the section consistent with the *Natural Resources Management Act 2004*.

19—Amendment of section 33D—Provisions relating to seizure

This clause amends subsection (2) of section 33D of the Act to increase the prescribed period relevant to the section, making the section consistent with the *Natural Resources Management Act 2004*.

20—Amendment of section 35—Proceedings for an offence

This clause amends subsection (1) of section 35 of the Act to increase the time within which proceedings for an offence under the Act may be commenced to 5 years, up from the current 4 years (or 6 years in exceptional circumstances). This provides consistency with similar provisions in the *Natural Resources Management Act 2004*.

21—Amendment of section 41—Regulations

This clause amends the regulation making power in section 41 of the Act to increase the maximum expiation fee under the regulations to $750, to enable the regulations to provide for certain amounts of money to be paid into the Fund and to enable the regulations to create offences with fines of up to $10,000 and make evidentiary provisions in relation to those offences.

Schedule 1—Related amendment

1—Amendment of Schedule 1—Transitional provisions

This schedule amends Schedule 1 of the *Heritage Places Act 1993* to include certain Native Vegetation Heritage Agreements and Monarto Aesthetic Heritage Agreements in the agreements that are dealt with by the transitional provisions in that schedule. These agreements become, by force of this clause, heritage agreements under the *Native Vegetation Act 1991*.

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

UNIVERSITY OF SOUTH AUSTRALIA (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (15:35): 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

Our Universities need to address significant challenges and have the chance to take up new opportunities to innovate, as well as to their operation. While Universities continue to be principally places of learning, innovation and research, the complexity of decision-making they face means Universities are constantly needing to balance traditional academic goals with operational viability.

The University of South Australia has recognised that an effective Governing Council plays a critical role in these considerations and has opted for a structure which has appropriate representation, as well as the expertise and decision-making capabilities to effectively govern a contemporary university.

The University of South Australia has acknowledged the valuable contribution made by the Governing Council in its current configuration but has reviewed the current arrangements with a view to best supporting the governance processes for the future. In particular, the University is seeking to facilitate a greater focus on key issues and to improve effectiveness of its decision-making processes. The University has therefore proposed a reduction in the size of the Council from up to 21 members to up to 16 members.

Consequently, this Bill amends the constitution of the University Council, to provide for that reduction in the total number of Members, while maintaining the representational proportions among community, staff and student Members.

In addition, this Bill makes a number of minor amendments to modernise the legislation and which brings the *University of South Australia Act 1990* more closely into line with legislation for the other universities.

In December 2007 the Chancellor of the University of South Australia proposed that the university legislation be amended. A Discussion Paper containing the University's proposed amendments was circulated for consultation to all university staff and students, to various Members of Parliament and to the relevant student and education unions in July 2008. This Bill reflects the University's original proposals with some minor amendments.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *University of South Australia Act 1990*

4—Amendment of section 6—Powers of University

This clause amends section 6 of the Act to enable graduates to surrender an award that has been conferred on the graduate. Such a surrender can occur on any ground the University thinks fit.

5—Amendment of section 10—Establishment of Council

This clause amends section 10 of the Act to reduce the number of Council members from up to 21 members to up to 16 members. This is achieved by reducing the number of persons appointed by the Council from 10 to 8, the number of members of the academic and general staff from 2 each to 1 each, and the number of students from 3 to 2.

The clause also inserts new subsection (3a), providing that an election of a person to the Council must be conducted in a manner, and in accordance with the procedures, determined by the Council.

6—Amendment of section 11—Term of office

This clause amends section 11 to allow the term of office of members of the Council appointed by the Council to be between 2 and 4 years, rather than the current requirement that the term be 2 or 4 years.

7—Amendment of section 12—Chancellor and Deputy Chancellor etc

This clause amends section 12 to provide that the Deputy Chancellor will cease to hold that office if he or she ceases to be a member of the Council.

8—Amendment of section 13—Procedure at meetings of Council

This clause makes a consequential amendment to the quorum provision of the Council, reflecting the reduction in the number of members.

9—Amendment of section 14—Validity of acts and decisions of Council

This clause corrects an omission in section 14 to include a reference to elected members.

10—Amendment of section 19—Audit

This clause amends section 19 to allow an audit of the accounts of the University to be conducted in a manner determined by the Governor, rather than having to be done by the Auditor-General as is currently required.

11—Repeal of section 22

This section repeals obsolete section 22.

12—Amendment of section 25—Power to make by-laws

This clause amends the by-law making power in section 25, bringing into line with the similar section in the *University of Adelaide Act 1971*, and simplifying the provisions related to the *Subordinate Legislation Act 1978*.

Schedule 1—Transitional provision

1—Transitional provision relating to members of Council

This Schedule makes transitional arrangements to validate, if necessary, elections held before the commencement of this measure if there is an inconsistency between the statutes of the University regarding the numbers of members elected, or the methods of election, and the proposed reduced number of Board members.

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

CIVIL LIABILITY (FOOD DONORS AND DISTRIBUTORS) AMENDMENT BILL

The House of Assembly disagreed to the amendments made by the Legislative Council.

DEVELOPMENT (PLANNING AND DEVELOPMENT REVIEW) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 November 2008. Page 847.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:37): As members would recall, I sought leave to conclude my remarks when we last debated this bill on Tuesday of this week. At that point, I indicated to the minister and to the government that we were somewhat frustrated and disappointed with the late arrival of the draft residential code.

The minister has made the comment a number of times that it is highly unusual and irregular for the parliament to receive a copy of the regulations prior to the passing of a bill. However, as members are fully aware, the residential code is the nuts and bolts of this particular change to our Development Act—and a significant change it will be. So, we felt that it was important not to progress the debate until we had something close to a final copy of the residential code.

We now have version 10 of the residential code, which I am sure the opposition has circulated. I note that members of the Local Government Association are now in the gallery, and I have in the last 10 minutes printed off a copy of the response that they have sent. The LGA has had 24 hours or thereabouts to have a look at the residential code.

The opposition has circulated copies to a range of stakeholders, and the LGA, as diligent as it always is, has been the first to respond formally. A couple of others have responded informally, and we hope to receive responses over the next couple of days. As the minister has indicated, we will be sitting next Tuesday, which is one of the optional sitting days. The opposition had requested that we either sit next Tuesday or postpone the debate on this bill until next year.

As I said earlier in the week, it is a relatively short bill, more of an enabling mechanism for the implementation of the residential code, which is the nuts and bolts of the changes. I have a few

questions I will put to the minister, which he can either answer in his reply, or he may wish to respond later. The code is a regulation, and all regulations are disallowable instruments.

Will the minister advise the council (either when he sums up or in the early committee stages or first thing next week) whether that is the case and explain the process that will be open to the community? Should the government, the stakeholders, the opposition and minor parties through this process have missed some important problem that has to be dealt with or if the government is not prepared to move on a particular issue that then presents itself as a significant issue in the community, we should know what options are available to the parliament to address those particular concerns.

When we have this rapid promulgation of different versions, often things are overlooked; significant road testing of the first draft may have been done, and then we find that we have moved from draft 1 to draft 10. The minister's staff did advise me that they will need to workshop and test some more of the amendments or changes to the residential code, notwithstanding that the areas that were of concern to the opposition, as well as the issues we were very keen to see addressed such as character, heritage, setback and allotment size, appear from my reading over the past 24 hours to have largely been addressed in this version 10.

I am a little intrigued. This measure was not on the *Notice Paper* for the other place. The implementation time is 1 March 2009, which is a widely-publicised and desirable time but I guess that it would not be the end of the world if it were to happen on 10 or 15 March; in fact, there are components of the code that will not be implemented until September 2009.

Perhaps the minister will explain why the government sees it as being so absolutely important that the bill has to be passed through the Legislative Council either this week or next week when it will sit on the *Notice Paper* in the other place until next year and naturally be passed in that chamber reasonably quickly, we would expect, given the numbers there.

The minister might like to consider why it is so important to deliver it to the other place over the break, and why we could not perhaps have considered it in this place first thing next year. I assume that the government has circulated version 10 to all stakeholders; I hope so. Is version 10 the one that will go to implementation or are we likely to see further changes? What mechanisms are available to the parliament and the community if there are further changes in the road testing process between when we expect the bill to be passed—probably next Tuesday—and early February when it is debated in the other place?

Is there a mechanism to advise stakeholders via Planning SA's website, or is it not intended to advise anybody and then just put it into practice next March and see what happens? I think it would be useful and perhaps make it a little easier for stakeholders to understand any changes and why they have been made, if there are to be any over the next coming months.

The LGA, in its initial comments to me, mentioned matters to which I would hope the minister would respond, in particular, in relation to the road tests and specifically the amendment of section 35—special provisions—relating to assessment against a development plan. The LGA's letter states:

> It is understood that this amendment provides that a development that is assessed by a relevant authority as being a 'minor variation' from complying development may be determined by the relevant authority to be complying development.

The crux of this is the definition of what might be considered a minor variation, and the LGA is not particularly happy with that particular amendment in that form. That is not necessarily indicating that the opposition totally supports the LGA 's view.

In the next paragraph the LGA suggests that there needs to be a set of guidelines contained in the development regulations to assist the interpretation of what might be considered to be a minor variation. I can see some problems with that grey area of what is seen to be a minor variation, because we often see neighbourhood disputes and issues between neighbours where mountains are made out of molehills because of misunderstandings between neighbours. I suspect that this is an area where there could be potential conflict. I often think about developers—not the big builders who build hundreds of homes a year, but the mum and dad developers—where a minor variation may be seen by a neighbouring landowner as having a significant impact on them and cause for angst between neighbours. So, I would like some clarification from the minister on that particular issue.

The LGA also has requested that it be consulted in relation to any proposed changes to the code. As I said, the opposition has not yet fully considered anything that the LGA has suggested. I would be interested to listen to the minister's view about consultation on changes to the code. This raises the question that, if you consult the LGA as a significant stakeholder, should you be consulting the people who are building the properties—whether that is the mum and dad developers or the big developers? Should you be consulting the planning institute, that is, the practitioners who are going to be dealing with it? Also, I guess there could be a strong case put that parliament should be consulted—or, at least, advised—when changes are made to the development code. Again, that is something the opposition will be considering. I would like the minister to consider that issue in particular.

As members would be aware, because the code, as I said earlier, is the nuts and bolts of the amendment bill we have before us, the opposition has a rigorous committee process to go through legislation, but we have been waiting for the final version. The LGA has asked whether we have any firm views, either publicly or privately, but we have not considered its suggested amendments. The same applies to the Hon. Mark Parnell, who tabled amendments after the last time the opposition joint party room met, which is the forum at which these things are resolved.

So, at this time, I indicate that the opposition supports the second reading of the bill and looks forward to a response from the minister on the questions I have raised, and to sitting next Tuesday to finalise the debate.

The Hon. R.L. BROKENSHIRE (15:48): I rise to speak to the second reading of the bill on behalf of Family First to give in-principle support to the bill and the efforts the minister has put into it. It is the kind of bill that excites the passions of some, and there is an element of trust in the government that is required in relation to it.

I say at the beginning that, whilst Family First is keen and, by and large, supports economic development and healthy development in our community, we will watch with vigilance to see that the government does not start (particularly as we head towards an election) trying to deflect issues of major government responsibility. We want to ensure that the government does not spend a fair bit of its time and energy attacking any problems it may have in this area and then deflecting them onto local government. I have worked personally with a lot of councils over the years—and still do—from both a parliamentary aspect and also the aspect of a farmer who is seeking approval from time to time for planning and building infrastructure.

I have to say that, by and large, local government does a pretty good job when it comes to the issues of complying with development planning and the general planning requirements around residential codes, etc. It is easy to target and blame local government when developments are not proceeding within certain time lines, and I will touch on this a little later.

I do hold a lot of respect for the leader of government business in this house; I think that he is one of the more intelligent and diligent ministers of the government. That is my personal opinion; it always has been and will continue to be. However, having said that, prior to getting notice yesterday that we would be sitting next Tuesday, I was concerned about the shortage of time with respect to consulting on and considering this bill, particularly for an Independent, smaller party that does not have the resources—it gets pretty strenuous.

Having also been a minister, I can remember plenty of times when this government in opposition was hell-bent on ensuring that there was an absolute minimum of two sitting weeks before any bill was debated. Time and again it had a crack at me and my other ministerial colleagues about that. I refer again to the old comment I mentioned earlier this week, namely, what is good for the goose is also good for the gander.

The Hon. P. Holloway interjecting:

The Hon. R.L. BROKENSHIRE: Yes, but as the Hon. Bernie Finnigan tried to raise with me last night with respect to a bill that I was trying to put through (with a lot fewer resources than government), regulations and codes are very handy to members in this chamber when they are debating; and, 99 per cent of the time, no honourable member sees a regulation until months after legislation has passed. Having said that, we have now received the residential code. As the Leader of the Opposition said, it is really the mechanics of this bill; and, to that end, I do thank the minister for making that available.

We have not had time as a result of the late sitting to go right through that residential code. In fact, only today we received an email from the LGA. Family First does take notice of the LGA as

a professional organisation, so we will be studying that email in great detail over the next few days, together with the residential code, and we will have questions to put to the minister, and some possible amendments, come Tuesday. I wanted to place all that on the public record. I do thank the minister for having the wisdom to extend this debate until Tuesday to ensure that we put the best possible legislation through the parliament.

What stood out to me from the outset was the very first substantive clause of the bill, clause 4, which enables the government to exclude prescribed classes of development from the requirement to be assessed against a development plan. I think that the government has to admit that this is a broad power that could be used by any government—not just this government, but future governments—for a purpose other than what is clearly intended by this bill. It is always the unintended consequences of bills that legislators must consider before passing the legislation if we are to get the best possible statutes for our South Australian community.

