LEGISLATIVE COUNCIL

Wednesday 27 July 2011

The PRESIDENT (Hon. R.K. Sneath) took the chair at 14:19 and read prayers.

SUMMARY OFFENCES (PRESCRIBED MOTOR VEHICLES) AMENDMENT BILL

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:20): By leave, I move:

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. P. HOLLOWAY (14:21): I bring up the 28th report of the committee.

Report received.

QUESTION TIME

BURNSIDE COUNCIL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:23): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Burnside council or, as the Hon. Mr Darley calls it, Burnsidegate.

Leave granted.

The Hon. D.W. RIDGWAY: Yesterday, in the House of Assembly, the Premier said:

I think I announced on Friday that it was my clear view, and that of the Attorney-General, that the Burnside documents, having been suppressed by the Supreme Court...that, in fact, the Burnside report should go to the Police Commissioner and should go to the Director of Public Prosecutions and go to the Anti-Corruption Branch.

My questions are:

1. In the light of the Premier's comment, I ask the minister: has the draft MacPherson report gone to the Director of Public Prosecutions, and on which date did it go?

2. If the Attorney-General considers that the draft MacPherson report is ready for consideration by a prosecutor, on whose advice did the minister consider that it needed to be pre-vetted by the Crown Solicitor's Office?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:24): I thank the honourable member for his question. I received a letter from the police commissioner on, I think, about Tuesday and after consideration—

An honourable member interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: There was an invitation for me to refer the—

An honourable member interjecting:

The Hon. R.P. WORTLEY: Refer, not request, not demand but refer the—

The PRESIDENT: Order! The honourable minister should answer the question without taking notice of interjections across the chamber, which are out of order.

The Hon. R.P. WORTLEY: It was a bit of clarification, Mr President. He invited me to refer the draft report to him, and that is an offer that I took up.

The PRESIDENT: The Hon. Mr Ridgway has a supplementary.

BURNSIDE COUNCIL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:25): Have you acceded to the Premier's advice and wishes that it be sent to the Director of Public Prosecutions and, if so, on what date did it go?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:25): I sent the draft report after I was invited to do so by the police commissioner, and I signed the letter on Monday. I instructed my office on Friday to actually prepare the letter and the draft report to be sent off.

The Hon. R.I. Lucas: That's not the question.

The PRESIDENT: Order!

The Hon. R.I. LUCAS: That's not the question.

The PRESIDENT: The Hon. Mr Lucas should put a sock in it. The Hon. Mr Ridgway.

BURNSIDE COUNCIL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:25): Has the draft report been sent to the Director of Public Prosecutions, as the Premier indicated it should be last week, on Friday?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:26): I haven't sent a copy of the report to the Director of Public Prosecutions. I am the minister who will make that decision. The Premier thinks it should go there, and that may very well be what happens but, in saying that, I have instructed the Crown Solicitor's department to go through all the material and if there are any allegations of criminal activity that that be referred to the Department of Public Prosecutions.

BURNSIDE COUNCIL

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:26): I have a further supplementary question. Given that the Attorney-General, along with the Premier, believes that the documents should be sent to the Director of Public Prosecutions, on whose advice did you ask the Crown Solicitor's Office to go through the report?

The PRESIDENT: Order! I regard that as a separate question altogether.

The Hon. D.W. RIDGWAY: Mr President, it was the second part of my original question that the minister has not answered.

The PRESIDENT: The minister can answer it as another question.

The Hon. R.I. Lucas: You can't really protect him, Bob; he's indefensible.

The PRESIDENT: Order!

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:27): I made the decision after being invited to by the police commissioner to send him a copy of the draft report. Any request from the Department of Public Prosecutions will be considered but, at the end of the day, all the evidence that the Crown Solicitor's Office has will be gone through and any allegations of criminality will be referred to the Department of Public Prosecutions.

The PRESIDENT: The Hon. Ms Bressington has a supplementary.

BURNSIDE COUNCIL

The Hon. A. BRESSINGTON (14:27): Can the minister indicate this time, when he sent the report to the police commissioner, had the original restrictions been lifted from the police commissioner to be able to forward that report to the Anti-Corruption Branch?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:27): I will take that on notice.

BURNSIDE COUNCIL

The Hon. R.I. LUCAS (14:28): I have a supplementary question arising out of the answer. Given the minister has now said that he sent the letter to the police commissioner on Monday, how was it that yesterday when he was asked the question he couldn't remember signing a letter to the police commissioner only 24 hours before?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:28): Mr President—

The PRESIDENT: You have answered it. The Hon. Ms Lensink.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Lensink.

BURNSIDE COUNCIL

The Hon. J.M.A. LENSINK (14:28): My questions are to the Minister for State/Local Government Relations on Burnsidegate:

1. Has the minister spoken to Mr Ken MacPherson since he announced the termination of the investigation by Mr MacPherson?

2. In particular, has the minister asked Mr MacPherson whether he has completed his report?

3. Has the minister asked Mr MacPherson what he considers would be the best course of action to progress the investigation and prosecute the allegations in the light of the minister's decision to terminate it?

4. Has the minister asked Mr MacPherson whether there is any further need for investigation?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:29): I thank the honourable member for her question. I have not spoken to Mr MacPherson myself personally. It is only natural; it is a draft report, it is not completed, and the Supreme Court has created a number of legal impediments to completing that report, so this is the reason why I terminated the investigation. I did not believe it was appropriate for taxpayers to spend millions of dollars on an investigation that could take years because of the legal impediments which have arisen out of the Supreme Court judgement.

BURNSIDE COUNCIL

The Hon. J.M.A. LENSINK (14:30): Has anybody in the minister's office spoken to Mr MacPherson or anybody in his department—

The Hon. A. Bressington interjecting:

The PRESIDENT: Order! The Hon. Ms Lensink might want to repeat that: I could not quite hear.

The Hon. J.M.A. LENSINK: Has anybody in the minister's office or anybody in his department spoken to Mr MacPherson on this matter since the minister was appointed to the role, and does he expect that the report will never be progressed?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:30): I will take that question on notice.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:30): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question relating to Burnside city council.

Leave granted.

The Hon. S.G. WADE: The suppression order the Supreme Court put in place to protect the MacPherson investigation is being used by the government as a reason to avoid further investigations. The minister's press release of last Thursday reads:

> However, the Supreme Court's ruling has created a series of very significant legal impediments to the further investigation of any allegations arising from the draft provisional report.

I draw the minister's attention to his use of the words 'legal impediments'. I ask the minister what legal impediments exist to further investigation, and will the government go back to the Supreme Court to seek a variation of the suppression order to the extent necessary to ensure that there are no legal impediments to further investigation of the allegations, and on whose advice did he assert that there are legal impediments? Was the advice legal or political?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:31): The legal impediments I refer to include the fact that, first, there is a suppression over the draft report. Secondly, a number of the terms of reference were ruled

invalid. That in itself has created a huge impediment to completing that report, and this is even acknowledged by the judges themselves in regard to problems that would arise out of completing this report. They are the legal impediments I have talked about.

BURNSIDE COUNCIL

The Hon. S.G. WADE (14:32): By way of supplementary question, I stress that the minister was specifically—

The PRESIDENT: To be asked without explanation.

The Hon. S.G. WADE: Okay. How do those matters affect investigation rather than reporting?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:32): My position has always been that, to complete the investigation under the court decision, to rule a number of the terms of reference invalid could possibly take years. We must remember we have entered the third year of this investigation, an investigation which was to take 12 weeks. This has now created significant barriers to having the report completed. I was not prepared, like the opposition is prepared, to spend millions of dollars of taxpayers' money for an investigation that may take years to complete, if it was ever completed.

