LEGISLATIVE COUNCIL

Tuesday 2 December 2008

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:18 and read prayers.

PAPERS

The following papers were laid on the table:

By the President—

Reports 2007-2008—
- Corporation—
  - Marion
  - Mitcham
  - Port Lincoln
- District Councils—
  - Elliston
  - Flinders Ranges
  - Light
  - Mount Barker
  - Streaky Bay

QUESTION TIME

RURAL SOLUTIONS SA

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:20): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about Rural Solutions SA.

Leave granted.

The Hon. D.W. RIDGWAY: Rural Solutions SA is a commercial consulting business owned by the state government and administered by PIRSA. I am in receipt of a letter sent by Rural Solutions SA to a private business in the mining sector. The letter cautions businesses about new requirements within the Mining Act for the preparation of mine operation plans and review reports. It states that PIRSA is currently finalising the guidelines to help in the preparation of those documents before touting for business in assisting with their preparation.

Effectively, one section of PIRSA has engaged in rewriting the guidelines for the production of these reports while another section is alarming the industry into paying it to produce the reports. I am informed that this letter, dated 12 February 2008, was subsequently withdrawn by Rural Solutions. I have a copy of a letter in which the minister states that the letter caused confusion within the extractive sector about whether Rural Solutions was acting independently of the regulatory role of PIRSA. I am further advised that a private mining consultancy firm also received a canvassing phone call from Rural Solutions attempting to analyse its business and its service to clients. My questions are:

1. Can the minister assure the council that Rural Solutions SA has no access to PIRSA's files on mining, mining operations, site histories, database of tenement holders, copies of proposals, and programs and submissions submitted by operators and consultants?

2. Can the minister assure the private consulting businesses that Rural Solutions SA has no competitive advantage, despite its being administered by the same department that writes and implements the guidelines under which it operates?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:24): Rural Solutions SA was, I believe, one of the very good initiatives made by former minister for primary industries and resources Rob Kerin. I know something of the background to this, because I was minister for agriculture, food and fisheries and, of course, Rural Solutions operates under that broad portfolio; it is certainly not any part of the minerals and resources section that reports to me as Minister for Mineral Resources Development.

Rural Solutions has a board to which it reports (although I cannot tell you the current members of that board), and its charter some four years ago now, as I recall it, was that it was to observe the principles of competitive neutrality in relation to its operations. As far as I know, Rural Solutions continues to operate that way, and I am not aware that it would have access to files or other information from the minerals and energy division of PIRSA.

However, it is a reasonable point that is made by the leader, and I will make absolutely sure that that is the case. Certainly, in my time as an agriculture minister some three or four years ago, Rural Solutions did operate subject to a board and, although it is part of PIRSA, it operated quite independently and appropriately in terms of observing the principles of competitive neutrality involving private sector businesses. I will take the question on notice and ensure that it cannot access information that is not otherwise publicly available. I guess, like anyone else, Rural Solutions can take information from the website, but I will make sure it is not getting access to information that would not be available to other contractors.

PRISONS, OVERCROWDING

The Hon. S.G. WADE (14:25): I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about prison population forecasts.

Leave granted.

The Hon. S.G. WADE: Over the past month the minister has claimed that the government forecasts of prison numbers are more reliable than forecasts by SACOSS, OARS and the opposition. However, the government's own budget papers show that the government's projected average daily prison population has been very unreliable over the past two years. In the 2006-07 financial year the government predicted a 2 per cent increase in prisoner numbers, but the actual increase was 9 per cent (in other words, the government underestimated by a factor of four). In 2007-08, the government projected a 4 per cent increase in prisoner numbers, and the actual increase was 10 per cent (the government underestimated by a factor of 2½). My questions are:

1. Can the minister explain why her department has failed so dramatically to predict prison numbers over the past two years?

2. If the government is so confident in the department's projections, why has the minister failed to release them in response to my question on notice of 31 July 2007 and my question without notice of 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) (14:27): Those opposite really need to get over it and congratulate this government for our new prison infrastructure that will occur at Mobilong. We have had to defer it for two years but, as is to be expected, as a responsible government, we have also made $30 million available just in capital funding for the construction of two new cell blocks. Prior to that, in the 2008-09 budget, $35 million was made available for the addition of 209 beds. In 2007-08, money was also provided for 240 beds, or thereabouts. This government, again, needs to be congratulated. We have a future for prisons in the state and an interim strategy to ensure that there are enough cells and bed spaces.

The Hon. S.G. Wade: They're 22 per cent overcrowded!

The Hon. CARMEL ZOLLO: The honourable member keeps talking about a 22 per cent increase. We are talking about operational capacity, not built capacity. So, when the honourable member opposite talks about the government's failure to correctly project prison numbers, I say to him that his prison figures are not based on proper statistical forecasting; because what the department does—and this is already on the public record—is use a widely accepted technique of forecasting growth based on historical trend data, known changes to justice policies and, of course, demographic data. As does every other corrections jurisdiction, the department provides only a three-year forecast due to the uncertainty of actual growth.

The numbers in our prisons, of course, vary on a day-to-day basis. As of yesterday, from memory, we had 93 spare beds across the system. Today we may have a few less, and that is given the fact that we lost 92 beds with a major incident at Port Augusta. So, again, I think the opposition needs to move on, because this government—as it should—has correctly funded the Department for Correctional Services as well as seeing new prison infrastructure happening in 2013-14.

VACSWIM

The Hon. T.J. STEPHENS (14:30): I seek leave to make a brief explanation before asking the acting minister for recreation, sport and racing a question about the 2009 VACSWIM program.

Leave granted.

The Hon. T.J. STEPHENS: Members would be well aware that a significant controversy is raging about the 2009 VACSWIM program. The VACSWIM program is a popular and necessary swimming program which is conducted by the Office for Recreation and Sport and run by private firms. VACSWIM is utilised by around 20,000 South Australian children each year. However, for the first time in 78 years the Royal Life Saving Society of South Australia has withheld authorised use of its nationally recognised logbook for the 2009 VACSWIM program due to serious safety concerns with the program, including, amongst other things, the lack of adequate guidance to instructors within the new program, dangerous and discredited activities within the new program, a lack of essential and basic survival elements and unnecessary activities which heighten the risk of asphyxiation.

The opposition is deeply disturbed about these and many other concerns raised by RLSSA last week. It is even more concerned to hear that the University of South Australia denies the acting minister's claim that the new program was developed in conjunction with the university. One might well ask what level of confidence thousands of parents should have in their children's safety, as well as in this government. My questions are:

1. Will the minister advise the council whether he has misled the public of South Australia by saying that the University of South Australia has endorsed the changes to the VACSWIM program?

2. Is it accurate to say that the government is saving significant money on the 2009 program and that the cost to families to send their children to VACSWIM has risen, even though the minister gave an assurance that the program is costing absolutely less than last year?

3. Given the toing and froing and various contradictions from the acting minister (as reported in the media), does he actually know what is happening in the 2009 VACSWIM program?

4. Will he apologise to the people of South Australia for misleading them?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:32): Last Sunday, in following up a story *The Advertiser* sought some information from me on this program, on which hitherto I had not received any advice. It has been recognised that that information was incorrect. I understood that this program had been developed in consultation with an individual. I had received information that the program had been developed in conjunction with the University of South Australia. That was not correct. Currently, I am seeking information from the Office for Recreation and Sport about the full background to this decision.

The Hon. T.J. Stephens interjecting:

The Hon. P. HOLLOWAY: I have not misled parliament. It is often the case that journalists will ring on a Sunday or over the weekend, and we seek information at short notice in order to provide stories. As I said, I am not impressed by the fact that the information I was given was subsequently found to be incorrect, but the matter will be dealt with.

It is my understanding that minister Wright, who will be back next week, has already met with the Royal Life Saving Society of South Australia and that the minister and Executive Director of the Office for Recreation and Sport will be meeting in the near future with their representatives in order to clarify any misunderstandings in relation to the program. I gather that that will happen next week on the minister's return.

I want to assure families that the VACSWIM program is focused strongly on personal water safety for young children. The program has been evaluated by Mr Ken Richter, who is a prominent water safety expert with over 25 years' experience. I understand that his 25 years' experience includes managing the South Australian education department's swimming and aquatics program. He was also the chief lecturer for the Australian Council for the Teaching of Swimming and Water Safety (AUSTSWIM). The VACSWIM program has been evaluated by a person with 25 years' experience and it will be conducted by qualified instructors, as has been the case in previous years. Of course, it is unfortunate that the Royal Life Saving Society has concerns, but the society

will be meeting with the minister on his return next week, together with the head of the Office for Recreation and Sport, and I am sure that those concerns will be dealt with at that meeting.

VACSWIM

The Hon. T.J. STEPHENS (14:35): Minister, when did you tell the people of South Australia that you misled them? When did you acknowledge that?

The PRESIDENT: Order!

Members interjecting:

The PRESIDENT: Order!

The Hon. T.J. STEPHENS: Mr President, he told the council that he acknowledged that he misled the people; I want to know when that was.

The PRESIDENT: Order! The minister answered that.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:35): I am happy to say that, just yesterday upon returning from cabinet, I held a press conference. Immediately before that I was made aware that that was not correct. That issue came up at the press conference and the journalist who raised the issue originally, in fact, asked that question and I was able to correct the situation there.

SMALL BUSINESS

The Hon. B.V. FINNIGAN (14:35): Will the Leader of the Government and Minister for Small Business provide some information regarding the South Australian government's commitment to small business?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:36): I thank the honourable member for his question. This government is committed to assisting small business. It acknowledges the valued contribution of small business in South Australia, and we are strongly aware of the obstacles and challenges that small businesses face. Small business continues to make a significant contribution to this state's social and economic development, as well as its wellbeing and character. I can advise members that 96 per cent of South Australian firms are small businesses, employing more than 46 per cent of the total non-agricultural private sector workforce.

During the launch of the 2008 Small Business Month in September this year, I had the pleasure of announcing the state government's commitment to undertake the development of a Small Business Statement, which will help shape South Australia's small business policy. The objective of the statement will be to create the most supportive business environment in Australia for small business to grow and prosper. The statement will be developed during the next 12 months, with input from the Business Development Council, the government's main adviser on small and family business issues.

This important policy-guiding document will be a whole-of-government statement that will entrench the Rann Labor government's commitment to small business. It is intended that the statement will be ready for Small Business Month in 2009, and will:

- outline a five-year vision for small business;
- reinforce the state government' s commitment to small business;
- raise the profile of small business in South Australia;
- showcase innovative and successful small businesses; and
- detail the services and associated budget for government programs and services.

Today I am delighted to announce that the state government will be calling for public submissions from the community suggesting what the South Australian government can do to assist small business further. This will help to ensure that the government continues to deliver the right services to the important small business sector.

Submissions can be lodged electronically through a dedicated website, www.southaustralia.biz/sbstatement, and alternatively submissions can be emailed or posted. The Department of Trade and Economic Development will have a dedicated email address and

telephone number to assist people further to lodge a submission. The government will be targeting not only small business for feedback but also business associations and business groups, such as business enterprise centres and regional development boards. The deadline for submissions is Friday 30 January 2009, and I encourage all small business operators and industry groups to make sure their voice is heard as we work together towards framing this important policy statement.

PUBLIC TRANSPORT, ADVERTISING

The Hon. SANDRA KANCK (14:38): I seek leave to make an explanation before asking the Minister for State/Local Government Relations, representing the Minister for Transport, questions about advertising on public transport.

Leave granted.

The Hon. SANDRA KANCK: I am sure that most members are aware that, generally, I am absent during prayers. I am absent quite deliberately because I am an agnostic, and I think that we need to keep the state and religion separated. In that regard, members might be aware that the British Humanist Association has raised money to put a message on London buses, which will be happening, I think, in January. Those ads read, 'There is probably no God, now stop worrying and enjoy your life.' In Washington, buses bearing a Christmas message from the American Humanist Association say, 'Why believe in a God, just be good for goodness sake.'

In Australia, the Atheist Foundation has raised $16,000 to fund similar advertisements on buses, but they have been refused by APN Outdoor, the company that manages public transport advertising in most Australian capitals, including Adelaide. According to the Atheist Foundation's President, Mr David Nicholls (who is a South Australian), APN Outdoor refused several sets of wording including: 'Atheism because there is no credible evidence'; 'Sleep in Sunday morning' (which I would hardly think is offensive); and 'Atheism: celebrate reason' with lots of smiley faces adorning the ads.

I have seen ads bearing quotes from the Bible. I recall one quoting John 3:16: 'God so loved the world that he gave his only begotten son'. I know that some non-religious people find this offensive because they believe that, in a pluralistic society, religion is a private matter and that secularism is the only way to ensure that the rights of all religions are protected. It seems unlikely that a private company has complete control over the content of advertising on buses because, if that were so, I am sure the buses, our trams and trains would be splattered with ads for alcohol and junk food. My questions are:

1. Does the minister agree that it is discriminatory to allow religious ads but prohibit ads by atheists?

2. Has the government provided a set of guidelines to APN to regulate advertisements on public transport?

3. Do those guidelines allow religious ads and prohibit ads by atheists?

4. Will the minister undertake to provide a copy of those guidelines to the council?

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) (14:41): I thank the honourable member for her questions and will refer them to the Minister for Transport in another place and bring back a response.

VACSWIM

The Hon. T.J. STEPHENS (14:42): My questions to the acting minister for recreation, sport and racing are:

1. Why has the government changed the highly successful VACSWIM program, given that 98 per cent of previous participants' parents have indicated they are extremely satisfied with the program?

2. Does the minister endorse Mr Richter's advice over that of the RLSSA, and why was the RLSSA not consulted on these highly controversial changes?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:42): In relation to what consultation was undertaken, obviously that is a matter for my colleague, and I will take that

question on notice, because I do not have any information in relation to the details of the background of the development of this proposal. However, what I can say and what I have said publicly is that, clearly, from time to time, it is appropriate that one should review programs such as VACSWIM. It is particularly appropriate at a time when we learn that the number of young people who have been drowned is on the increase.

The Hon. T.J. Stephens interjecting:

The Hon. P. HOLLOWAY: There is some information that the number of people is on the increase. The Royal Life Saving Society of South Australia has criticised the government for not doing enough in relation to swimming pool safety. Some years ago, when amendments were put before this council under the sustainable development bill, they were systematically blocked. It is interesting that, apparently, the Royal Life Saving Society's advice is good on some things but not on others—

Members interjecting:

The Hon. P. HOLLOWAY: No, it is you who are not taking its advice, and I just wish to point that out. Let us cut some of the hypocrisy from this debate. In relation to this program, it is appropriate that it is reviewed from time it time. My understanding is that the VACSWIM program was being run by LeisureCo, and that has been the case for some time. How long, I am not exactly sure, but that is part of the detail I will be seeking in relation to the report. However, I understand that it has been running it for some time, and a component part of that (almost like a subcontract, as I understand it) was conducted by the Royal Life Saving Society.

The information I have is that the focus of the VACSWIM program is essentially on water safety for young people between the ages of five and 12 or 13. Clearly, for those who have the relevant skills, it is important that they are encouraged to go on and get the sort of training that they would get from the Royal Life Saving Society in relation to saving others but, as I understand it, the program is essentially to provide that basic water safety to individuals—it has been designed that way. Mr Ken Richter—who I understand has run these programs and has had national positions in relation to these sorts of associations, with some 25 years experience—has assessed and given his imprimatur to this program.

I do not have much more information, other than that, in relation to those matters that relate to any discussion about or assessment of the scheme. I will refer the question to my colleague, but I repeat that next week (or shortly after his return) the minister and the Executive Director of the Office for Recreation and Sport have offered to meet with the Royal Life Saving Society to further consider any concerns that it may have.

VACSWIM

The Hon. T.J. STEPHENS (14:46): I have a supplementary question. Given that the acting minister has said that the minister will be back on deck next week, will he give us a guarantee that parents will have no concerns with regard to the safety of their children if they attend a VACSWIM program in early January?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (14:46): It is quite outrageous to suggest that the government would support a program for young people that was in any way dangerous. We were acting on the advise—

The Hon. T.J. Stephens interjecting:

The Hon. P. HOLLOWAY: They probably know more than I would, but I would not suggest that the individuals would necessarily know more than the independent people who have been there to assess the program. It is appropriate that the concerns of the RLSS should be addressed, and that will be done. The RLSS will have the opportunity to speak with the minister and the executive director, but to suggest that a program is unsafe is just unacceptable.

VACSWIM

The Hon. T.J. STEPHENS (14:47): I have a further supplementary question. Minister, are you saying that the RLSS, with its experience, has no idea whether or not a program is safe?

The Hon. I.K. HUNTER: I rise on a point of order. The further supplementary question—which I think was supplementary question No. 7—in no way arises from the original answer given by the minister.

The Hon. T.J. Stephens interjecting:

The PRESIDENT: Order! The Hon. Mr Stephens is seeking an opinion.

The Hon. T.J. Stephens: He just gave an opinion.

The PRESIDENT: That is not how it happens; you are seeking an opinion.

MULTICULTURAL AFFAIRS

The Hon. R.P. WORTLEY (14:48): My question is to the Minister Assisting the Minister for Multicultural Affairs. Will the minister inform the chamber of a recent significant event at the University of Adelaide in honour of one of its most distinguished graduates?

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (14:48): On Saturday 22 November, among many distinguished guests, the Lieutenant-Governor Mr Hieu Van Le and I were fortunate to attend the naming ceremony of the Taib Mahmud Chief Minister of Sarawak Court at Adelaide University. Also present on the day were Mrs Marjorie Jackson-Nelson (a former governor of South Australia), the Hon. Dean Brown (a former premier of South Australia), and Sir Eric Neal (the Chancellor of Flinders University and Chair of the Road Safety Advisory Council).

The University of Adelaide has named a plaza on North Terrace in honour of one of its most distinguished graduates and long-time benefactor, the Chief Minister of Sarawak, the Right Honourable Pehin Sri Dr Haji Abdul Taib Mahmud AO. I am told that the chief minister came to the University of Adelaide as one of the Malaysian Colombo Plan scholars in the late 1950s and graduated with a law degree in 1961. After graduation, the chief minister worked for a year as an associate to Mayo J, a judge of the Supreme Court, before returning to Malaysia.

The chief minister went on to enter politics at a young age and since then has had a tremendous influence on the development of Sarawak and Malaysia during the decades of service to his country. It is important to note that throughout his long and distinguished career the chief minister has never forgotten his association with the University of Adelaide. Indeed, in 1987 the chief minister helped refurbish the university's law school and established the Australian Centre for Environmental Law.

Since this time his personal generosity continues in many ways. Especially important is the way in which the chief minister has continued to support the link between South Australia and Malaysia. There are more than 800 international students from Malaysia currently studying at the University of Adelaide, and 160 domestic students were born in Malaysia. Not surprisingly, thousands of graduates who hail from the University of Adelaide now live and work in Malaysia. The chief minister's commitment to the university has been integral to the strong links that have been established. In 2006 a memorandum of understanding with the state government and Sarawak was signed. This MOU is built on an agreement to further research collaboration, provide graduate scholarships and promote student exchange.

I am pleased to inform the chamber that currently 10 post-graduate research students are studying at the University of Adelaide as part of the MOU. The chief minister, in his role as Chairman of the Malaysia/Australia Foundation, and in other ways has always strived to promote goodwill and mutual understanding between our two governments and our two states. His priority is the importance of education and providing opportunities for young people. The state government and the University of Adelaide are pleased to recognise the chief minister's significant contribution towards providing education opportunities.

The Vice-Chancellor of the University of Adelaide, Professor James McWha, was pleased to be able to acknowledge and show appreciation for the support the chief minister has provided to the university over the years. On behalf of the government, I congratulate both the chief minister and his wife, Datuk Amar Laila Taib (a proud South Australian), who are special friends of our state. On behalf of the government I also congratulate the University of Adelaide in its naming of Taib Mahmud, Chief Minister, Sarawak Court. I am sure that the chamber joins me in acknowledging these fine achievements.

MENTAL HEALTH PRACTICES

The Hon. A. BRESSINGTON (14:53): I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about mental health practices.

Leave granted.

The Hon. A. BRESSINGTON: I was recently contacted by a concerned resident of the north-eastern suburbs whose wife was the victim of a traumatising car-jacking whilst driving her five-year-old son to school on 22 June last year. A blood-soaked man claiming to have a gun opened the passenger door outside the St Agnes shopping centre and jumped in, ordering her to drive. What followed was a terrifying ordeal for this woman and her young son, both of whom were finally rescued in the Adelaide CBD. I have been informed by the resident that this man had stabbed a friend and threatened an elderly man shortly before the car-jacking. I have also been informed that he allegedly has an acute amphetamine addiction and was released from Glenside shortly before the incident took place.

The resident also told me that this person is being held at the Remand Centre, after being apprehended by police. It was reported in the *Sunday Mail* on 16 November this year that the attacker was found in court to be not guilty of charges of aggravated assault, two counts of false imprisonment and threatening to cause harm due to mental incompetence. It was not noted in the article that a psychiatrist agreed in court that the attacker was suffering paranoid delusions at the time. My questions to the minister are:

1. What risk assessment was undertaken before this man was released from Glenside mental health facility?

2. What medications, if any, were prescribed for his mental illness, and what follow-up treatment was offered before his release?