This bill is about what has been described as a 'no brainer' development decision. But the power in that particular clause, as I understand the law and the drafting of this bill, would allow a government to use regulations to exclude much more significant development issues from the development plan compliance. I ask that, in committee next week (I am giving his staff plenty of notice), the minister provide a list and an assurance to the chamber of the types of issues that it is envisaged will rely on that clause.

I believe that, when those regulations inevitably come, this would also give the Legislative Review Committee considerable guidance when considering whether the intended scope has been exceeded. I want to make some general comments on the bill in my second reading contribution. We are also presented with the usual situation (which, for some reason, tends to be more contentious in this urban development field in front of us) of knowing the parameters that will be set for automatic approval of things such as setbacks, the building footprint, fence height, decking and the like. As I said, we will be looking closely at the code before next Tuesday.

Talking more generally, Family First supports a government that will make life easier for families. It has been ridiculous to have low thresholds for automatic approvals for things such as the size of sheds and rainwater tanks, fence heights and the like. It is well and good to reduce red tape for business, but, first and foremost, Family First's concern is to reduce red tape for families. I think it is fair to say that this bill—and the code that will follow it—is a good move that reduces red tape for families.

I am talking at one level about additions to homes, but, as has been alluded to in the debate, this package also potentially reduces the amount of interest a family will have to spend on their block of land because there will be less waiting time from submitting plans to getting approval. When you consider the cost of a block of land today, if there are delays in basic approval processes, it holds a family back financially to quite an extent, and several people have raised those issues and concerns with me.

I now turn to family block sizes and proportions. I have to put on record and acknowledge that the minister does listen to what we have to say—I am being very generous to the minister today: Christmas is here. He does listen and he is taking some of these things into consideration. Our concern is to ensure that an appropriate balance is struck for families in the space available around a home. As I am pushing in the water debate and the comprehensive water policies and bills that Family First have before the council for houses to have larger rainwater tanks, obviously space around a home is a consideration. However, with our childhood obesity epidemic, we also need some open space around homes as well.

I will go into some detail in a minute about the open space concept because I am not necessarily a fan of just seeing smaller and smaller allotments with bigger and bigger home footprints right across suburban and country town areas. I am actually hearing some terrible stories from around the state of proposed developments that will represent a rack them and stack them approach to housing, or a density approach, if you like. If the government is serious about the transit-oriented development (TOD), it will pursue density close to transit points, rather than necessarily allow it across the whole of Adelaide. I get the impression that that is the government's plan and I hope that is what the minister intends.

Residents and some others are absolutely opposed to blanket density or the rack them and pack them development and, in fact, our office has had considerable representation about this particular matter. I have much sympathy for them. I will talk for a moment about density development and some of the reasons I do not favour it right across metropolitan urban infill areas.

The first reason is that times have changed. I recall that parks were created years ago because children were playing on roads and not in their backyards, and sometimes children were being hit by cars as cars became faster and people paid less attention to children playing on the roads. Once parks were provided, all was well, until, unfortunately, we saw the menace of paedophilia—and, sadly, we are still witnessing it today.

Parents do not necessarily feel safe sending their children to parks, particularly if those parks are a long way from the street in which they live. That is something that also needs to be considered with good planning into the future because, the more infill you get, the more pressure you have on trying to keep areas available for open space. Many parents want to see an opportunity for their children to still be able to play in the backyard.

In making these remarks, I am not saying that, sadly, we are heading down the path of countries like South Africa which, for other reasons, have housing estates (as I have witnessed) behind high-security fences. Still, without children playing in parks, they play under a parent's watchful eye at home, if they have a backyard. I believe that we need to look carefully at not only what we intend to do but, in reality, see carried out when it comes to the start of the debate on urban infill and allotment sizes.

Another reason that I am opposed to small blocks everywhere is that the form of density development means that young families are confronted with a choice between, on the one hand, a larger allotment with room for the children to play safely out the back, but sometimes—in fact, most of the time—situated 40 to 50 minutes from the city, with less infrastructure and transport services and, on the other hand, a house with a tiny allotment that more often will be 20 to 30 minutes from the city. And, I add, most of the time it will be closer to more public transport options because, at the moment, we are struggling to see government focus and investment on extending railway lines and also other transport initiatives. So, those younger families will often be tempted to choose the smaller allotment over the larger, if they can afford to get closer in (for the other side of the argument that I am putting forward).

Housing affordability might also dictate that they can afford only a smaller allotment rather than a larger one. So, policy has intermingled needs here between public transport and development and family interests, hence, the transit-oriented development concept that the government has come up with, I guess, but ultimately I believe that using a code to impose minimum open space and a maximum housing footprint is good social policy.

During the briefing, it was put to us that the private open space for allotments less than 300 square metres will be at least 24 square metres, with a minimum length of 2.5 metres down one side (so that a developer will not try to comply with a one metre by 24 metre so-called backyard); at least 40 square metres for 300 to 500 square metre allotments; and at least 80 square metres of private open space for allotments 500 square metres or larger. This couples with the proposed 60 per cent maximum footprint of a household, which does not include external fittings, such as a veranda or a pergola. It makes sense to approach it in that way, because 24 square metres out of 300 (which I referred to a moment ago) is actually only 8 per cent of the block. In the 300 to 500 square metre section, it is 8 to 13 percent, and for 500 square metre or more blocks, up to 16 per cent of the block is open space.

So, if the footprint has to be a maximum of 60 per cent, there is plenty of room for either a veranda or a pergola area within the difference between the 60 per cent maximum house footprint and the 8 to 16 per cent minimum private open space, and covered space which is good for outdoor recreation, UV protection, water catchment and reuse.

I understand that the government has taken submissions from councils that wanted a lesser maximum footprint and the building industry that wanted a larger footprint. I place on the record that I think, in this difficult balance, that the minister has probably got it right. I also support the sensible concept that a habitable room must open onto the prescribed minimum space, otherwise it is useless space—probably only good for a washing line and certainly not recreation. Governments need to encourage recreation by allowing family homes that will have space for private recreation. I appreciate that there is a free will concept in letting families decide what kind of house they buy and, hence, to decide for themselves how much open space their family will own, but I believe that it is always healthy social policy to ensure that there is a minimum of private space.

It should be remembered that the code that we are talking about here is only for streamlining. If people want to try to do something noncompliant with the relevant development

plan or, indeed, if the relevant development plan is out of kilter with the code requirements, then they fall back to the plan. However, then the builder does not have the benefit of the streamlining, and I am concerned that there will be lengthy delays. I think that the code is, therefore, sensible policy to promote uniformity and appropriate balance between the building footprint and the outdoor covered and outdoor open areas.

I again turn to rainwater tanks, as I said I would earlier in my remarks. I will spend a little time dwelling on the issue of rainwater tanks (because I see that the minister is listening). What I am about to say regarding stormwater harvesting (with the bills that I have before this council) is why I am pushing for an increase in rainwater tank size. The 1,000 litre tank minimum requirement, to my way of thinking, is ridiculous, and many others to whom I have spoken think the same. We need to be talking about bigger tanks, and I will address that further in the debate with respect to the bills that Family First has before the council. However, I urge the government to do a few things concerning rainwater tanks.

It should put so-called `blue-friendly' issues (such as tanks) very high in consideration under the code, including providing mechanisms to ensure that the open space leaves sufficient room for a tank if the owner should want to put one in or, preferably, creates a requirement for a bigger tank to be installed. The government also needs to get serious about rebates for tanks, as our rebates sadly fall short of what other states are offering. I am talking not only about rebates for new homes but also retrofitting tanks to older homes. The building industry rightly complains that it is an unfair burden upon them and new home builders to have to put in tanks when existing home builders are not required to do so.

If the government was fair dinkum about water security it would invest heavily in schemes that use economic encouragement. What I am talking about here is using rebates rather than legislative requirement—for a start, one has to ask whether that legislative requirement is ever enforced—to dramatically increase the uptake of water storage in homes. For water security we need a diverse range of options, and I think the River Murray, stormwater harvesting, rainwater tanks, groundwater usage and desalination are all part of that equation. So, I urge the government to hold 'blue-friendly' (a term I like that was used in the briefing by government officers) development very high in its consideration of the code that we will work through next Tuesday.

Bureaucracy can tie you up in knots with regulations and the like, but families are telling me that they want to put in tanks and save water on site. I can appreciate the risk this poses to SA Water revenue and, therefore, the concerns of the Treasurer, but this government needs to put water security first and SA Water revenue second. Without water there will be no revenue, because we will not have sustainability in our state.

I return to time frames and streamlining processes. Amongst a few other concerns I have, in committee I will ask the minister to explain in a little more detail the time frame for councils to comply with approval under the streamlined code. If a council does not assess an application within a set time—I believe it is 10 days, but I will get clarification on that as we work through the code—I understand that the application is deemed refused, not accepted. I think that is the right decision—I will not retrace the reasoning here—but if an application is deemed refused, where can the builder or homeowner go?

Any talk of filing forms and taking council to court is of great concern to me. Families do not feel confident taking on a council that has the capacity to engage a competent legal representative, and individuals, particularly when they are building and have high outgoings, probably cannot afford a lawyer. So, I am concerned to see that the minister, perhaps through regulation, make it as easy as possible for a person to compel the council, via the court, to make a decision—and quickly. Otherwise I believe this whole system will fall apart. Perhaps the minister can, by regulation, create a simple one-page appeal and require the council to send the applicant a copy of that form with the acknowledgment of receipt—perhaps with an automatically generated date to tell the householder when they are entitled to lodge the form if the council has not responded.

In closing, I congratulate the government for its consultation on this bill. We are still getting representations from a cross-section of constituents, some saying that we should support the bill in its entirety and others saying that we should be careful in our assessment of the code and during questioning in the committee stage. There are others who oppose it and who ask us to oppose it, mainly because they are coming to the second part of what we have been talking about which will come down the track, that is, what will be the picture in the long term, or even the medium term, of urban infill? There is some confusion out there in the community at the moment.

By and large, I congratulate the government for its consultation on this bill. It is pleasing to hear that, in a consultative way, it has eliminated from streamlining types of development such as battle axe allotments and row housing about which, as I said, some groups and MPs are concerned. In this bill we are really talking not about subdivisions but about additions to existing homes or the standard 'bulldoze and rebuild one house for one house' replacement model. Anything other than that really ought not have the benefit of streamlining for the reasons raised with my office by a number of constituents this week and which I have already highlighted.

Again, we still have to look through the code—which, again, we thank the minister for providing—to determine whether there are other issues that need to be debated during the committee stage.

As I said at the beginning, we have received other representation just today from the LGA and will be looking closely at that to see whether there are further questions regarding the code and the bill and whether amendments need to be considered to satisfy some of the concerns the LGA has put to our party and other MPs and parties today or in recent days. I urge members of the Legislative Review Committee to be alert to the issues Family First has raised when the code comes before it, and I will ensure that I send a copy of my remarks to committee members as a reminder.

In conclusion, it is the right timing with this debate to get clarity on one planning issue generally, where councils are attacked for not complying or being told they are too slow when it comes to giving approval. Sometimes councils, under the law, have to go out to a lot of state government departments for responses before approving planning development applications. If one of the standing committees were to look at the response times and determine whether they comply with the law, they would be quite surprised to see how often departments lag in getting their answers back to local government.

Unfortunately, it is not the departments that are blamed for that publicly but rather the councils. I do not see any MPs in there defending councils from that viewpoint. I am perplexed by the fact that departments take so long to get responses back to local government, when we see (not including increased numbers of doctors, nurses, police and teachers) 6,000 additional public servants. One questions why delays occur in responding to local government and why the legal requirement for time lines cannot be observed. With those comments, I look forward to receiving answers from the minister in committee. I support the bill.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (16:12): I thank members for in most cases their thoughtful and detailed contributions to this bill, which is a significant change the government is proposing. As has been pointed out, the bill is a relatively straightforward piece of legislation of about 10 clauses, but the most important part of the bill is that it is enabling legislation and provides for the proposed residential code to be brought into effect. It is for that reason the government has taken the unusual step of providing what it hopes is as close as we can get to a near final version of the regulations, which will in effect constitute the code at this early stage. We will need to have this legislation pass both houses before any regulations can come into effect.

To answer the question asked earlier by the Leader of the Opposition as to whether this is a final version of the regulations, clearly that will depend on the form the bill is in when it passes both houses and becomes law. If significant amendments are made, that may well change the need for regulations. Indeed, if the amendment put forward by the Hon. Mark Parnell are passed, we probably would not have a code at all—we would not bother. However, if amendments are made to the legislation, we would have to consider varying the requirements. If as a result of consultation over the next two or three months (the code is not due to come into effect until 1 March next year) we find drafting improvements or if issues are raised that have been overlooked, as is often the case with legislation, particularly when covering such a large area as this, then we would make those changes before the final version. With the circulated documents we have tried to make the regulations as close as possible to what we see as being the final version. Of course, we have the caveat that, if there are things we could improve, we would do so. However, I would not expect that we would change the basic coverage of the code. That probably brings me to the point that there was some earlier criticism, with comments such as 'Why has the government given us these regulations so late in the piece?', or 'Why have we seen the code only at this stage?' Well, there has been a significant consultation process in respect of the code.

A discussion draft of the residential development code was released for consultation back in June for a three-month period. It was released in parallel with the launch of the Planning and Development Review Port. Copies were circulated very widely, and we have had a significant response to that. I think between 40 and 50 local governments responded to the draft code.