BURNSIDE COUNCIL

The Hon. T.J. STEPHENS (14:33): A supplementary question arising from the answer: is the minister suggesting that, if somebody is guilty but the matter drags on for some period of time, then we should not pursue them?

The PRESIDENT: You do not have to answer. Do you have a further supplementary?

BURNSIDE COUNCIL

The Hon. T.J. STEPHENS (14:33): Yes, a further supplementary question: you are subscribing to the premise that, if somebody is guilty and it takes some period of time to convict them, it is not worth pursuing?

The Hon. A. Bressington interjecting:

The PRESIDENT: Order! The Hon. Ms Bressington.

The Hon. I.K. HUNTER: I understand that that so-called supplementary does not arise from the original answer and therefore does not qualify as a supplementary.

The PRESIDENT: Yes; I uphold that point of order.

BURNSIDE COUNCIL

The Hon. R.I. LUCAS (14:33): By way of supplementary question, arising out of the minister's original answer—

The Hon. I.K. Hunter: I'm listening.

The Hon. R.I. LUCAS: Doesn't matter whether you're listening.

The Hon. I.K. Hunter: No-one else does, Rob. You'd better take it.

The Hon. R.I. LUCAS: Don't you bet on it. Did the minister consult any of his cabinet colleagues prior to taking his decision to not continue with the Burnside inquiry?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:34): I didn't.

UPPER SPENCER GULF

The Hon. P. HOLLOWAY (14:34): I seek leave to make a brief explanation before asking the Minister for Regional Development a question about technology in the Upper Spencer Gulf.

Leave granted.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Would you please be quiet?

The PRESIDENT: Good idea. Funny how we all turn into comedians as soon as there is a bit of press in the gallery.

The Hon. P. HOLLOWAY: As I said, it is amazing, isn't it? The British parliament: 620-odd members and they will listen to question time in peace, but not here, not from this lot.

The Hon. J.S.L. Dawkins: Get on with the question.

The PRESIDENT: Order! He's doing very well.

The Hon. P. HOLLOWAY: Many of us rely on our mobile phones and computers to do our job, and it is hard to imagine what life would be like without ready—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Would you be quiet, please?

Members interjecting:

The PRESIDENT: Order! They will quieten down in a minute.

The Hon. D.W. Ridgway interjecting:

The PRESIDENT: Has the Hon. Mr Ridgway finished?

The Hon. D.W. Ridgway: For the time being.

The PRESIDENT: Good. The Hon. Mr Holloway.

The Hon. P. HOLLOWAY: As I say, many of us rely on our mobile phones and computers to do our job, and it is hard to imagine what life would be like without ready access to the information we can access from the internet, and it is particularly relevant for people living in regional areas who have the added barrier to communication of significant distances. My question to the Minister for Regional Development is: will she inform the chamber how the government has recently moved to improve internet access in one of our regions?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:35): I thank the honourable member for his most important question. Indeed, the internet and the digital economy have become more and more important in many areas of our lives. Whether we are involved with business connections and information or personal connections using social media, through sites such as Facebook and Twitter, accessing the internet by computer or mobile phones, using gaming consoles to play network games, catching up with TV shows that you have missed out on, using services such as the ABC's iView, teleconferencing or when your doctor receives your MRI scan electronically, all of these actions are part of the digital economy. Using Google to search the internet has become the first resource for many of us to obtain information, and what a great resource it is, too.

The transformative power and opportunities presented by this technology have been recognised by the Australian government, and that is why construction of the National Broadband Network (NBN) has commenced. As members would be aware, the NBN will involve the laying of fibre-optic cabling to 93 per cent of Australian homes, schools and businesses providing broadband speeds of up to 100 megabits per second. While the rollout of the optic fibre to provide high-speed connectivity is the solution adopted many areas, it will not be the only means to improve broadband availability, especially where there are very large distances and very small populations.

Maximising the potential of Australia's digital economy is expected to help deliver improved wellbeing in the form of better economic, education, health, social and environmental outcomes for all Australians. Participating in the digital economy provides opportunities to improve access to services for people living in rural and regional Australia and helps them overcome the tyranny of distance, which, as we know, many regions throughout South Australia do suffer from.

The federal government's Regional Telecommunications Independent Review estimated that $3.2 billion and 33,000 jobs are lost to regional areas across Australia every year due to inadequate broadband infrastructure; hence, an effective broadband service is obviously significant for us. It is significant for the delivery of key services in regional Australia, such as health, education and things like emergency services, and the efficiency and productivity of primary industries, transport, commerce and resource sectors and obviously encouraging social participation and inclusion.

That is why today I am very pleased to be able to announce a grant of just over $112,000 from the state government Enterprise Zone Fund—Upper Spencer Gulf and Outback to help Aussie Broadband Pty Ltd provide broadband services to towns in areas not covered by the National Broadband Network rollout. This funding will enable local businesses in the Port Pirie region to benefit from improved efficiency and productivity across the transport, commerce and resource sectors. It will also provide telecommunications infrastructure to support the development of mining offices beyond Port Pirie and have positive flow-on effects in terms of social inclusion and social participation for residents in those areas.

We should not underestimate the importance of this tool for regions. It has the ability to connect communities and provide very important business opportunities. I am advised that the commitment from the Enterprise Zone Fund will be used to support installation of wireless technology hardware on the existing antennae and also at the Port Pirie Hospital.

The project will provide connection to Adelaide through the existing Nextgen fibre network, extending coverage to a wide number of townships—places like Port Flinders, Gladstone, Georgetown, Laura, Stone Hut, Crystal Brook and a number of other communities. As a brief aside, it is very pleasing to note that this project has a number of funding partners, including the Department of Further Education, Science and Technology through the Rural Research and Development Program and Northern Areas Council as well as Aussie Broadband.

I believe this partnership across the three levels of government underlines the importance that projects such as this have across our whole community. As I have said in this place before, the Enterprise Zone Fund is a $4 million competitive fund and it provides up to 50 per cent of funding to projects to develop community capacity and regional development. The guidelines obviously encourage industries to apply for these grants. The potential applicants can access guidelines and obtain further information to assist them on our website.

BURNSIDE COUNCIL

The Hon. A. BRESSINGTON (14:41): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations questions about Burnside council.

Leave granted.

The Hon. A. BRESSINGTON: Over the past few weeks there has been a focus by the majority of members in this place on what the Hon. John Darley has dubbed the 'Burnsidegate affair'. Firstly, the minister stated that he has not read the draft MacPherson report, nor has he spoken to Mr MacPherson himself. He made a political decision to terminate the Burnside inquiry. Then the minister tried to mask his incompetence, stating that he was going to refer the draft report to the DPP, which the rest of us know is a futile act, because the evidence relied upon by Mr MacPherson in reaching criminal findings is not admissible in court due to section 272(6) of the Local Government Act 1999.

Earlier this week I sought legal advice from prominent Queen's Counsel Mr Kevin Borick, which reveals that the minister in terminating the MacPherson inquiry has acted unlawfully. I sought this advice after looking to the Local Government Act 1999 and seeing no lawful authority for the minister to terminate the inquiry. The act is very clear on the process for establishing such an inquiry and states that once established the investigator must—must—report to the minister and that a report must be provided to the council concerned.

An honourable member interjecting:

The Hon. A. BRESSINGTON: You know better than a QC, do you? In the advice Mr Borick QC states:

> In my opinion there is nothing in the legislation which permits the Minister to terminate the Inquiry. Once lawfully appointed (and I assume that is the case) the Investigator must conclude the investigation, he must then prepare a report and he then must supply the report to the Minister. The decision made by the Minister was unlawful.