3. If this person has severe paranoid delusions, why is he now being held in remand rather than in a mental health facility?

4. What treatment and ongoing support did he receive for his acute amphetamine addiction?

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) (14:54): I will refer the honourable member's questions to the Minister for Mental Health and Substance Abuse in another place and bring back a response.

TRAIN TIMETABLES

The Hon. J.S.L. DAWKINS (14:55): I seek leave to make a brief explanation before asking the Minister Assisting the Minister for Transport, Infrastructure and Energy a question about train timetables.

Leave granted.

The Hon. J.S.L. DAWKINS: Members would be aware that for some time I have been raising community concerns about the train services on the Gawler line, particularly since the introduction of the new timetables on 27 April this year. The lack of reliability of the Gawler line trains has been brought to my attention by many constituents, adding to my own personal experiences relating to timeliness and overcrowding.

Indeed, regular train commuter Mr Peter Amey has been recording departure and arrival times, because he is so frustrated with the inability of the TransAdelaide services to match the new scheduling. Mr Amey's records indicate that, over a five-week period, he spent up to an extra hour every week on board his preferred services. Not one of the 50 trips that Mr Amey made during this period arrived at the scheduled time.

I was interested to learn late yesterday that the government has announced that an extra carriage will be added to each of four late afternoon peak services departing Adelaide, while a new morning service will be introduced from Salisbury. I welcome any assistance the additional service and carriages may provide for passengers, but I emphasise that the government needs to do more than tinker at the edges. My questions to the minister are:

1. Will he take account of the fact that most commuters on the Gawler line are forced to use at least one service earlier than should be necessary to ensure that they arrive on time?

2. Will he instruct TransAdelaide to conduct a full review of the Gawler line timetables as a matter of urgency?

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) (14:57): I will refer the honourable member's important questions to the Minister for Transport in another place and bring back a response. However, I have to say that, indeed, this government is not tinkering at the edges when it comes to transport. I cannot let that comment go by. We have committed about $2 billion for the complete upgrading, rebuilding and re-modernising of our public transport system. So, I cannot sit here and let that go unstated.

As I said, the government has committed almost $2 billion to upgrade our public transport system, something of which this government is very proud. In fact, members of the former Liberal government should hang their head in shame for the gross neglect of our public transport system and the very shabby state it was in when we came into government.

Some of the proposals include upgrades, electrification of old lines and new lines being opened. We have built the tramline that members opposite said no-one wanted and no-one would use. We are now being criticised because of the extensive use of this remarkable service, which we are going to extend. Not only will this be a modern new transport system but it will also be part of a broader strategy for South Australia, in terms of our population growth, development and affordable housing. We are looking at transport routes that will transform the whole look of Adelaide and South Australia.

TRAIN TIMETABLES

The Hon. J.S.L. DAWKINS (14:59): Sir, I have a supplementary question. Will the minister concede that the regular train commuters are more concerned about whether they get to work on time than broad, bold strategies by this government?

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) (14:59): I would have to respond to that by again referring to the $2 billion commitment to upgrade and rebuild our modern public transport system. It will not be only a handful of people who will benefit from this, which is all the honourable member is concerned about. This is a rebuilding and refashioning of our overall transport system. So, tens of thousands of people will benefit from this in terms of improved, more efficient and effective transport. More people will have access to faster routes, so it is not just a handful of people who will benefit from this but tens of thousands of South Australians who will benefit from the commitment that we have given.

LEGISLATIVE COUNCIL SELECT COMMITTEES

The Hon. I.K. HUNTER (15:00): I direct my question to the President of the Legislative Council. Mr President, will you inform the council of the cost of each select committee established by this Legislative Council over the past three financial years?

The PRESIDENT (15:01): I thank the honourable member for his question.

The Hon. T.J. Stephens: Surely, you wouldn't have that information to hand.

The PRESIDENT: In response to that out of order interjection, normally if people are going to ask the President a question, they have the courtesy to talk to the President beforehand. But I can inform the council that $162,242.75 has been the expenditure on those committees. Perhaps it would be easier if I requested leave to have this statistical document inserted in *Hansard* without my going through it which shows the individual expenditure of each of those select committees, so I seek leave to do that.

Leave granted.

Legislative Council Select Committee Expenses

51st Parliament (as at 2 December 2008)

Committee	2006-2007	2007-2008	2008-2009	Total
Families SA (14/3/07-				
Sundries	-	243.27	82.73	326.00

Committee	2006-2007	2007-2008	2008-2009	Total
Advertising	5,075.73	-	-	5,075.73
Research Officer	-	30,295.00	12,900	43,195.00
Total				48,596.73
Peak Oil (09/04/08–25/11/08)				
Adverting	-	3,670.06	-	3,670.06
Sundries	-	24.37	111.60	135.97
Members Fees			450	450
Research Officer	-	-	21,925.00	21,925.00
Total				26,181.03
Pricing, Storage and Supply of Fuel in South Australia (07/06/06–23/07/08)				
Adverting	4,049.00	-	-	4,049.00
Sundries	89.98	16.55	-	106.53
Research Officer	7,302.00	10,498.00	-	17,800.00
Editor	3,200.00	-	-	3,200.00
Members Fees			337.50	337.50
Total				25,493.03
Selection Process for the Principal of Elizabeth Vale Primary School (21/06/06–03/07/08)				
Sundries	314.62	77.82	7.27	399.71
Research Officer	3,880.75	8,602.00	-	12,482.75
Advertising	1,270.57			1,270.57
Members Fees			987.50	987.50
Total				15,140.53
SA Water (26/09/07-				
Adverting	-	8,421.64	-	8,421.64
Sundries	-	13.64	110.81	124.45
Research Officer	-	-	5,850.00	5,850.00
Total				14,396.09
Budget and Finance (28/03/07-				

Committee	2006-2007	2007-2008	2008-2009	Total
Adverting	-	2,356.07	-	2,356.07
Sundries	16.55	423.91	251.07	691.51
Research Officer	-	8,054.00	2,002.50	10,056.50
Total				13,104.08
Sale and Redevelopment of the Glenside Hospital Site (02/04/08-				
Adverting		1,225.18	-	1,225.18
Sundries		47.61	65.86	113.47
Research Officer		1,040.00	7,840.00	8,880.00
Total				10,218.65
Collection of Property Taxes by State and Local Government, including Sewerage Charges by SA Water (31/05/06-				
Adverting	4,240.23	-	-	4,240.23
Sundries	179.44	56.90	79.75	316.09
Research Officer	-	-	3,880.00	3,880.00
Total				8,436.32
Prince Alfred College Incorporation (Constitution Of Council) Amendment Bill 2007 (27/09/07-12/10/07)				
Sundries		19.45		19.45
Advertising		504.00		504.00
Total				523.45
Allegedly Unlawful Practices Raised in the Auditor-General's Report, 2003-04 (07/06/06-				
Sundries	83.20	19.45	-	110.85
Atkinson/Ashbourne/Clarke Affair (07/06/06-				
Sundries	26.90	15.09	-	41.99
Select Committee on Staffing, Resourcing and Efficiency of South Australia Police (07/05/08-				

Committee	2006-2007	2007-2008	2008-2009	Total
Select Committee on Conduct of PIRSA in Fishing of Mud Cockles in Marine Scalefish and Lakes and Coorong Pipi Fisheries (27/11/08-				
Total				162,242.75

MURRAY RIVER, LOWER LAKES

The Hon. R.L. BROKENSHIRE (15:02): I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning questions about the Lower Lakes.

Leave granted.

The Hon. R.L. BROKENSHIRE: In *The Advertiser* this morning on the front page under the headline 'Flooding of Lower Lakes just a phone call away' Cara Jenkin reports that the parched Lower Lakes have taken a significant step towards ecological disaster when the state government yesterday asked for advance approval to flood them with sea water.

The report goes on to state that the Murray-Darling Basin Commission has identified two triggers being (1) if water levels fall to 1.5 metres below sea level in Lake Alexandrina or (2) 0.5 metres below sea level in Lake Albert. The latest data issued Wednesday 26 November 2008 by the commission states that the water level in Lake Alexandrina is -0.45 metres AHD (or 1.2 metres below FSL) compared with a level of +0.07 metres AHD at this time last year.

The latest information I have on Lake Albert is from the government's River Murray Water Resources Report which states that the water level in Lake Albert at Meningie is currently measured at -0.34 metres AHD compared to about +0.06 metres AHD at the same time last year. It appears that we are perilously close to the trigger point at the moment. Furthermore, on this issue, the Premier said on FIVEaa breakfast radio this morning:

> We are only going to flood the Lakes, which are totally saline anyway, if it goes past the tipping point where it is going to turn to acid because that is a 50-year disaster. Already the Lower Lakes are saline.

My questions are:

1. Is the minister aware, from his attendance at cabinet or otherwise, of any statements of concern or decisions made to take action about evaporation of water in the Lower Lakes?

2. Has the minister been advised or is he aware of any discussion between his government and the federal government regarding putting salt water into the Lower Lakes?

3. Will the minister ask his government as a matter of urgency to have a public meeting in Goolwa to tell the community, who are in a desperate situation socially, economically and environmentally, what the true plans are for the Lower Lakes between the state and federal governments?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:04): In relation to the first question, the honourable member would well know that I will not discuss cabinet discussions because, as a former cabinet minister himself, he would be well aware of the rules in relation to that. It has been my understanding that there have been discussions with the Murray-Darling Basin Commission, which has jurisdiction over the main stream of the River Murray below the Menindee Lakes and the various storages. So, of course, at that sort of level there has been discussion about this.

In relation to the final part of the question, I can only echo the comments made by the Premier and the Minister for Water Security that the last thing this government wants to see happen is some permanent change to the lakes which would come about because of the levy. However, it is obviously an action of last resort that we have to be ready for in case all other action fails. That is why, as I understand it, the minister has initiated the action that she has, so that should a decision be necessary the appropriate actions would be under way.

None of us wants to see the Lower Lakes deteriorate further, but the way in which the best outcome can occur is if there is above average rainfall in the right parts of the basin over the coming 12 months. That is what all of us would like to see happen, but it is appropriate that the government should take appropriate contingency planning. Even though one hopes that one may never have to use the contingency, obviously any prudent government would take that course of action should the worse come to the worst.

GOVERNMENT APPOINTMENTS

The Hon. R.I. LUCAS (15:06): I seek leave to make a brief explanation before asking the minister representing the Attorney-General a question on the subject of government appointments.

Leave granted.

The Hon. R.I. LUCAS: During the Atkinson/Ashbourne court cast in the last months of 2002, Attorney-General Atkinson received free legal advice and assistance from leading barrister Chris Kourakis and solicitor Tim Bourne. Subsequent to this court case, the Rann government appointed Mr Bourne to a position on the Parole Board, and he eventually became deputy chair of the Parole Board. The government also appointed Mr Kourakis, first, to the position of Solicitor-General and more recently to a position on the Supreme Court bench. My questions to the minister representing the Attorney-General are as follows:

1. To ensure that there could be no perception of conflict of interest, did Attorney-General Atkinson exclude himself from, first, any cabinet discussions or decisions on appointing Mr Kourakis to the position of Solicitor-General and then recently the cabinet decision to appoint Mr Kourakis as a Supreme Court judge and, if not, why not?

2. In relation to the most recent defamation case involving the Attorney-General and Mr Cannon, is the Attorney-General receiving free legal advice from any solicitor or barrister in relation to those proceedings?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:08): I will take those questions on notice and refer them to the Attorney-General.

MINING INDUSTRY

The Hon. J.M. GAZZOLA (15:08): My question is to the Minister for Mineral Resources Development. Will the minister provide an update on the government's work on creating a climate of confidence for international companies to invest in South Australia's mining sector?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:08): I thank the honourable member for his important question. This government has worked hard in the past 6½ years to create a climate of certainty in this state. That provides investors with the confidence they need to plan long-term investments in the mining sector. That work has recently been recognised by *Resource Stocks* magazine, which rated South Australia as the least risky jurisdiction in Australia in which to invest, and second internationally in its world risk survey.

While initially this confidence-building policy led to a record surge in investment and exploration in this state, rising to $355 million in the most recent ABS survey, we are also witnessing an increase in investment to transform some of this exploration into mine development. The global financial crisis has generated much uncertainty in world markets, so it is quite timely that South Australia has established itself as a low-risk destination for investment.

While commodity prices have fallen sharply during this round of financial turmoil, the price of some key resource commodities is still high in absolute terms. In fact, the structural fundamentals that drove much of the commodity price growth in the past decade remain largely in place, with the industrialisation of China and India continuing to support demand for mineral resources. These are the structural factors masked by the current volatility of world markets that I suspect will drive investment decisions by international resource companies for some time yet.

In fact, China recently announced a $US590 billion fiscal stimulus package to finance public works programs intended to cushion the fallout from the global slowdown on that country's domestic economy. Recently reported statistics issued by the Department of Foreign Affairs and Trade show that China has overtaken Japan as Australia's major trading partner. While imports from China exceed our exports, the volume of commodities leaving our shores is destined to increase to support that country's continued economic expansion.

Given that outlook, it is not surprising that China has become a major strategic investor in South Australia's resources sector. I would like to highlight just a few of those ventures that are helping to finance and develop our state's mineral resources. In June this year PepinNini Minerals Ltd announced a joint venture alliance with Sinosteel Corporation to form Sinosteel PepinNini Curnamona Management. That Adelaide-based joint venture is managing and operating the development of the Crocker Well and Mount Victoria uranium deposits and other commodities in South Australia's Curnamona province.

Sinosteel occupies an important position in economic and trade relations between Australia and China. As early as the 1970s, Sinosteel began to import iron ore from Australia. In 1987, Sinosteel and Hamersley Pty Ltd set up the Channar joint venture in WA which was the largest Sino-Australian cooperative project at that time. CITIC Group, an investment and trading company under the control of China's central government, and Talbot Group have invested $2.225 million in Southern Gold Limited primarily to fund uranium, copper and gold exploration in South Australia's Gawler Craton.

China remains extremely interested in South Australia's uranium resources, especially as the government rolls out a program to construct new nuclear power generators to reduce the economy's reliance on fossil fuels and particularly steaming coal, but China is also interested in a diverse range of resources, including iron ore, banking on Australia as a reliable and stable source of supply. OneSteel, Australia's second-largest steelmaker, has established long-term sales agreements for the supply of iron ore to China with Rizhao Steel, the Shanxi Haixin Iron and Steel Group Co., Hebai Jinxi Iron and Steel Co. and the Tanshan Guofang Iron and Steel Co. Ltd.

Centrex Metals Ltd has signed an arrangement to sell to Baotau Iron and Steel Group, China's 10th-largest steelmaker, half of the estimated iron ore production per year for five years from the Wilgerup deposit in central Eyre Peninsula. Similarly, the company has also forward sold 1 million tonnes a year to Shenyang Orient Iron and Steel. Shenyang has invested $3 million in Centrex, whereas Baotau has invested $4.38 million.

Western Plains Resources has signed a $7.5 million heads of agreement to develop the Peculiar Knob and Hawks Nest iron ore deposits with Hong Kong-based Focus Investment and the Tangshan Xingye Industry and Trade Group. Western Plains has already been granted a 14-year mining lease for its Peculiar Knob iron ore project located in central South Australia about 90 kilometres south-east of Coober Pedy. Its Hawks Nest project is located 120 kilometres south-west of Coober Pedy.

While we are in the vicinity of Coober Pedy, IMX Resources NL and Jilin Tonghua Iron and Steel (Group) Mining Co. have signed a detailed heads of agreement in which Tonghua will invest almost $14 million for a 9.99 per cent stake in IMX and, in return, purchase 100 per cent of the production from the Cairn Hill deposit. Cairn Hill is located about 55 kilometres south-east of Coober Pedy and is expected to produce 1.3 million to 1.4 million tonnes per year of magnetite-copper ore.

Havilah Resources NL has signed a memorandum of understanding with Heilongjiang Resources Ltd to carry out a feasibility study at the Mutooroo copper-cobalt deposit near Broken Hill. Havilah Resources, an Australian-listed company holding a strategic ground position in the Curnamona province in South Australia, has been actively exploring for a variety of commodities including gold, copper, molybdenum, zinc and uranium with the backing of China's Heilongjiang Resources Ltd. Together, Havilah and Heilongjiang Resources have spent about $2 million on a feasibility study of the Mutooroo copper-cobalt deposit near Broken Hill.

It does not end with traditional resources such as iron ore and copper. Chinese companies also have a role in developing new technologies in the Arckaringa Basin which seek to tap the vast coal resources located in the remote parts of Australia. London-listed Altona Resources this year announced that it had signed a share subscription agreement with Tongjiang International Energy Co. Ltd, a Hong Kong-based investment company to raise £STG11,618,000 through the placement of 240 million new ordinary shares. The funds are required to complete the final stage of the bankable feasibility study for the proposed development of a coal-to-liquids plant and a 560 megawatt co-power generation plant in the Arckaringa Basin.

Altona Resources has signed a memorandum of understanding with CNOOC (Beijing) Energy Investment Co. Ltd, a unit of China National Offshore Oil Corporation, one of the three largest state-owned oil companies in China. The MOU provides a basis for CNOOC Energy and

Altona to build a long-term cooperative relationship towards the development of its coal-to-liquids and co-power generation project in South Australia.

This multimillion dollar flow of investment into South Australia should provide this state with some reassurance that, despite the economic turmoil of our times, our local economy has fundamental strengths that should allow us to weather this storm. In the past six years, this government has established a supportive policy framework for the minerals industry, which has boosted the number of mines from four to 11. Off a small base of $20 million to $40 million a year in total oil exploration investment, our state has now attracted record expenditure of $355 million.

In taking a long-term view, I can assure members that this government will not be relenting in its efforts to bring potential mines into operation. PIRSA is actively seeking to increase staffing levels to seamlessly manage the facilitation of 30 projects, with an estimated capital expenditure of more than $25 billion. This government is confident that the momentum we have created in the past 6½ years will carry us through these turbulent times on the global front, as investment in mining underpins our future economic growth and prosperity.

It is interesting that, in recent days, Japan, which was once a significant investor in this country, is again showing interest in investing in resource projects, particularly uranium. This investment, from China and elsewhere, will generate well-paid, keenly sought jobs for South Australians and provide export and royalty revenue that will further drive this government's vision to develop a modern state, supported by the necessary infrastructure and economic stability that will carry us through well into the 21st century.

MINING ROYALTIES

The Hon. M. PARNELL (15:17): I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about mining royalties.

Leave granted.

The Hon. M. PARNELL: This week, SA Unions released its agenda for South Australia. As part of that agenda, SA Unions states that it 'wants the state government to put an end to the excessive corporate welfare that has existed in this state at the expense of the wider community in the race to develop South Australia's potential wealth'.

Janet Giles of SA Unions points out that companies such as BHP Billiton have 'a huge capacity to put back into the community some things that will really make this place fantastic or they could just choose to dig up ore and ship the ore out and not contribute'.

The mining royalties interstate are much higher than in South Australia. In Western Australia, they are set at 7½ per cent for iron ore and bauxite. In Queensland, their coal miners pay between 7 per cent and 9 per cent in royalties, and the dividend from petroleum there is 10 per cent. In South Australia, mining royalties are just 3.5 per cent. My questions are:

1. How does the minister respond to the calls by SA Unions?

2. Will the minister consider increasing mining royalties in South Australia to bring them into line with mining royalties in other states and, if not, why not?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:19): In relation to base metals, the royalties that are paid in South Australia are comparable with other states. In relation to coal and bauxite, I understand that the case has been given that the higher royalties in other states reflect the huge gain that has been made in the price of coal and bauxite. Unfortunately, royalties for the base metals this state produces have been declining, particularly for copper.

I would suggest that, at this stage of our development, when we have just gone from four mines to 11, to increase royalties would not be a particularly sensible policy. It is one thing for those states to have increased royalties, such as Queensland increasing royalties for coal, for example, when that state has been producing coal for 30 years and there are, no doubt, some windfall elements in relation to those operations. The honourable member mentioned BHP Billiton, but I think he ought to be reminded that, for that expansion to go ahead, the company has to spend four years moving one million tonnes of overburden a day before it will get the first kilogram of ore out of the ground on which it can pay a royalty.

At some stage in the future, one would expect that this state will get significant increases in royalties although, of course, these royalty payments are equalised—in some manner at least—

through the Grants Commission across all states. So, not every dollar of each royalty necessarily goes to state coffers: it is much more complicated than that. Nevertheless, we need to bear in mind that, in relation to places like Olympic Dam, it will be many years before the increased royalty will come out of that operation. In the meantime, that company will have to invest literally many billions of dollars before it will get to that point, so the royalties that we strike have to take all that into account.