In addition, through a joint project between the Department of Planning and Local Government and the Local Government Association, arising out of recommendation 28 of the review, there was a road test of the draft code. This was undertaken in two parts, with the primary work being a review of development applications received in the first quarter of 2008 by local councils, and that covered both metropolitan and country councils. The second part was a workshop held with key industry groups, such as the Housing Industry Association, the Master Builders Association and the Building Designers Association, etc. to brief them on the results of the LGA road test and to canvas their attitude towards the draft code. So, there has been very extensive drafting.

The point is that the draft code has been out for consideration since June this year. The Hon. Robert Brokenshire has already referred to one of the key changes, in relation to block size. The original proposed code was for a 350 square metre standard minimum block size. Following the road testing, for various reasons, that has reverted to the development plan size. Some councils actually have smaller blocks than the 350 square metre block, and it would have been rather silly to have the minimum size revert to merit development. There are good reasons for that to revert to the council development plan.

However, in other areas, in most cases, in effect, all this road testing has done is to take things out of the code and put them back into the merit assessment process and, again, the Hon. Robert Brokenshire has referred to that. One was the so-called battleaxe or hammerhead developments. I understand that, because of some difficulty in drafting how they might apply, and because of the relatively low numbers, it was deemed that it was easier to take them out of the code.

Similarly, in relation to row dwellings, they have also been taken out. Again, I think the road testing showed that they were 1 per cent or less of all dwellings, so it made sense to take them out. In effect, the changes we have to the regulations should not be that difficult to understand. In most cases, we have taken things out of the code and they have reverted to merit assessment.

This is probably a good time to make the point that the whole purpose of the code is to try to capture those developments that are straight forward. If we are just talking about residential properties that we see in greenfield sites or redevelopment areas around the city and large country towns, in most cases the house owner would choose their house plan at a display village, and most of these houses are standard dwellings. So, really, one has to ask: why should there be a complicated planning assessment for each of those individual houses, providing they fit within the basic parameters and are oriented correctly on the block and meet the basic building rules? Essentially, that is what the code is all about and the motivation behind the code.

As I understand it from the planning review, about 70 per cent of standard residential houses should be able to get through a planning process without any unnecessary or complicated assessment. It should be able to be done as a 'tick the box' process. Of course, that still means that about 30 per cent would still be merit assessed, and that could be because some houses are of a particular style or character that is unusual; or there may be other factors, such as the dwelling is on low lying land, it is in a bushfire area or there is a large amount of cut and fill and so on that requires specific consideration in terms of planning rules.

However, for the vast majority of cases, about 70 per cent of residential housing should be able to fit into a standard format, and the code is really aimed at this type of housing. Again, I make the point that, if the code works to our expectations and those of the planning review, about 30 per cent of dwellings will still require the sort of assessment they receive now. However, about 70 per cent should be able to be assessed through this code. As the road testing exercise that was undertaken shows, most of them would get approval under the existing process.

It is probably also worth noting that one of the points that came out of the road testing is that, of the 822 building applications checked from 11 different councils, both in the city and the country, something like 37 per cent (if I remember the figure correctly) were for alterations. In relation to alterations, there might be a need for building approval if there are structural changes and the like, and that will still apply under the new system, as it always has. But should you not be able to remove planning approval for those sorts of straightforward alterations that happen in about

a third or more of cases every day? So, it will be a significant improvement. It is not just new dwellings; it is also alterations.

So, significant work has been done in relation to the development of this code. I have mentioned the road testing. Also, a grant of $500,000 was made to the Local Government Association for consultation on and implementation of the code. This grant included the funds necessary to undertake the road test. It has also assisted in the funding for the presentation of education sessions for local government in late November/early December this year, and it will be used to undertake a review of complying development fees and the preparation and delivery of training material for local government in February/March 2009, assuming this bill passes.

Perhaps at this stage I could answer one of the questions asked by the Leader of the Opposition. He asked why we need to get this bill through the council now. I have already indicated that the regulations under this legislation will, of course, comprise the building code. There will be a more user-friendly document produced that will explain those regulations in a pictorial form which will be much easier to understand, but the underlying support for the code is, of course, the regulations themselves. We need to have those in as close to final form as possible if we are to have the code in place on 1 March next year.

Should the bill not pass the upper house this week, then there are two difficulties. First of all, it would have to go through both houses of parliament in early February before we could meet that deadline. Apart from the difficulties of trying to get the bill through both houses in a short period of time, there is also the potential for amendments in the council. If there are amendments to be made, we really need to know what they are so that we can ensure that the code is in its final form.

If, for example, we did have to amend the code next year, it would be very difficult to meet the starting date. That is why we really need to have the certainty of at least knowing that this enabling legislation will get through the council next year. There can still be some debate on the final form of the code, and I point out that the code, like all other regulations, will ultimately be subject to parliamentary procedures, that is, consideration by the Legislative Review Committee and, ultimately, of course, it can be subject to disallowance. We would hope that that is not the case, and that is why we are consulting on it as widely as we can at this early stage.

However, it is a bit of an iterative process. I cannot guarantee that the code as it is now will be the final form, because there is the potential for amendment of the act, but we want it to be as close as we can so that we can go out and undertake that educative process with local government so that by 1 March next year local government will be ready for the code. Even though the final version cannot become law until February, at least if we know that there will be no major amendments to the act, then we can proceed on the basis that we can meet the 1 March starting date.

Why should we do that? The starting date was set by the Planning and Development Review, but it is important that we start to capture the benefits of this code. As was pointed out by the planning review, there are significant costs involved to the community at large, individual homeowners and local government as well in having a lengthy process of planning development assessment, a process which in many cases does not achieve any particular end. Road testing has indicated that, in relation to the vast majority of applications that go through local government, if you compare what would happen under this code with what happens now, in most cases there would be very little difference in the outcome.

You really have to ask: why should we have such a lengthy procedure which adds to the cost for individuals if in fact it is achieving no objective? So, it is important that we get this up and running as quickly as we can. I remind members that, in 2006-07, Victoria (which has had a code system for some years now) had something like 13,000 or 14,000 fewer planning applications than South Australia did for the same year—and that is for the whole of a state that is three or four times bigger than ours.

However, there were, of course, a considerably larger number of building development applications, which reflects the fact that Victoria has successfully taken out of its system much of the need for unnecessary planning applications. If one looks at the figures, the cost of housing in Melbourne is starting to move closer to that of Adelaide, and it is important for our state's future that we maintain our position as having some of the cheapest housing in Australia.

There are many factors in that, but unnecessary planning delays can certainly be one factor that could reduce our capacity to continue to provide the cheapest housing in Australia. That is why we cannot afford to overlook the opportunity to make those improvements, particularly

where experience has shown that this extra delay in the planning system achieves no real objective in terms of changed outcomes.

When the draft code was circulated, there were something like 188 formal submissions. One of the major issues was around the minimum size of allotment, and I have already referred to the fact that that has changed. There were other concerns about setback, and that has also been changed. They were, perhaps, the two most important changes that were made as a result of the process. I will not go through those in detail now; I am sure that anyone interested in this legislation is well aware of them.

There were some other concerns, of course, about character being dealt with through a further extensive process of consultation with councils which will ultimately result in local variations being allowed to the code for certain areas. This will be a complicated process. I announced earlier today in question time the new Unley development plan. That plan will provide significant protection compared to what exists now through regulations, which were introduced today, that put into effect what we call 'replacement controls' where, in designated character areas, changes might adversely impact on the character or the streetscape might be threatened. That is, if you like, a complementary process and, obviously, a lot of work will have to be undertaken in the period up to September next year to identify those areas.

That will be a very demanding and long process, but it is important that we at least get the first stage up and running to ensure that we can get as many as possible of the simple residential developments that do not have complicating planning factors through a code (through a 10-day approval system) because, as I said, that will provide substantial benefits to the community.

There are a number of other points that were raised during the debate and I will try to quickly go through some of those. We can obviously have a more detailed debate next week. From the outset, I make the point that one of the benefits of having a code is consistency. At present, there are as many different interpretations of planning law as there are councils and, in many cases, individuals within those councils who interpret those rules. One of the benefits of the code is that we will get a greater level of consistency in planning assessment across the state. There will be significant benefits also to local government. Planners, who are in short supply around the state—and, indeed, around the country—will have less need to involve themselves in considering fairly elementary and straightforward residential applications and will instead be able to use their time on the more complicated and difficult issues where they should be using their expertise.

The overall aim of the bill and the code is to facilitate the timely assessment of applications for matters which could reasonably be expected to involve a residential zone. As I have indicated in previous answers to questions when these matters have come up, the residential code is not of itself a tool to achieve greater urban density. As the Hon. Robert Brokenshire again pointed out, the way in which the government policy seeks to do that is more through transit oriented development and locations suitable for high density, in particular, rather than to do it across the board through the suburban area. So the code is not about density: it is about more timely and more efficient assessment.

The Hon. Mark Parnell raised a number of issues. He talked about category 1 and the council not being able to notify adjoining owners. The fact is that for category 1 development, which most residential development is, of course there are no rights of appeal for complying development. There has been a practice whereby some councils have decided to notify neighbours in relation to category 1—for example, it might be a garage being built on a property—to try to shift the political issues, if you like. They have consulted even though there was no requirement to do so and, as a result of that consultation, there could be no impact whatsoever on the final outcome.

The courts have, as the Hon. Mark Parnell himself mentioned, criticised that practice. I suspect the reason some councils have been doing that is to avoid taking the hard decision. At the end of the day, these people have no rights and, really, if society has decided in relation to a block of land that, provided what you build on it complies with various basic parameters, you should be able to build on your block, what is the point of having objections which really can have no legal impact? The practice simply unnecessarily delays the approval process and that, in turn, will add costs for, again, no benefit at the end of the process.

The Hon. Mark Parnell spoke about requests for more information being restricted to one opportunity. The changes to the regulations associated with the code will involve very specific information required to assess the application. Schedule 5 currently applies to building rules information. That will be changed to require the applicant to provide greater levels of information for

planning purposes. A council can decide not to accept the application if not all information is provided. If the applicant has provided all the required information, then the application should be dealt with within the time frames. So, there has been this issue raised about 'stop the clock'. Again, I will not waste too much time on it now but, clearly, councils are entitled to have all the information they need in assessing an application.

However, we should not have the practice which we see from time to time where, for various reasons, councils or other planning approval bodies will keep going back to the applicant requiring more information. Of course, conversely, applicants also need to provide all the information that is required if they are to expect to have their application assessed swiftly, and the changes made in this act seek that outcome. Provided the applicant supplies all the required information, then the application should be dealt with within the time frames, and that is the underlying principle we are seeking to achieve here.

The Hon. Mark Parnell also referred to clause 9 of the bill relating to the time for a decision to be made. Where the statutory time is exceeded, the applicant can choose whether the application is refused. This is at the discretion of the applicant. If the ability is used, the applicant could then seek recourse through an appeal process in the courts. I think the Hon. Robert Brokenshire also asked a similar question. He asked: why is there deemed refusal rather than (as I think was suggested by at least one other member during the debate) deemed approval? The reason is that, if the statutory time frame is exceeded because refusal is deemed at the discretion of the applicant, the ability can then be used for applicants to seek recourse by means of an appeal process through the courts.

I will see from my notes whether I have answered all the issues raised by members. The Leader of the Opposition did ask a question about minor variations. There has been some significant debate about putting that particular part within the bill. The short answer to the question is that, obviously, case law will ultimately settle what is a minor variation; but, obviously, the provision is there so that, if someone complies in every respect other than, perhaps, some dimensions (and it could be for all sorts of reasons that it is slightly outside the parameters), if the council deems that to be a minor variation it can approve it.

Of course, if someone had an objection, that might ultimately be challenged in court and ultimately case law would settle that outcome. I believe the provision there is important because there will be cases where one size will not fit all, where there will need to be genuine minor variations, that is, those with dimensions that are of relatively small proportion. I think that practice and case law will ultimately determine the outcome there. If the honourable member wants to explore that issue further during committee, my advisers can probably much better advise me on the legal aspects. Essentially, case law will settle it, but it is important that you do allow the capacity for minor changes.

I think it was the Leader of the Opposition who asked whether consultation in respect of future changes to the code would apply. Since the code itself is the regulations, obviously, the normal parliamentary procedures would apply, that is, they would go through the Legislative Review Committee, and, of course, ultimately either house of parliament could disallow the regulations. Clearly, in the first instance, we are hoping to get an understanding of the residential code in terms of a high level of acceptance. At some stage in the future it may be necessary to make changes to the code, but I think that will all come out in the wash once the code has had some time to be in operation.

Of course, we would obviously have high expectations for the benefits it would achieve, and, obviously, we will be monitoring that. Certainly, in the first instance, we want to make the code as simple as possible. We do not want to complicate it unnecessarily. As a result of the experience of working with this code, it will be up to future governments, if they wish, to extend the code based on, hopefully, the success of its operation over the next year or two. That is something that will be considered by the government of the day.

The final point was raised by the Hon. Robert Brokenshire, and if I have not covered everything we can deal with it in committee. The honourable member talked about rainwater tank size. I refer the Hon. Robert Brokenshire to clause 8 of the draft residential code and 'water tanks above ground', which would apply under the code. The construction, alteration of or addition to a water tank in the appropriate zones where the code applies can take place and can be exempt if the tank has a total floor area not exceeding 15 square metres and no part of the tank is higher than four metres above the natural surface of the ground.

If you put those together, that can give a maximum of 60 cubic metres, which means that 60 kilolitres of water can be supplied. The Hon. Robert Brokenshire also made a number of other comments about water conservation and other issues. I make the general comment here that most of those issues will be determined, of course, under the building code. However, the government is currently working (through the federal ministerial council) to develop more appropriate sustainability indicators which can operate right across the board. The government at this stage sees that those water efficiency and energy efficiency requirements would apply principally through the building code.

The planning review is a very important initiative for this state. Again, I thank those members for their thoughtful contributions during debate, and I look forward to our completing this important measure through this council next week.