Mr Borick QC also states that the minister's political decision is open to judicial review, suggesting that 'the investigator has the right, and perhaps a duty, to instigate judicial review proceedings'. Government ministers should be bound by the rule of law, just as the citizens of this state are. My questions are:

1. Did the minister bother to read the Local Government Act 1999 to ensure that the advice that he received was in fact lawful? If not, why not?

2. Will the minister now re-establish the inquiry, allow Mr MacPherson to conclude his investigation and report to the minister as the act specifies?

3. Will the minister now contact Mr MacPherson and get an estimate of how long it would take him to complete the report and report back to the council on his answer?

4. Or will the minister continue to show his arrogance and ignorance, dismissing all independent advice and further damaging the reputation of this Labor government?

5. In a last-ditch effort to attempt to save his reputation and restore some faith in the government, will the minister fund a judicial review if Mr MacPherson or others express an intention to pursue that course of action, which is their legal right?

The PRESIDENT: The honourable minister should disregard the personal opinion in that question when he attempts to answer.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:44): Thank you, Mr President. I will say that I have read the Local Government Act, and I did look at 272 quite thoroughly during my deliberations. I sought legal advice before terminating the investigation, and I am very comfortable with that decision.

I rely on crown law's legal advice in matters like this. I understand that the honourable member has sought her own legal advice, but that does not undermine my confidence in the Crown Solicitor's department. If someone wants to have a judicial review, it is their right under the law. I respect that right, but I will say this: you can put 10 QCs in a room and you will get 12 opinions.

The PRESIDENT: The Hon. Ms Bressington has another opinion?

BURNSIDE COUNCIL

The Hon. A. BRESSINGTON (14:45): No, just a supplementary. Will the minister waive legal professional privilege and release the advice he received, so that the people of this state can be assured that the advice he received supported his decision to terminate the inquiry, and provide it to the council on the next sitting day?

Members interjecting:

The Hon. A. BRESSINGTON: If he can read it right, yes.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:46): Mr President, the advice I received—

The PRESIDENT: Order! The honourable member cannot seek crown law advice anyway.

The Hon. R.P. WORTLEY: That's what I was going to tell her.

BURNSIDE COUNCIL

The Hon. R.I. LUCAS (14:46): I have a supplementary question arising out of the minister's original answer. Given that the minister has confirmed that he did not consult cabinet colleagues prior to making his decision, when did he advise the Premier, the Attorney-General and other cabinet colleagues of his decision, or did they find out about it from the media?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:46): I made my decision to refer the report on last Friday, Mr—

The Hon. R.I. Lucas: We know that, but did you advise the cabinet—

The PRESIDENT: And so would any responsible minister.

BURNSIDE COUNCIL

The Hon. R.I. LUCAS (14:47): I have another supplementary question arising out of the minister's original answer. Why is the minister refusing to answer the question as to when he advised his own Premier, his own Attorney-General, his cabinet colleagues, of his decision, or did they find out—

The Hon. I.K. HUNTER: Point of order, Mr President.

The PRESIDENT: Order! The Hon. Mr Hunter.

The Hon. I.K. HUNTER: This question does not arise from an original answer; it is a direct repeat of his supplementary question and is out of order.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Hunter.

The Hon. I.K. HUNTER: Thank you, Mr President. The question that is being asked by the Hon. Mr Lucas in the supplementary is a repeat of his previous question—

The PRESIDENT: No, do you have a question?

Members interjecting:

The Hon. I.K. HUNTER: —and does not rise from the original answer. It is not a supplementary question.

Members interjecting:

The PRESIDENT: You have the call.

WORKPLACE SAFETY GRANTS

The Hon. I.K. HUNTER (14:47): Thank you, sir. My question is to the Minister for Industrial Relations.

Members interjecting:

The PRESIDENT: He has asked a question.

The Hon. I.K. HUNTER: Can the minister inform the chamber on what is being done to assist research into work—

Members interjecting:

The PRESIDENT: Order! You might want to start again.

Members interjecting:

The PRESIDENT: Order!

The Hon. I.K. HUNTER: Thank you sir. My question is to the Minister for Industrial Relations. Can the minister please inform the chamber on what is being done to assist research into work, health and safety issues in South Australia?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:48): I thank the member for his interest in these matters. I know the honourable member has had a longstanding interest in worker safety. The SafeWork SA Advisory Committee, through its research committee, is responsible for an occupational health, safety and welfare grants program. Annual funding is allocated to three types of grants: commissioned research grants, small grants, and Australian Research Council Linkage Project support grants.

There was a call for applications for commissioned research grants in July 2010 in relation to 2010-11 funding. In December 2010, the advisory committee (which consists of representatives from both employee and employer associations) agreed to fund four projects. The University of Adelaide was successful in receiving funding towards the establishment of a senior academic position and associated activities in process safety and integrity management. The university also received funding towards measuring the effects of safe vehicle purchasing by Fleet SA and researching stress, work and technology across the life cycle.

On Monday 4 July, I announced that applications were now open for funding under the next round of the SafeWork SA Work Health Safety Commissioned Research Grant Program. A total of $412,000 is available for successful applicants, and the selection criteria require intended projects to match the objectives of South Australia's Strategic Plan, through research aimed at preventing work-related injury or illness.

The grants will help fund research in priority areas such as systemic factors behind workplace injury, improving safety in small businesses, young and new workers, safety in aged care and in-home services, improving regulatory performance, and health and safety in the mining and quarrying industries.

High quality research is critical to improving and expanding the base of work, health and safety knowledge in South Australia. Such research can help develop effective solutions to reduce work injury and disease for the benefit of working South Australians, their families, their employers, their community and the economy. An information session for potential applicants will be held on

11 July 2011, with further details available on the SafeWork SA website. The deadline for applications is 5pm on Friday, 26 August.

APY LANDS, DOMESTIC VIOLENCE

The Hon. T.A. FRANKS (14:50): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question regarding women and children escaping violence or suspected child abuse on the APY lands.

Leave granted.

The Hon. T.A. FRANKS: Last November the South Australian government stated (on page 6 of the annual Mullighan report) that DPC-AARD 'is working with the commonwealth and Northern Territory governments to identify funding options to support the provision of safe accommodation and services in Alice Springs for women and children escaping violence or suspected child abuse'. Can the minister inform the council:

1. Is she aware that in 2009 the NPY Women's Council recommended that the SA government not build a safe house in Umuwa on the APY lands but that it instead establish a safe accommodation place in Alice Springs that specialises in women's and children's health care?

2. Given that last November the government reported that it was working with the commonwealth and Northern Territory governments to identify funding options to support this recommendation, will the minister please provide the council with an update on what work has been done and the relevant discussions, including the date on which the discussions with the Northern Territory government commenced?

3. Similarly, what discussions have taken place between the South Australian government and the NPY Women's Council on this matter since 2009?

4. When does the minister expect that this matter will be resolved?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:52): I thank the honourable member for her most important question. Indeed, the safety of Indigenous people both on the lands and in other communities is most important to this government, and there are a number of initiatives that have been put in place to address these issues.

The issue of the safe house on the NPY lands is quite a controversial issue. I am aware that discussion around this has been going on for some time. I understand that there are a range of different opinions around this. It is often very difficult to land on consensus views in these communities given that, as I said, there are a range of different points of view about this.

Work is being done on this. As I said, the details of these negotiations are still under way. I would need to take on notice the details of those questions to bring back a response. I am not up to date with the latest on where this issue lies but, as I said, it is an ongoing issue and there is a great deal of controversy around it.