Certainly, with the negotiations currently under way with BHP Billiton, this government will be mindful, in reaching the arrangement with the company, that we get an adequate return to our community. That adequate return will include not only royalties but also employment, in particular for indigenous people, as well as other economic benefits for the state. So, all of that will be taken into account.

The final point is that one has to be careful in comparing royalty rates between states, because not only are the commodities different but also the basis on which they are assessed can vary from state to state, because it depends on what deductions are allowable under the individual state schemes and what is taken into consideration. So, it is not necessarily easy to make that comparison.

In summary, whereas I can understand the case that SA Unions is putting—that miners, like those in other industries, should pay their way—there are a number of ways in which the government can expect that to happen, and the matter of royalties is just one of them. We are certainly mindful of the fact that we do get an adequate return to our community from mining companies; however, I think that at this early stage of the mining boom it will be a bit premature to kill the goose that has not yet even laid its first egg.

ANSWERS TO QUESTIONS

BICYCLE LANES

In reply to the **Hon. M. PARNELL** (15 October 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 that the bicycle lane on Shepherds Hill Road is one of the very first bicycle lanes installed in Adelaide and was installed nearly thirty years ago in 1979. The bicycle lane operating on Shepherds Hill Road matches 'school times' instead of commuter peak times, which reflects the age of the bicycle lane. When installed in the 1970s the traffic theory of bicycle lanes was to service school children and associated school traffic. Today’s contemporary traffic practice is to provide dedicated operating space for cyclists at time when the traffic is heaviest and negotiating arterial roads by bicycle is the most difficult.

I am advised that the feasibility of providing continuous bicycle lanes on Shepherds Hill Road will be investigated, along with a review of the existing bicycle lanes operating times with a view to extend these times to match the peak traffic flows.

CITIZEN'S RIGHT OF REPLY

The PRESIDENT (15:22): I have to advise that I have received a letter from Mr Demetrius Poupoulas, requesting a right of reply in accordance with the sessional standing order passed by this council on 1 May 2007. In his letter of 25 November 2008, Mr Poupoulas considers that the Hon. Mr Ridgway made statements during question time on 10 September 2008 and believes they 'defame [him] and seek to tarnish [his] professional reputation'.

Following the procedures set out in the sessional standing order, I have given consideration to this matter and believe that it complies with the requirements of the sessional standing order. Therefore, I grant the request and direct that Mr Poupoulas's reply—

The Hon. J.S.L. DAWKINS: I rise on a point of order, Mr President. The members of the government benches are continually yapping away while you are on your feet.

Members interjecting:

The PRESIDENT: Order! The honourable member does have a point of order. When the President is on his feet, you shall be silent. Therefore, I grant the request and direct that Mr Poupoulas's reply be incorporated in *Hansard,* as follows:

Dear Mr President,

As the Chairperson of the Building Advisory Committee, it has come to my attention that the Leader of the Opposition in the Legislative Council, the Hon. David Ridgway MLC recently made various statements during question time on 10 September 2008.

I have read those statements and believe they defame me, seek to tarnish my professional reputation and that without correction could mislead Parliament. I therefore seek my right as a citizen to have this letter read into *Hansard* in order to set the record straight.

The Hon. D. W Ridgway on 10 September 2008 said:

'...It is also interesting to note that the current chair of the. Building Advisory Committee, a Mr Demetrius Poupoulas, was at one stage involved in the action City of Onkaparinga v Hassell Pty Ltd, Cox ConstructIons Pty Ltd, Dare Sutton Clarke Pty Ltd, D.P. Poupoulas and Associates Pty Ltd and Demetrius Photios Poupoulas, which demonstrated that the proposed regime would not serve to improve the current system.

In fact, in that situation the calculations done by the building surveyor, Mr Poupoulas, were found to be, on my understanding, not in line, whereby approval was granted but in due course the construction work ceased as the builder observed that significant deflections were occurring in the roof structure. Extensive redesign took place, resulting in extensive modification to the roof structure and the council sued for the losses that were suffered...'

In his statement, the Hon. David Ridgway implies that I was found liable by the Court as he also states: 'Is the minister aware that the current chair of the Building Advisory Committee has also himself been the subject of poor performance?...'

I have been a practitioner for more than 33 years, am a Life Fellow of the Australian Institute of Building Surveyors, Fellow of the institution of Engineers (Australia) and an appointee as a Commissioner to the Environment Resources and Development Court since its inception in 1994.

I can confirm that I was involved in an action involving the City of Onkaparinga versus three other companies and myself on an incident that occurred twelve years ago.

However, no judgment was entered against me and my denial of liability was upheld. In 33 years of practising as a building surveyor in South Australia I have only ever defended one action, that particular action, which resulted in no judgment being made against me.

I believe the Hon. David Ridgway has defamed me and sought to call into question my professional reputation. There is absolutely no basis to his suggestion that I have 'been the subject of poor performance'.

The principle of natural justice has clearly been a casualty of the Hon. David Ridgway's political game playing.

I trust these facts will serve to set the record straight.

Yours sincerely

Demetrius Poupoulas

UNIVERSITY OF SOUTH AUSTRALIA (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November 2008. Page 1031.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (15:25): I rise on behalf of the opposition to indicate support for the bill. This measure is predicated on a decision of the university Chancellor to amend the university's act in a way that streamlines the process of the institution's governing council. The opposition supports the bill as a contribution to the efficiency and effectiveness of the University of South Australia's governance system. Through the bill, the governing council will be reduced from 21 to 16 members; thus, an amendment is needed to its constitution. A number of minor amendments are also made to bring the University of South Australia Act into line with the legislation of other universities.

The Liberal Party has always fostered reform for greater efficiency within our tertiary institutions which, along with accountability, leadership in education and quality decision-making, is the cornerstone of this bill. The university's act was implemented in 1991 after a merger of the SA Institute of Technology and the South Australian College of Education campuses. Its great ancestry goes back to the establishment of the South Australian School of the Arts in 1856. My colleague in another place (David Pisoni) recounted the success of the school in bolstering women in Australian education, and today well over half the university's staff are women.

Since 1876, with the inception of the South Australian teachers training school, UniSA has trained and continues to train many of our young teachers. Mr Pisoni raised the important point that our state government must provide better support for those teaching graduates. We rely on the school for a great deal of our teaching talent in South Australia. We support them in the workforce, and support for the institution which develops them professionally must not be taken for granted.

We support the bill with the confidence that it assists the university in its ongoing role of producing quality graduates.

The Hon. M. PARNELL (15:27): The Greens support the bill. We note that the key feature of the legislation is to reduce the size of the university's governing council from 21 members to 16. I note that the minister's second reading explanation identifies that the original proposal was contained in a discussion paper, which was circulated amongst university staff and students, as well as relevant education unions and the student union.

However, the report did not indicate the views of those groups, so the Greens took it upon themselves to consult with the student union at the University of South Australia (now known as UniLife), and it states that it is happy with the reduction in members of the governing council. The proportion of students on that governing council remains roughly the same. In the absence of any objection from the people most concerned, the Greens are happy to let this measure pass.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (15:28): On behalf of my colleague in another place, I thank honourable members for their indication of support and their indulgence in enabling this bill to proceed today.

Bill read a second time and taken through its remaining stages.

CIVIL LIABILITY (FOOD DONORS AND DISTRIBUTORS) AMENDMENT BILL

Consideration in committee of the House of Assembly's message.

The Hon. P. HOLLOWAY: I move:

That the Legislative Council do not insist on its amendments.

The government opposes these amendments. They would reduce the current legal protection of the most vulnerable people in our society without any evidence that this would produce a corresponding benefit. Before doing such a thing, we should hear what the public has to say about it. We should also find out whether, in exchange for these lost protections, we would gain a large increase in donations of goods and services. At this stage, that is a mere hypothesis.

These amendments seek to protect anyone who provides goods or services to another person without expecting payment for a charitable purpose as long as the person intends that the consumer should not have to pay for the goods or services. The purported protection would extend to property damage as well as injury or death. This proposal includes the provision of any goods, motor vehicles, power tools, furniture, building supplies—anything at all—and also any services. The proposal is that the provider of the goods or services should be liable only for reckless indifference not for negligence.

The government's bill was introduced after carefully weighing the risk and the benefits and after considerable work to satisfy SACOSS about its merits. What determined us to do this is that we have reason to think that quantities of safe food are being wasted in South Australia because potential donors fear legal liability. There is no proof or even any indication that the same situation applies to goods and services. Why? Food is perishable. If a restaurant or caterer prepares more food than is sold on a given day, the options are either to waste the food or to donate it.

The aim of the bill is to tilt the balance in favour of donation. We looked at the interstate experience, and a substantial increase in the donation of safe food occurred there because of similar laws. We believe that, on balance, it is worth adjusting the standard of care in this field because, since most owners will be businesses that are experienced in handling food, the risk of harm appears low even if the standard of care is reduced.

The detriment of this adjustment would be outweighed by the expected large increase in donations; so we believe. The bill, however, proposes a two-year review to see whether we are right about that. We know that SACOSS will monitor the result of the bill with great interest. The government would be most concerned, however, at the attachment of a lower standard of care towards the poor right across the board without at least some public consultation. For example, what about the private school that accepts both fee-paying students and also a small number of scholarship students for whom fees are waived? At present, the school owes a duty to take reasonable care for the safety of all its students. Why should it not have to take the same care for the scholarship students as for those who pay? Or, consider the mechanic who, for no fee, services a vehicle used by a charity: why should he not have to take just the same care as he takes for his paying customers?

The only justification for creating these risks could be if we were confident that the immunity would lead professionals and traders to donate many more services and, as yet, we do not have the evidence that they will. Do we really expect that schools will offer more scholarships; that plumbers, carpenters, painters and builders will start setting aside more time to provide free services to the disadvantaged? Perhaps they might, but we just do not know because no work has been done to find out.

Unlike food, services—by their very nature—are unlikely to be wasted. An unfilled appointment is for most professionals an opportunity to catch up on other work rather than time likely to be given away or wasted. The shelf life of imperishable goods is indefinite, and if a trader has ordered in a large quantity it is a matter of waiting for the items to sell or perhaps discounting them or returning them to the supplier, depending on the terms of trade. It is not a question of either giving them away or throwing them out, as it is with food.

Where then is the evidence that donations of goods and services will increase so substantially that it is worth lowering the standard of care? How do we know that fear of legal liability is the real barrier to the donation of goods? We just do not know that and, before proceeding with a measure like this, we should take the trouble to find out. It would be the height of irresponsibility to charge headlong into this without a comprehensive investigation. I ask the committee to keep in mind that many of these traders will carry insurance which might well cover all the services they provide in the course of their business, whether or not they are paid for. For example, the private school's insurance almost certainly covers the fee-paying students and the scholarship students equally. In that case, all that this amendment does is to shift the loss caused by the service provider's negligence from an insurer—who has taken a premium to assume that risk—to the charity or the poor person receiving the service. Where is the merit in that?

What will happen if this parliament passes these amendments and, next year, an electrician makes a careless mistake in rewiring, say, a women's shelter? Suppose that a child staying in the shelter touches the wire that has carelessly been left live and suffers permanent injury? Unless the child's guardian can prove that the electrician either knew of or was recklessly indifferent to the danger, there will be no legal recourse whatsoever. The parents will bear the loss, even if the tradesman is fully insured for such risks.

What will the public of South Australia think of that? Will they be satisfied that these amendments were passed untested because they simply seemed like a good idea at the time? There ought to be wide consultation before these amendments go any further. The government has, between the houses, invited SACOSS to comment on the opposition's amendments in their earlier form. It is understood that the opposition also has approached SACOSS. SACOSS tells us that it will not consider supporting the amendments until more investigation is carried out. The SACOSS preferred position (as recently as last night) was that the food element of the bill should be passed now and that a further exploration and investigation should take place to test the merits or otherwise of the proposed amendments.

As introduced, the bill deals only with the donation of food. It seeks to stop the appalling waste of good food that goes on every day at the moment because donors fear legal liability. The government has reason to believe that the bill, as introduced, can immediately and substantially reduce that wastage. That is what we have seen happen with similar laws enacted in Victoria. The industry tells us that it will happen here. It would be most unfortunate, especially at this season of the year—and with parliament about to rise for the summer recess—if the parliament did not see fit to pass this bill in its present form.

We know from Foodbank Australia that the time to increase food donations is right now. The global financial crisis has already hit those in need in South Australia. Foodbank Australia also tells us that nationally the July to September quarter is the first quarter on record that it has experienced a reduction in donations. By comparison, for the past four years it has enjoyed 23 per cent compound growth year on year. Never before has Foodbank seen such a close and immediate link between economic and social circumstances. Restaurant and Catering SA tells us (as recently as last night) that it expects an immediate increase in the quantity of food made available for donation as soon as the legislation is proclaimed.

Other states have adopted food donor legislation similar to that which we are proposing. Victoria did so in 2002 and, since then, New South Wales, Western Australia, Tasmania and the ACT have all passed similar laws. Food donations have increased in those states and those in most need have benefited. No other state has even thought to put forward the untested proposals

being suggested here. That is not to say that the government will not consider extending legal protection to the donors of other things. We are certainly prepared to examine the issue.

The government proposes that the bill should not now be amended; instead the government offers that, if the bill is passed unamended, it will, by June 2009, publish a discussion paper inviting comment from any interested person or organisation on any legislative action that could be taken to increase the donation of goods and services and the making available of premises for charitable or benevolent purposes without unacceptably increasing the risk to the safety of recipients. The paper would solicit comments on the effects of such possible amendments on charities and other non-profit organisations, their donors, their insurers and the recipients of charity.

The government further proposes that, after analysing and weighing all submissions received, it should publish a report by the end of October 2009 setting out its conclusions on what reforms should be made and its reasons. If the report proposes reforms, it shall also include the government's proposed timetable for reform.

For the reasons I have given, the government opposes these amendments. As we come to Christmas I ask members present to think long and hard before they reject a bill that will bring benefit to the most needy and vulnerable in our community.

The Hon. R.D. LAWSON: I believe the chamber should insist upon its amendments. The solution offered by the initiator of this proposal, the Hon. Iain Evans in another place, was that the additional section be inserted for the purpose of including goods and services other than food. The solution offered by him was also that the government would have the opportunity, as it does have, of proclaiming the food section to come into operation immediately and, if it had serious concerns about those other issues, the goods and services section need not be brought into operation immediately.

The minister and the government have reached to the bottom of the barrel for the arguments they use to seek to have the Legislative Council's amendment defeated. They suggest, for example, that if this amendment remains there will be people in South Australia who will not receive food this year, because people are being held back from these donations because of the fact that there is some possibility of legal liability. The government talks about the fact that in other places the amount of food donation allegedly increased after this legislation was introduced: actually, the amount of food donation everywhere in Australia has been increasing over the years, and not as a result of the introduction of legislation of this kind.

I have studied the *Hansard* reports of other states, and the only example of additional food being donated in consequence of legislation such as this was from a restaurateur who was prepared to donate an additional 60 litres of milk a week in certain circumstances. So the suggestion that this legislation is holding back a vast, pent-up quantity of food and philanthropic intentions is simply not sustained.

The real reason the government has hesitated here is that when the bill was introduced it was at the suggestion of the Law Society. Who did the government go to? It went to SACOSS, because it believed that on a social justice level it might be suggested that this bill would enable poorer citizens in our community to be given substandard food. The government regarded that as a social justice issue so it went to SACOSS, who are purported to be the conscience of the poor in relation to this. As the Attorney-General said in another place, when SACOSS gave the all-clear the government was prepared, after two years, to introduce the legislation—not because it had been out inquiring from Foodbank or amongst possible food donors, but because it got the go ahead from SACOSS. Last week in another place the Attorney-General said:

> The government has between the houses invited SACOSS to comment on the opposition amendments in their earlier form, but SACOSS has declined to do so. SACOSS tells us that more investigation by its staff would be required before it could form an opinion.

So SACOSS has simply refused to comment on this. That is fair enough—it is entitled to do that—but SACOSS is not the only interest that is involved.

In scraping the bottom of the barrel, the minister talks about insurance levels. It is undoubtedly true that most businesses that will be the donors of food already have public liability insurance—that is a given for businesses. They are still going to be liable even under this legislation if it might be deemed that they were reckless in giving food. So they do still need to maintain their insurance cover, and that will not be removed. That being the fact, insurance is not an issue here because donors will continue to maintain their insurance.

The simple fact is that the so-called 'donor fears' expressed by the restaurant and caterers association only last night indicates the sort of desperation of the government. It is looking around for people to say that if the Legislative Council amendments are sustained we will be responsible for the drying up of charitable donations. I simply do not accept the government's rhetoric on that point. We believe that the amendments are good and that there is a sensible solution; and there will be an investigation next year and, if we do not pass them now, they will not be passed at all. For those reasons, the Legislative Council should adhere to the position it has adopted.

The Hon. D.G.E. HOOD: Family First, of course, was one of the groups that originally put up amendments to this bill, so I guess we showed our hand very early on in this debate—that is, we were inclined to amend the bill to expand it to include services as well as food, and not just food but also other goods. So, it encompasses a larger range of goods and services on the whole. The Hon. Mr Lawson and I discussed the matter in some detail, and the two amendments (that is, the Family First amendment and the Liberal amendment) merged into one amendment, and that is the amendment before us today that we are discussing at the moment.

The situation from the perspective of Family First is that essentially we are in agreement with the Liberal position and see no reason why the bill cannot be passed as amended today. The appropriate parts of the bill could then be proclaimed and the amendment not proclaimed so it is not part of the legislation now but it is there should the time be right down the track to have it proclaimed and included in the legislation. In accepting the position that the bill should be amended, as I say, largely, we accept the Liberal arguments. However, the government's argument is, essentially, that to do so is to run the risk of people going hungry over Christmas because not passing the bill may result in less food being distributed because of the fear of litigation that some organisations may have. That is a very substantial risk, indeed, and I am sure no-one in this chamber—certainly not Family First—would want to see anyone have one less morsel of food this Christmas because a bill did not pass this place.

For that reason—I must say, somewhat reluctantly—we have changed our position on this bill and now support the bill's passage without amendment; that is, we will not insist on the amendments, which was our previous position. The government has given the commitment that it will publish a discussion paper by the end of June next year, and we will certainly be eagerly looking forward to that.

The government has said that that discussion paper will examine the possibility of the bill being expanded in line with the amendments that are being discussed today with respect to providing similar protection for other goods and services and, indeed, for using premises for charitable organisations and not being subject to liability claims. It has also said that it will produce a report that will outline its recommendations and intentions by October next year. Again, Family First certainly will be eagerly looking forward to that.

I say quite sincerely that we want these amendments passed. Whether it be now or next year, in essence, does not matter a lot, but we want to see them passed. We are taking the government at its word that it will undertake a decent review of this matter and will do something about it in October next year; and we look forward to that.

I have had consultations with a number of groups, including church groups, that do a lot of charitable work in South Australia; and I am sure members would acknowledge that. I have had personal conversations with a number of them in relation to this bill. They all want it passed as quickly as possible, and they have expressed their concern to me that if it does not pass there may be a risk of some of those charitable groups not getting access to the foodstuffs that the bill promises. For that reason—and I must say somewhat reluctantly—we support the bill in an unamended form.

Motion carried.

DEVELOPMENT (PLANNING AND DEVELOPMENT REVIEW) AMENDMENT BILL

In committee.

(Continued from 27 November 2008. Page 1051.)

Clause 1.

The Hon. P. HOLLOWAY: It might help the committee if I put some information on the record. The protection of heritage and the uniqueness of Adelaide suburbs is important to this government. This is the reason why the government did not adopt all the recommendations of the

planning and development review steering committee, choosing to exempt historic conservation zones and heritage items from the application of the proposed residential code in recognition that development in these areas is sensitive and must be assessed on qualitative criteria. Outside of heritage areas, it is important to balance the reasonable expectation of landowners to develop their land and the public benefit derived from the maintenance of existing character-laden streetscapes. After careful consideration of the public submissions received over the three-month consultation process, the residential code has been significantly modified to ensure that this balance is fair, allowing home owners to develop their properties without an unreasonable impact on their neighbours.

The government proposes to introduce the residential code from 1 March 2009 for alterations and additions to existing homes and ancillary structures in most areas, excluding designated heritage areas and places. It also proposes, in addition to the draft regulations, that alterations and additions be restricted to single-storey development in order to ensure that streetscapes are not adversely impacted upon. The code will only apply to new homes from 1 March 2009 in those areas nominated by local councils.

Between now and 31 March 2009, councils will be able to nominate to me those areas which they consider to have character and which can be the subject of further work on how the development assessment process can be streamlined for landowners in these areas. Should this bill pass in this place, I intend to release a suite of documents in the near future to assist councils in preparing their nominations. Once nominations are made, I will set a timetable for each council to undertake a more detailed assessment of their nominated areas—depending on the extent of those areas—and to submit to me their views on the application of the code to these areas.

During this transitional period the code will not apply to any applications for new homes in the nominated areas without the consent of the local council. This process will allow the introduction of these important reforms for those seeking to extend their homes, or to build a shed or similar in their backyards as soon as possible but will also allow councils the opportunity to consider their nominated character areas in more depth.