Bill read a second time.

In committee.

Clause 1.

The Hon. P. HOLLOWAY: I did not propose that we would go beyond clause 1 today. It is just an opportunity for any member who has complex questions which they may wish to ask now to do so, and, if I do not have an answer now, I will endeavour to have that ready by next Tuesday when we resume debate.

The Hon. M. PARNELL: I did want to put a couple of further questions on the record. I thank the minister for the responses he has given to the issues raised in his second reading speech. The minister did talk about consultation that had been conducted in relation to the residential code. I caught the vast majority of what the minister said in his second reading speech, but I apologise if he covered some of these issues and I did not hear, as I was distracted. I am interested in knowing what process the government will go through in relation to the further finetuning of the code, but, more importantly, further reincarnations of the code, because clearly it is a document that will be amended over time.

We know that the Local Government Association has asked for an amendment that requires it to be consulted in relation to future changes to the code. I think a similar valid call could be made by the Planning Institute and perhaps other groups as well. I would like the minister to consider and bring back a response on whether we could legislate to ensure that changes to this code go through a similar process of public consultation to that which a development plan would go through on amendment. The reason I say that is that we have a legislative regime here where the residential code will prevail over the development plan.

The development plan (under statute) has to go through a process of public consultation, including a call for submissions, a public meeting and even a very minor level of scrutiny by the Environment, Resources and Development Committee of parliament. It seems to me that a very valid claim could be made to say that this document is so important that, when it is proposed to change it, it should go through at least as rigorous a process. That is my first set of questions.

The second issue relates to the application of the residential code. Perhaps the minister has covered it and either I have not heard or not properly understood. It seems that there are a couple of different approaches. There was an approach in the original consultation draft that went out, which was a list of different zones in different council areas which would be covered by the residential code, with a further overlay of some exclusions in relation to heritage type areas. That is one approach.

Another approach is to say, 'Well, the whole of the state is covered' and then just have some exclusions. I want the minister to clarify that I have the correct understanding of the current approach, which is taken from version 7 (I think)—I have not checked with version 10—of the regulations. In schedule 4 under the heading of new dwellings, subclause (1) states that, subject to subclause (4), this clause applies in relation to any area determined by the minister for the purposes of this clause and identified by notice in the *Gazette*.

Will the minister, at some future date, determine which parts of South Australia are to be covered by the residential code; and, as a follow-up question to that, will the minister clarify what process of public consultation the government will go through in relation to changing the list of areas, whether that is a list of council areas or a list of zones within council areas?

The Hon. P. HOLLOWAY: Clearly, the big task ahead of us now is to identify character areas. I mean, obviously we would like the code to apply to as broad an area as possible. Specifically, we have excluded historic conservation zones and the like, and also some areas such as, for example, I think high fire risk areas where CFS approval or other approvals are required because a number of areas have been specifically excluded. We would want the code then to apply to the rest of the state but, of course, we have also talked about character areas.

I did announce earlier today what we have done in relation to Unley, and I am sure that, when it comes before the ERD Committee, the honourable member will find what has been done there interesting and be surprised at how much work has been involved. There is a huge volume of work. Clearly, the inner city councils will have many more of these issues than probably those councils with greenfield development where it will not be such an issue. Obviously that will be a process through which we will have to work in the next 10 months.

Certainly, the planning review was suggesting 1 September as the date for which a modified code should apply to character areas. First, there is the task of getting the code up and running for those areas that are not specifically excluded, but identifying character areas is really the next big exercise that will involve local government. Some councils like Unley are very well advanced. I think it would be fair to say that most councils have that process well underway, but obviously that is something that will have to be expedited by those councils.

It is my understanding that, after 1 March next year, the code will have the most effect on alterations and additions. Unless a council specifically enables the code to work—and we would hope they would do that in greenfield areas at least or areas where there are not heritage and character areas—then it may apply for new dwellings as well, but we believe that the main impact will be for additions at least until 1 September next year. It is after that point, when the character areas are identified, that it will have a much broader impact. There is still a long way to go and a lot of work to be done, but it is important that we at least begin the process.

Finally, the honourable member talked about the future upgrading of the code. At this stage, obviously we have more than enough to do in identifying these tasks, such as character and so on, but the planning review recommended an annual review of the code and I think that the Development Policy Advisory Committee (DPAC) undertakes that annual review, so that will be the process.

The Hon. M. PARNELL: Just so that I have this clear: in relation to new dwellings, is 1 September the date by which councils need to have identified those areas where they do not believe that the code should apply? So, they have until 1 September to identify their character areas, or perhaps it is already zoned as historic, conservation, or some similar type of zone.

First, can the minister clarify that I have understood that? Secondly, in relation to areas that might subsequently be identified as having character, I am interested in the process of consultation and engagement between the state and local councils in relation to identifying character areas, or unidentifying them perhaps. If they want to be taken off the list and they want the code to apply, how will that process work, and is the government prepared to mandate a level of consultation with councils?

The Hon. P. HOLLOWAY: I should have said that, although the new modified code will not be in place until 1 September (and this work has been going on, as I said, for some time now), councils have been given until 31 March, on my understanding, to try to identify those areas. But clearly, from the experience that we have had at Unley, if one does it to the level that has occurred in some of those inner city councils, obviously it may be a much greater task than perhaps for councils where most of their area was established post Second World War, or at later stages, for example.

I am mindful of that fact, and obviously I will be interested to hear from councils about how they are going in the process, but certainly at this stage the planning review's recommendation is that we should operate under this time line. I have not yet heard from any council that it is having trouble meeting it; clearly for some of those councils with high levels of character it may be an issue, but I have an open mind on that. I certainly hope that the vast majority of councils will be able to comply within those time frames.

The Hon. R.I. LUCAS: I come relatively new to this debate and certainly I do not claim any expertise (as my colleague the Hon. Mr Parnell obviously might, with some justification) in this particular area. The perspective that I bring is an involvement and association, in particular, with the Norwood area, and I am indebted to the hard work of the Liberal candidate for Norwood

(Steven Marshall), who I know has been working with my colleagues—the Hon. Mr Ridgway, the member for Bragg and others—to try to protect the interests of Norwood, St Peters and Payneham. But, as I said, also I myself have an association of some longstanding with the Norwood area.

First, to clarify the question that the Hon. Mr Ridgway asked—and I was not absolutely clear on the minister's answer: is this residential code disallowable by either house of parliament in exactly the same way as any existing regulation?

The Hon. P. HOLLOWAY: That is certainly my understanding. It does come in as a regulation—at least, the specific details. Many of the features of the Development Act, of course, are already prescribed in regulation, or perhaps through development plans, which are in turn authorised under the Development Act. So, perhaps a short summary about what the code does is that it would take what might be now 68 or 69 different development plans for each council out of council areas around the state and it tries to take those uncomplicated matters—those uncontroversial matters—and unify them. So, rather than having to look up 69 different codes for the project-type home (the conventional sort of house that people might buy), the objective here is to try to get a code that will apply across the whole state.

Of course, where that becomes more complicated is in the heritage areas, character areas, or where there are special features, such as flood plains, steep areas, bushfire zones, and so on. So, we have tried to exempt all of those, but for at least 70 per cent of the state (70 per cent of homes) that is our objective: to get the code applying to them because for those, at least, a one-size-fits-all approach should be able to adequately deal with any planning issues.

The Hon. R.I. LUCAS: I think that the point for the record then is that ultimately, should this legislation pass both houses of parliament, then persons concerned with the residential code in the Norwood area—or, indeed, in any other area—do have the capacity to lobby their members of parliament and political parties to disallow the residential code, when it is laid on the table, if they are opposed strenuously to the provisions of that code as it might impact on areas such as Norwood.

I understand that the minister said earlier, in response to questions asked by other members, that one of the recent changes was that he had taken block sizes out of the residential code and that would now remain the subject of council development plans. Is that an accurate assessment of what the minister said?

The Hon. P. HOLLOWAY: The position is that you can have either your existing allotment—and some of them might be 200 metres or 1,000 metres or more, depending on where they are—or the default, if you like, which is what applies in the council development plan. For example, I think in Burnside the minimum size is 550 in one of the zones.

So, in some sense defaulting back to that takes away from the benefits the code would have of one-size-fits-all but, given the complexity of what we are dealing with, I think it makes sense in that one area—at least—to default back to the development plans.

The Hon. R.I. LUCAS: That was one of the criticisms from areas like Norwood and others. I understand the minister has responded to that by taking minimum block sizes out of what was to be the residential code and either putting them back or leaving them (I am not sure of the correct phrase) in the council development plans—which is, I think, what the minister just said.

I would also like to ask whether the minister has done the same thing with the issue of site coverage. That is, has he taken that out of the residential code (where it was to be originally) and left that in or put that into the council development plans as well?

The Hon. P. HOLLOWAY: No; we have not. I think in most cases what the code said would be pretty well consistent. It does vary between council areas, but that is one area where we expect the code to apply. As I said, there is no purpose in having a code if you start going back to that and revert everything back to an individual assessment or an individual area. However, where it is necessary on a few basic parameters, such as block size and setbacks, that is where we do have differences from area to area, and that can still be considered under a tick-the-box system of planning assessment.

The Hon. R.I. LUCAS: I stand to be corrected on this, but I understand our Liberal Party position to be that the site coverage should be removed from the residential code; however, I will explore that issue with the shadow minister. For example, my understanding of the Norwood Payneham St Peters position in relation to site coverage (and this is its argument) is that site coverage of 60 or 70 per cent in some areas is excessively high and has the potential to impact

significantly on the established character of an area. The City of Norwood Payneham St Peters currently applies a site coverage standard of between 40 and 50 per cent, depending on the area, to reflect the established character and setting of a location.

If I understand correctly what the minister is saying, and if the Norwood Payneham and St Peters council is correct in terms of the government's proposition, the government's view in terms of site coverage will be significantly different to the current strong position in Norwood and of its residents' associations and other groups that support that proposition in that particular character area.

The Hon. P. HOLLOWAY: I think the point that needs to be made is that the front set-back is, essentially, set by the development plan. That is one of the changes. The front set-back is, in many ways, one of the key parameters in determining character. I have discovered a lot about planning, and I suspect that after this debate there will be a lot more MPs who understand planning law a lot better than they did. In the past I think most of us have tried to know as little about it as possible.

Set-backs are certainly one of the key parameters in defining character. Norwood Payneham and St Peters council, like Unley, covers an area in which a significant proportion of the suburb was built pre Second World War. It is up to the council where to put it but, clearly, where character is important the code will not apply. So, if site coverage becomes a factor in determining character—as, indeed, the front set-back is a key parameter—then the code may not apply. Obviously, that is one of the big issues we have to resolve with the inner city councils. The code can be varied for character areas, and it is all part of the process to take those issues into account.

The Hon. R.I. LUCAS: As I understand it (and I think the minister is confirming it, in part), under this residential code, for which he is seeking support, whereas the Norwood and Payneham council in a particular area would apply a site coverage standard between 40 and 50 per cent, the minister would allow a site coverage of 60 or 70 per cent—which is quite contrary to the current practices of Norwood. I believe that is the Norwood complaint about the government's proposition, and the minister now confirms that that will still stay in the residential code. I invite the minister's response, because I understand that Norwood is mightily concerned about the government's intentions (which the minister seems to have confirmed here this afternoon) in relation to keeping site coverage in the residential code.

The Hon. P. HOLLOWAY: Again, the code will only apply in certain areas. In relation to character areas—and it will be the inner city suburbs, such as Unley, Norwood and Walkerville where it is a particular issue—if the councils do their work and identify them as character, large sectors of those suburbs will be exempted from the code; it will not apply. If the code does not apply then it will revert to the rules that apply now.

I have also been advised that the City of Norwood Payneham St Peters does not have a site coverage standard at all under its development plan for suburbs such as Payneham and Felixstow.

Again, there are some areas where it does not have a site coverage standard, so that would not be an issue, but we have to be very careful here in defining the areas we are talking about. The government has been careful through the whole process. Right from day one we could exempt heritage areas. Heritage conservation zones are clearly outside the code and it should not apply in those areas, but we accepted that, in addition to what are defined and well-known heritage areas, there will also be character areas.

Today I talked about Unley, where up to about 45 per cent of its total area is inside a streetscape zone. Depending on the process it has followed, that area is likely to be exempt from the code because it has done its work on identifying the character and parameters. Alternatively, there may be a code, but it will be a code that will pick up character within that area. With character we are looking more at streetscape, which is what we are trying to preserve more than what happens in people's backyards.

One of the benefits of the code is that, if someone has a house in a character area, if they are not proposing to alter the streetscape but want to modernise the kitchen, bathroom or whatever out the back, why should they go through a complicated planning process, providing it complies with all the general parameters? Why should they potentially spend months getting planning approval for it? If, however, they wish to change the streetscape, that is different, and that is where the work the government is now doing in relation to streetscape will apply.

The Hon. R.I. LUCAS: In summary, is the minister prepared to give a guarantee that, if the Council of Norwood Payneham St Peters decides that it wants to continue with a 40 to 50 per cent site coverage area for the Norwood part (forget about Payneham and Felixstow, which came from the amalgamation of councils into that council area), that council will be allowed to make that decision and continue that under the legislation and the residential code that he is proposing?

The Hon. P. HOLLOWAY: If the Norwood council puts up those suburbs as character—and it will have to do the work to define 'character', because, after all, we have hundreds of complaints at the moment from people who are living in areas where most of the housing is traditional, for example, built before the Second World War. I will not get into a debate about where character starts and finishes, but if they are in a house that was built 100 years ago and if there is a vacant block next door and somebody wants to build a modern house that is totally incompatible with the character of the area, which can cause a lot of distress to many residents, with the controls we have introduced today in Unley through the development plan Unley will have much greater control over the facade of the development that takes place in that area.