We continue to work with community groups, key stakeholders and agencies involved to work across not just safe housing issues but a wide range of other issues to deal with the safety and wellbeing of women and children in those communities. So, I am happy to bring back a response to the detailed questions that the honourable member has asked at another time.

LOCAL GOVERNMENT REGIONAL SUBSIDIARIES

The Hon. J.S.L. DAWKINS (14:55): I seek leave to make a brief explanation before asking the fourth Minister for State/Local Government Relations this year questions about regional subsidiaries under section 43 of the Local Government Act.

Leave granted.

The Hon. J.S.L. DAWKINS: Since 3 December 2009 when this council passed the Local Government (Accountability Framework) Amendment Bill, I have pursued the need for regulations to exempt small regional subsidiaries from the requirement to establish an audit committee with the minister's three immediate predecessors. Despite former minister Gago's assurance in this house 13 months ago that work on the regulations had commenced, the matter has not been resolved. Indeed, the Murray Mallee Local Government Association, one of the affected subsidiaries, has had no response to correspondence on this issue from any minister. My questions are:

1. Has the Minister for State/Local Government Relations responded to the Murray Mallee Local Government Association?

2. Will the minister uphold the promise of the former state/local government relations minister to introduce regulations exempting small regional subsidiaries from establishing an audit committee?

3. Will the minister agree to reimburse regional subsidiaries which, in complying with this legislation, may have incurred unnecessary costs to their detriment?

4. Will the minister, in good faith, show leniency on regional subsidiaries which have not complied with the legislation, having relied upon the former minister's undertaking in June 2010, before the legislation was operational, to exempt them by regulation?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:56): I thank the honourable member for the very important question. I will look at honouring the position that the former minister had undertaken. I will act in good faith in regard to these issues. The other two questions you have asked, I will take on notice.

LOCAL GOVERNMENT REGIONAL SUBSIDIARIES

The Hon. J.S.L. DAWKINS (14:57): I have a supplementary question. Given that answer, will the minister expedite the matter given that, as I have explained, this has been going on for 19 months and the new minister is the fourth person to hold that office in the time that this matter has been going on?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (14:57): I will give the member a commitment to expedite this issue as quickly as possible.

The Hon. R.I. Lucas: You'd better be quick, because there might be a fifth minister, too.

The PRESIDENT: Order!

DOMESTIC VIOLENCE

The Hon. CARMEL ZOLLO (14:57): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the domestic violence conference held in Mount Gambier.

Leave granted.

The Hon. J.M.A. Lensink: I was the only one who was there.

The Hon. CARMEL ZOLLO: I am pleased the honourable member was there and I am sure she will get a mention. The minister is obviously committed to working to reduce violence against women; however, this is an issue that cannot be tackled by governments alone. Non-government organisations, interest groups and individual citizens all have a role to play. My question to the minister relates to the domestic violence conference held recently in Mount Gambier: can the minister inform the chamber of some of the outcomes and complementary initiatives relevant to the recent conference?

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (14:58): I thank the honourable member for her most important question. I am advised that in July 2009 Soroptimist International Mount Gambier, in partnership with sector representatives including the Limestone Coast Domestic Violence Service, Victim Support Service and UniSA, facilitated the very successful United Against Domestic Violence—For the Sake of the Children conference.

Feedback from that conference highlighted the need to address the prevention of domestic violence and, particularly, the need to engage men in its prevention. The United Against Domestic Violence—Engaging All Men in Prevention National Conference was held in Mount Gambier from 13 to 15 July this year in response to that particular feedback. I personally was very disappointed that I was not able to attend the conference, but I was pleased to be able to send a representative along, and obviously I have been very interested in making sure that I receive the feedback and a progress report about the outcomes of this really important conference. I also would like to acknowledge that my colleague the Hon. Michelle Lensink attended the conference.

The conference included speakers and presenters showcasing a range of programs, initiatives and approaches to help those in the field improve their capacity to address men's role in domestic violence and their role in preventing it. Too often, domestic violence is seen as a women's issue. We know that we will never succeed in significantly reducing domestic violence until the whole of the community sees domestic violence as a community-wide problem, not just a women's problem. Keynote speakers included the Commissioner for Victims' Rights, Michael O'Connell; the 2010 White Ribbon Ambassador of the Year, Nick Mazzarella; and Chief Executive of the White Ribbon Foundation, Libby Davis.

I understand that the three-day conference also included concurrent sessions from those working in the field. The final day of the conference included a one-day workshop facilitated by Dr Michael Flood, a researcher and educator based at the University of Wollongong. He is also a trainer and community educator with a long involvement in community advocacy and education work focused on men's violence against women.

The workshop, 'Let's stop the violence before it starts,' provided information on using primary prevention strategies to engage men and mobilise communities. The conference provided a mechanism for those working in the domestic violence sector with tools and also information on how to address men's violence against women.

The Office for Women presented an overview of the Women's Safety—South Australia's Reform Agenda and one of its key initiatives, the family safety framework, which I am very pleased to say is being rolled out to Mount Gambier at the moment and to the Murray Mallee in the very foreseeable future. This work is also supported by the National Plan to Reduce Violence Against Women and their Children, which seeks to achieve a significant and sustained reduction in violence against women and their children through four three-year action plans.

In this place, members may recall that I have provided funding to the Coalition for Men Supporting Non-Violence to support White Ribbon Day activities. The coalition has a proven and very strong track record in this area and is highly regarded by the domestic violence and sexual assault sectors. I understand that there is no other equivalent group in South Australia. I was delighted to hear that coalition members also attended this conference.

I understand that the coalition will continue the tradition of coordinating the Men in the Mall event for White Ribbon Day, which is on Friday 25 November this year. Members of the coalition are liaising with White Ribbon Day ambassadors in the metropolitan area, as well as regional and rural communities, to support them in establishing events and programs relevant to their communities to highlight the issues and to get the message out there.

We know that, with White Ribbon ambassadors, we try to recruit those men in our community who are in leadership-type positions, men who are well respected in their communities, to use them as advocates and role models for other men. We seek to engage men across a wide range of different age groups and backgrounds in an attempt to provide strong role modelling and advocacy right throughout our community—and, indeed, they do a wonderful job.

We know that a number of members in this chamber are White Ribbon ambassadors, and I congratulate them, and I encourage those who are not to consider taking on this role. Unfortunately, most of the members of the media have gone, but I also encourage those members of the media who are still here to do the same.

The coalition will also be undertaking awareness-raising activities, targeting men's groups in the community, such as men's service clubs, cultural groups, sporting clubs and young men's groups. The activities will focus on promoting the Don't Cross the Line campaign message, which we know is about respectful relationships for all men and women.

CHELTENHAM PARK

The Hon. R.L. BROKENSHIRE (15:04): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about the Cheltenham Park Racecourse.

Leave granted.

The Hon. R.L. BROKENSHIRE: I have to hand a very dedicated body of historical research by the Cheltenham Park Residents Association concerning the Cheltenham racecourse. Included in that is interesting information that the Cheltenham racecourse was used during the Boer and First and Second World Wars as a training camp.

The residents' association have gone to a great level of detail and effort to get to the bottom of a significant issue; namely, was the Cheltenham racecourse held on trust by the Port Adelaide Racing Club and subsequently, by merger, the South Australian Jockey Club, with that trust being for the retention of the land as either a racecourse or public lands?

The rezoning of Cheltenham involved the former planning minister and is a significant issue affecting the Charles Sturt council and its ratepayers. I understand the residents' association has raised a number of queries with council about its historical information on the precinct. My questions are:

1. Is the minister aware of a trust deed existing?

2. Will the minister write to the SAJC requesting a copy of the deed?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:06): I thank the honourable member for his very important question. There are two very important issues here. I could go through the whole St Clair issue and the like if you want me to, but I will take it on notice and get back to you as soon as possible.