It may assist the committee if at this stage I make some comments on the LGA's submission on the bill. The LGA made a submission on the draft bill and comment can be made on these as follows. The LGA raised concern about the use of the word 'minor' in clause 5(2)(1b). The concept of 'minor' in development legislation is not new, and, in all instances, including here, the power lies with the assessing authority to determine whether an application is one meeting this clause.

For example, section 36(2)(b)(i)(A) allows a relevant authority to excuse a minor departure from compliance with the building rules. Section 49(7d) and section 49A(7d) allows the Development Assessment Commission to dispense with certain procedures where it considers development to be minor. Regulation 17(6) allows the relevant authority to dispense with the requirement for an applicant to provide a statement of intent in prescribed circumstances where the relevant authority considers the application to be of a minor nature.

Regulation 32(2) allows the relevant authority to determine a development to be category 1 despite the fact that it is an activity specified under schedule 22 where the authority considers it is of a minor nature. Schedule 8, clause 1 of the regulation allows the authority to determine that a referral to the Coast Protection Board is not needed for prescribed development of a minor nature. They are all examples currently in the act where 'minor' applies. The purpose of clause 5(2) is to allow for those small variations—smaller than what would be encompassed by limited assessment in paragraph (1c)—to be assessed as complying development rather than a small variation falling back to the merit assessment.

An example of this might be a situation where an existing home is located 890 millimetres from a boundary (suppose it was the old Imperial measure of 3 feet), and the owner is wanting to build a family room extension with a side boundary setback consistent with the existing home. The departure here is a mere 10 millimetres from the code. If the building was 890 millimetres, under the new code it would have to be 10 millimetres back from the current alignment, and it would make sense for the council to treat this variation as minor, otherwise there would be a rather unpleasant look in the building. I do not think it is appropriate to quantify this in a definition of the act, as it should be left to the discretion of council. That is the sort of example as to why we have put the word 'minor' in the clause. As I said, it has been used in a number of other places in the Development Act, so it is not a novel concept.

In relation to clause 7, the LGA has questioned the use of the phrase 'adjoining land' in relation to category 2A development. This term was used in the Development (Assessment Procedures) Amendment Act 2007 and is carried through in this bill. It is expected that this term has its ordinary meaning. It is inappropriate to use the term 'adjacent land' as this is defined and includes properties up to 60 metres away. That is why we use the term 'adjoining' rather than the term 'adjacent', which is defined in the act to include properties which could be up to 60 metres away.

In relation to clause 9, the LGA is concerned that the deemed refusal provisions will increase the resource burden on councils through increased appeals. It should be noted that the refusal is applicant triggered. I think it is very important we understand this: the refusal is applicant triggered. So, if councils discuss the matter with applicants, it should not lead to an appeal in every instance. These reforms are designed to reduce the assessment burden on councils and an efficient council planning department is not expected to experience difficulties in meeting the time frames proposed. I also note that the government will be considering a change to fees for complying development to fulfil the recommendation of the Planning and Development Review Steering Committee that fees be reviewed so that councils are not out of pocket as a result of the reform.

Finally, the LGA talked about a proposed new clause on consultation. The LGA is seeking a clause that would require the minister to consult with the LGA before any regulations are made relating to building rules only or complying development. This would inhibit the ability of the minister to make quick responsive regulations to correct issues that are raised over time. The Hon. Mark Parnell is seeking an amendment to give effect to this proposal, but his amendment goes further in requiring public consultation of at least 28 days for any regulation affecting the designation of building rules consent only or complying (that is, code development), as well as any designation of development into a public notice category.

This goes well beyond the application of the code, affecting non-residential development as well. An example of this would be the changes made to move aquaculture development in an approved aquaculture zone from category 3 to category 1. Under the proposed amendment, this simple proposal would have required full public consultation. This could also have adverse effects in relation to any future movement from, for example, a type of development in the building rules only category into complying or even merit. Providing full public notice of such a proposal could lead to a flood of building rules consent only applications in anticipation of the change.

The government has entered into the state/local government relation agreement which provides for consultation wherever possible and legislative changes affecting local government. The government has been open and transparent throughout this entire process. It has provided the LGA with $500,000 in order to cover the expense of consultation, the expense of undertaking independent road-testing and the expense of explaining the system to local government so that councils are not charged for their staff attending training or information sessions. After all, it is very important that these important reforms are understood by as many in councils as is possible.

The government has also provided to all and sundry draft regulations, which, as members can see, have gone through 10 revisions to date and will probably go through more before being finalised. It is uncommon that we should circulate those, but, given the nature of the reforms, the government has deemed that appropriate, and we discussed that last week. In addition, the LGA has had representation on the Planning and Development Review Implementation Steering Committee, which is providing advice on the implementation of the reforms.

Recommendation 29 of the planning review sought the establishment of an advisory committee, with representation from local government, to advise me on the need for changes to the code on an ongoing basis. The review recommended that the code be reviewed annually, with an opportunity for submissions to be made on modifications to the code. I have appointed the Development Policy Advisory Committee, which includes representatives from local government to undertake this task. It also cannot be forgotten that any regulation is subject to disallowance by parliament. Should regulations be made which the Legislative Review Committee of this parliament deems to be inappropriate, either house of this parliament can move to disallow such regulations.

That is the proper process for scrutinising subordinate legislation. Let us respect that process and not seek to introduce more red tape to what is intended to be a system of streamlining and reducing unnecessary red tape. Given all the above, I urge members not to support such unnecessary and cumbersome reforms.

The Hon. R.L. BROKENSHIRE: Given that the minister has acknowledged that it will create a considerable workload involving many staff for local government to comply with the requirements, is the minister intending to or has he discussed with his government financial support to local government? If not, how does he expect local government to pay for the particular costs that they will incur?

The Hon. P. HOLLOWAY: I just indicated that we had provided $500,000 to council for the road-testing and other aspects, but I understand that it incorporates a training component. So, that should all be part of it. Also, as I just indicated, in relation to fees for the new code, even though, hopefully, it will significantly reduce the time that council officers spend on that particular part of the planning, we are intending, in our fee proposal, to ensure that councils are adequately recompensed so that they are not out-of-pocket. In other words, these changes are meant to be revenue neutral, so, although they should free up the time of council, we intend to ensure that councils will not suffer financially as a result of that.

The Hon. D.W. RIDGWAY: As I indicated when we last sat, in relation to the opposition's formal process of evaluating amendments, we missed that opportunity with our party room meetings, but subsequently we have had those meetings and a handful of questions were raised for which I was unable to provide an answer, and I gave members of the opposition an undertaking that I would ask them today of the minister. In relation to the draft code, I will use the example of clause 2A—Additions and alterations, which provides in subclause (1):

> This clause does not apply in relation to a local heritage place or in a Historic (Conservation) Zone, a Historic (Conservation) Policy Area, a Residential Historic (Conservation) Zone, a Historic Conservation Area, a Historic Township Zone, the Hills Face Zone, or a Watercourse Zone, Flood Zone or Flood Plain delineated by the relevant Development Plan.

That is consistent with outbuildings and other variations to the schedule for complying development and shade sails, and pretty much everywhere else in the regulation it is consistent, with the exception of clause 2B—New dwellings, which provides:

> 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*.

Can the minister explain why new dwellings are being treated differently from all the other new alterations and new structures that may result?

The Hon. P. HOLLOWAY: Because that will allow us to go through the character process, as I indicated earlier in my speech. I will repeat that for members who may not have been there at the time:

> The government proposes to introduce the residential code from 1 March 2009 for alterations and additions to existing homes and ancillary structures in most areas, excluding designated heritage areas and places. It also proposes, in addition to the draft regulations, that alterations and additions be restricted to single-storey development to ensure that streetscapes are not adversely impacted upon.

The point has been made that, if you have a two-storey development, that could change the streetscape. So to deal with that issue I give that undertaking. I also indicated:

> The code will only apply to new homes from 1 March 2009 in those areas nominated by local councils. Between now and 31 March, councils will be able to nominate to me those areas that they consider to have character, that can be the subject of further work on how the development assessment process can be streamlined for landowners in these areas. Should this bill pass this place, I intend to release a suite of documents in the near future to assist councils in preparing their nominations.

Unley I think has about 45 per cent of its area where it has done work, and the government has already introduced some regulations that give additional controls in relation to that. That is an example of one council that has been working on this for two years. I intend to release the suite of documents, and they will be based on that Unley experience. I continued:

> Once nominations are made, I will set a timetable for each council to undertake a more detailed assessment of their nominated areas.

That is where this power can come in. The Hon. Rob Lucas talked about Norwood last week and, clearly, like Unley, that is one council that has a significant quantity of older buildings that are likely to come into this character process, and, given that it took Unley something like two years to do it, it may be necessary—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Obviously for those councils it will take longer than councils such as Playford that were mainly developed post Second World War. I intend to release the suite of documents. Once council submissions have been received, I will set a timetable for each council to undertake a more detailed assessment of their nominated areas, depending on the extent of those areas, and submit to me their views on the application of the code to those areas. During this transition period the code will not apply to any applications for new homes in the nominated areas without the consent of the local council. That is why that clause is in there, so that we can give effect to the objective of properly considering character areas.

The Hon. D.W. RIDGWAY: Following on from questions raised in our party room, under this code is it possible that an existing dwelling could, potentially, have the number of bedrooms or kitchens altered inside the dwelling without there being any change to the external dimensions of the dwelling? I am talking of urban infill, not through demolition and the erection of two new dwellings on an allotment but rather a big house with two large bedrooms, a study, a lounge room, one kitchen and a family room being remodelled internally to deliver four or six bedrooms and a couple of kitchens, so that you have urban infill and greater population density, without urban renewal, in the sense of a more environmentally sustainable-type building.

The Hon. P. HOLLOWAY: If the person was changing the use of the land to a non-residential or multiple use, like a boarding house, that would be a change of use and you would need planning approval. The code does not change that. In relation to structural changes, building rules only would apply. You may not need planning approval as you are not changing the envelope, but you would need building approval. There would be other building requirements if you are remodelling bathrooms and so on. Presumably there are requirements that would need to be met but, in relation to planning approval, that would only apply if you are changing the use of the building.

The Hon. D.W. RIDGWAY: In relation to sustainable living and design, the Planning Institute has indicated that it is disappointed that sustainable building design has not been included in the code. The government claims that it is covered under the Australian Building Code, although the Planning Institute suggests that there are some matters, such as site situation, access to sunlight and so on—some of the modern expectations of sustainable urban design—not captured in the building or residential codes. Is it the minister's intention to address that, given that all of us in the world today want a more sustainable quality of life in the built form? Is the minister looking to make any changes of that fashion to the residential code?

The Hon. P. HOLLOWAY: The decision was made that we should deal with the sustainability issues in the initial planning approval for subdivisions. Issues such as water sustainability and so on need to be addressed at the subdivision level, which is where these issues will come into play. Once the blocks are determined, it is the building code where we see that the sustainability issues of energy and water efficiency would come in. Clearly, a lot more work needs to be done on those issues and, as I indicated the other day, some work is being done on sustainability indicators. This has been one of the more complex issues of discussion. We will have a review of the code annually, as has been indicated, after the code has been settled down. Clearly, this is one of the issues that we may or may not need to revisit. It is our belief that, in terms of sustainability, we can achieve all the objectives we need to through the building code. However, if some issues arise, we will have a look at them.

To some extent, I think it is worth pointing out that there is a bit of turf warfare here between planners and building people as to who should get the credit for sustainability. What is important is to have an assessment somewhere along the line and, of course, it is at the building stage when the inspections are made. So, that is the appropriate place, in many respects, where we can ensure that the sustainability provisions are incorporated into buildings.

Clearly, this is a huge subject, because we have the Building Code of Australia. There was a strong push, certainly, from the previous federal government (and I imagine that the current federal government will not be much different) in trying to support the highest level of harmonisation of building codes as we can, because we are only six or seven per cent of the country's building market.

Manufacturers work on a national scale with respect to building products. There is a national market in a lot of materials, and so on, and it makes sense to try as much as possible to have a national building code, in terms of safety and standards. However, clearly, there are differences and some states will want to go further than others in relation to sustainability.

However, if for example we want to increase the size of tanks that we require to be installed, that will be done under the building code rather than in planning.

The Hon. D.W. RIDGWAY: A former builder has quickly looked at the residential code and raised a number of questions. I will ask the minister a question, to highlight the area where a sensible amount of work potentially needs to be done. While it appears that consultation has been undertaken with stakeholders from the LGA's point of view, the Save our Suburbs and heritage retention people and the development industry, I do not think it would hurt to involve the people who will deliver the product.

I was interested to note that, in the draft regulations, the maximum height of a single-storey roof is five metres, and there is a whole range of things that go with it. However, the crux of it is that it is five metres. With respect to shade sails, section 7(c) provides: 'No part of a sail will be more than three metres above the ground or floor level, depending on where it is situated.'

Most people would know that, if you are going to attach a sail to a house, it is often attached to part of the roof or the apex of the gable end of a roof to get maximum elevation, air flow and creature comfort underneath it: it is not just pinned down above your head. So, on the one hand, the maximum height for shade sails is three metres, and no part should be higher than that, and the maximum height for a roof is five metres.

It just intrigued the builder as to how one might anchor the shade sail to the roof so that no part of the shade sail was higher than three metres—for example, in the event of an extended patio or outdoor living area, when a shade sail is a continuation of the roof. Is it a roof or is it a shade sail? The former builder said that there were a number of, if you like, small details that he thought were inconsistent. So, I just raise that as a question for the minister. Notwithstanding that I think the government has consulted with the HIA, I ask the minister: what level of consultation has been undertaken with respect to the guys with the tools doing the job on the allotments?

The Hon. P. HOLLOWAY: Some consultation but, clearly, with the 822 road-tested applications, one would have thought that would have covered the whole spectrum of applications, alterations and additions and it would have brought up those issues—although it remains to be seen whether that is the case. But I think the honourable member was talking about a maximum roof height of 5 metres. My advice is that that is just to outbuildings such as verandas.

In any case, here we are talking about the code. Remember, if you want to do something a bit differently, the code is really only to speed things up. Let me remind members that the code is to be almost like a lowest common denominator, if you like, of all the building plans and all the things that everyone agrees to in councils. That is what the code is trying to encapsulate. You can still do things and, as I said the other day, even if the code covers as many cases as we would like it to, you would expect about 30 per cent of cases still to be outside the system, for all sorts of reasons—for example, they might be in high fire risk areas and need approval because they are in sloping areas where they need more cut and fill than is allowed; they might be in flood zones; or the builder or home owner might want a particular architectural form—so, they would revert to the merit system, even with these sorts of sails and things.

We have tried, in order to get the code established, to be reasonably modest and as uncontroversial as we can be but, of course, as we get confidence in the code, there is always the capacity to try to improve the coverage of the code to other areas. However, at this stage, we think that the best thing we can do is try to get the code up and running, get people familiar with it, working with it and happy with it or, if they are not happy with it, let us find out why. Let us try to capture the low-hanging fruit in the area but then, if we can get some of the fruit that is hanging a bit higher and get the benefit of that, then that becomes a possibility in the future.

The Hon. M. PARNELL: Could I ask the minister to go back to the first question that the Hon. David Ridgway asked, concerning the transitional provisions. We have had some discussion about what is in the code but I want to revisit this question of where the code applies and where it does not.

I ask the minister to correct me if I have misunderstood the arrangement that he is proposing. First of all, after 1 March, home extensions, repairs and things like that will be covered but new homes will not be covered if councils basically do not want them to be covered because of a character area that has been identified. The minister has indicated a process by which councils will be assisted to identify their character areas.

As I understand it, the Development (Residential Code) Variation Regulations provide effectively that the code will apply in any area determined by the minister in relation to new houses, so my understanding is that, by September, councils will have identified what they think is a character area, the minister will either have agreed or disagreed, and the minister will eventually put a list in the *Government Gazette*. First of all, have I understood that that is the process?

The Hon. P. HOLLOWAY: That was the original proposal of the Planning Review Committee. First of all, I have to get the bill through unamended because, if there are delays with the consultations, then those timetables could not be met. But what I have said in addition to that is in response to some of the issues that have been raised and I have proposed that, between now and 31 March, yes, councils will be able to nominate those areas that they consider to have character that can be the subject of further work on how the development assessment process can be streamlined for landowners in these areas.

As I said, should the bill pass this place, I intend to release a suite of documents in the near future to assist the councils in preparing their nominations and, again, that is based largely on Unley. I do not know whether the honourable member has yet had a chance to look at the Unley development plan but I commend it to him. It is a huge volume of work and, no doubt, through the ERD Committee we will also be looking at the associated regulations that apply to that development plan because it has been brought in and given some interim protection.

Once the nominations have been made—that is, nominations from councils of character areas—I will set a timetable for each council to undertake a more detailed assessment of its nominated areas.

The Hon. Rob Lucas spoke last week about Norwood, and Unley has taken two years. With councils like that that have a significant amount of character, clearly the work involved is likely to be significantly longer than September. So, for that reason, I was proposing to set a timetable for each council. For Playford, perhaps Onkaparinga, they have fewer character areas and more greenfields areas or suburbs developed in the past 20 or 30 years; obviously, that will be less of an issue for inner city councils.

What I am proposing is that, rather than the timetable that was initially put forward by the planning review, we have the capacity to enable particularly the inner city councils to do the sort of work that experience with Unley has shown us has taken a couple of years. Hopefully, it will not take that long in the future, because a lot of the groundwork has been done, but clearly the six months or so from 31 March is unlikely to be sufficient in some of those cases.

The Hon. M. PARNELL: At the end of the day, will these character areas be reflected through amendments to the development plan as (I think you have described) in Unley, or will they be reflected by simply having certain areas excluded from the operation of the code? In other words, are we going to see amendments to the actual planning scheme which recognises character, or will the minister simply take note of those agreed character areas and simply exclude them from the code by a notice in the *Government Gazette*?

The Hon. P. HOLLOWAY: The recommendation of the planning review was that we look at variations to the code that would apply in that area. It is essentially in character areas. Remember, these are places that are not deemed to be character areas. It is not like Colonel Light Gardens, which is on a heritage list and, incidentally, where property values have gone up significantly because it is on a heritage list and because people know that they will have that character in there. These are areas where, although there may be the odd house that is on a local heritage list, the general code will apply.

If it is a character area, we are looking, essentially, at streetscape, and so that is the element that we would most want to protect. We are less concerned about what happens in people's backyards in terms of additions, alterations and the like. What we are concerned about is impact that will affect the street frontage in particular, and a modified code, as I understand it, is the way that we are looking at dealing with that in those areas. That is the process that will take place.

Once the code is in place (we would hope from 1 March) for new homes in the areas nominated by local councils and for alterations of less than one storey, it is after the character areas come in that, obviously, we will have to look at that data and see how we deal with the character there. Clearly, the character that you are preserving could be quite different. If one looks at the Unley development plan, at least half a dozen different types of architectural styles are reflected in that Unley region, from the late 19th century through to the 1940s, that are predominant or significant in particular areas. So, what one requires may involve a significant amount of work.

The Hon. SANDRA KANCK: When I spoke on this bill last Tuesday, I indicated my concern that things were being rushed through, and I expressed a concern about the need to consult with various community groups. I believe my concerns were validated, particularly with the receipt of an email late on Friday afternoon from the Planning Institute of Australia, South Australian division. I am sure other members have received it, but I want to read one paragraph from it:

> As the peak body representing the planning profession, PIA believes that we should be consulted in the development and implementation of the review findings. We are therefore disappointed that the provision of information on the Development (Planning and Development Review) Amendment Bill 2008 and Development (Residential Code) Variation Regulations 2009 has not come from the government or Department of Planning and Local Government, but from the opposition and other parliamentarians. We are also disappointed that our views on the proposed amendments to the Residential Code have not been sought despite some assurances being given that we would be further consulted. We hope that in the coming months we are further consulted and that the issues raised in the attached submission are addressed in the Regulations.

Could the minister please explain how it was that PIA was not provided with particularly the residential code variation regulations and whether the government will see fit now to include PIA in any further consultation?

The Hon. P. HOLLOWAY: I meet with PIA regularly. I have regular meetings with PIA members. They had been well aware of this. They were informed of the government's intention. They have been informed right up to—

Members interjecting:

The Hon. P. HOLLOWAY: Well, certainly, the act, but they are well aware of it. In fact, the Hon. Sandra Kanck, myself and the Leader of the Opposition were all at a meeting with PIA some time back when we had questions and answers that covered some of these issues. I have certainly had meetings with a number of people who are key members of PIA. There has to be some limit. We have had this code—

The Hon. Sandra Kanck: Come on, they are the principal body for planners!

The Hon. P. HOLLOWAY: But I have had meetings with key members of PIA—

The Hon. Sandra Kanck: On these regulations?

The Hon. P. HOLLOWAY: On various issues.

The Hon. Sandra Kanck: On draft 10 of the regs?