In relation to Norwood Payneham St Peters, if it wishes to identify its areas as character, it will have to do the work. That is exactly what the provisions in the government's policy are aimed at: to allow that to happen and to accept that, within certain character areas, particularly the inner city areas, large proportions of those councils need a different treatment to reflect the character. We do not want to produce a blank cheque without the work having been done on certain areas. We do not want a situation where every council says that this suburb was built in the 1950s with double detached Housing Trust homes, that is the character of the area and therefore it should be exempt from the code. Clearly, that would defeat the whole purpose, but the exercise we are going through is clearly aimed at councils such as Unley, Norwood and other inner city councils which have a high proportion of buildings built before the Second World War.

The Hon. R.I. LUCAS: We will have more time next week to pursue this issue, but I am concerned on behalf of those who have lobbied me that the minister, for the reasons he has given, is unable to give that guarantee to the people in Norwood.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, they have made this submission to you. I am reading from their submission to you. I am not an expert in this area, but I have been lobbied in relation to the interests of Norwood. I am reading from their submission to the minister, and I was just seeking a guarantee from the minister. The minister has given his response and I will not enter into argy bargy as we can do that next week.

They have not seen the most recent version of it, but they will have the opportunity of seeing the minister's response to at least these initial questions today. The minister keeps coming back and saying 'if they do the work' and 'if they become a character area'. Ultimately who makes that final decision? Does the council make the decision whether the Norwood area is a character area, the minister or some other body? They might do all the work and believe they are a character area, and everybody in the area thinks it is a character area, but the minister or somebody else might say, 'We don't think you are, and therefore you cannot use these particular provisions.'

The Hon. P. HOLLOWAY: Obviously, the minister would determine it finally, and we have processes to deal with that. That is the case now: the minister can veto any development plan that comes up for change. It is already the case that the minister ultimately determines it, but that is not to say that ministers do not take into consideration the recommendations of various bodies. When it comes to heritage areas, we have the Development Policy Advisory Committee which, incidentally—to go back to the question asked earlier by the Hon. Mark Parnell—will annually review the code, and that will involve a public process.

There are subcommittees, such as the Local Heritage Advisory Committee (LHAC) and so on. So, as planning minister, I am dealing all the time with development plan amendments which consider which houses should and should not be on a local heritage list, and there is a significant amount of work involved with that process. The minister has the final say, but there are a number of advisory bodies and the like to deal with, and we are looking at that process.

However, the important thing to come out of this is that the government wants to come up with a system that makes it easier for those people who might want to renovate their kitchen or do something in the backyard of their home. Even if it is a so-called character home, they should be able to do that as easily as possible and with as little red tape as possible, provided they are not violating any of the basic rules. But, at the same time, we want to protect the character of suburbs.

Some of the most vocal critics of the code are those who bemoan what is happening in the suburbs now, and I say to them, 'Yes, but all of these things you are saying the code will allow are actually happening in the suburbs now.' I draw members' attention to what is being done in Unley today.

I believe the additional levels of character protection will give much greater protection to those sorts of areas than currently exists. It is not as though there is a great deal of protection at the moment, outside of local heritage properties and heritage conservation areas. Really, if people are knocked back and appeal to the courts, all sorts of structures can be built in those suburbs which residents do not like. That is happening now, and that is the cause of much consternation to people in the suburbs.

What we are trying to do is have our cake and eat it, too, by ensuring that additions and the like can be dealt with more speedily and therefore more cheaply, but at the same time ensuring that we do not have the construction of buildings that violate the character of those special areas that give Adelaide the character it has.

The Hon. R.I. LUCAS: The minister has confirmed that the issue of site coverage stays in the residential code. Under this latest change, does the issue of distance from boundaries stay in the residential code, or have block sizes been taken out of the residential code and left with the council development plans?

The Hon. P. HOLLOWAY: The code prescribes side setbacks, but front setbacks, which are the most important, have been taken out of the code.

The Hon. R.I. LUCAS: The distance from the front boundary has been taken out of the code, but the distance from side boundaries and rear boundaries stays?

The Hon. P. HOLLOWAY: For side boundaries, there is a code. Indeed, if you go around to any council area at the moment, contrary to what many people will tell you, you will see that houses are increasingly being built up against boundaries. That is because land is becoming more scarce in Adelaide and the pressure is on, and that is broadly happening throughout the city now. It needs to be understood that the code is trying to encapsulate what is permitted in the vast majority of development plans now—something that you would get through most councils of Adelaide.

However, there are a number of variations council to council. One of the benefits of the code is that, where you can get it to apply, you will get some uniformity in those basic planning rules. A builder who wants to build has to look up the relevant code, and there are all sorts of variations between councils, although I would say they are relatively minor. What we are trying to do is capture a formula that will cover at least 70 per cent of residences.

The Hon. R.I. LUCAS: I have a question of clarification. In Norwood, for example, where some of the blocks are up to 60 metres deep, one of the concerns that has been expressed to me is that, under the minister's proposal in relation to side boundaries, a wall up to three metres high and 30 metres long (that is, up to 50 per cent), right up against the boundary, would automatically be allowed. So, you would have a wall up against your property which is three metres high and 30 metres long, in essence, as an automatic part of the minister's code. Is that correct?

The Hon. P. HOLLOWAY: Well, there are really two answers to that question. Again, it depends on whether or not the code applies. I make the point that in some of those inner city areas they will probably have larger areas exempted from the code compared to other areas, to reflect character; or at least they will have modifications to the code to reflect character. That always needs to be said.

I know where the Hon. Rob Lucas is coming from in relation to looking at Norwood, and I know why he is asking these questions. However, it always needs that caveat that at least a modified code may well apply to a significant proportion of suburbs such as Unley, Norwood, Walkerville, Prospect and the like that do have particular features. There were modifications to the original proposed code in relation to side settings. The major change was that, if the building was up against the alignment on one side, it would have to be set back from the alignment on the other side.

The Hon. R.I. LUCAS: It is a matter of who gets there first has the advantage?

The Hon. P. HOLLOWAY: It is interesting if you are talking about Norwood. The interesting thing that defines Norwood's character and the thing that people want to protect in their

heritage is actually in many cases walls touching or very close together. That is, in many ways, the character of Norwood, but that is another story.

Any member who wants to look at this should drive around the suburbs of Adelaide and see the new homes that people are building in Burnside, Mitcham, Norwood, Unley and other suburbs. They will see that, given that increasingly people are looking for smaller block sizes (which reflects different family formation and reflects the high price of land), people are building up to the block alignment. The vast majority of houses I would suggest built in the past 10 years, at least, do build, at least on one side, up to the alignment. If you go out and look at new developments, that is what you will see.

The Hon. D.G.E. HOOD: My understanding and reading of the bill was that, in the example that the Hon. Mr Lucas gave where a wall could be built on a boundary—and he gave the example of a 60 metre long block of land—the wall could be no more than eight metres long in any one section. That was my understanding; is that correct?

The Hon. P. HOLLOWAY: I thank the honourable member for his information. Yes; he is correct. That was the point I was going to make. Again, the point is that in relation to specific suburbs and council areas we have a high proportion of character areas—and those, very roughly speaking, are pre-Second World War construction—and obviously different rules will and should apply to those areas.

The Hon. R.I. LUCAS: I am happy for the minister to just give me a reference as to where that eight metre provision is. The document that council has given me argues that the code would allow 20 to 30 metre long boundary walls. Is that a change in the most recent draft of the code or was it in the original one and Norwood, Payneham and St Peters was ill-advised?

The Hon. P. HOLLOWAY: I am looking at the most recent version in respect of new dwellings. Clause 2B(5)(d) provides:

(5)(d) in relation to any wall to be located on a side boundary of the site associated with the development

(i) the wall will not exceed 3 meters in height; and

(ii) the wall will not exceed 8 metres in length; and

(iii) the wall, when its length is added to the length of any other walls or structures located on that boundary—

(A) will not result in all such walls and structures exceeding a length equal to 50 per cent of the length of the boundary, disregarding any front setback

Again, I think if one looks at what is actually happening in practice and what people are getting approval for from all of our councils—including those that have a reputation (deserved or otherwise) as being difficult— then that is exactly what is happening in those areas now.

The Hon. R.I. LUCAS: Just to clarify, is the minister saying you could have an eight metre wall and then a gap of how long before you can have another eight metre wall, and if you have a 60 metre block you can have 3½ of them?

The Hon. P. HOLLOWAY: It goes on:

(B) will not be within 3 metres of any other wall or structure located along the boundary;

The Hon. R.I. LUCAS: As I understand it, what the minister is saying is that you could have an eight metre wall three metres high then a three metre gap and then you could have another eight metre wall three metres high and you can have 3½ of those on a 60 metre block. At least that clarifies it.

The Hon. P. HOLLOWAY: It cannot exceed subparagraph A, which provides:

will not result in all such walls and structures exceeding a length equal to 50 per cent of the length of the boundary, disregarding any front setback.

The Hon. R.I. LUCAS: So, in the case I referred to where you have a 60 metre block, the maximum size would be 30 metres, so you could have as many lots of eight metres separated by three metres as complies with that. In his response, the minister referred to an earlier question that—

The Hon. P. HOLLOWAY: Well, why one would necessarily do it—it does not mean people will actually build it. The code provides maximums whereby some of the parameters in the code will be the maximum and some of them may be the minimum.

The Hon. R.I. LUCAS: The minister indicated earlier that, if you have a neighbour who has built one of these eight metre three metre walls separated by three metres on one side of you, under this proposal it means that the neighbour on the other side cannot do the same thing.

The Hon. P. HOLLOWAY: No; it does not mean that.

The Hon. R.I. LUCAS: I thought the minister was referring earlier to the fact that if you had a property you could not have this happen to you on both sides. Is the minister saying that, on both sides of your property, you could have your neighbours building up to the boundary line in the way that we have just been discussing?

The Hon. P. HOLLOWAY: As I indicated earlier, if you are building on one boundary, then you cannot build on the other. What your neighbour can do is, of course, another matter.

The Hon. R.I. LUCAS: The last area that I just want to raise today—as I said, we will have more time next week—is that the Norwood people have spoken to me expressing concerns about being able to build a two-storey development extension at the front of a particular property under the former version of the code that they were commenting on. Can the minister confirm that that particular complaint has been resolved in the latest version of the code that he has now provided?

The Hon. P. HOLLOWAY: The latest version of the code, if I can refer to—

The Hon. R.I. LUCAS: I have found it and will read it. It says:

> This enables an addition on an existing dwelling to be located at the front of a dwelling, which could have a detrimental impact on the streetscape. This, in conjunction with performance control 6.1 and 6.2, means that a two-storey addition at the front of a dwelling would be complying, even in a character area which is predominantly single storey. Additions to the front of a dwelling should not be included in the residential code, particularly in a character area.

That was the complaint from the Norwood Payneham St Peters council to the earlier versions of the code.

The Hon. P. HOLLOWAY: As part of the new code, I refer to 2A(2)(n) which states that the development will not alter the external appearance of a facade of a building to a substantial degree. The converse of that, of course, is that, if it does alter the external appearance of the facade to a substantial degree, it would not be allowed by the code. It would have to go back to merit assessment—where, of course, it may or may not be approved, anyway.

The Hon. R.I. LUCAS: So, are you saying that, in the example that I have given, that has now been fixed?

The Hon. P. HOLLOWAY: I believe that would cover it. In addition, you cannot encroach on the front setback, so there is a front setback. If you cannot encroach on the front setback and you cannot alter the external appearance, that would not be code-compliant. So, again, it would revert to merit. Again, the point needs to be made that a lot of the things happening now might very well go through the system. It may go in for merit assessment and the council may or may not approve it, depending on the planner on the particular day; or you might appeal to the court and the court might say to go ahead. So it is not as though these things are not happening now.

The Hon. R.I. LUCAS: I thank the minister for that. As I said, I hope the answers he has provided, when we circulate them to interests in Norwood, will resolve many of the concerns people in Norwood have. Certainly, in terms of recent lobbying, there has been a lot of concern from residents of Norwood at the government's proposals.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, I am just there to help. As I said, I know Steven Marshall has been working very hard with the local interests to try to resolve this issue in the best interests of the people of Norwood St Peters Payneham. So, I thank the minister for those answers and I hope that they will satisfy the concerns but, if they do not, we will obviously have an opportunity next week to pursue the interests of the electors of Norwood St Peters Payneham.

The Hon. D.G.E. HOOD: By way of brief comment, as someone who has personally been involved in attempting to get something through Norwood council, I have a great deal of experience

in this matter. Well, perhaps 'a great deal' is overstating it, but certainly I have some experience in this matter.

The Hon. M. Parnell interjecting:

The Hon. D.G.E. HOOD: No, more than one, I would say. My experience on this particular issue of the setback of a second storey was that there were many examples in the very suburb that I was dealing with—in fact, in many cases, in the very street that I was dealing with—of two-storey houses where there was not setback of the second storey but, for some completely arbitrary reason—as far as I could determine, anyway—Norwood council had determined that it was somehow desirable that the second storey should have a three metre setback from the bottom storey to the top storey (that is, the ground floor to the first floor), despite the fact that many old two-storey villas built 100 years ago all had a perfectly flat face. The original two-storey villas were built with a flat face with often a verandah or balcony along the top.

The Hon. R.I. LUCAS: But, Dennis, you wanted a six-storey private residence.

The Hon. D.G.E. HOOD: No, it was a comfortable dwelling but certainly not a mansion, by any stretch. But the point is: I see no reason at all why the first storey should be set back by three metres. Who says that has anything to do with a heritage building? In fact, the reality is that many modern buildings are built with the first storey setback and, if anything, I think it is a detriment to the area. That is my personal view. Anyway, I thought I would place those comments on the record.