BURNSIDE COUNCIL

The Hon. J.S. LEE (15:06): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question about Burnside council.

Leave granted.

The Hon. J.S. LEE: The *Eastern Courier* Messenger of 19 July 2011 reported the minister as saying:

> Handing this material to the Crown Solicitor's Office will ensure that the appropriate checks are being made so that the people of Burnside can be assured that there aren't any outstanding allegations left unaddressed following my decision to shut down the enquiry.'

My question to the minister is: given the minister's assurance to the people of Burnside to ensure that any outstanding allegations will not be left unaddressed, what action will the minister take to ensure that non-criminal breaches of other legislation are being investigated?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:08): I thank the honourable member for her question. I have instructed the Crown Solicitor's Office to go through all the material, and if there is any hint of criminal activity we will then refer—

Members interjecting:

The PRESIDENT: Order!

The Hon. J.S. LEE: I have a supplementary question arising—

The PRESIDENT: Hang about; we are just waiting. The Hon. Ms Bressington referred to this place this morning on radio as a 'monkey cage', and she might have got it right. It is behaving like one at the moment. Is the honourable minister going to finish his answer?

The Hon. R.P. WORTLEY: Thank you, Mr President. Arising out of the Supreme Court decision to render a number of the terms of reference invalid, it has created quite a number of legal impediments to completing the investigation, so I have instructed the Crown Solicitor's Office to go through all of the material and if there are any criminal allegations we will then refer them to the DPP, which is an independent body.

I have also had quite a number of meetings with the Local Government Association. We want to work together and we are going to work together to ensure that there are appropriate changes to the Local Government Act to give councils the appropriate tools to handle the sort of issues that occurred in the Burnside council in the very early days; to give them the tools to handle these issues themselves before they become big issues requiring taxpayers to spend millions of dollars investigating the issues.

AGE MATTERS PROJECT

The Hon. J.M. GAZZOLA (15:10): Will the Minister for Industrial Relations provide the chamber with details of how SafeWork SA is addressing the issue surrounding an ageing workforce in South Australia?

The PRESIDENT: I am interested in this one. The minister.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:10): I thank the honourable member for his very important question. I am sure this is of great interest to you, Mr President. Australia currently ranks 13th in the list of Organisations for Economic Cooperation Development (OECD) countries in terms of the proportion of people in the workforce aged 55 to 64. Furthermore, we know that, after Tasmania, South Australia has the oldest population in Australia and will therefore be more affected by the labour exodus as the baby boomer generation moves into retirement.

The average age of full-time workers has been increasing faster than the general population, with workers in the vital areas of education and health amongst the oldest workers in Australia. The state government is considering all avenues of augmenting labour supply to our workforce in order to have sufficient workers for our state's future industry and economy. SafeWork SA is managing the Age Matters project through its work/life balance strategy after successfully tendering for flexible working arrangements funding through the Improving with Age funding.

Age Matters is a 16-month project that seeks to address the issues that mature age workers are facing in recruitment and employment, such as age-based bullying, being pushed towards retirement, access to promotional training and flexible work arrangements. The first stage of the project has involved consultation with key stakeholders, including representatives from private sector human resource agencies, community sector groups, related government agencies and academia, to ascertain ways to address the barriers facing the mature-age worker, as well as to create effective tools for promoting the utilisation of this increasingly relevant sector of the workforce.

Focus groups of employers, as well as focus groups of older workers, will meet in August 2011 to ensure that the project is on target in addressing the needs of these two critical markets. The Age Matters project plans to undertake promotional events and presentations celebrating the International Day of the Older Person on 1 October 2011. During the SafeWork Week 2011 it will distribute tools, including print resources and a web clip video for training purposes. These resources will also be broadly disseminated on the SafeWork SA and Equal Opportunity Commission websites, assisting in dispelling the myths frequently associated with mature-age workers and to promote the benefits of a mature workforce.

SafeWork SA is working in partnership with the Equal Opportunity Commission to tackle age-based discrimination through the development of employer training modules as part of the identified outcomes of the Age Matters project. The Equal Opportunity Commission carried out an age discrimination survey in March 2010 regarding employment and recruitment difficulties for persons aged 45 and over. It provided an insight into the experiences of age discrimination that older South Australians are encountering and where attention needs to be focused.

Age Matters will work with industry and business groups, employers and employees, to raise awareness of the importance of mature worker participation in our state. This will include developing strategies to retain older workers and optimising mature worker participation, including combating ageist stereotypes, raising awareness of protections afforded by discrimination legislation and promoting the adoption of flexible workplace arrangements.

MENTAL ILLNESS AND INTELLECTUAL DISABILITY TREATMENT

The Hon. K.L. VINCENT (15:14): I seek leave to make a brief explanation before asking the minister representing the minister for mental health questions regarding the treatment of people with mental illness as well as intellectual disability.

Leave granted.

The Hon. K.L. VINCENT: I have been contacted recently by families whose loved ones are tied up in the mental health system but who are not getting appropriate care because of their intellectual disability not being taken into account during treatment. This is a very distressing situation which leads, as you can imagine, to totally ineffective treatment which is frustrating and often cruel to the patient. I have since begun looking into the area of mental health treatment for people who also have an intellectual disability, and I have been alarmed by the lack of specialist care available. My questions to the minister are:

1. What funding is available to deliver mental health care to clients of Community and Home Support SA?

2. What training placements are offered by government-run health institutions to allow registrars to gain expertise in the area of mental health treatment for people with intellectual disability?

3. What checks are done in government-run mental health institutions to ensure that patients with an intellectual disability are being appropriately treated?

4. What information is available to families, carers and people with an intellectual disability about how to get help for mental illness?

5. Will the minister commit to funding the services of at least one full-time psychiatrist to supply services to the clients of Community and Home Support SA?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:16): I thank the honourable member for her very important questions, and I will refer the five questions that she has asked to the minister for mental health (Hon. John Hill) in another place and get an answer back to her as soon as possible.

BURNSIDE COUNCIL

The Hon. T.J. STEPHENS (15:16): I seek leave to make a brief explanation before asking the Minister for State/Local Government Relations a question regarding Burnside council.

Leave granted.

The Hon. T.J. STEPHENS: In the *Eastern Courier* Messenger on 8 July, 2011, in response to a question on the level of anger and concern in the Burnside community, minister Wortley said:

> My heart is out there with the residents of Burnside, but when you think about it, does anyone outside of Burnside really care? My view is they don't. And I would say a lot of people in Burnside don't care either. What we've got are individuals who want to keep this going at everyone else's expense and I'm not prepared to do that.

The *Eastern Courier* Messenger of 20 July 2011 reports that at the time of going to press, none of the 19 online responses to the minister's interview supported the minister's position. The *Eastern Courier* Messenger poll on that question, 'Should the inquiry into the Burnside council have been scrapped?' returned a 92 per cent no vote. I repeat: that is a 92 per cent no vote.

Members interjecting:

The Hon. T.J. STEPHENS: Well, in the poll results, there were 116 participants, 92 per cent said that the answer was no and 8 per cent said yes. My question is: what steps did the minister take to consult with the Burnside community in forming his view that nobody cares in Burnside?

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:18): I thank the member for that question. I am clearly of the view that the people of South Australia are fed up with the Burnside issue. I am clearly of the view that the residents of South Australia are fed up with spending millions of dollars—

There being a disturbance in the President's gallery:

The PRESIDENT: Order! If I hear any more from the gallery, I will have you all thrown out. Either remain silent or leave. The minister.