The Hon. P. HOLLOWAY: Well, the regulations, as the honourable member knows, were produced fairly recently, but the issue is that they cannot come into effect until the act has passed. The honourable member well knows that it is unprecedented to have regulations, because I have done what few other ministers do in terms of producing the regulations before the act is finalised.

If this bill is amended, if the Hon. Mark Parnell's amendments are carried, then I have just wasted the time of parliamentary counsel in drafting all those regulations because things will not happen or, in any case, the time frames and others will all be altered. The final version of the code clearly will depend to some extent on what happens in this place, but I am sure that PIA members have been able to get a copy of the code—they have certainly had all the original ones—and I am sure they have had a chance to look at it.

I have spoken to some of the key members of PIA following the release of the code, not with PIA as a body, but there has to be some limit physically to the number of meetings I can have. There is a bit of a turf war here between planners and others in terms of what should be in the planning code and what should be in the building code, and I am sure I am never going to get agreement from the Planning Institute and others who believe passionately that something should be in their side of the code—the planning code—rather than the building code.

Nonetheless, sooner or later, somebody has to make a decision—and it is this parliament—and I am putting up what I believe to be the best outcome from all those lengthy discussions. The road testing, for example, has all been done with local government. The members of PIA who are local government planners are significantly represented. A lot of them would have been working with the road testing by councils, so I am sure there is plenty of expertise within there as to what is going on. Sooner or later, we have to make a decision on whether or not we go forward with this important reform, and it is now crunch time.

The Hon. R.I. LUCAS: I ask the Leader of the Government about the statement he made at the start of the debate on this clause where he said something to the effect that the government's proposed intention is to implement the residential code from 1 March, I think it was. Can I just have the minister clarify for the record in relation obviously to certainty in the system that the minister accepts that any member of this chamber in the February session has the capacity to move a disallowance of the residential code?

I assume that the minister will have to promulgate the regulations for that some time in February and that then there will be the standard number of sitting days which will certainly take him past 1 March. I am not sure when the 14 sitting days after the February sitting will expire where this chamber could disallow the regulations that will constitute the residential code.

If the minister confirms that, does he accept then, in relation to certainty in the system, that potentially there would still be doubt about the system for a period after 1 March until this chamber, one way or another, resolves an issue of potential disallowance of the residential code?

The Hon. P. HOLLOWAY: Of course; that is exactly why I have produced the code inasmuch as I can in the final form, so that members in this place will be aware of it and so that at least no-one will be able to say that it is unseen, or that something has come out of the blue and, despite the undertakings I have given about the code and its operation, is being implemented.

Yes, this is an unprecedented exercise, I suppose, in the way I am doing it, but it is exactly to recognise that point that I have drafted a code. It is not something that we would normally do, and it is not something I would recommend that any other minister necessarily do, because of the enormous amount of work involved in going back and forth and then you are accused of not consulting when, in fact, I seem to have done nothing else for the past six months but deal with this subject and consult on it in one way or another. Nonetheless, these are important and significant changes. The detail is in the code, and that is why I have put the draft version in here—so that members can see it and so that no-one can say they have not studied it. But, ultimately, yes, it is up for disallowance.

The Hon. R.I. LUCAS: I thank the minister for that information. I think it is important that that is acknowledged because there is still considerable concern, and I think it is growing in some areas. Certainly, I have been contacted by people with a particular interest in the Norwood area, which is something I raised last week with the minister. For example, I refer to the minister's confirmation last week that, under the proposal he and the Premier are pushing in relation to this current residential code, if you happen to have a property in Norwood, your next-door neighbour on one side can build a 10 metre high by 8 metre long fence right up against your boundary and your neighbour on the other side can build a 10 metre high by 8 metre long fence right along your boundary, and the fence can then also extend up to 50 per cent of the length of both boundaries, so that you have this surrounding effect.

As more information becomes available and the minister confirms that that is his intention in relation to the residential code, I hope that there would be quite an intense debate about the impact of the residential code, come February/March, if a member in this chamber were to move for disallowance.

The second general area I want to raise relates to the issue of character areas—and, again, this is coming from people with some concern about the minister's and the government's intention in relation to areas such as Norwood, Payneham and St Peters. I ask the minister to confirm again that a council like that could make a submission, do a lot of work over an extended period (to which the minister has referred) and seek approval for a number of character areas which cover a significant part of those areas, and that it is the minister who ultimately has the absolute and final say and could reject some or most of those requests.

The Hon. P. HOLLOWAY: The Hon. Rob Lucas, of course, totally ignores what I said last week about all the qualifications, and I do not know whether we can go through it all again.

The Hon. R.I. LUCAS: Is it your final decision absolutely?

The Hon. P. HOLLOWAY: Well, it depends on what stage it is at. The point I made last week is that, if it comes to development plan amendments, yes, the minister has the final say. I suppose one could argue that the ERD Committee can also make comment on development plan amendments, but it is a feature of the Development Act that the minister have the final say. For example, things like major projects override council developments.

The minister always has, and presumably always will have, the final say. If the minister or somebody does not have the final say over development, I suspect that we will get ourselves into a real mess, but that should not be used to try to suggest that there are not proper procedures and processes. If the minister was going to do everything, why would we bother with all these incredibly involved processes? Clearly, there is a complex range of consultative and other measures—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: The great majority of decisions are taken at the local government level, and I think that 95 per cent or more of the planning decisions are made at the local level. I know where the Hon. Rob Lucas is coming from. I know what he is trying to do: he is trying to cause—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: Yes; I know what you are doing, and I know why you are trying to do it. I will not let him get away with misrepresenting the position, or distorting it. The fact is that the minister, in planning terms, has a number of ways—

The Hon. R.I. Lucas: You can ignore all the advice and reject any submissions.

The Hon. P. HOLLOWAY: You cannot do that because of the levels of accountability; and I have not done that.

The Hon. R.I. Lucas: Yes, you can.

The Hon. P. HOLLOWAY: I guess Rob Lucas will want to keep us here all night. He will want to send out to the people of Norwood a totally distorted message, but I am not going to participate in this futile game anymore. I am not going to let him get away with distorting the position.

Of course ministers have—in relation to development plans and other things—the final say, because somebody has to; although one can say that there is also judicial review, depending on which part of the process you are in. If processes have not been adopted, there are all sorts of judicial reviews and other means of scrutiny available.

In relation to the code, again I come back to the basic point. All we are seeking to do in those areas which are not heritage or character areas, or not areas where other special conditions apply—mainly greenfield areas are where the benefits will be felt—is simply trying to get a code that will greatly simplify and save tens of millions of dollars for ordinary South Australians in terms of the cost of housing.

It is to keep jobs in this state; it is to keep our state competitive and, to do that, we have to ensure that we have an efficient, up-to-date planning system that lets most approvals go through. Where these applications are straightforward, they should be able to go through the system within 10 days with a minimum of fuss, and that is what the code seeks to do.

There are complications in some areas. Some suburbs, such as the inner-city areas of Unley and Norwood, are more complicated than others, and that is why we have special provisions which we will put into effect to deal with those issues.

The Hon. R.I. LUCAS: I thank the minister for that. In essence, in the end, the minister confirmed the question that I put to him: ultimately, the minister has the capacity to listen to the advice, reject it and make his own decision in relation to this particular issue. The people of Norwood, Payneham and St Peters need to be aware that, just because they do all the work in relation to requesting character areas within their particular area, there is no guarantee that this minister—indeed, any minister, to be fair—will necessarily agree. That is the first point. The second point that I put on the record is that the—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Hang on; I am still speaking. The second point that I put on the record is that I think the minister said in his earlier statements that the length of time (two years) in relation to Unley is potentially constructing a set of circumstances where it may be this government's intention—having received requests from Norwood, Payneham and St Peters, and other areas, in relation to character areas—not to have a decision or a response on those until after March 2010; that is to say, 'This is going to take a long time; we are going to need to look at it; we won't be in a position to make a decision prior to March 2010.'

Why might that be the case? If this government had the intention not to respect the wishes of the Norwood Payneham and St Peters council area and refuse some of its requests, it would prefer to do so after the election, with a four-year period to go prior to 2014, rather than just before 2010. Having listened to the minister's carefully constructed time lines, I think the people of Norwood Payneham and St Peters need to bear in mind that it is a possibility that the minister and the government are constructing that set of circumstances in relation to what is a critical issue for many of these people in Norwood Payneham and St Peters.

The Hon. P. HOLLOWAY: Perhaps the people of Norwood Payneham and St Peters should be aware that the Hon. Rob Lucas was the person who deliberately misled them at the 1997 election, when he said that he would not sell ETSA. If there is some person in this chamber they should not trust because of dishonesty, it is him.

The Hon. R.I. Lucas: You have got the wrong minister and the wrong election.

The Hon. P. HOLLOWAY: No; 1997 was when you were part of the government that said it would not do that. I think that my bona fides in relation to this are seen in Unley, which has been given interim effect. Of course, in terms of the time lines and the politics, if the opposition's amendments get up, this will all be delayed anyway because, if you start to put in consultation periods and so on, it is just impossible to meet the sorts of deadlines that were suggested by the planning review.

It has taken a long time for Unley to do it, but the fact is that I have honoured that. Why would I treat the people of Norwood any differently from the way I have treated the people of Unley? Why would I do that? If I were intending to do so, why would I approve the process, as I have done in Unley, and given them the protection which they have been asking for for many years and which was, supposedly, asked for by the opposition? Either the Hon. Rob Lucas supports his own party or he does not.

I accept the fact that he will make as much mischief as he can in Norwood or other areas and try to distort it. That is taken as a given; nonetheless, this government wants to rise above that and do something good for the people of this state and save the unnecessary costs involved in unnecessary planning approvals.

The Hon. R.I. LUCAS: I am sure that the minister will be pleased to hear that this is the last general area I want to raise on clause 1, and he may want to take it on notice. I am not sure whether the minister responded to these submissions before; if he has, I apologise for raising them late in the piece. It was only at the weekend that a lot of other members and I were contacted by Stephen Fisher in relation to a whole range of views, and I do not intend to raise them all today. I will read one issue he raised and ask the minister to indicate whether he has publicly responded and, if he has not, whether he will respond. Mr Fisher wrote to all parliamentarians and, in part, he stated:

> The recent '2008 Reform of the South Australian Planning and Development System' from the State Government was backed up by data (purporting to be factual) which claimed that Unley and Murray Bridge Councils took in excess of 50 weeks to approve 'complying developments'. See page 3 and particularly page 6, which is an enlargement of Figure 3.7 from page 3 of the powerpoint document 'Michael O'Brien & John Hanlon Presentation to Mitcham Councillors 01 Oct 08.pdf', attached.
>
> Page 6 is an enlargement and scaling from the graph, Figure 3.7 of Chapter 3, labelled 'Performance of the current planning & development system', sourced from: System Indicators Data 2006Q3-2007Q1.
>
> This data is false and misleading and must not be used as the basis to justify alteration to the system of law in the administration of Planning Approvals in South Australia.

He continued:

> I have contacted Unley and Murray Bridge Councils, as well as Port Adelaide/Enfield, Prospect and Tea Tree Gully, each of which has claimed 'long approval times' of >15 weeks. Every one of these Councils' Development Managers have advised me that the data is incorrect and that they have written letters of protest to the Minister of Planning and to Planning SA advising them of the obvious errors in these false figures.

Mr Fisher went on in much greater length to outline more detail in relation to the error of the claims, in his view, and how they have been used in the public debate in the newspapers and in the debate with councils. I will not take the council's time and go through all of those; I think all members received that contact anyway.

My question is: has the minister publicly responded to the claims from Mr Fisher, and, if he has not, can he indicate what the government's position is? As I said, in terms of rejecting this, if

the minister wants to take it on notice and indicate that he is prepared to write to me with the rebuttal of the claims made by Mr Fisher, I am prepared to accept that undertaking.

The Hon. P. HOLLOWAY: Some of the figures used by the Planning and Development Review, which were system indicators that came from the councils themselves, were incorrect. The councils—and I think Unley was one of them—contacted us when they saw those figures in the review. My understanding is that they were the original source of the information. They all have been corrected within the system. There are a number of other councils also. Why they provided the incorrect information I am not sure. An initiative was put in place shortly after I became minister that we wanted to start to have indicators on how the system was performing so that we could properly understand what was happening, review the system, and make changes as necessary. As I said, some information was incorrectly put in by councils.

The Hon. R.I. LUCAS: Are you happy to give an undertaking to provide the correct information?

The Hon. P. HOLLOWAY: This is updated all the time. Do you mean at the time the planning review came out or at the—

The Hon. R.I. LUCAS: Is it the claim, in relation to the figures, that the figures are now correct?

The Hon. P. HOLLOWAY: My advice is that we will be publishing a report at the end of this year which will include the corrected figures. The Planning and Development Review asked us to publish the figures.

The Hon. R.I. Lucas: Will that be in January?

The Hon. P. HOLLOWAY: At the end of this year, probably, but we will try to get it ready as soon as we can. As I said, some information supplied by a number of councils was apparently incorrect so, clearly, we need to address that. That has been under way only since February 2006 or 2007. We will include that; but, put it this way: it has not been that long since we have been keeping these indicators. They were needed so that we could obtain this sort of reasonable assessment. That information and advice will be made available shortly.

The Hon. D.W. RIDGWAY: I had a number of other questions to ask about implementation; however, I think they largely have been covered. I acknowledge the lateness of the evening. During the opposition's exhaustive party room process, the party asked me to put on the record that we would potentially reserve our right to move disallowance in the new year, and we will make that judgment, if the government gets its particularly wrong, either to do that or, if we do not, to watch them suffer at the ballot box in 2010.

Clause passed.

Clauses 2 and 3 passed.

New clause 3A.

The Hon. M. PARNELL: I move:

Page 2, after line 10—Insert:

3A—Insertion of section 5A

After section 5 insert:

5A—Regulations relating to planning system

(1) The Governor cannot make a regulation under a designated planning system provision unless the minister has certified that the requirements of subsection (3) have been complied with in relation to that regulation.

(2) An allegation in legal proceedings that the certificate required by subsection (1) was issued on a particular day is, in the absence of proof to the contrary, sufficient proof of that fact.

(3) The following provisions apply for the purpose of subsection (1):

(a) the minister must cause to be published in the *Gazette* and in a newspaper circulating generally throughout the state an advertisement—

(i) containing a general explanation of the regulations that are (subject to the section) to be made; and

(ii) inviting interested persons to make written submissions to the minister in relation to the proposed regulations within a specified period (being a period of not less than 28 days from the date of publication of the advertisement); and

(b) the minister must send a copy of the proposed regulations to the LGA at the time that the minister publishes the notice in the *Gazette* required under paragraph (a) and invite the LGA to make written submissions to the minister in relation to the proposed regulations within the period that applies for public consultation after paragraph (a) (or within such longer period as the minister may allow in a particular case).

(4) In this section—

designated planning system provision means any of the following:

(a) section 33(4a);

(b) section 35(1);

(c) section 38(2)(a), but only in relation to a proposal to assign a form of development to category 1 by regulation.

This is amendment No. 1 in the set Parnell [2]. It is a very straightforward amendment, even though it takes up a whole page. This amendment states that there are some things that governments put in regulations that deserve public consultation. I have identified three things that I think should go to public consultation before the regulations come into effect. One of them is any situation where the government wants to take something out of the scheme of development assessment. In other words, including something on a list—such as the list in schedule 1A—which is now in the regulations that is now going to include things like solar panels on the roof is a good move in not requiring them to go through planning approval. However, whenever the government wants to add to that list, then my amendment provides that it should consult the public and it should consult the Local Government Association.

The second category where I said the government should consult the public is adding something to the list of complying development. Remember that complying development must be approved. The authority does not have a choice to approve it or not; it must be approved. The third one which I say should go to public consultation is where the government wants to change the regulations to make something a category 1. Category 1 is that category where no public consultation occurs. Categories 2 and 3 are limited or general public consultation but for category 1 no-one is consulted.

To synthesise these amendments down to their most basic level, what I am saying is that whenever the government proposes to use its regulation-making power to remove something from the system or to remove public consultation which has previously been there, then it should at least consult the public about its intention to do so. I am not saying it has to consult the public on every single application that is lodged under one of these new regulations but, if it wants to change the rules that diminish rights of public involvement in planning, it should at least consult the public before it brings that into effect. It really is that simple.

There is more. I have not invented a method of public consultation. I have taken the existing method in section 5 of the act which already provides that there are some regulations on which, if the government wants to change them, it has to consult. Currently, that list is a pretty simple list. It provides that, if the government wants to change any definitions, it has to consult the LGA and it has to consult the general public. All my amendment does is to provide that other important changes that the government can make through regulation should also go to the LGA, and they should also go for public consultation. In fact, in many ways my amendment is weaker than the existing provision, because under existing section 5 there has to be a public meeting as well. I am not requiring a public meeting, but I am requiring it to consult the public and to consult the LGA.

The minister pointed out that my amendments, which require public consultation on changes to the regulations, go beyond simple houses and additions to houses. He mentioned that my amendment would apply to a change to an aquaculture designation. All of us in this place have our buttons, and the minister has pressed mine, because I think he is well aware that in 1999 I won this state's longest ever environment trial on the issue of aquaculture and whether it was ecologically sustainable. The full court of the environment court agreed with me. We won the court case and the government changed the regulations to provide that, in future, no-one has to be consulted about aquaculture; therefore, if you do not have to be consulted, no-one has the right to

appeal. Bingo! The government used regulations to overturn the findings of the court that that particular industry was not ecologically sustainable.

I make no apologies for highlighting whenever the government tries to sneak in regulations and undermine the rights of the public—and aquaculture is a brilliant example, because it is not even private land; it is the commons, for goodness sake. At least here we are talking about private land. So, thanks for pressing my buttons, minister.

I do need to very briefly explain the difference between my amendment and the Hon. David Ridgway's amendment because, effectively, they cover the same turf. If you vote for the Liberals' amendment, then what you are voting for is not public consultation but what the Local Government Association asked for, and that is that some limited changes to the regulations should at least be referred to that organisation before they come into effect. That is the effect of the Liberals' amendment and it is a pretty minimalist position. It involves no public consultation; it just requires some changes to regulations that deal with the residential code to go to the LGA before they come in. That is fine, as far as it goes. My amendment goes further: it requires that, but it also requires some of these other changes that undermine public consultation and planning also to go to the LGA and to public consultation.

I will be brief, because we have a number of amendments to get through; however, I was unaware until yesterday that, while we are going through this process here in South Australia, they are going through the same process in New South Wales. A colleague of mine in the upper house of the New South Wales parliament issued a statement yesterday, because the government there had consulted on a version of its residential code and got everyone happy about it and then, because there were no public consultation provisions for changing it, it put in the really nasty code that it had always wanted. I would like to quote a paragraph from the Hon. Sylvia Hale's press release of yesterday, which read:

> Drafts of earlier codes were available for comment but it is clear that they were merely a diversion during the debate on the changes to the planning laws [which is what we are doing now]. Now the bill is through those draft codes are withdrawn and the free-for-all codes that the government and the developers always wanted are being imposed.

I do not want to suggest for one minute that I am directing that comment at this minister or this government, but if we are serious about protecting our urban form, our character areas, then we need to make sure that future governments cannot change the code in a way that undermines our rights as citizens to engage in the planning system.

I will finish with that cautionary tale, and remind honourable members that if they support my amendment they are supporting not just consultation with the LGA but also a fairly minimal model of consultation with the general public. I call on all members to support this amendment.

The Hon. P. HOLLOWAY: The government opposes this amendment. As I said earlier, the amendment requires public consultation of at least 28 days for any regulation affecting the designation of building rules consent only or complying code development, so any chance of getting this code in and getting at least some benefits for alteration and things by 1 March is immediately out the window.

What have we been doing for the last few months? We have this implementation committee on the code, with three local government members—a mayor, a chief executive and a relevant person from the LGA. We have now put out the draft, and local government has had it for as long as anyone else, from the moment it was hot off the press. It will still be two months before it can be introduced but, if this amendment of the act is carried, we then have to go through the process all over again. Presumably if it got knocked back, because of the position of reserving the right, because of one particular thing, we would then have to go back in another 28 days and do it all over again.

The Hon. Mark Parnell has already talked about aquaculture, and you can see what is motivating him, but there has to be some economic generation within this state. If we do not have a reasonable cost structure within our planning system the cost of housing in South Australia will rise relative to those of other states—particularly Victoria and Western Australia, which have similar systems—and we will become less competitive. We will lose jobs and we will lose people from this state. Perhaps if you are a Green or a Democrat, and you do not actually believe in population growth, if you believe that we should be declining—

The Hon. Sandra Kanck interjecting:

The Hon. P. HOLLOWAY: Well, as the Hon. Sandra Kanck says, that is okay. However, let us understand that what you are supporting here, what you are going for, is a path of long-term decline in the living standards of the people of this state. This government does not believe in that; it believes that we can have a system that is more efficient in terms of planning and that will, at the same time, give greater protection than we now have to our character areas. I think we have shown that with Unley, and I invite anyone to look at the development plan for that area. It addresses some of the issues that people there—the Save our Suburb group and others—have been complaining about, sometimes for years and years, under the current system.