The Hon. D.W. RIDGWAY: In relation to building on boundary alignments, which the Hon. Rob Lucas was exploring earlier, from my understanding of the minister's comments you can build on only one boundary of an allotment. However, the alignment is a shared alignment. I will try to get the minister to visualise it. If I own an allotment and my neighbour decides to build on the alignment on my right-hand side, does that mean that my neighbour on my left-hand side is not able to build on the alignment on his side and that it has to be further away, or can you actually build out the person in the middle?

The Hon. P. HOLLOWAY: No, you can build on either, but only one. Let us face it, the reality is that most of those houses are going to be within existing areas. The major benefit of the code is going to come about in greenfield areas; it will not be in areas such as Norwood. However, if people are making straightforward additions, where the code applies there it will be a significant advantage—and to the community at large because of cost.

But the point I was going to make is that most of the houses you are getting in those areas are maisonettes or semi-detached places, and presumably the builder will come and in the most expensive real estate they will often abut on one side, and that will be the sort of development that will be put up in those areas. That is happening now.

The Hon. R.I. Lucas: The lesson is: build on your own boundary first before your neighbours do.

The Hon. P. HOLLOWAY: It does not make any difference. You can build on one or the other side; you cannot build on both.

The Hon. D.W. RIDGWAY: I accept what you are saying, that you cannot build on both, but if you are the landowner in the middle—

The Hon. P. Holloway interjecting:

The Hon. D.W. RIDGWAY: No, let me finish. You can be the person in the middle who chooses not to build on at all, but your neighbour on your right-hand side builds on the alignment and the neighbour on your left-hand side builds on the alignment so—because the alignment is shared: it is not like it is a 900-millimetre setback but is like the garden fence—effectively, you can be sitting in the middle. From what I understand you are saying now, the neighbours on either side can both build on the alignment and not on the other alignment on the other side of their property. So they comply with the code by having built on their alignments but you, by virtue of being in the middle, are built on both sides.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: It is not luck. Are you suggesting—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Is the Liberal Party policy now saying—and I guess that is where they are leading to—that there shall be no adjoining houses? That is the logical consequence of what you are saying. If you take it to its logical conclusion, you will be saying that no houses will ever abut. If that is your policy on the Development Act, you should think long and hard before you put that policy up. You should think that through long and hard.

Progress reported; committee to sit again.

MOUNT GAMBIER HOSPITAL HYDROTHERAPY POOL FUND BILL

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

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (17:38): I move:

That this bill be now read a second time.

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

Leave granted.

The *Mount Gambier Hospital Hydrotherapy Pool Fund Bill 2008* before the House addresses a matter that has been of considerable concern to the community of Mount Gambier for some time.

In 2000 the then board of the Mount Gambier and Districts Health Service Incorporated established the Mount Gambier Hospital Hydrotherapy Pool Fund to support the building of a hydrotherapy pool at the Mount Gambier Hospital. At that time it was anticipated that approximately $1 million would be required for the construction of the facility.

During that time donations were made by local community members and organisations and by June 2003, $270,769 had been raised. However this sum was well short of the money required to build such a pool and the proposal was abandoned.

Mount Gambier Hospital is an institution listed in Schedule 2 of the *Public Charities Funds Act 1935* and, by virtue of section 11 of the Act, all donations to the Mount Gambier Hospital vest immediately in the Commissioners of Charitable Funds. As such, the monies of the fund for the proposed hydrotherapy pool are held under a charitable trust administered by the Commissioners.

Since the abandonment of the proposal for the pool, there has been considerable community concern to have donations returned where requested and for the balance of funds to be used for an alternate purpose.

Under the *Public Charities Funds Act* the donated funds are properly held by the Commissioners of Charitable Funds and the Commissioners are required to apply the donated funds to the general purposes of the Mount Gambier hospital. Donations cannot therefore not be returned.

Other provisions of the *Public Charities Funds Act* limit the Commissioners to spending the earnings derived from the investment of the trust, but not the capital of the trust itself. These provisions mean that the whole of the funds held in trust cannot be used for another purpose, only the earnings on that trust. These earnings would not be sufficient to enable the development of an appropriate alternate purpose.

The Government was advised that legislation would be necessary to enable the return of donations and the utilisation of the funds held.

The *Mount Gambier Hospital Hydrotherapy Pool Fund Bill 2008* before the House transfers the money held by the Commissioners of Charitable Funds to Country Health SA Hospital Incorporated. It requires Country Health SA Hospital to offer to return donations plus interest earned on the donations and to develop a proposal for the use of the balance of the funds for an alternate purpose.

In developing the alternate proposal Country Health SA Hospital must consult with the Mount Gambier and Districts Advisory Council.

The Bill requires the Mount Gambier and Districts Health Advisory Council to consult with the community on the proposal developed and advise Country Health SA Hospital of the outcomes.

Before Country Health SA Hospital can act on the proposal it must be reasonably satisfied that the proposal is acceptable to the community.

Country Health SA Hospital must also consult with the Mount Gambier and Districts Health Advisory Council when developing its policy for the calculating the interest on the donations to be returned.

Once a proposal is approved by Country Health SA Hospital, it must place advertisements in the local newspapers and in a newspaper having circulation on a statewide basis offering the return of donations plus interest and outlining the alternate proposal so that people can be informed of the purpose of their donation should they elect not to have it returned to them. Those seeking the return of their donation must of course be able to verify the amount they donated to the hydrotherapy pool fund.

The Bill ensures that a proposal that Country Health SA Hospital may approve has the support of the community in and around Mount Gambier and that it cannot approve any proposal unless it is satisfied that the proposal is acceptable to the community. It also provides for transparency in the process for returning donations and confidence that community views on this matter are considered.

The *Mount Gambier Hospital Hydrotherapy Pool Fund Bill 2008* will enable this matter to be resolved.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines terms used in the measure.

4—Transfer of funds

This clause provides that the Fund held by the Commissioners of Charitable Funds for the purpose of building a hydrotherapy pool at the Mount Gambier Hospital is transferred to Country Health SA.

Country Health SA holds the Fund on trust for 2 purposes:

- to return donations and interest to donors in accordance with the measure; and
- to apply the remainder of the Fund in accordance with a proposal developed under the measure.

5—Proposal for use of funds

This clause requires Country Health SA to develop a proposal for the application, at the Mount Gambier Hospital, of that part of the Fund that is not returned to donors in accordance with the measure.

In developing the proposal, Country Health SA must consult with the Mount Gambier and Districts Health Advisory Council, which in turn must consult the local community and make submissions concerning the proposal to Country Health SA following such consultation.

6—Procedures for advertising proposal and return of funds

This clause makes provision for procedural requirements relating to advertising the proposal developed in accordance with the measure and return of funds to donors.

7—Return of donations

This clause provides for the return of donations together with an amount determined as interest on the donations to donors who request the return of a donation.

8—Application of remainder and winding up of trust

This clause provides for any part of the Fund not returned to donors in accordance with the measure to be applied in accordance with the proposal developed under clause 5.

This clause also revokes the trust established by the measure once all monies have been applied in accordance with the measure.

9—Expiry of Act

This clause provides for the expiry of the Act.

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

CONTROLLED SUBSTANCES (PALLIATIVE USE OF CANNABIS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 26 November 2008. Page 984.)

The Hon. SANDRA KANCK (17:42): I take this opportunity to address the criticisms that have been made of this bill by all but one of the speakers; so, I know that it will fail when we put it to the vote. I want to begin by quoting from the Single Convention on Narcotic Drugs 1961 to which Australia is a signatory. The preamble of this convention is in that usual UN language—recognising this, understanding that, noting this and so on. Once that has been said, it goes on to set out the actual agreements. This sort of preamble sets the picture—it is the base on which all the agreements stand. It is really important to note that one of the fundamentals of the preamble of that convention, the very second one of those, states:

...recognising that the medical use of narcotic drugs continues to be indispensable for the relief of pain and suffering and that adequate provision must be made to ensure the availability of narcotic drugs for such purposes...

It then goes on to the next clause, and so on, and I note the word 'must' in that. One of the many people who has been emailing me with support for this bill posed the following question to me: 'Which part of the word 'must' do our politicians not understand?' I also asked that question in relation to the word 'indispensable'. Article 4.1(a) of this same convention states:

> The party shall take such legislative and administrative measures as may be necessary—
>
> (a) to give effect to and carry out the provisions of this convention within their own territory.

If you put those two together, this is what you get, so listen carefully:

> ...recognising that the medical use of narcotic drugs continues to be indispensable for the relief of pain and suffering and that adequate provision must be made to ensure the availability of narcotic drugs for such purposes, the party shall take such legislative and administrative measures as may be necessary—
>
> (a) to give effect to and carry out the provisions of this convention within their own territory.

The message is absolutely abundantly clear that the signatories to this convention, despite problems that might be associated with narcotics, have an obligation to ensure availability of narcotic drugs for the relief of pain and suffering.

I am pleased that, amongst some of the contributions which were made on this bill, there was some reluctant recognition of the palliative value of cannabis—and we will talk more about those values later. As I said, I am addressing some of the criticisms of the bill, but the Hon. Ann Bressington personalised those criticisms: it was not just criticism about the bill but it was about me as well. In her speech, she accused me of hypocrisy, undermining parents and having a shallow and meaningless approach to serious global issues. Her logic was that anyone calling for the use of cannabis for medical purposes as I am doing in this bill is (to use her words) first, encouraging our children to believe marijuana is harmless; secondly, is guilty of abusing their position; and, thirdly, being absolutely irresponsible. There is quite a leap of faith (as you would hear) from one argument to the next in that continuum, and I reject both the suppositions and the accusations.

In her concluding remarks and using the same line of argument, the Hon. Ann Bressington stated that, first, there are people who care little for our children; secondly, such people have a history of drug abuse; thirdly, these same people want to validate their lifestyles by legalising drugs; fourthly, that I ought to have known this; and, fifthly, if I did, I have therefore made a conscious decision to rely on the recruitment of our young people. I presume she means to drugs. Again I reject both her suppositions and her accusations.

The Hon. Ann Bressington claimed that the term 'war on drugs' was coined by the legalisation movement to get people on their side. I have never heard of that. Generally, it is attributed to Richard Nixon in 1971. I did a web search on that and I found hundreds of thousands of references to Richard Nixon having been the person who coined that phrase, and the only indication I could find of its being a ploy of the legalisation movement actually came from the Hon. Ann Bressington. The Hon. Ann Bressington has accused me of picking and choosing international conventions and, by inference, ignoring the international conventions that relate to drugs. She also used the words 'using and abusing the conventions'.

What do the conventions say? Let us find out what it is that she says that I am picking and choosing, ignoring, using, abusing. There are three of them: the Single Convention on Narcotic Drugs; the Convention on Psychotropic Substances; and the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. I have already referred to the Single Convention on Narcotic Drugs in relation to the obligation it places on signatory states to ensure the provision of narcotic drugs for the relief of pain and suffering.

Cannabis is a drug that is listed in schedule 1 of that convention, but so are morphine, pethidine and fentanyl, which are commonly used in pain relief in our hospitals. We would not deny any of those drugs to pain sufferers just because they are listed in schedule 1 of this convention, so why are we doing that with cannabis? And, for that matter, why is cannabis in the schedule, anyway? That is an important question to answer.

The fact is that it has got there almost by accident. In 1925, when the League of Nations was considering drug issues, the Egyptian delegation, more or less out of the blue, claimed that cannabis was as dangerous as opium and should be subject to the same international controls. That was immediately supported. Apart from no evidence being given, there was no prior briefing on this. Nevertheless, it was adopted, and then the various delegates in the League of Nations went back to their home countries. In Australia, for instance—and this comes from a paper by the late Robert Kendell—we have a statement from the then New South Wales under secretary from

the Colonial Secretary's department. Having been to that meeting of the League of Nations in 1925, he then said:

> The omission of that drug [cannabis] from the operation of the Act would have been of small moment, but having been considered by the conference as required to be included, it might perhaps be as well, if practicable, to bring it within the purview of the dangerous drug laws.

So, there members see the beginning of it. Someone makes a statement, no-one questions it and it then becomes part of a mythology.

Coming back to the convention itself, though, it places the same restrictions on cannabis cultivation as it does on opium cultivation. So, there it is going back to 1925. Article 23 and article 28 require each party to establish a government agency to control cultivation. So, to some extent, Australia has failed. Cultivators must deliver their total crop to the agency which must purchase and take physical possession of it within four months after the end of the harvest. The agency then has the exclusive right of importing, exporting, wholesale trading and maintaining stock, other than those held by manufacturers. I have no problem with that. In Tasmania, one can drive past field after field, kilometre after kilometre of opium poppies grown by the state.

The Hon. Ann Bressington is right that I am assuming that people who are given approval by a doctor to use cannabis for palliation will be able to grow their own using the existing laws about personal possession as the basis. But as happens in Australia, with the commonwealth growing opium for medicinal purposes and as per this convention, it would be perfectly proper for the state of South Australia to take responsibility for growing cannabis for medicinal purposes; after all, the Israeli government is doing just that. So, if the bill was passed, the state government would be entitled to establish such a regime and it would be absolutely in line with this convention.