The Hon. R.P. WORTLEY: This is why people are fed up with the whole issue of Burnside. The people of South Australia and many of the thousands of people in Burnside—you talk about 100-odd responses. How many people are there in the city of Burnside? Many, many thousands. A new council has just been elected in Burnside, and from all reports they are handling and governing the City of Burnside on behalf of their residence with good governance.

It is common knowledge that many of the staffers in the Liberals' offices often get onto their Twitter and these polls, and they have no credibility whatsoever. They will play no role in the decisions I make. What the people of South Australia and Burnside really want is for this government not to waste millions of dollars on an investigation that a decision of the Supreme Court has thrown up a number of legal obstacles to completing. I am very comfortable with the decisions I have made, and I am pretty comfortable with the decisions that most South Australians would support.

I will also say this: I was on Leon Byner last week about the Burnside report, and we opened it up for comment by viewers. We had three viewers—not one of them referred to Burnside; not one caller referred to the Burnside report. I also listened to the President of the Local Government Association, who was also on radio talking about Burnside. She—the calls were opened up and not one person called in regard to the Burnside report.

I will tell you right now: if you are ever going to make decisions based on what they have in these polls in papers, God forbid for the people of South Australia and for Burnside. I make my decisions based on the interests of Burnside and Burnside residents and South Australia.

BURNSIDE COUNCIL

The Hon. T.J. STEPHENS (15:21): I have a supplementary question arising from the answer. Firstly, you mentioned the President of the Local Government Association and referred to that person as 'she'. Can you name the President of the Local Government Association, given that it is your portfolio? The other question is: what consultation did you have with any residents of Burnside before you made your ridiculous comments?

The PRESIDENT: That is hardly a supplementary. You don't have to answer it if you don't want to.

The Hon. R.P. WORTLEY (Minister for Industrial Relations, Minister for State/Local Government Relations) (15:21): The President of the Local Government Association is Wendy Campana.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: It is Kim McHugh, Mr President. The Chief Executive Officer is Wendy Campana. It is quite obvious that these people have no concern whatsoever for the residents of Burnside—none whatsoever. If they had, they would support my decision in doing away with the investigation, putting—

The Hon. J.S.L. Dawkins: You are an embarrassment.

The PRESIDENT: Order!

The Hon. R.P. WORTLEY: —instructing the Crown Solicitor's Office. They are behaving like the previous Burnside council, and this is why I understand an investigation was launched into it. How on earth can you govern this state with the sort of rabble from the opposition, who at the slightest drop of a mistake jump up and scream and yell?

I have to make serious decisions, and I have made serious decisions. I have made the decision to terminate the inquiry into Burnside. I have also made the decision to instruct the Crown Solicitor's Office to go through all the material and, if there is any evidence of criminality, to refer it to the DPP. This is the appropriate action to take, and there should be a little more support from those opposite if they really care about the residents of Burnside.

The PRESIDENT: Time having expired for question time, I now call on Business of the Day.

Members interjecting:

The PRESIDENT: We will wait till they settle down a bit, when the monkeys stop swinging.

Members interjecting:

The PRESIDENT: Order! I am sure the Hon. Ms Bressington was referring to the opposition this morning on the radio. Honourable members have five minutes to make comments on matters of interest. The Hon. Mr Gazzola.

MATTERS OF INTEREST

CLIMATE CHANGE

The Hon. J.M. GAZZOLA (15:23): It is of concern reading of the death threats being made against scientists when they are going about their legitimate work. The Executive Director of the Federation of Australian Scientific and Technological Societies (FASTS), the nation's peak scientific body, Anna-Maria Arabia, noted the hysteria being raised by, in her words, 'the misinformation campaign being largely run by climate change deniers'. I am concerned not only by

this but also by the nature and the level of debate of some commentators on climate change and related issues like the carbon tax in mainstream media in Australia.

There is a view in the public arena that climate change is a fabrication and that government action is yet another attempt to increase its power and authority. Why any government would want to embrace such a politically taxing and unpalatable issue few of its detractors ask. There is no legitimate scientific doubt that we, our children and their children to come are facing one of the biggest issues that we have ever come up against, that of global warming, and the subsequent effects that are coming in its wake.

The comments by visitor Michael Grubb, Senior Research Associate at Cambridge University's Faculty of Economics, as well as being a Chair and member of various advisory committees with the British government, are pertinent. He said, and speaking in general:

> After a recent visit to Australia discussing international development on climate change, I think three things stand out in the national debate: the extent to which virulent rhetoric is pushing out reasoned analysis, the belief that doing nothing is an option without serious cost, and the apparent loss of Australia's confidence in itself...the physics...is a scientific fact, not a political football.

Critics and journalists point out that the federal government is seen to be failing, or has failed to adequately sell the message, yet the media—well, some sections of the dominant press and radio—often fail to get beyond the fatuous and the manipulative.

As a major player in the dissemination of news and views, the media has an important responsibility. The media reply is that its job is to present a broad range of views and perspectives, but do big issues and informed readership not require intelligent and sensible reporting as equally important? Some critics have talked of the demise of journalistic standards, for example, John Scales, a past editor of *The Advertiser*, in his *Indaily* interview on the demise of old journalism.

According to Scales, things were not always like this: the consequences for us, the appeal to populism, the creation of opinion over fact and argument, the dominance of style over substance, the political outcome, the reduction of intelligent debate to the trivial, and the elevation of the trivial to the profound, public cynicism, and disinterest in important issues. Obviously, not all media and press reports lack balance, but the question of credibility in mainstream media is apparent and worrying.

As Scales points out, the job nowadays is not so much about reporting and reflecting public opinion, but creating public opinion—and there is a difference. If this trend is correct, it appears that corporate ego, the fight for survival and sales may push mainstream media competition further and further to the sensational and creative. Readers are quite familiar with those approaches. One example, and subsequently a subtle distortion of debate, was discussed by *Media Watch*'s analysis of *The Australian*'s report on the Australian Coal Association's analysis of carbon taxing.

A front page carried 'Explosive economic modelling'—its words—on projected extensive job losses in the coal industry in New South Wales, which was followed the next day, after a war of words and policy with *The Age*, by a report in *The Australian* from Citibank rebutting these extravagant claims on projected losses. *The Australian*, to this point, could claim that in the unfolding battle of words and views it had been fair and responsible.

The *Media Watch* point of sensible reporting and sensible judgement is that the suspect 'explosive' news came on the front page, while the rebuttal was buried far from the front page, in the business section. Relevance and balance, in this case, defers to sales and strategies. Let me finish with the final word from Michael Grubb on our need to make informed decisions in the face of manipulation: 'Just don't do so with earphones plying false stories and a blindfold to the consequences.'

SOUTH AUSTRALIAN YOUTH WORKERS CONFERENCE

The Hon. J.M.A. LENSINK (15:28): I rise to speak about the South Australian Youth Workers Conference on 19 and 20 April this year, which I had the great privilege of opening. It was held at the Goodwood Orphanage and organised by the Youth Affairs Council of South Australia, and I would like to congratulate them, particularly committee members Ms Anne Bainbridge and Dr Phil Daughtry. Twelve months prior to the conference, they had hoped for 120 participants; they had to close registrations at 250.

There were a number of youth workers from across the state from various sectors including local government and non-government organisations, representatives from youth advisory councils,

city and country delegates and delegates from as far away as Malaysia. There were two days of workshops, which included a range of topics such as:

- youth participation;
- restorative justice;
- reflective practice and supervision in youth work;
- engaging with the stories of Indigenous people and their families;
- promoting holistic culture and staff teams;
- the shape of a code of ethics for youth work in South Australia;
- working creatively with young people's reluctance, resistance and protest;
- engaging with stories of diverse youth ethnicity; and
- bridging the divide: conversations between 'secular' and 'faith based' youth, among many others.