You can have all these rules in place, all this consultation and everything else, but at the end of the day we have seen that when councils have tried to stop things people have gone to the development court and invariably been overturned. It adds costs, delays and inconvenience but, in terms of the end result, it does not achieve anything at all. That is the sort of system we want to get away from. All we are seeking to do by the code is deal with the vast majority of applications—most particularly in greenfield areas, involving the sort of project homes that one mainly sees in those areas. We want to simply let them progress through a system much more quickly, with much less paperwork, so that the owners of those homes—the first home buyers, and others—can get the benefit. If we can maintain cheaper housing, we might therefore keep more industry here and be competitive with other states.

I can understand where the Greens and others are coming from. As part of their philosophy, of course, they will put in the way as many impediments as they can. They are coming from the reverse direction. If you want to resist change, you will put in as many delays and restrictions as possible. But, at the end of the day, through the ERD Court, we have seen what happens to those sorts of policies. They simply do not work. It is no substitution for good planning rules—for getting the planning rules right and ensuring that they comply with modern standards and tastes in most instances. If you want to go beyond that, you go back to a merit assessment system and you will have to take a bit longer and pay a bit more if you want something outside the ordinary. That is, essentially, in a nutshell what the code is all about. It is trying to capture the benefits in terms of the vast majority of houses that South Australians want to build.

The Hon. M. PARNELL: In response, it is easy to start getting into an ideological debate on the code and the system the government has put in place. I make the simple point that this amendment does not oppose the residential code. It does not add a single extra expense for developers—home developers, or anyone. All it says is that if the government wants to change the rules it should inform the public and the LGA 28 days in advance. Once the rule changes have gone through, they have gone through, and everyone who wants to take advantage of them can do so. This is not a debate about the ideology of whether or not a code is a good idea. This is just saying that some regulations are so important that the public deserves to be consulted.

The Hon. P. HOLLOWAY: That is exactly what has been done with the code now. As I said, it is unprecedented for a code to be put into parliament two or three months before the act can come into place. Yet we would have to start it all over again if this regulation goes through. What reason, other than delay, will that serve?

The Hon. D.W. RIDGWAY: I indicate that the opposition does not support the Hon. Mark Parnell's amendments. As members are aware, we have an amendment of our own on file, and our view is that the Hon. Mark Parnell's first amendment will add significantly to the red tape, if you like, that will be involved in the consultation process. The more simple form is the one I will speak to when I have an opportunity. It is a model that involves the LGA and, of course, in our three tiers of government, members of local councils are elected by a small number of ratepayers and therefore often reflect community wishes much more accurately.

The Hon. SANDRA KANCK: I support these amendments. I do not think it is too much to ask for consultation, particularly when we are talking about something being put in category 1. It is very clear from this legislation that we are saying there absolutely must not be any consultation on anything that has been declared category 1. So, if we are going to bring something into that category where there must not be consultation, it is really important that we get it right, and that whatever it is we are contemplating deserves to be put in a category where there is no consultation.

I was quite astounded by the minister's comment that consultation will lead to a drop in living standards for South Australians. I honestly cannot understand how he reaches that conclusion. Consultation is about embracing the community and, if you embrace the community and listen to what people say, maybe sometimes changes might occur and you will be able to bring

the community along with you. At present, as things stand, the government will be able to do it and simply impose it on people. Therefore, this amendment is reasonable.

The committee divided on the new clause:

AYES (2)

Kanck, S.M.	Parnell, M. (teller)

NOES (17)

Bressington, A.	Brokenshire, R.L.	Darley, J.A.
Dawkins, J.S.L.	Finnigan, B.V.	Gago, G.E.
Gazzola, J.M.	Holloway, P. (teller)	Hood, D.G.E.
Hunter, I.K.	Lawson, R.D.	Lucas, R.I.
Ridgway, D.W.	Stephens, T.J.	Wade, S.G.
Wortley, R.P.	Zollo, C.	

Majority of 15 for the noes.

New clause thus negatived.

Clause 4.

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

Page 2, after line 18—Insert:

(4ab) A regulation cannot be made under subsection (4a) that relates to development associated with the use of land for residential purposes unless the minister has given the LGA notice of the proposal to make a regulation under that subsection and given consideration to any submission made by the LGA within a period (of between three and six weeks) specified by the minister.

We would like support for this amendment for a number of reasons. Notwithstanding the government's comments that it has consulted widely, as the Hon. Sandra Kanck indicated, the Planning Institute has expressed its concern about lack of consultation. I recall the event to which the minister referred. Together with the Hons Sandra Kanck and Paul Holloway, I was part of a panel at the launch of this year's planning report card, where South Australia received the unfortunate distinction of being the worst in the nation for consultation in relation to planning issues. While it may not have been totally as a result of consultation on this reform, I suspect that it reflected the government's lack of consultation on country health, the Marjorie Jackson-Nelson Hospital, the expansion of tramlines and other things where it has consulted poorly.

As I said when speaking to the previous amendment of the Hon. Mark Parnell, the opposition felt it was important to test the will of the parliament in relation to consultation for the LGA. Obviously, local councillors are elected by a much smaller voter base than are we or our colleagues in the House of Assembly. By and large, those people are at the coalface, shall we say. The opposition thought it was important, as I said, to test the will of the parliament to see whether there was support for the LGA to be included in consultation. Notwithstanding the concerns the minister has about extra red tape, we think it is important.

The Hon. P. HOLLOWAY: We have been through the arguments before, quite apart from the fact that any regulation can be disallowed by parliament at some future date. In relation to this particular one, I do not think there will be a regulation that ever will have been consulted on as much as this one. In particular, the LGA and other groups, as I said, have membership from the LGA itself and an elected official, as well as a chief executive from local government. All those people are involved in the implementation committee where all these things are discussed in great depth. They are given the briefings on all the road testing, and so on.

Also, the regulations are out there being discussed now. Why on earth would you want to slow this all down? By the end of this process, when everyone has seen it (because we have been debating it here for ages), you then have a further statutory period of negotiation on the end of it.

The Hon. M. PARNELL: I support the amendment. The Local Government Association is at the coalface—95 per cent, probably, of development applications are considered by local councils. In relation to other groups that have a legitimate claim to be consulted (and the Planning Institute has been mentioned), the advantage of this amendment is that, once the Local

Government Association knows, so too do most of the planners who are members of the Planning Institute, and, through the back door, members of the public will find out what is going on.

It is a very minimalist form of consultation, but, nevertheless, as a fall-back position to the unsuccessful amendments I moved, I am very happy to support amendment No. 1 which is before us. I will not speak to amendment No. 2 separately, but the issues are exactly the same, and I will be supporting that also.

The Hon. P. HOLLOWAY: Why would you consult with just the LGA? If you are going to consult with all the stakeholders, what about all those others affected by regulation? In fact, of course, we do consult with all those groups where we can. Occasionally, there are situations where you do need to make regulations quickly. The classic case was last week with Unley—we brought in its development plan amendment. To give some protection so that the bulldozers were not bulldozing it down, we had to bring it in straight away. If you had consulted you would have given it 28 days notice to bring out the bulldozers and knock down some of those heritage places. There are, in fact, very good reasons on occasions why you do need to act quickly.

Amendment negatived; clause passed.

Clause 5.

The Hon. D.W. RIDGWAY: My amendment is consequential to the previous one that was unsuccessful, so I will not be moving it.

Clause passed.

Clause 6.

The Hon. M. PARNELL: I move:

Page 3, line 36—Delete 'may' and substitute 'must'

This is a very straightforward amendment, and I hope that it will close a very minor loophole in the legislation. My amendment says that, where you have a situation where a local council and a referral agency—perhaps the EPA—are involved in a planning appeal before the Environment, Resources and Development Court, both those parties are entitled to be part of that court case. As the clause is currently worded, it says that the court 'may' join them. I am proposing to change that so that the court 'must' join them. My understanding is it reflects the current situation. It would be very unusual for a court not to join a relevant party to a court case, but just in case a court was minded to do that, this amendment makes it very clear that both those bodies should be parties to the appeal.

The Hon. P. HOLLOWAY: The government opposes this amendment. The amendment will require that relevant authorities (which, in most cases, would be councils) are to be joined to appeals where a direction has been provided by a referral body. My advice is that it should be left to the ERD Court to determine where it is appropriate for relevant authorities to be joined to an appeal.

The Hon. D.W. RIDGWAY: The opposition opposes the amendment of the Hon. Mark Parnell. Of course, this will force councils to be involved when it may not be necessary and we believe it will bog down the process. We think it is more appropriate to let the courts decide.

Amendment negatived; clause passed.

Clause 7.

The Hon. M. PARNELL: I move:

Page 4, lines 5 to 16—Delete paragraph (a) and substitute:

(a) the regulations or a development plan may assign a form of development to category 1 or to category 2 and if a particular form of development is assigned to a category by both the regulations and a development plan then the assignment provided by the development plan will, to the extent of any inconsistency, prevail within the area to which the development plan relates (subject to the operation of paragraph (b));

I know from the minister's previous comments that this amendment is the one with which the government disagrees the most. Basically, this amendment seeks to honour the planning regime that the government established two years ago. Members might recall that we debated a bill to take away from elected members of council their ability to sit en masse on a development assessment panel and make a decision about whether or not a particular development should go ahead.

The parliament decided that we would have specialist panels made up of seven members—half elected members, half outside experts and an independent chair. At the time, the government said that the rationale for doing that was that this will free up the elected members to concentrate on strategic planning. In other words, it will free up our elected members to write the planning schemes for their local area—what we call development plans.

The government's amendment now says that, when you have a conflict between something that has come from the grassroots—that is, a specific provision that has been written into a local planning scheme by a council—and something the government has imposed via regulations, the regulations should prevail. I say that the specific should override the general. If you have gone through the trouble of negotiating and consulting with your community and writing something in your local development plan, why should that not prevail over the government's regulations? It is a matter of principle.

I think it is very consistent with the approach that we took two years ago in freeing up our elected members to do this sort of work and I think elected members, quite rightly, would feel dudded that, having been taken off the panels and told that they were going to be able to do strategic planning work, they are now told, 'Yes, but if you do, the government will override it through regulations.' That is the underlying philosophy behind this amendment.

I do accept what the minister says; that is, it is counter to the thrust of what the government is trying to do, which is to have a residential code in regulations that always overrides the local council development plan, other than in the areas about which we have been talking—heritage areas and maybe some character areas. It is a matter of principle and I would urge all members to support it.

The Hon. P. HOLLOWAY: The government opposes it. Obviously, if the code is to comply, it becomes complying development. That is why category 1 should apply. Without that, the code will not work. The amendment is inconsistent with the introduction of the code as there are many instances where the type of development proposed by the code would be treated as category 2 rather than category 1 under existing development plans. If you do not introduce this measure then, of course, you defeat the whole purpose of it—not that I would suggest that is the Hon. Mark Parnell's intention, but I am sure he had it in mind.

The passage of this amendment would require a totally different approach to implementing the code. In fact, this is one of the key amendments in the bill that enables the code to be introduced and that is why we oppose the amendment because, essentially, it would defeat that purpose.

The Hon. D.W. RIDGWAY: The opposition opposes the Hon. Mark Parnell's amendment. The opposition has always supported the implementation of a residential code, and it said from the outset that it supported what the government was doing. At the time, it did not support the draft code that it had released, and I think that the opposition has been vindicated in not supporting that as we are now seeing version No. 10. As the minister said in an earlier contribution today, we are likely to see more than ten versions. I will be intrigued to see how many amendments are made to it but, nonetheless, the opposition supports the concept of a residential code and, on that basis, it does not support the amendment of the Hon. Mark Parnell.

The Hon. SANDRA KANCK: The Democrats support this amendment. One of its concerns about what we are doing with this legislation—following on the tail of other legislation—is that it takes away decision making at the local level. Local government is the level of government that is most in touch with the community and most able to respond to its needs. We are now putting this up at a higher level, which is much more remote from the general community. I believe that this amendment goes some way to addressing that, which is why the Democrats support it.

Amendment negatived.

The Hon. M. PARNELL: I move:

Page 4, lines 25 to 32—Delete subclause (3)

This amendment was discussed in some little detail in the second reading debate, so I will not go back over all the arguments but, in a nutshell, my amendment seeks to strike out a provision that the government is proposing to include in the Development Act. The government's provision is, to my mind, a dangerous slippery slope-type provision. It is a provision which makes it against the law for a local council to consult its citizens over certain matters—that is what it says.

Under the Development Act—as members might know—there are three categories for public consultation. Under category 1, there is no obligation upon a council to consult neighbours, for example, or others who might be interested in a development. They do not have to consult but nevertheless some councils do, for their own reasons. As I mentioned in my second reading contribution (as did the minister), the Environment, Resources and Development Court has been critical of that approach. It has said, 'Don't consult people; it raises their expectations. They'll think they can do something about it when, in fact, they have no legal rights, so don't raise their hopes by consulting them.'

I do not accept that for one minute. I think that consultation can assist in achieving better outcomes. It may be that a person can provide some ideas that would make the development better for the developer and for the neighbourhood. It is one thing to have a category of development where you do not have to consult, but we are writing into the statute books here a law which provides that local councils must not consult their citizens over certain types of development. I think that is a remarkable provision to be putting into legislation, and it is a step far removed from saying, 'You don't have to consult.' We are used to that type of provision, but outlawing consultation, to me, is entirely the wrong way to go.

The Hon. P. HOLLOWAY: The Hon. Mark Parnell essentially gave the reasons against this amendment himself when he said that the courts have been highly critical of councils which have sent this out. It has resulted in cases coming before it for its attention and clearly the court has discovered that people have been misled into believing that they have rights that they do not have, and that is why the government opposes this amendment. If councils genuinely consulted to try to achieve a better outcome, that might be one thing, but clearly there have been cases where councils have abused that provision, and that is why the court has criticised them accordingly.

The Hon. D.W. RIDGWAY: The opposition will not support the amendments, for similar reasons outlined by the minister, namely, that the court has deemed that people have had expectations raised, with no positive outcome for them. Earlier we indicated that we supported the implementation of a residential code. There will be reports along the evolution of this reform to our planning system in South Australia, and the opposition will certainly look at any issues where anomalies have been created by this legislation that are not working.

The Hon. SANDRA KANCK: I am appalled that we even have a provision like this in the bill that says there must not be consultation. The Democrats think public consultation is valuable and that we can learn something from it. I strongly support the amendment.

Amendment negatived; clause passed.

Clause 8.

The Hon. M. PARNELL: I move:

Page 5, lines 17 to 41 [clause 8(1)]—Delete subclause (1)

The effect of this amendment is to retain the status quo in relation to the ability of councils to seek further information from applicants for development approval. The regime proposed in this bill is to say that in some circumstances the council is not allowed to ask any further questions, and in other cases they are limited to asking questions on one further occasion. It seems that that is an overly restrictive regime. It could be said that a council that is not satisfied and does not have the ability to ask more questions just says no, just refuses, which means you end up with an appeal situation, which you could have avoided if you had allowed councils the opportunity to seek the information they needed. We should be aiming at giving our councils every ability to extract relevant information, whether from the community or the applicant. I do not support this artificial restriction on councils not being able to seek further information from applicants.

The Hon. P. HOLLOWAY: The government opposes the amendment. The Hon. Mark Parnell's amendment deletes the proposed changes to stop-the-clock provisions in the act that would allow councils unlimited stop-the-clock opportunities for all kinds of development, including complying developments. The proposed clause in the bill was a key recommendation of the planning review (recommendation 34), and it is essential to improving the efficiency of development assessment and reducing lengthy assessment times. For those councils with good planning departments, this would be good practice already. Clearly there are some where there has been a culture for various reasons and it will require some effort to change from it, but there are no reasons why councils should require all the information they need with a stop-the-clock provision. Unless this provision is in there, experience shows that the lazy way will always be taken.

The Hon. D.W. RIDGWAY: The opposition will not support the amendment. It defeats the purpose of a quick assessment and the reduction of red tape that the government is hoping to achieve by this residential code, and that is one of the many reasons the opposition supports the principle of a residential code: that it will make it quicker and easier for young families and first home buyers to get the bricks and mortar on the ground and get into their first home. As the minister outlined, it will reduce costs and make our state more competitive. In the opposition's view, this amendment will defeat the purpose of the intention of the implementation of these reforms.

The Hon. SANDRA KANCK: I indicate Democrat support for the amendment.

Amendment negatived; clause passed.

Clause 9.

The Hon. M. PARNELL: I will just make a brief comment. The purpose of my amendment to this clause was to slightly amend the government's provision, which states that if a council is tardy—in other words, if they do not make a decision within the prescribed time frame—then there is a deemed refusal and they have to repay the application fees that have been paid. My amendment proposed that the deemed refusal remain but they do not have to give the money back. I have since consulted with the LGA and a few others in the system, and they believe that repaying the money is not a bad discipline on councils that are very slow in approving what should be fairly straightforward amendments. So, in the light of that consultation, I will not be moving my amendment to clause 9.

Clause passed.

Clause 10 and title passed.

Bill reported without amendment.

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (17:36): I move:

That this bill be now read a third time.

Can I place on the record my thanks to Amanda Nicholls, who has done an enormous amount of work in dealing with all the regulations, and so on. It has been a very exhausting exercise, and I thank her and all the other staff at Planning SA for their work.

The Hon. SANDRA KANCK (17:38): I indicate that the Democrats will not be supporting the third reading of this bill, and it can be encapsulated in two words, 'public consultation'—both the lack of it within the bill and the lack of it about this code in this last week. I do not know what resources the minister has at his disposal, but I know that I have not been able to consult all the people who have raised concerns with me about the bill, the process, the code, the regulations, and so on. I am convinced that this parliament will find itself amending this probably within 12 months, when the flaws of it are discovered.

Also (and I say this not in an unkind way to the opposition), I want to draw attention to the fact that the Hon. David Ridgway referred in his second reading contribution and again today to the PIA Report Card, which talked about the government's very low score (the lowest in the nation) on consultation. What this bill will do is to really cement that lack of consultation. Under those circumstances, I find it extraordinary that the Hon. David Ridgway has referred to this not once but twice, when in fact the opposition is about to agree with the government that that lack of public consultation should be entrenched.

I would be interested to know at some stage in a private conversation with the Hon. David Ridgway how many community groups he consulted about this code or these regulations in the last week since we received version 10 of it. I believe that we should have had time over this break, through December and January, to allow that consultation with all the groups and all the local government entities that began the process of contacting MPs quite some months ago, expressing their concern. I believe that this is now a flawed bill and, as I said, I cannot support it.

The Hon. M. PARNELL (17:40): Just briefly, the Greens do not support the third reading but, in saying that, I have put on the record previously, and I do so again now, that some aspects of the package make sense. It does make sense to have solar panels on the roof, minor domestic water tanks and other sundry minor operations and not have to go through the whole gamut of planning approvals. Some of those things make sense, but other aspects of this are absolutely fraught with danger, and I am disappointed that we do not have now a regime for public

consultation, because the pressure will now be on us to look at the regulations when they come back with a view to disallowing them.

Disallowing regulations is such a blunt and crude tool which could be avoided if major flaws in the regulations were identified early on through a process of public consultation. So, I am disappointed that it has come to this, but we will now, as legislators, have to take very carefully our responsibilities when the regulations are put before us to consider whether or not they should be disallowed.

Bill read a third time and passed.

SITTINGS AND BUSINESS

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (17:41): I move:

That standing orders be so far suspended as to enable the Clerk to deliver the messages on the University of South Australia (Miscellaneous) Amendment Bill, the Civil Liability (Food Donors and Distributors) Amendment Bill and the Development (Planning and Development Review) Amendment Bill to the Speaker of the House of Assembly whilst the council is not sitting and notwithstanding the fact that the House of Assembly is not sitting.

Motion carried.

ADJOURNMENT DEBATE

VALEDICTORIES

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development, Minister for Urban Development and Planning, Minister for Small Business) (17:42): I move:

That the council at its rising adjourn until Tuesday 3 February 2009.

In doing so, I take this opportunity to wish all members the best for the Christmas and new year period. It has been a busy year and a busy session of parliament. I thank you, Mr President, for your conduct of the chamber over the past year and all members of this place for their cooperation. In particular, I thank the whips for the work they have done in organising an increasingly complex and difficult legislative program.

I thank the table staff, Jan, Chris, Guy and Chris, who joined the team following the sad passing of Trevor Blowes this year. I also thank the messengers: Todd, Mario, Karen and Antoni and the office staff, Margaret and Claire. I record the government's thanks to parliamentary counsel. I thank the Hansard staff, who have been most cooperative and patient throughout the year, the kitchen and dining room staff, the library staff, the building staff, and everyone else who works in this place.

Finally, I thank my own staff. On behalf of all members, I thank our respective staff members for their contribution during the year in keeping us well informed and for keeping this chamber working smoothly. Again, I wish all members, their staff and families a very happy and peaceful Christmas, and I look forward to everyone coming back here fit and healthy in the new year.