The next convention is on psychotropic substances. THC, the active ingredient in cannabis, was originally placed in schedule 1 when the convention was enacted in 1972. At its 26th meeting, the World Health Organisation Expert Committee—and please note the word 'expert'—on Drug Dependence recommended that THC be transferred to schedule 2, citing its low abuse potential. The Commission on Narcotic Drugs, however, rejected the proposal. But then why would you listen to experts, when you can have a policy that is based on belief and feelings and mythology? I will read in full article 7 of the Convention on Psychotropic Substances, because the Hon. Ann Bressington has asked whether I am seeking to ignore the conventions. The article says:

> In respect of substances in schedule I the parties shall:
>
> (a) prohibit all use, except for scientific and very limited medical purposes by duly authorised persons, in medical or scientific establishments which are directly under the control of their governments or specifically approved by them;
>
> (b) require that manufacture, trade, distribution and possession be under a special licence or prior authorisation;
>
> (c) provide for close supervision of the activities and acts mentioned in paragraphs (a) and (b);
>
> (d) restrict the amount supplied to a duly authorised person to the quantity required for his authorised purpose;
>
> (e) require that persons performing medical or scientific functions keep records concerning the acquisition of the substances and the details of their use, such records to be preserved for at least two years after the last use recorded therein; and
>
> (f) prohibit export and import except when both the exporter and importer are the competent authorities or agencies of the exporting and importing country or region, respectively, or other persons or enterprises which are specifically authorised by the competent authorities of their country or region for the purpose.
>
> The requirement of paragraph 1 of article 12 for export and import authorisations for substances in schedule II shall also apply to substances in schedule I.

Clearly (f) has nothing to do with the issue of medical cannabis, but, if anyone has listened to what I have just read out, there is nothing in my bill that is inconsistent with that particular convention. There is no picking and choosing, of which the Hon. Ann Bressington has accused me.

The third convention is the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988. That particular convention has nothing to do with the personal use of marijuana; it is about international trafficking of drugs by organised crime. I note that article 25 says:

> The provisions of this convention shall not derogate from any rights enjoyed or obligations undertaken by parties to this convention under the 1961 convention, the 1961 convention as amended and the 1971 convention.

Nevertheless, as the Hon. Ann Bressington has accused me of picking and choosing, I take the opportunity to point out that there are bigger fish than me attempting to alter some of these conventions. In 2003, a committee of the European parliament recommended repealing the 1988 convention. It found:

> Despite massive deployment of police and other resources to implement the UN conventions, production and consumption of, and trafficking in, prohibited substances have increased exponentially over the past 30 years, representing what can only be described as a failure, which the police and judicial authorities also recognise as such...the policy of prohibiting drugs, based on the UN Conventions of 1961, 1971 and 1988, is the true cause of the increasing damage that the production, of, trafficking in, and sale and use of illegal substances are inflicting on whole sectors of society, on the economy and on public institutions, eroding the health, freedom and life of individuals.

This comes from a committee of the European Parliament. I think most of us know (and I think we can tell from the reactions to this bill) that politicians are mostly not brave enough to question the myths about drugs that are the basis of so many of our irrational drug laws. It is, therefore, highly significant that a parliamentary committee should make this statement.

In addition to the three conventions that I have dealt with, in June 1998 a special session of the United Nations adopted the slogan 'A drug free world—we can do it!' with the target to be reached after a 10-year war on drugs. You would have to say that it must have been a joke because, 10 years on, that war has failed abjectly. In fact, the use of drugs has increased. It failed because the mindset that led to that conference is one that treats drug use as a moral and a criminal issue and not the health issue that it is.

At the time of that special session hundreds of MPs, doctors, artists, mayors, lawyers, judges, journalists and academics from 40 countries signed a letter to the then Secretary-General of the UN, Kofi Annan, expressing concerns about where the war on drugs was leading. Fifty Australians signed this statement, including—and I hope members of both the Labor Party and the Liberal Party are listening to this—former premiers John Cain, Neville Wran and Rupert Hamer, observing that:

> True surrender is when fear and inertia combine to shut off debate, suppress critical analysis and dismiss all alternatives to current policies.

It seems that once they are able to get away from the sensational headlines and get hold of the facts, an increasing number of people around the world are questioning the effectiveness of the war on drugs. When laws are not working in this state we look to see why it is so and then we amend the laws, and so it should be with conventions. The UN is, in some respects, like a parliament but writ large. Just as we amend legislation so, too, at the international level, should our representatives amend international conventions as new knowledge and new situations emerge. The 1961 convention, for instance, was amended in 1972. The 2006 UNODC World Drug Report stated:

> Either the gap between the letter and spirit of the Single Convention, so manifest with cannabis, needs to be bridged, or parties to the Convention need to discuss refining the status of cannabis.

So the debate is on, and has been on for a number of years now. My bill is about the use of cannabis for medical purposes but I did note that the Hon. Ann Bressington's contribution wandered far and wide to cover all drugs and not even in a medical context—which is what this bill is about. By doing that she was able to introduce many red herrings. I do not intend to address those red herrings.

I want to address the issue of medical marijuana. In her speech the Hon. Ann Bressington seemed excited by the fact that the AMA in South Australia does not support the use of cannabis for medical purposes, as if she had revealed something that I had been concealing. To the contrary, on the first occasion when I introduced this bill, two months earlier than the bill we are debating today, I mentioned twice that this was the case.

The Hon. Ann Bressington says that she contacted the Multiple Sclerosis Society in Adelaide to ask whether it supported the use of medical marijuana, and of course it said no. Organisations such as this are dependent, at least in part, upon government funding, and when the government of the day has a so-called 'tough on drugs' policy it makes it difficult for many people in those organisations to speak out. That the Multiple Sclerosis Society said no does not diminish the fact that many people—

The Hon. A. BRESSINGTON: I rise on a point of order. The honourable member is implying that organisations lied to the parliament. They knew it was a parliamentary—

The ACTING PRESIDENT (Hon. I.K. Hunter): What is your point of order?

The Hon. A. BRESSINGTON: That the honourable member is implying that organisations out there have lied.

The ACTING PRESIDENT: There is no point of order; sit down.

The Hon. SANDRA KANCK: Thank you for your protection, Mr Acting President; I may call on it again if the voice behind me keeps interjecting. The fact that the Multiple Sclerosis Society said that it does not support the use of medical marijuana does not diminish the fact that many people with multiple sclerosis use cannabis to alleviate their symptoms. The evidence of the capacity for cannabis to relieve symptoms of many illnesses is growing—and yes, as some members have said, the evidence is sometimes anecdotal. This is because, in a catch 22 situation, it is sometimes difficult for researchers to undertake work at universities because ethics committees say to them, 'This is an illicit substance; therefore, we will not approve your research.' However, despite those restrictions being in place at some institutions, in other scientific and open-minded institutions questioning is powering away.

Here in South Australia we go back as far as 1971 when we had a royal commission into the non-medical use of drugs, known as the Sackville report. In July 1995 a select committee of this parliament—comprising one Democrat, two Labor and two Liberal MPs—unanimously recommended the regulated availability of cannabis with strict controls, and this included a trial for medical purposes. Still in South Australia, we had Mike Rann's drug summit in 2002, the recommendations of which he has mostly ignored.

The policies we have in place in South Australia are much more likely to push our children into the arms of drug lords. Successive governments have handed over the supply of cannabis to organised crime, increasing their profitability along the way—the exact opposite of what a wise drug policy would do. We have to begin recognising that the opposite of 'tough on drugs' is not 'soft on drugs' but 'sensible on drugs'. That is what I am; I am 'sensible on drugs'.

A number of speakers raised the hoary chestnut of a cannabis psychosis link. There are claims—I think they have been made in this chamber a number of times on numerous issues—that, as a result of the use of hydroponic cannabis, we now have a much stronger version than the backyard version. However, when you think about it, members in this place have been responsible for that happening by making it tougher for people to grow their own plants. Those people then go out and buy it off the streets, and they buy the hydroponically-grown cannabis. So if members have a concern that the cannabis is growing stronger they should look to themselves, because they have created the situation—in fact, most of the members in this chamber are responsible for that situation. I would hardly describe this as successful policy.

The extra strength is conjectured to be part of a link between cannabis use and psychosis. I think it was about a month ago that the Beckley Foundation published a report from the Global Cannabis Commission. It was written by five leading marijuana and drug policy researchers, including Benedikt Fischer of Simon Fraser University in Vancouver, Peter Reuter of the University of Maryland, and three Australians: Wayne Hall of the University of Queensland; Simon Lenton of the National Drug Research Institute at the Curtin Institute of Technology; and Robin Room of the University of Melbourne. Added to getting some outside advice and extra research were a number of other researchers, including two members of the British government's Advisory Council on the Misuse of Drugs, David Nutt, the incoming chair of the ACMD and Professor of Psychopharmacology at Bristol University, and Leslie Iversen, Professor of Pharmacology at Oxford University. I will not read you much of this report, because it printed out about three centimetres thick, but I will mention one comment only from Iversen. He noted:

> The lack of any evidence of increased rates of psychosis following large increases in marijuana use...'convinced [the ACMD] that cause and effect has not been proven'.

There is a link, but it is not a proven cause. Mark Weiser, Director of the Department of Psychology at Sheba Medical Centre in Israel, recently produced information on this. I will quote the final sentence of an abstract of one of his papers. He states:

> Thus an alternative explanation of the association between cannabis use and schizophrenia might be that pathology of the cannabinoid system in schizophrenia patients is associated with both increased rates of cannabis use and increased risk for schizophrenia, without cannabis being a causal factor in schizophrenia.

The ultimate rationale for the Hon. Ann Bressington's position is a version of 'we are sending the wrong message to our young people', yet we do not take that view when it comes to the nexus between morphine and heroin. I have never heard it said that, because morphine is used in hospitals to relieve severe pain, we are placing children at risk; yet, the evidence of deaths from different drugs shows that morphine is a far more dangerous drug than cannabis.

The Hon. Ann Bressington asked whether anyone in this chamber believes that their children or grandchildren would be better off using drugs. It is a nonsense question. I do not believe that anybody in this chamber would be, and it is certainly not what I am about. This approach, while creating the impression that I want children to use illicit drugs, is not what this bill is about, either.

Once again, as I did when I introduced this bill in July and again when I reintroduced it in September, I will explain what this bill is about. I am not sure where the confusion lies. The purpose of this bill is to allow a qualified medical practitioner to sign a palliative cannabis certificate for a patient who she or he deems could have symptoms of specified illnesses or diseases palliated by the use of cannabis. I gave examples in my speeches, on both occasions, of the sorts of conditions that can have symptoms alleviated by cannabis. If the bill were to pass, the government in its wisdom would determine which illnesses this might apply to. This is a bill that amends the Controlled Substances Act, and that has regulation making powers that could accomplish that.

Had I gone through the process of specifying the illnesses, the symptoms and the diseases, I am sure that would have been used as another red herring to try to argue flaws in this bill; so, I did not attempt to do that. I thought, this government, should the bill pass, will work out maybe two or three that it might be prepared to allow it to be used for.

The Hon. Ann Bressington gave an example of a doctor in the US abusing the Californian legislation, I think, as proof that we should not allow it here. That particular example she gave concerned a doctor who prescribed cannabis to a young woman with sore feet. Now, that does not in any way invalidate what I am attempting to do in this legislation, because sore feet would not comply. If the government came up with a list of regulations of the conditions under which doctors would be able to give a cannabis certificate, sore feet would not be on the list. I have absolute confidence that Michael Atkinson, for example, would not allow sore feet as one of the symptoms.

You have to remember that, under this legislation, when a doctor has given out a cannabis certificate, that doctor has to provide a copy of the cannabis certificate within seven days of issuing it.

If he or she lies about what has been done, they face a fine of up to $10,000 or imprisonment for up two years. Throwing in a story about one aberrant doctor in California does not in any way negate what this bill is trying to do. Most doctors are responsible. Every now and then irresponsible ones come along and they are dealt with by the Medical Board and in some cases they are dealt with by our courts system.

The Hon. Ann Bressington says that the evidence is not there to support the palliative use of cannabis. I draw attention to a statement incorporated in the citizen's right of reply in yesterday's *Hansard* from Dr David Caldicott, who was—

The Hon. A. BRESSINGTON: On a point of order, sir, if I cannot make a response to that right of reply, why can the honourable member? It's not to be debated.

The ACTING PRESIDENT: Order! What is your point of order, Ms Bressington?

The Hon. A. BRESSINGTON: That she is bringing up something outside this debate.

The ACTING PRESIDENT: Your point is relevance?

The Hon. A. BRESSINGTON: That's it.

The ACTING PRESIDENT: I rule against it—there is no point of order.

The Hon. A. BRESSINGTON: I am sure you would.

The Hon. SANDRA KANCK: Dr David Caldicott in that statement accused the Hon. Ann Bressington of grossly misrepresenting science and called upon this chamber to ensure that a modicum of scientific honesty be maintained. There is not too much to ask in granting those particular requests but, despite what the Hon. Ann Bressington says, the reality is that the evidence for the palliative use of cannabis keeps growing.

Just one week ago new research from Ohio University, albeit on rats at this stage, revealed that cannabis may be able to delay the onset of Alzheimer's. They found that cannabis cut inflammation in the brains of the rats and that it could even trigger production of new neurones in the brain. One of the more interesting things I have come across (and a lot of people in the world who have been trying to get legal marijuana are very angry about this) was uncovered only two months ago. It turns out that the US government has a patent on cannabis.

The Hon. A. Bressington: Why?

The Hon. SANDRA KANCK: Oh, wait until you hear the answers, Ms Bressington.