We had a cultural item from Imbala Jarjum, who represent the Peramangk people of the Adelaide Hills. We also had a keynote speech from Mark Henley—who would be well known to many honourable members—who has a long history of working in the youth sector. His speech was very interesting, and I have since encouraged him to publish it because he talked at length about youth work being a relatively new Western concept, which can be for children of 15. However, as children develop younger and more independently into the adult years, youth is now generally considered a transition from dependence to independence.

Mark Henley talked about youth work in the 50s and 60s and the role of the YMCA and the YWCA; the uniformed groups, such as the Scouts; the recreational approach; centre based and camps based, which is a topic of interest to the Hon. Dr Bob Such; and the role of the departments for recreation and sport and primary industries through rural youth.

Previously, youth workers were very much volunteers without training. In the next phase we have Service to Youth, which went into orphanages, with much focus on youth gangs and street work in the 70s. In the 80s, we had the formation of YACSA. Much is often made of the angst issues of young people, and I think there are a lot of stereotypes associated with young people working in the youth sector. Those people certainly are aware of the great diversity of young people. Whilst some kids may need assistance, there is also a very large number of young people who will never need any assistance at all because they know exactly what they want.

We have had recently in this place the youth parliament, with some of the most articulate young people that the state has, which is also a great opportunity that fits within the general purview of youth work. I think it is important that we do not stereotype young people. Particularly with youth work, we would like kids to realise that they have opportunities, and we would like to assist them with those opportunities so that they are set on to their life path.

SIGNIFICANT TREES LEGISLATION

The Hon. D.G.E. HOOD (15:32): I rise to discuss reform for the significant tree laws and what appears to be an unending delay in having the regulations passed. I am convinced that our current significant tree laws are indeed unworkable. For that reason, Family First in 2009 resurrected a lapsed government bill that was, admittedly, controversial to some level but did resolve a number of the glaring problems in the current scheme. Of course, the government supported the bill, given that it was its own bill, as did a number of the crossbenchers, and it passed this place and, indeed, the other place as well.

I will give you an example of a few of the problems. Under the current scheme, local residents are forced to hire arborists at their own expense to carry out investigations into trees they want to remove. This is then followed up by councils regularly sending their own tree expert in any event. It is expensive for residents, obviously; it doubles up on the resources expended, and arborists' reports are sometimes criticised by councils for not being sufficiently independent—a somewhat difficult situation.

Added to that are several glaring anomalies in the scheme. The scheme had a sole blinding focus on the circumference of a tree. I know that was not the original intention as passed by this place, but that is what it has turned into, and factors such as the situation of the tree, the

type of tree, its local value and the health of the tree, for example, are largely disregarded. If a tree has a circumference of more than two metres, it is deemed significant—end of story in many situations. It does not matter very much at all if it is dangerous, exotic or even dead in some cases.

Indeed, we have seen the very bizarre situation exposed, with the *Today Tonight* program reporting on a number of stumps—literally just stumps—in people's yards which cannot be removed because they are regarded as significant because of the two-metre rule. These are just stumps; they do not have any height to them whatsoever. They are literally stumps in the yard, but because they have a circumference of greater than two metres they are deemed significant. I think all of us would regard that as ludicrous. However, some highly valued and rare native trees are not regarded as significant because they do not meet the two-metre requirement, and I think this is just an unacceptable situation. Indeed, I am sure members in this place would wholeheartedly agree with that.

Primarily for that reason, as well as a number of others, Family First introduced the legislation previously mentioned to fix this broken and unworkable system. As I mentioned, it was a government bill. The government was good enough to support it, a number of the crossbenchers supported it, the bill passed this place and it passed downstairs. The Development (Regulated Trees) Amendment Bill was introduced on 17 June 2009, received passage on 17 November 2009 and was assented to on 1 December 2009.

So, the bill has passed, but we are still waiting for the regulations—not just me personally, of course, but at least half a dozen people who call my office virtually every week wanting to know when the scheme will be implemented, and the many hundreds of other people I have not spoken to recently but I have over the last couple of years or so on this particular issue, and that excludes the many thousands of people who I have not spoken to who have not contacted my office but I am sure are experiencing the same difficulties.

One letter I have from the department indicates that the regulations were to be completed in 2010, and that date obviously was not achieved. My office was informed that the regulations would be then completed by April 2011 and, when that date passed, I was assured that at the very latest by June 2011 the regulations would be completed and the new system would be in place. Again, that date has obviously not been achieved and now we are advised of a possible November completion date for the regulations. So, the point is that this keeps getting put off. I understand there is a consultation process, and that is a good thing; however, at some stage, this new regime needs to be put in place.

It has now been 18 months since the passage of this bill. Constituents want action on this bill. Family First certainly wants action on this bill. No doubt, a number of members in this place and the other place want action on this bill. I call on the minister to ensure that the regulations be completed in the very near future so that the nuisance and hardship that people have been suffering because of this unworkable situation can be addressed as soon as possible.

SEXUALISATION OF CHILDREN

The Hon. T.A. FRANKS (15:37): For some time now there has been a rising tide of community concern regarding the early sexualisation of children in Australia. From bug-eyed Bratz dolls to 'fun' pole dancing kits, and baby high heels or padded training bras, we know that Australian girls are being targeted by a corporate monopoly that trades on marketing's oldest weapon—sex sells.

According to the Mission Australia 2010 survey of 50,000 plus young people, body image is cited as the number one concern for Australian young people between the ages of 11 and 24. Research indicates girls who diet are more likely to engage in substance abuse as adults, and there is a correlation between women in universities who diet excessively and also binge drink. Disordered eating for women is less a rarity than it is an everyday occurrence.

We are all bombarded by unrealistic ideals of perfection—a perfection that has been arbitrarily decided by people whose sole aim is to make money—and we are buckling under the strain of trying to live up to it. The end result is that we find ourselves living in a society where girls who are yet to even enter puberty are putting themselves on diets because they have internalised the message that a woman's value is tied up in her dress size and her sexual allure. The most baffling part of this is not that this situation exists but that we are surprised by it.

This week America's Universal Royalty Beauty Pageant comes to Melbourne. Due to overwhelming public opposition, the event has been shrouded in secrecy. Australians are justifiably

aghast at the idea that babies as young as one month old can be entered into a competition that will pit children against each other, undermining their body confidence from an early age and teaching them that the most important thing they can do is to be beautiful. Most of us agree that children should be left alone to be children and shielded from the anxiety of a sexualised adulthood.

But implicit in this is the idea that at some point they will certainly have to deal with it. For girls there is a time when society fights to protect them from sexualisation and then there is a seemingly magical transition that occurs somewhere in adolescence where they are then expected to tolerate it and perhaps even welcome it.

Recently, General Pants came under fire for running a campaign called 'I Love Sex' in its clothing stores. In addition to featuring giant store posters of a half-naked woman with gaffer tape on her breasts while a man removed her jeans, staff, which included primarily teenage girls and young women, were to wear badges proclaiming their love for sex. Some workers expressed humiliation at having to wear these badges as part of their uniform, and it can be reasonably assumed that a not insignificant number of teenagers employed by General Pants have probably never had sex.