It would be remiss of me if I did not take this opportunity to wish the Hon. Sandra Kanck all the best in the future as she prepares to take permanent leave from this place. Sandra is the only surviving elected Australian Democrat to any parliament in any chamber in Australia. She contemplates a life beyond this place after contributing 15 years as a representative of the South Australian people. In that time she has seen the Australian Democrats' fortunes wax and wane. By choosing to retire, the Hon. Ms Kanck leaves parliament undefeated at the ballot box—an enviable achievement.

Since her election to the Legislative Council in 1993, the Hon. Ms Kanck has not shied away from supporting unpopular causes and has often been the sole voice of dissent in many of the issues debated in this chamber, and she did not let us down right to the very end. Although as Leader of the Government I have often questioned her stance on many of the bills before this place, I could certainly never question her passion and her firm belief in the correctness of her position.

I note that the honourable member's favourite work of literature is *Pollyanna* (that is on her website) and I can only hope that after 15 years as an elected member in this parliament she, like her fictional heroine, has found something good in the experience. Often being on the political

fringe, as it were, there is a temptation to feel that perhaps she is more of a Cassandra than a Pollyanna.

The Hon. Ms Kanck has campaigned against French nuclear testing and extended a hand of friendship to the East Timorese in their struggle. She led the first delegation to Vietnam in 1994 of the Australian Political Exchange Council. In 2003 she was part of a delegation to the Philippines of the All-Party Parliamentary Group on Population and Development. She has also spoken passionately in favour of voluntary euthanasia and, for her efforts, has been acknowledged with life membership of the South Australian Voluntary Euthanasia Society.

I trust that Sandra's absence from this place will provide her with more time to pursue her passions. I also note that she has an interest in astronomy, and I suggest that a bit of star gazing might be a welcome change from some of the naval gazing that often goes on within these walls.

It goes without saying, I think, from all of us, that this chamber will be a little less colourful without Sandra Kanck's presence on the crossbenches. On behalf of the government, I wish Sandra all the best in her retirement.

Honourable members: Hear, hear!

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:45): I rise to endorse the remarks made by the Leader of the Government, and in doing so I thank all members for their contribution throughout the past year. I thank you, Mr President, for the way you have conducted yourself and the fair and just way that you have exercised your control, and also the Clerk and the table staff.

I also congratulate our new Black Rod. Sadly, I was absent the day that we had a condolence motion for Trevor Blowes. The untimely death of Trevor was very sad. I congratulate Chris on his appointment to the position. I thank the rest of the table staff for the great work that they do here in supporting us.

I thank Hansard and all other staff in parliament, including the catering staff—people like me do enjoy the food that they prepare—and I appreciate the effort that everybody in Parliament House goes to. Of course, I thank my own staff and the staff of my team. We all work well together as a team, and I certainly appreciate the hard work and the extra yards that they do.

Likewise, I thank the whips. As the Leader of the Government said, they have an ever-increasing task of coordinating what is happening on a daily basis, given that we have a number of Independents and minor parties represented in the parliament, which reflects the voting pattern of South Australia today. The Independents and minor parties are a part of our modern political system, but it does make the whips' job that much more difficult coordinating what is actually happening, so thanks to the whips.

Then, of course, to the Hon. Sandra Kanck. It is her last sitting day today. I know that some of my colleagues who have been here for longer than me and pre-dated her arrival here, and are still in the chamber today, will shortly make some additional comments. We have certainly appreciated her frank contribution to the parliament.

On a personal level, I have always found her extremely easy and understanding to work with and, even if we have not agreed on a position, we have worked well professionally together, on the ERD Committee initially, and I certainly appreciate that. I did go through a phase where I wore particularly loud shirts and perhaps ties that some members did not think matched all that well. Even today, the Hon. Carmel Zollo often asks who chose my ties. However, the Hon. Sandra Kanck did lend me a book on dress code and colour matching. So, I do thank her for her concern about the mismatching clothes that I may have worn.

The Hon. Sandra Kanck interjecting:

The Hon. D.W. RIDGWAY: And the advice still goes on. I have certainly appreciated my time working with Sandra, and on behalf of the opposition—although others will make some comments shortly—I wish her all the very best in the next phase of her life. All the best and fare well.

The Hon. CARMEL ZOLLO (Minister for Correctional Services, Minister for Road Safety, Minister for Gambling, Minister Assisting the Minister for Multicultural Affairs) (17:49): I join my colleagues in wishing the Hon. Sandra Kanck a happy retirement. I think it would be fair to say, as the Hon. Paul Holloway has already placed on the record, that we may not have always agreed on policy, but I believe that we have always been able to agree to be courteous and

thoughtful of one another on a personal level. I suspect that the Hon. Sandra Kanck will not take permanent leave from leading a very active life and making a contribution in another sphere of society. I would like to offer the Hon. Sandra Kanck and her family my very best wishes.

The Hon. M. PARNELL (17:49): First, I would like to endorse what the Leader of the Government has said in relation to thanking all the people who work in Parliament House who help us to do our job. I had a list before me of all the different people and I ticked them off as he read them out, and his list is as close to complete as mine is.

In relation to the Hon. Sandra Kanck, it has been my very great pleasure to know Sandra for 17 years. I think I have probably known her longer than most people here have, and it has also been my pleasure to sit next to her for the past three years. Whilst we come from different parties, we do share very many common views, particularly on some of the big social and environmental issues that are facing our state.

I always pay a great deal of attention to what Sandra Kanck has to say as an experienced member of parliament, particularly in relation to some of the recurring issues that I might be seeing for the first time, only to have Sandra remind me that this is the fourth or fifth time that she has had to deal with it, particularly in relation to some of the core Democrat bills that are being put up time and time again. Whilst some people might say that that is indicating a lack of imagination, it also shows that there are some very important issues that we have not yet successfully addressed as a parliament.

I first got to know Sandra in the early 1990s. We actually worked together in the Conservation Council. She was working as a research officer, and I was working for the Australian Conservation Foundation, and not long after that she went to this place called parliament, which I could never imagine going to—it seemed such an exotic location—but we have kept in touch all of that time.

One of the things that I think Sandra personifies in relation to the legislative agenda is courage, and it is one of those words whose currency has been devalued by *Yes, Minister,* as much as anything else, because when they talk about 'courageous decisions', they are talking about decisions that are deeply unpopular, which no person in their right mind would make. However, there are some incredibly important issues that we deal with which most of us do not have the courage to name.

Quietly in the bar or quietly in the corridors, we might say to each other, 'Yes, she is right, but I am not going to say it in parliament.' Sandra has the courage to do that and she has paid the price, in some cases, through media attention, much of which has been most unfair. I want to particularly thank Sandra for the help that she gave me when I first arrived. As the person whom I knew the best and sat next to, she was an enormous help in terms of parliamentary processes and what to do next.

I will never forget—it was probably my second day—when I was sitting here like a startled rabbit listening to a debate that I was not really very interested in, she whispered to me, 'Mark, you don't have to stay here. You are allowed to leave.' It now gives me very great pleasure to say to Sandra Kanck that she is allowed to leave as well. Fifteen years is a fine service to have offered and, on behalf of the Greens, I wish you all the best in your career to come and I am sure that we have not heard the last of you.

The Hon. A. BRESSINGTON (17:53): I would also like to wish members here a very merry Christmas and a happy new year, and I hope that we all rest up for the year 2009. I thank members and all the staff here as well. I am not even going to try to list them all—I will leave that to the Hon. Paul Holloway. I thank you too, Mr President, for your balance and integrity in the role you perform. I do not have all that much experience but, from what I have observed, you do a fine job, and I would like to thank you for that. I also thank all members in this place for the experiences of the past 12 months.

To the Hon. Sandra Kanck, I also would like to convey my best wishes. I have a great deal of respect for her serving 15 years in this place. I think that, in itself, deserves a medal and, although we have disagreed on some issues, it is always appropriate to acknowledge that disagreement in here should never reflect what we feel about a person on an individual or personal level. I do see that the Hon. Sandra Kanck is a person who has a kind heart, and she has served her constituency base faithfully and persistently over that 15 years.

I have also had the honour to share a couple of constituents with her, and I know that she has gone above and beyond the call of duty for those particular people to try to seek justice for them. The presence of the member in this place has spurred public debate which is, in fact, a sign of a healthy democracy, and I admire the member for her ability to continue against the odds and to find it within herself to remain in politics even though we are aware of the demise of the Democrats. I sincerely hope that the Hon. Sandra Kanck remains involved in community issues, as she has promised. As I said to both her and her family, I wish them all the best and happy years to come.

The Hon. R.I. LUCAS (17:55): I also rise to pay tribute to Sandra Kanck's 15 years of public service and also the service she provided prior to that and I am sure the service she will provide over the coming years as well. I have not spoken to some of my former colleagues and the honourable member's former colleagues, such as Di Laidlaw and others, but I feel very confident that they would be comfortable with my speaking on their behalf and acknowledging and paying tribute to the Hon. Sandra Kanck, particularly Di, because I know that she worked closely with Di on many issues over the years, and I acknowledge that.

In speaking briefly about Sandra tonight and acknowledging her work, all members have said, and the reality is that, if we had all agreed with Sandra on many issues, I suspect she would be worried and thinking, 'How come everyone else is agreeing with me?' The reality is that I am sure that everyone who has spoken or who will speak tonight will acknowledge the fact that they have disagreed strongly or very strongly or whatever with the Hon. Sandra Kanck, whether it be on a small or a large number of issues. However, there have been many other issues where there have been shared views, and we have worked productively and collaboratively together.

I had the privilege and the pleasure to work with Sandra, wearing various hats and in various roles as leader of the government and leader of the opposition over a number of years, and I want to pay tribute to her. I agree with the Hon. Mark Parnell when he said that the thing he wanted to acknowledge was Sandra's courage in relation to the many issues she took on, not necessarily knowing that they were unpopular (they may well have been popular out in the community, and I am sure she would be the first to jump up and say voluntary euthanasia is an example) but where her voice was a minority voice within this parliament or in this chamber on the issue. Nevertheless, she continued to speak out and speak out publicly on the issue.

I guess there are two things I want to acknowledge and for which I want to pay tribute to Sandra, and I am not talking about particular issues but in terms of general principles. I acknowledge first her courage on a range of issues, but I also acknowledge her respect and support for the institution of the parliament and, in particular, the Legislative Council. She has been an outspoken advocate and supporter of the role of the Legislative Council in all the time I have known her, and she will continue to be. I hope that, when this matter is debated in 2010, the Hon. Sandra Kanck, as a non-member of the Legislative Council, will be there as an outspoken opponent of any proposition that seeks either to abolish the Legislative Council or to reduce the value, the importance, the power and the role of the Legislative Council.

The other area is her willingness to tackle so many issues. I think Sandra holds the record. I cannot think of any time in this chamber where the government of the day moved successfully to delete from the record a contribution someone made on a particular issue. I disagreed with her views on that issue and I had private discussions with her, but I am proud of the fact that my party supported Sandra and the Hon. Mark Parnell in opposing the proposition to delete from the record her particular view. It was a strongly and passionately held view. I disagreed with the view she had, and I would have preferred that she did not go down that particular path. However, we have a shared value, and that is that this is a chamber where members make their own judgments and decisions and that they have to be responsible for them.

The Hon. Sandra Kanck had to be responsible for the views she put—and they were unpopular views, and many of us did not agree with them. However, in the end, we respected her right as an individual to stand up, and we would not support a proposition that said that this chamber can just delete from the record a contribution the Hon. Sandra Kanck had made. So, she does hold a bit of a record, and I suspect she may well continue to be the sole record holder in relation to that issue.

There are many other things one could say, and I am not going to delay the debate this evening by going through them. I just acknowledge again her courage on so many issues. I feel privileged to have worked with the Hon. Sandra Kanck for the past 15 years or so. As the Hon. Sandra Kanck goes on to the next stage of her life and career, all I can say is that I wish Aussie, her friends and her colleagues the very best, because I know that whatever it is that the

Hon. Sandra Kanck does, she will give everyone curry in whatever challenges she takes up in the future.

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) (18:00): I would like to say a few words to acknowledge the 15 years that the Hon. Sandra Kanck has contributed to this place in a very valuable and constructive way. I have always admired Sandra's commitment to her beliefs, her determination and her unwavering support for the little person in particular. I know that she is a committed feminist and environmentalist and that she is dedicated to the rights of workers, and we definitely have these things in common.

While thinking about what I might say today, I found, and read, the member's inaugural speech. I was moved by her acknowledgement of South Australia's suffragettes, her dedication to the environment, conservation and water saving but, perhaps most particularly, by her support for a woman's right to choose. As Minister for the Status of Women and as the former environment minister, these are issues about which I care deeply and share concerns, and I firmly believe that they should be discussed and debated by parliamentarians. I thank Sandra for her really valuable contribution to these debates.

Sandra has always conducted herself with a great degree of dignity in this place and any other place that I have happened to come across her. She has certainly treated every individual in this place with a great deal of respect, which has impressed me, given that there is a cross-section of different personalities and personal style, shall we say, as well as a wide range of passionately-held differing points of view. She has always fought the issue, not the person; and she has been a great role model for women, particularly in parliament.

Sandra's contribution has always been well researched and very well prepared, although I have not always necessarily agreed with her content or her final position. I have learned a great deal from listening to Sandra's contribution—you can always learn something new from Sandra—and she has always expressed her views in a very clear and articulate way, which has also been appreciated.

Reading Sandra's inaugural speech, I was reminded that she has always been willing to speak up to fight against injustice where she has seen it and to lead the debate on a variety of social, economic and political issues. These are most admirable traits, and I respect the fact that Sandra has stayed true to herself and her values.

As a former minister for environment and conservation, I would also like to acknowledge Sandra's unswerving commitment to environmental issues. During my two years as minister, she assisted the government in passing significant legislative reforms in that area, and I hope that she was proud to support the long overdue changes to the animal welfare legislation and the site contamination legislation. I was also very pleased to have her support with the development of South Australia's marine parks. I believe that a few of the changes—I cannot list them all—will long be remembered, and I thank Sandra for her role in achieving those things.

Throughout her parliamentary career, Sandra has supported and promoted a range of progressive ideas with a great deal of tenacity. As I have said, although we have not always agreed on these issues, I certainly admire her for her commitment. I think that there were some instances when the media preferred to sensationalise the work that Sandra was doing, to focus ostensibly on outrageous grabs rather than the policy goal that she was trying to accomplish. As is sometimes the case in politics, at times, the media were more concerned with personality than policy.

As I have said, there have definitely been issues on which we do not agree, but I really think that, as a progressive woman, the Hon. Sandra Kanck has been an important contributor to this place. She is the last Democrat in any Australian parliament, and I hope that the party will see fit to select another woman to the South Australian parliament to carry on Sandra's gutsy work on important issues.

The Hon. Sandra Kanck has had a long and very productive career in politics—one she should be extremely proud of. I know that we all wish her well. I am sure that in the future our paths will continue to cross or merge, as the case may be, and I look forward to those occasions.

The Hon. J.S.L. DAWKINS (18:05): I rise briefly to add some comments in relation to the Hon. Sandra Kanck. There have been a number of things we have worked on right from the time I came here, involving social and conscience issues, and there have been many other things on

which we have been far apart. However, throughout all that, I would describe Sandra as very sincere about everything she has worked on, believed in and advocated for in this place.

It is a bit scary, but I believe that Sandra is the 18th member of this chamber to depart our ranks since I came here—almost a full complement of this council. I value the time I have spent working with her, and I remind her that, while today is her last sitting day, there are at least a couple of days of work to be done on the Glenside select committee. Those of us on that committee understand that Sandra's commitment to that report will be there right until the end.

Once again, I thank the Hon. Sandra Kanck for the sincerity she has brought to this place. I echo the comments of others in relation to the courage she has shown in bringing forward some issues which the great majority of us may not have agreed with; however, she believed in those things and brought them forward.

The Hon. S.G. WADE (18:07): I rise briefly to associate myself with the remarks that have been made in terms of Christmas greetings and thanks that have been expressed and, primarily, to pay tribute to the career of Sandra Kanck. I have been in this parliament only briefly, but I have found her to be a most impressive colleague. She has been very impressive as a Democrat, clearly respecting the right of people to hold their views as strongly as she held hers, and rejoicing in the existence of a marketplace of ideas.

As my colleague the Hon. Rob Lucas mentioned, the Hon. Sandra Kanck was a great advocate for the parliament. The energy with which she threw herself into the debates and the committees of this house demonstrated that she believed in the institution. I, too, recall very vividly (because it was in my early months) her determination to use the freedom of speech in this parliament and to resist the attempts of the government to suppress her voice.

I think it is also worth acknowledging that Sandra is the last of the Australian Democrats, who trace their origins to the liberal wing of my party, with Robin Millhouse and the Liberal Movement. Within that tradition, Sandra has been an advocate of progressive politics, and she has pursued that course with great passion. At a personal level, I thank her for her encouragement and support in relation to disability services. In Sandra, I found a strong and consistent ally.

I note that she has an interest in a cappella gospel singing, and I find that one of the most beautiful forms of music. She confessed earlier today that she is an agnostic, but I trust that her singing will be a blessing to her in a well-deserved and rich retirement.

The Hon. D.G.E. HOOD (18:09): I also rise to wish members a terrific Christmas and new year and to thank all the staff for everything they have done throughout the year. Certainly, this place would not function without them.

I take this opportunity to wish the Hon. Ms Kanck all the very best in retirement. As I look around this chamber, I think that of all the members in this place the Hon. Ms Kanck is probably the person I have actually had the least to do with, whether it be in committees, on bills, or whatever it may be. I probably know her the least of all as an individual. I, too, have been able to do nothing but admire her commitment to the issues that she has championed, and I think all of us can learn something from that. Whether we agree or disagree with the particular views she has taken is another matter.

Obviously, my party has differences of opinion with the Hon. Ms Kanck on many issues; but, the truth is that, as human beings, we probably agree on a lot more than we disagree. Whilst our differences may, in fact, be very stark, our similarities, I think, would probably be numerous also. I take this opportunity to wish you and your family well, Sandra, and I truly hope that you enjoy—I will not use the word 'retirement', because I am sure that it will not be that—the years ahead.

The Hon. R.D. LAWSON (18:10): As one who came to the parliament on the same day as the Hon. Sandra Kanck, I wish to extend my good wishes to her on her retirement and to wish her all the best of good health, happiness and fulfilment in the future.

Nothing has been said about the honourable member with which I would not wholeheartedly agree. She has, indeed, been a member most thoughtful, courteous, professional and committed to the many causes she has supported, often in the face of hostility, not only from an unfriendly media but also from her political opponents. Although Sandra is, I am sure, no friend of the armaments industry, I think it truly could be said of her that she is one who has always stuck to her guns. Well done, Sandra.

The Hon. I.K. HUNTER (18:11): I also rise to join my colleagues in congratulating the Hon. Sandra Kanck on her time as a member of the Legislative Council and to wish her and Aussie all the best in their next stage of life; I will not say 'retirement' either, because I am sure the frenetic pace of life that she is used to will continue after she leaves this place.

The Hon. Sandra Kanck and I have a bit of history, but I will not bore the chamber with the sordid details. Suffice to say, our paths have crossed many times over the decades be it at camps at Narrunga or David Hicks protests, or, indeed, when I lobbed into her office when I was trying to sign up her and her colleagues into the CPSU back in the early eighties (I succeeded with two out of three of the staff, I think), and, of course, latterly as a member of this august chamber.

A product of Broken Hill (like myself)—or, as Peter Goers has it 'the beautiful silver city of Broken Hill'—the Hon. Ms Kanck has come to this place with her attention firmly fixed on righting the social inequities that exist in our society. While, for many, Broken Hill has lots of positives to recommend it, for many others social inequities are on display there just as they are in any other place and, in some ways, even more so. Perhaps, partly for this reason as well as the Hill's culture of being there for your mates, looking after your mates, and sometimes taking up the cudgels on behalf of your fellow citizens, social justice is a major political concern for her and many of us who, indeed, hail from that place.

As many have commented already, making her voice heard on behalf of others was not something that the Hon. Ms Kanck ever shied away from. Whether it was euthanasia or harm minimisation, you could practically guarantee that the honourable member would always have an opinion and would always be more than happy to share it whether or not you wanted to hear it.

I must admit that I have not always agreed with the honourable member on every issue—and I am sure that there are many times when she has not agreed with me—but, even in those instances where our opinions have not aligned, I have had to respect her passion and conviction in her beliefs. The last elected Democrat in any Australian parliament has never been one to shy from a tough fight or controversy when she has believed that it is the right fight to have—and I admire her greatly for that.

One issue (of many) that we do agree on quite often is the environment. We are losing a green crusader in the resignation of the Hon. Ms Kanck. I can only hope that her replacement in this place comes here with at least half as much conviction as she has shown for protecting our planet and its inhabitants.