The Hon. A. Bressington interjecting:

The Hon. SANDRA KANCK: No, no, wait and hear. US Patent No.6630507 was issued on 7 October 2003. It has been kept hidden for five years, and it has only been the assiduous work of people trying to get marijuana legalised for medical use that has uncovered this. The application went in on 2 February 2001. Here is the abstract:

Cannabinoids have been found to have antioxidant properties, unrelated to NMDA receptor antagonism. This new found property makes cannabinoids useful in the treatment and prophylaxis of a wide variety of oxidation associated diseases, such as ischemic, age-related, inflammatory and autoimmune diseases. The cannabinoids are found to have particular application as neuroprotectants, for example in limiting neurological damage following ischemic insults, such as stroke and trauma, or in the treatment of neurodegenerative diseases, such as Alzheimer's disease, Parkinson's disease and HIV dementia. Nonpsychoactive cannabinoids, such as cannabidoil, are particularly advantageous to use because they avoid toxicity that is encountered with psychoactive cannabinoids at high doses useful in the method of the present invention. A particular disclosed class of cannabinoids useful as neuroprotective antioxidants is formula (I) wherein the R group is independently selected from the group consisting of H, CH3 and COCH3.

The inventors—and I like that word because it is like a version of plant-variety rights—are: Hampson, Aidan J.; Axelrod, Julius; and, Grimaldi, Maurizio. The assignee is the United States of America, as represented by the Department of Health and Human Services. So, the US government knows the medical value of this substance.

I want to read also—this is quite extensive, but worthwhile hearing—the definition of oxidative associated diseases. These are some of the things with which cannabis can deal.

`Oxidative associated diseases' refers to pathological conditions that result at least in part from the production of or exposure to free radicals, particularly oxyradicals, or reactive oxygen species. It is evident to those of skill in the art that most pathological conditions are multifactorial, and that assigning or identifying the predominant causal factors for any particular condition is frequently difficult. For these reasons, the term 'free radical associated disease' encompasses pathological states that are recognised as conditions in which free radicals or ROS contribute to the pathology of the disease, or wherein administration of a free radical inhibitor, scavenger or catalyst is shown to produce detectable benefit by decreasing symptoms, increasing survival, or providing other detectable clinical benefits in treating or preventing the pathological state.

Oxidative associated diseases include, without limitation, free radical associated diseases, such as ischemia, ischemic reperfusion injury, inflammatory diseases, systemic lupus erythematosis, myocardial ischemia or infarction, cerebrovascular accidents (such as thromboembolic or haemorrhagic stroke) that can lead to ischemia or an infarct in the brain, operative ischemia, traumatic haemorrhage (for example, a hypervolemic stroke) that can lead to CNS hypoxia or anoxia, spinal cord trauma, Down's syndrome, Crohn's disease, autoimmune diseases (e.g. rheumatoid arthritis or diabetes), cataract formation, uveitis, emphysema, gastric ulcers, oxygen toxicity, neoplasia, undesired cellular apoptosis, radiation sickness and others.

The present invention is believed to be particularly beneficial in the treatment of oxidative associated diseases of the CNS because of the ability of the cannabinoids to cross the blood brain barrier and exert their antioxidant effects in the brain. In particular embodiments, the pharmaceutical composition of the present invention is used for preventing, arresting or treating neurological damage in Parkinson's disease, Alzheimer's disease and HIV dementia, autoimmune neurodegeneration of the type that can occur in encephalitis, and hypoxic or anoxic neuronal damage that can result from apnea, respiratory arrest or cardiac arrest and anoxia caused by drowning, brain surgery or trauma such as concussion or spinal cord shock.

What is interesting about that list is that many of those illnesses, symptoms and conditions that I have just read out that this patent recognises can be treated with the use of cannabinoids are exactly the conditions that the people who are trying to get medical marijuana are using when they

can get hold of the cannabis to treat those symptoms. To tell us that the science is not there is totally inaccurate.

The Hon. A. Bressington: Who says that?

The Hon. SANDRA KANCK: As a means—

The Hon. A. Bressington: Who said the science is there?

The Hon. SANDRA KANCK: You did.

The Hon. A. Bressington: I did not.

The Hon. SANDRA KANCK: You did.

The ACTING PRESIDENT (Hon. I.K. Hunter): Order! The Hon. Ms Kanck knows better than that. Do not respond to interjections. We will be here all night otherwise.

The Hon. A. Bressington interjecting:

The ACTING PRESIDENT: Order!

The Hon. SANDRA KANCK: If I were a conspiracy theorist, I would be inclined to wonder, after finding out that the US has sat on this patent now for five years—given that they have continued to pursue people who use marijuana and, in some cases, in some countries, that has resulted in some extraordinary penal provisions—why they have kept it quiet. You would have to wonder why it is—

The Hon. A. Bressington: It's on the public record.

The Hon. SANDRA KANCK: It is on the public record, Ms Bressington, and that is why I am reading it and making sure it is on the record here so that members know that this is the case.

The Hon. A. Bressington interjecting:

The Hon. SANDRA KANCK: Mr Acting President, I wonder whether you could give me some protection from this person behind me. I am finding it a little difficult to—

The ACTING PRESIDENT: I would like to but I have almost given up trying. The Hon. Ms Bressington will allow the Hon. Ms Kanck to finish her contribution in silence. It would help us all.

The Hon. SANDRA KANCK: Thank you, Mr Acting President. It does seem strange to me that the United States is pursuing people who use cannabis, making it illegal in so many countries with all of those penal provisions, yet they have a patent out like this. You have to think: if you could stop people growing it and they can start putting their version of it (whatever it is) onto the market, then they have the market sewn up to deal with all of those conditions.

I think it is important to also recognise the cost that is associated with the pharmaceutical drugs; that is, the ones that are provided to us by drug companies. As a means of dealing with nausea, for instance, for people with cancer or AIDS, the use of cannabis is highly effective. Pharmaceutical anti-nausea drugs cost something like 100 to 1,000 times more than marijuana for a sufferer. In this case there is not even a taxpayer subsidy if we were to pass this bill. It would cost the taxpayer zilch.

I know that there is a reasonable number of MPs across the board in Australia who support drug law reform. I do not know what the numbers are at the moment, but going back two or three years ago I was aware of about 12 members in this parliament who are members of the Australian Parliamentary Group for Drug Law Reform.

What is needed now is courage. Having been in the firing line a few times for statements that I have made about drugs, because I am advocating drug law reform, I know that it takes courage. In the hope of assisting future legislators, I draw attention to the Australian Institute of Health and Welfare National Drug Strategy Household Survey. It has asked these particular questions twice: in 2004 and 2007. There has been a slight increase for both answers in that three-year period. I believe the sample number was 23,000, so for those who understand statistics, that is a highly significant database to draw on.

They were asked two questions: one was assessing how they felt about a change in legislation permitting the use of marijuana for medical purposes. In 2004 the percentage in support was 67.5 per cent, going up to 68.6 per cent in 2007, and then when they were asked whether they

supported a clinical trial for people to use marijuana to treat medical conditions, in 2004 it went from 73.5 per cent of the survey respondents to 73.6 per cent. So, there is actually extraordinary support out there in the community.

I offer that to members here. If you are one of those who is a member of the Parliamentary Group for Drug Law Reform, you can go out on a limb and know that the public supports you. Yes, you will get the bigots who will go on to an Adelaide Now website and write virulent stuff, and you might even get some people in here who will say virulent stuff, but the public is behind you if you do it.

This is a compassionate measure. I ask why we should deny people who have exhausted all other pharmaceutical measures what might be the only drug left that might work for them. That seems to me to be inhumane. Under this legislation, if somebody uses it and it does not work then the medical practitioner who has given the cannabis certificate can revoke it.

When I introduced this bill two months ago I began by saying, 'This bill is not about how we approach illicit drugs, rather it is about how we ought to use science to assess the medical benefit of a drug, in this case cannabis.' Some of the speeches we have heard opposing this measure have not brought that science to bear in their arguments and that is unfortunate. We cannot make our decisions based on reports from Channel 9, for instance, which was cited by one of the speakers.

Ultimately, the science is there. The international conventions say that we must make such drugs available for medical use. The US government, because it knows just how good the palliative use of cannabis is, has patented it. The public is behind the use of medical marijuana. All that is missing now is courage by politicians. Unfortunately, I know that this bill is going to fail when it goes to the vote because within this chamber and within this parliament we lack that widespread courage.

Second reading negatived.

[Sitting extended beyond 18:30 on motion of Hon. P. Holloway]

STATUTES AMENDMENT (LOCATION OF GAMING VENUES) BILL

Adjourned debate on second reading.

(Continued from 15 October 2008. Page 319.)

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (18:25): This is a piece of legislation that we have seen before and, consistent with the government's position at that time, we do not support it. The government is certainly concerned about problem gambling in our community and, indeed, it is taking a range of positive steps to address this issue. I will not go through all those now because they are not strictly relevant to the bill.

The government supports the current ban on having gaming venues located inside shops and shopping centres or the associated car ark, and it does so in order to reduce the likelihood of problem gamblers being tempted away from purchasing essential items. So, we support that part of the current bill. However, this bill tries to override the state's planning and development system. This broad-brush approach will have a major adverse economic impact on the development of centres and country townships while, I would argue, not addressing the issues of problem gambling.

Given that most hotels are located near groups of shops in the established areas of Adelaide and most planning policies promote integrated centres consisting of retailing, office and entertainment facilities, this bill would place a significant constraint on the promotion of centres and the redevelopment and expansion of shops and hotels in such centres while not addressing the issue of problem gambling.

Given that most country towns have hotels and clubs as well as all their shops in the main street, such an amendment could place a significant constraint on the redevelopment or expansion of their town centres. This bill tries to introduce planning policy into legislation, whereas it is more appropriate that suitable location and design policies are incorporated into development plans.

The government prefers to tackle the problem of gambling directly rather than using indirect approaches which will potentially have a major impact on economic development involving both small and large businesses in the state. As I said, the government is doing a significant amount to deal with the problems created by gambling but, to do it in this way, we believe, could create some significant problems.

I will give an example quickly that will illustrate the problems that might arise under this legislation. Many of the more contentious issues that come to me as Minister for Urban Development and Planning involve opposition to new shopping facilities in areas. There is always intense lobbying when there is a proposal for a new shopping centre because, of course, the owners of existing shopping centres wish to protect their patch. Sometimes they may be right and sometimes they may be wrong in a planning sense.

However, clearly, if we are to use the existence of a gaming machine venue as a constraint on what development might take place that could lead to significant distortions in our planning laws. It is one thing to say that where you have an existing shopping centre you should not allow a gaming machine venue to be added to that. In some cases, we do have gaming venues in there. That clause was introduced some years ago, and it was grandfathered. In some cases there are gaming facilities within existing shopping centres.

As I have said, the government supports that piece of legislation to ensure that there is no further encroachment of gaming machine venues into shopping centres. However, to say that one cannot build a shop—which would include a shopping centre or a school—within 60 metres of a place that has a gaming machine venue, we believe, could lead to some real distortions under the Development Act. It is essentially for that reason that we oppose it. However, as a government we recognise the problems with gambling, and we will seek to deal with those directly rather than indirectly through changes to planning legislation, which could have unintended consequences. So, for that reason, we oppose the legislation.

The Hon. J.M.A. LENSINK (18:30): This is a small bill. I would like to make note of the fact that it has four clauses. I am grateful for the minister's previous contribution reiterating that there is currently a ban on gambling in shopping centres and the sharing of car parks. I believe that this parliament has supported the principle consistently that shopping centres and gaming venues should not be in too close proximity because of the principle that people who are out and about obtaining the staples of life should not necessarily be tempted to whittle away what they have on gaming machines.

There are a number of Liberals who have some reservations on this, myself included. I think in South Australia we have seen some maturing of the market, as it were, in relation to gaming machines, with more comprehensive efforts by gaming proprietors, hoteliers and so forth, and the industry is taking a lot more responsibility in terms of problem gamblers. I hope that, in future, we will have much more informed debate than we have had in the past. Unfortunately, people still make remarks to me that gaming is somehow a tax on the poor. I note that my colleague, the Hon. Robert Lawson, gave a speech on this fairly recently, which I wholeheartedly endorse.

I think that we do need to make decisions based on evidence, and a number of my colleagues were a little sceptical about this, because the evidence about what contributes to people developing problem gambling has, at times, been quite a hysterical and uninformed debate, particularly perhaps in this chamber, and that has led to some reservations. One of the questions that I would like to ask the honourable member—and I will place that on the record now—is whether he has any evidence or piece of research that he can point to which demonstrates that this measure is going to make any difference in that regard. In keeping with the spirit of the legislation that we have supported consistently, the Liberal Party will be supporting this bill.

The Hon. R.I. LUCAS (18:33): I rise to speak to this and to indicate my support for the second reading of the bill but flag that, at this stage, I am unlikely to be able to support the third reading. The reason I thought that I had better speak is that the Hon. Mr Darley quoted the 1997 legislation which, as leader of the government, I spoke on and led at the time. In my position now, I do not have quite the restrictions that I enjoyed at that time in terms of the very strong views of my premier and my party at the time in relation to that legislation.

I think I can indicate now, with the passage of 11 years, that I was not necessarily the strongest supporter of the legislation in 1997. Frankly, I am not sure how effective even the original legislation has been but, certainly, I think it was warmly regarded and received by at least the

media and some sections of the community back in 1997, and there was general support, I suspect, at the time for the passage of the legislation. However, as we are here in 2008, as I said, I am prepared to support the second reading of the bill to allow discussion in the committee stage, but I indicate at this stage that probably I would be reluctant to support the legislation at the third reading.

The Hon. J.A. DARLEY (18:35): I thank honourable members for their contributions. I think this provides some certainty and clarity in the meaning of the Gaming Machines Act in terms of not having particular new developments in the same vicinity as a gambling venue. It is well within the spirit of what was originally intended by the drafters of section 15A of the Gaming Machines Act.

The bill also addresses the undesirability of having poker machine venues located near areas where there are children, namely, schools and childcare centres. In answer to the Hon. Michelle Lensink's question, I do not have any finite evidence to support that view. With those few remarks, I commend the bill to members.

Bill read a second time.

At 18:37 the council adjourned until 2 December 2008 at 14:15.