I also have a longstanding admiration for the honourable member's passion for human rights, even those human rights which might not have always been popular at the time. Some of the issues that the honourable member has championed have been out of favour with the wider community, at least when they were being raised. We cannot forget her support of David Hicks and her condemnation of his treatment, even at the height of fears about terror, and also her support for refugees or illegal queue jumpers, as John Howard tried to define them. We need people in this place, I believe, who fight for human rights, even those human rights that are not widely supported in the wider community—or, perhaps, especially those human rights.

I wish the Hon. Sandra Kanck well in her life after parliament. Despite resigning from her formal position as a politician, I suspect that she may be one of those people who never really retires from a life of politics. I look forward to her continuing passionate advocacy for those causes close to her heart. I would like to thank her for her service to this parliament.

The Hon. B.V. FINNIGAN (18:15): I join other honourable members in extending greetings to everyone for the coming Christmas season and to thank the staff for their work over the past 12 months, particularly to Chris, Jan and other table staff who have had a difficult period in stepping up after the sad passing of Trevor. I also welcome the Hon. Robert Brokenshire, even though he is not here, in joining the chamber. I will also associate myself with the best wishes extended to the Hon. Sandra Kanck by members and offer her the best in her retirement, at least from this place. I also am sure that she will stay active in public life. The comments of the Hon. Rob Lucas reminded me of a quote I saw only today from Mark Twain:

> Whenever you find yourself on the side of the majority it is time to pause and reflect.

I think there is no doubt that a voice like the Hon. Ms Kanck's does give us pause to reflect, even though it might be one that we do not agree with. If we all agreed on everything it would be a much duller parliament. It is fair to say that the Hon. Sandra Kanck and I have not agreed on

everything—or, perhaps, much—nonetheless, she has certainly always been unfailingly courteous and professional to me, and I appreciate that.

I put on record that I do have her book on the late President Kennedy and, having publicly said that I am in possession of it, she may want to come and reclaim it. I wish her and her family the best in retirement, particularly with the a cappella singing. I am happy to lend her some CDs of Palestrina if she wants to expand her collection.

The fate, to date, of the Democrats is a salutary lesson for us in not taking anything for granted in politics. I think the Hon. Ms Kanck could fairly say that she stood by her convictions and, whatever the political cost, she stuck to what she sincerely believed in. I do not think we can ask much more of ourselves, as public servants, than that. I wish her all the best.

The PRESIDENT (18:18): I might give the Hon. Ms Kanck the last word today, but first I would like to take the opportunity to thank the whips. The whips in this chamber certainly have to earn their money because of the number of Independents and smaller parties. Their working relationship with the President's office has been greatly appreciated, so thanks for that. I thank all honourable members for the humour shared throughout the year in the chamber. It is always nice to listen to those with a good sense of humour. Even though interjections are out of order, if they are funny, they are sometimes quite welcome.

I also thank honourable members for way that the debate has been conducted throughout the year. I thank Jan, Chris and our chamber staff for the wonderful job they have done and for the assistance they have given to the President's office throughout the year. I also take this opportunity to thank catering, Hansard, the library and all other parliamentary staff.

It has been a good year and a successful year. Of course, we had the passing of our Black Rod, Trevor, which was a very sad occasion, and we will always remember him, not only this year but for many years to come. I take this opportunity to wish staff, members and everybody else a very merry, happy and safe Christmas.

As for the Hon. Sandra Kanck, I will certainly miss the bright outfits. Whether a man or a woman replaces you, perhaps you had better give them some of your wardrobe and keep that seat bright. Some wonderful outfits have been worn in the chamber by Sandra, and it always seems to brighten up the place.

I must thank the Hon. Sandra Kanck on behalf of the working class; she has always been a supporter of the working-class people in South Australia and Australia, supporting their cause in any industrial matters that came before the house—as have the Democrats generally. I would also like to thank her for her continuing efforts on behalf of the terminally ill in relation to giving them a choice; those efforts have been wonderful and the honourable member is to be congratulated, because it is a tough issue, although I do not think that people recognise it as being a popular one.

On behalf of myself and all those who do not have the opportunity to stand up and speak when someone leaves here—and that is all the staff of parliament but particularly those connected with this chamber—I wish the Hon. Sandra Kanck well for a healthy, long and active not retirement, but life. I congratulate her on her time in parliament and on all she has done for the South Australian people.

Honourable members: Hear, hear!

The Hon. SANDRA KANCK (18:21): Thank you very much; that has been a delight to listen to. I would like to make some comments, and I will make some that will be slightly chiding of the government and the opposition, but I hope they will be accepted in the spirit I intend. This last week has been quite extraordinary. The workload has been intense, but I have had the opportunity to speak on some of the things about which I am really passionate—voluntary euthanasia, drug law reform, human rights, environment, and accountability and the true 'Keep the bastards honest' model.

The Hon. Gail Gago referred to my first speech, which was in February 1994—and I should draw members' attention to the fact that I am wearing the same clothes as I wore in February 1994, apart from a different scarf and necklace, so I am a true conservationist! One of my passions is population, and that was the central point of the contribution I made in my first speech. I wanted to make a contribution that was very substantial, and I cannot think of a more substantial issue than population. I know that both the government and the opposition have policies that support increases in population, but I want to make it clear to them both that there is an increasing awareness out there in the public that growing our population is the wrong way to go—particularly

when we have climate change and peak oil impending. They will have an enormous impact. When I raise the issue on talkback radio, people immediately ring in saying that we do not have the control of water right for us to be able to increase population; we cannot even maintain our health services to the standard required for the current population, so why are we increasing it?

As part of that speech I raised the issue of the Catholic Church, and the Hon. Gail Gago raised the right to choose. I just want to go back and remind members of what I said at that time: that each year half a million women around the world die from pregnancy-related causes, and each day 500 women die from backyard abortions. I was angered by the fact that in October 1993 the Catholic Church changed its position on birth control from it being merely immoral to one of it being intrinsically evil.

I also raised the fact that the Catholic Church had prevented the issue of population being debated at the United Nations Conference on Environment and Development at Rio de Janeiro. I think that these issues are absolutely fundamental, and I have a strong view that we need to keep the church and the state separate. So it was not intended, but it was interesting to see, coming full circle today, that I raised a question about bus advertising and the Atheists Association wanting to get some appropriate advertising on buses.

My first private members' motion, which was moved on the second day after I was installed in this place, was about the Adelaide to Darwin rail line, and I began asking questions from day one. I was surprised, when looking back at the record, to find that one of the early questions that I asked, would you believe, was about TAFE women's studies and threats to those, so it seems as if we are in a bit of a Groundhog Day loop. On that occasion it was a Liberal government and now we are talking about a Labor government, but it seems to be a case of the more things change, the more things stay the same.

My first bill was about the selection of judges. This followed a pre-parliamentary campaign against Justice Bollen. I had campaigned to get him sacked as a consequence of his rougher than usual handling in a rape in marriage trial. That bill required training of judges and, unfortunately, it was defeated. There was no easy way into parliament, and I think most crossbenchers here are in the same category. Within a matter of weeks I was having amendments drafted to the passenger transport bill that was introduced by Diana Laidlaw and standing in parliament and moving them.

Things have changed a lot over the 15 years. When I started I had to buy my own computer. That is now provided as a matter of course. There was no such thing as a global allowance. I found it quite shocking that, out of my own money, I had to go and buy highlighter pens and lever arch files because they were not provided to us. I used to say to people in business, 'You do not have to go and buy these things, but I have to buy them.' That is something that has greatly improved. Another thing that has improved is that Parliament House during this time became a smoke-free workplace, which I think is great for all of us.

I have been asked a lot about achievements. Going back to the most recent achievements, the reporting requirements that are now in place for the Mullighan inquiry are now the gold standard. They were raised at the ACOSS AGM, and now social justice groups around Australia will go into parliaments and say to parliamentarians, 'This is what you must have when you have royal commissions and significant inquiries with recommendations. You have to get in these requirements so you know what is happening and you can track the accountability of government for a number of years.'

I introduced South Australia's first human rights bill and also the first official visitors scheme, which I called the human rights monitors bill. In 1999 I actively campaigned—unsuccessfully—for the Nurses Act to be renamed the nurses and midwives act, but I am delighted that in just the last two weeks we have passed the Nursing and Midwifery Practice Act, which is exactly what I wanted to do. Almost everything I wanted to introduce by my two private members' bills have now been incorporated in the new act.

I conducted a three-month inquiry into the ETSA privatisation in 1998 after the Liberal premier announced the sale of ETSA, and came out very strongly against that sale. Although, in the end, I was not able to prevent it, I am very proud of the research that was done that showed just how bad this could be for us.

I have been arguing for a long time (and my previous colleague the Hon. Mike Elliott set the pace for this) for drug law reform—for sensible drug law reform based on science and facts and not myths and belief systems, and I am very proud of that.

I took the lead twice in introducing legislation to require a levy on plastic shopping bags and, as has been mentioned, I have been fighting on anti-nuclear causes not just for the 15 years I have been in parliament but for many years before that. Although I have not had huge successes on that front, I am still proud of the fact that I have been fighting on it.

I have enjoyed standing up for various groups, causes and individuals, particularly when the major parties have not been willing to take them up. In relation to the midwifery issue, I succeeded back in 1999 in maintaining a separate register for midwives. It did not seem much to me at the time, but it was something that midwives themselves told me they were very grateful for and, in 1999, they presented me with the inaugural Midwifery Advocate of the Year award.

I have taken up the cause of other people, such as the farmers on the Fleurieu Peninsula who have been campaigning now since the early 1990s about the drying up of the Foggy Farm tributary of the Deep Creek catchment. No-one else had taken them seriously up until then. They had never had a politician come down and have a look for themselves. I have been sticking up for farmers in the Upper South-East against the drainage scheme which the great majority of farmers do not want and which continues to do enormous damage to wetlands. When the opal mining bill was being debated, I successfully fought to give the small opal miners time to get their act into gear or get out of the industry before the big companies were allowed onto the field.

Of course, there have been my bills for voluntary euthanasia. Twice I introduced my dignity in dying bill and once I introduced a bill for a referendum for voluntary euthanasia. As has been mentioned, the South Australian Voluntary Euthanasia Society has given me life membership for my work.

My regrets? The Hon. Rob Lucas mentioned the censoring of the electronic version of *Hansard*. I think that was a very sad day for parliament. One can find the speech in the paper version of *Hansard*, but in the electronic version there is not even a mention of the motion I moved. It is as if that whole time in parliament did not exist, and I think when parliament begins censoring we are moving backwards. I regret that after 13 years we do not have legal voluntary euthanasia. The first attempt was made by John Quirke in 1995, and I believe it is something that will come.

I regret, too, how sensational the media coverage has been, particularly about what I have said about drugs and the use of MDMA for people with post-traumatic stress disorder and the use of medical marijuana. It has been very interesting to see how the media to some extent have made me a straw man to be shot down. My former colleague, the Hon. Mike Elliott, moved motions about supervised injecting facilities–which created no major fuss in the media at the time—and introduced a controlled substances (cannabis decriminalisation) amendment bill.

I find it sad that we have gone down the path of tough on crime legislation, with many MPs telling me in the corridors, 'I support what you are doing but I cannot deviate from the party line.' It is another regret that after five attempts—three by my former colleague, the Hon. Ian Gilfillan, and twice by me—we still do not have an ICAC in South Australia.

I have been unhappy with the way in which the government has become a voice for the development lobby. I was particularly unhappy in 2005 with the Whyalla steel indenture act, when the government overrode the efforts of the EPA to put in what would be considered normal licence requirements for OneSteel. I think it was a sad day when the people of East Whyalla were marginalised by this chamber. We had the situation where one group of people had to be sacrificed for an industry.

Looking back at this job, my minor regrets include not getting enough sleep. In the past week there was one night where I got four hours sleep and another night where I got 3½ hours sleep, and I struggled back in here to continue to debate legislation in a sensible way. That time restriction means that although I arranged for a good phone to be bought I have never had the time to sit down and work through the instruction manual to work out how to do much more than make and receive calls. It may be that post parliament I might actually learn how to send text messages on my phone.

In relation to the hours of the job, I do not know whether any member has looked at the new salary advice printout we have. According to the last month's salary printout—I assume it states the same on all members' printouts—I have worked 150 hours in November—which means a 37.5 hour week. I think we should all say if only! If we had a 37½ hour week I think I might have stayed on in parliament, but we do work exhausting hours.

We go out at nights to meetings, we work weekends and we work nights. I have generally found that I work a 60-hour week, and it can go up to 90 hours, even 100 hours in the frenetic times of a final sitting week before a break. Yet, despite the vilification that MPs receive and those sorts of working hours, we put our hands up for it again and again, and one has to ask why. I do not think it is because we are masochists: I think it is because being a member of parliament opens doors to us. It provides opportunities that we would not otherwise have had.

I think of some of the things I have experienced, such as climbing inside the boiler at the Torrens Island Power Station when it was being cleaned out to see the gas and oil jets, and climbing up to view Adelaide from the top of the Torrens Island Power Station. Who else gets those sorts of opportunities? That was part of one of the many things I did during my three-month inquiry into whether or not ETSA should be sold.

In recent times I have visited places as diverse as Cubbie Station and the Leigh Creek coal mine as a member of the Natural Resources Committee. I have done study tour trips to the US, Canada, Tanzania, South Africa, Israel and Palestine, where I met the President, Mahmud Abbas. In fact, I was telling someone last week that the necklace I was wearing on that particular day I had bought from a roadside seller; because I was not expecting to meet him and I did not have anything that seemed to me to be appropriate to be meeting a president.

I have attended conferences at an international level. I have visited Vietnam and the Philippines. While we are talking things international, I think it is important to recognise that this year we have seen very recently the election of Barack Obama as the incoming president of the United States, and he campaigned on the politics of hope. I contrast that with Australia from 2001 onwards.

What we saw was campaigning on the politics of fear. There was the issue of terrorism, there was fear of Muslims, there was the fear of people different from ourselves and the fear of people arriving on boats seeking asylum in our country. Fear is something that is very easy to prey on, because it is a part of our brain (for those who know a little about it) that resides in the amygdala, and it is hard-wired as opposed to the normal rational thinking. You can target that fear, because it is there in the amygdala. People are so open to manipulation. A clever politician can present himself as a saviour, for instance, if he is able to access the fear of people, even if there is nothing to fear. Yet, when I look at the politics of fear that has happened here over the last decade, really, within Australia and South Australia only a very small group of people have anything to fear.

Most of us live in comparative comfort. If you go into a house, I defy you to find one that does not have a DVD player, a sound system, a computer and so on. Some people might choose not to have a TV because they have views that they are better off without it, but that is a conscious choice. Even in the homes of disadvantaged people I have found that most of this sort of equipment is part of normal existence. Having visited developing countries I am aware of how lucky we are, but we remain fearful—we cringe, we are envious, we create goodies and baddies, and politicians can then use that, as I say, to create fear that becomes a very powerful tool. I came across a quote from Al Gore just yesterday, who said:

> Leadership means inspiring us to manage through our fears. Demagoguery means exploiting our fears for political gain. There is a crucial difference.

I have to say (as I said, I have been doing some gentle chiding) that we have not been seeing much leadership in this state in that regard. I see the Rann government with its tough on crime agenda, which has been echoed by the opposition, as playing fear like a Stradivarius. Then, when you do that, you can introduce legislation that is tough on crime because you can then say to the electorate, 'We are looking after you'. It is a very good technique in terms of being able to bring people back into the fold.

The weekend before last, I was at a wedding at which a man said to me, 'Tell me please that the Liberals are going to win the next election.' I said, 'Well, no they're not.' I said, 'They're probably going to win three or four, maybe five seats.' The reason they will not win is that, every time the government comes up with some tough on crime, tough on drugs, WorkCover amendments, or whatever, the opposition puts its hand up and says, 'Me, too'. That is the reason I believe that, come the election in 2010, unless there is some amazing turnaround, the Labor government will be returned. Basically, the opposition is not giving those people who changed their votes in 2006 to the Labor Party reason enough to return to the Liberal Party. Now that might be good news for the government, but it might also be a message to the opposition to look to what they can do.

I want to give thanks to a few people. My husband, Aussie, has the role of a political spouse which means that, when you get in at 1 in the morning, he is already in bed asleep and I have to wake him up to give him a goodnight kiss, and then see him briefly over breakfast and then head off to work again. Sometimes that happens day in and day out. My son, Brendon. His birthday is on 30 November, and I have lost count of the times that we have been sitting on 30 November and I have not been able to celebrate his birthday on his day.

To my current staff, Cathy and David, and Crystal, my trainee, and other previous staff, in particular, Greg, Jennifer, Julia and Anna, I say thanks. To Jan Davis—Jan, I think, is the Legislative Council to me—and her staff: the two Chrises, Claire, Guy and Margaret—nothing has ever been impossible for you. When we leave at 1 in the morning, we often forget that they are still here working together to ensure that everything will proceed smoothly the next day. To Todd, Mario, Karen and Antoni, our team of messengers, you are ever calm and cheerful, and unobtrusive even. Hansard, great work over the years. One of the Hansard reporters recently told me that I was a Hansard reporter's dream, so I felt very complimented by that, but I also want to compliment Hansard. They put in the full stops and the capital letters when we are frothing at the mouth from time to time and make us look good.

I do remember going with a committee to the APY lands, along with two *Hansard* staff, with their stenographic machine sitting on the tripod located in the dust. I remember the Hon. Terry Roberts having to rescue one of the cases when one of the dogs in the settlement was doing its best to place an indelible mark on it. Those Hansard reporters, particularly those who do that old-fashioned method—I do think that Hansard has to keep these people on for a long time because, when you go to places like that, you will not have the microphones, the tape recorders and so on—are an invaluable part of this institution.

Catering staff are here to all hours of the day and night to make us a cup of coffee while we are sitting into the wee small hours of the morning—and what a blessing that is to us. The building attendants are always there to change a light bulb; almost always at call; always cheerful. The people who probably will never read this *Hansard*, the cleaners: to know that we are going to come in day after day and find we have clean toilets and clean hand basins. We do not have to think about it, but it is such a pleasure and it makes our lives so much more easy.

I want to thank all other MPs with whom I have worked over these 15 years. I single out a number of people. My former colleague the Hon. Ian Gilfillan was the one responsible for my deciding seriously to contest a preselection in my party to get into parliament. I had run a couple of times as a favour to the party. It was Ian who said to me, 'Sandra, you have what it takes and you should do this seriously.' I said, 'Oh, all right,' and the rest is history. Some of you may not thank Ian but I do, and even when I came under some heavy attacks within my party two years ago, Ian stood by me.

I paid tribute to Diana Laidlaw when she left, but I believe that in my 15 years in parliament she was the best minister. She had public consultation down to an art form. If any impending minister wants to see how it is done, have a look at what Diana did legislatively, and talk to her about how she brought people in behind her with whatever she was doing. The Hon. Terry Roberts was one of the most gentle and respectful MPs that I think this place has ever seen, and I think that is something that others could aspire to.

I cannot complete my contribution without saying something about the role of the Legislative Council. It is a very important place. I have not done the statistics so far for this new session (that is, beginning in September), but over the previous session, beginning in April 2006, I kept a record of all the government bills where the government, itself, put in an amendment. It was 30 per cent of them, so almost one in three government bills were amended by the government itself. I think that is because we have a bicameral system where there is time for us to look at these things and to get it right. I know that this current government wants to have a referendum to abolish this place, but I will be there campaigning very strongly against that when we come up to the next election. It is a vital institution; one that ensures accountability and entrenches democracy.

I hope, with what I have done over these 15 years, that I have made the lives of some people better. I have received some wonderful emails and comments from people. I will read three of the emails, without giving the names. I have started to put these together in one document, but I will read, as I say, just three of them to tell you what some have said, as follows:

> As a person of the left, I found you as a person of the radical centre, an open-minded, inclusive, pluralistic and dogma-free individual willing to consider issues and people on their merits with an honesty and integrity that I continue to admire and respect.

Another email states:

> We thank you with all of our hearts for your integrity, your untiring support of the underdog, your work ethic, your sense of right and wrong, your guts and determination and for the humanity you have brought to the erstwhile cold and impersonal parliamentary process. We thank you for standing up for us and rallying against injustice. Your support of battling residents was appreciated and you will always be our heroine.

The third email states:

> I would like to thank you for the interest you have shown in bringing common sense and justice to a range of issues that are of concern to the community. I admire your gritty determination and courage in pursuing issues of concern to the community that because of their controversial nature are given a wide berth by other prominent people in the community from whom we should expect leadership. Society needs people of strong convictions and you have made it a better place through your active representation of the community in the upper house.

As I say, I have received some very positive feedback from the public. I do expect, of course, that there are people who I have made very uncomfortable, and I do not expect to be receiving emails of support from them. Certainly they are not writing to me, that is for sure.

In conclusion, I have had 15 amazing years. This has been much more than a job: it has been a passion. Sometimes it has been a sheer pain and at other times it has been an utter delight but, whatever way it is, I am the richer for it and you can be guaranteed—as a number of members have surmised—that I will not be going quietly. You can expect to hear from me in my 'retirement'.

Motion carried.

At 18:49 the council adjourned until Tuesday 3 February 2009 at 14:15.