Yet, when Melinda Tankard Reist criticised the General Pants campaign on *The Drum*, she was bombarded with irate comments about her hatred of sex, her prudishness and her alleged inability to lighten up and take a joke. She was asked: didn't she know that sex sells and why did she hate men? A conclusion was drawn that not only does the notorious anti-fun campaigner hate sex and men, and happiness in general, but that she was probably jealous, clearly because no-one was going out of their way to objectify her.

Herein lies the real fly in the ointment when it comes to solving the complex problem of how we go back to a society that allows children to be children. Until we make significant efforts to stop excusing the sexual objectification of women, we will never prevent the early sexualisation of children. Children observe society around them and they imitate it. What are we teaching them when we present to them a world that perpetuates not just the sexualisation of women but the false economy of so-called empowerment that goes along with that?

When we teach women that attraction and sexual availability adds value to their existence, we are also normalising this for the children absorbing those social codes. In our society, we are taught to perform sexuality, rather than experience it, and it is a system that contributes to the oppression of both women and men.

We cannot hope to protect girls from sexualisation when it is obvious to them that these things will not just be expected of them in the future but will increase their social currency. We want to protect little girls from objectification but, when those little girls turn into women and insist that they still deserve that protection, we laugh at them and belittle them and, in the case of Melinda Tankard Reist, vilify them. I ask today: what message are we sending our girls?

PEOPLE WITH DISABILITIES, SEXUAL ABUSE

The Hon. K.L. VINCENT (15:42): I rise today to speak about something which has formed a large part of my work over the past few weeks but which is a tragedy so deep and far-reaching that I could not say that I have even begun to take in the full scope of it. Recently, I have been in contact with several families of people with disabilities who have been sexually abused. While all of the families and victims involved are different and have a different story to tell, there is a common thread: all of the perpetrators in these cases have been allowed to walk free.

Of course, there are varied reasons why each separate case did not end up in a conviction and, because there was no guilty verdict, we cannot say for certain that the investigators were centred on the correct person. But we do know, in some cases from medical evidence, that these people were abused and degraded and that there has been no justice for them. Instead of justice, what these people and their families have is fear, sickening worry and a profound sense of betrayal.

I want to talk through the levels of failure which have led to this sordid and heartbreaking result. Our community fails to protect people with a disability on every level, from education on rights to admissibility of evidence. Let me start at the start of a person with disabilities' life. Most of us, when we are young, are given the tools to know our rights. Our parents and teachers explain to us what is acceptable behaviour and what is not. They tell us of our right to feel safe and our right to have our own feelings and to act on them.

Naturally, this learning extends into the realm of sexual knowledge. From a young age, we are made aware of our sexual organs and given information about what is and is not appropriate so that we may avoid and speak up about things which are inappropriate. There are a few reasons why kids with disabilities miss out on this vital information, but I do not have time to go through them all, so here is the most heartbreaking reason I have heard.

Some kids who communicate differently—that is, who use a picture board or a machine translator because they do not have the capacity to sign or speak—are not taught these things, because there is no vocabulary to teach it to them. This is to say, some communication machines or communication boards literally do not contain the words 'penis', 'vagina' or 'sex', so there is no way to communicate with a child on these issues and no way for the child to talk about them. I hardly need to explain how much danger this lack of knowledge puts these kids in.

So, that is our first failure: education. Here is the next one: understanding. The police, in particular, have little understanding of, or even interest in, learning to work with people who have a disability. For front-line officers there is only a tiny bit of training about disability; it is a module which is delivered online. I would hardly say that a few weeks of training filling in forms online qualifies you to communicate effectively with anyone, let alone someone who has autism, for example.

The police tell me that they have a special unit which can be brought in for particularly difficult cases. This would be reassuring but, unfortunately, there is no guarantee that the special unit will be used; that decision is often made by the front-line officers who, as I have said, do not have the training to really make this decision. So, even when the big guns are brought in, there is little chance that a person with disabilities is going to be given the best chance to tell their story. According to SAPOL, this minimal nod to working with people with disabilities is comprehensive and inclusive—and this is an attitude that they should be ashamed of.

Yet another place where we fail members of our community who have disability is in court. Courts understandably have strict rules about what evidence is and is not admissible, but there is no effort to laterally present the evidence of a person with disability so that it might meet the standards of admissibility. Too often the testimony of a person with disability is overlooked because there might be difficulties with cross-examination or because an intellectual disability is deemed to make someone unreliable. There has to be a way around these perceived problems. I am no legal expert, of course, but I do know that children and women were once considered unreliable witnesses, too—and society seems to have got over that prejudice, so we should take steps to get over this one, as well.

We are failing the victims of sexual abuse on every level. We are failing to educate them and arm them with the tools of self-protection. We are failing to have compassion and understanding and to respect their differing ways of communicating, and we are failing to respect them enough to give them their day in court. By now, you would have realised what this all means: it means that it is open season on abusing people with disabilities. It is high time we stopped this sickening cycle.

Time expired.

DOMESTIC VIOLENCE

The Hon. P. HOLLOWAY (15:46): Two weeks ago it was my pleasure to represent the Premier in Mount Gambier at the launch of the report, 'The Way It Should be,' by the Commissioner for Victims' Rights, Michael O'Connell. The report was prepared for the Limestone Coast Family Violence Action Group which has been operating in Mount Gambier for over 20 years with the aim of raising awareness and educating the community of the harm caused by violence within families.

The agencies represented within this group include: the South Australian police, Family Violence Investigation Section; Centacare Limestone Coast Domestic Violence Service; the Department for Families and Communities; the South-East Community Legal Service; the Victim Support Service; the South-East Regional Community Health Service; the Mount Gambier and Districts Health Service; the Child and Adolescent Mental Health Service; the Department for Correctional Services; Tenison Woods College; and the Department for Education and Children's Services.

This report was the result of a three-month intensive consultation with local services and the community which started in August 2010. The report identifies the gaps and inequity of service delivery and response to victims of sexual assault in regional South Australia and the South-East

and will go to government for consideration. I was pleased to congratulate the author of the report, Paula McCubbin, and other members of the Limestone Coast Family Violence Action Group on their efforts.

I understand that the report took 500 hours of gathering information, research, conversation, consultation and compiling. This would have been a difficult challenge given that one of the biggest issues associated with sexual assault is the lack of reporting and that undertaking the work in a tight-knit community, where it can be even harder and more confronting for people to come forward, only compounds that task.

Mount Gambier was one of the first regional cities in our state, along with Port Lincoln, to respond to domestic violence by setting up the South-East Women's Emergency Shelter in 1978, supported by commonwealth and state government grants. Since that time, many things have changed, including the name of the organisation, but its commitment to women escaping violence, including sexual assault, is today as strong as ever.

Since coming to office, the Rann government has openly admitted that we are not always best placed to connect with those most in need. We recognise that locals know their communities best. The Rann government has focused on empowering local organisations like the Limestone Coast Domestic Violence Service to continue their work not just in Mount Gambier about across the South-East, from Naracoorte to Lucindale, Robe and the local government areas of Wattle Range and Grant.

Over three financial years, starting in 2010-11, this government has committed to providing more than $1.19 million to the Limestone Coast Domestic Violence Service, including $430,000 in this financial year. We also recognise that for many victims of violence, including sexual violence, the only way to escape the assault and abuse is to move out of their home. Through the Nation Building Economic Stimulus package the government has invested $850,000 to provide housing for people escaping domestic violence on the Limestone Coast.

We also support the Southern Country Generic Homelessness Service, which helps individuals, both men and women, and families who have been impacted by homelessness. Through changes to rape and sexual assault legislation the government has also moved to better support victims, while the state government's Don't Cross the Line campaign, together with a similar national campaign, has been integral to increasing community awareness. These changes have also been complemented by a major reform of domestic and Aboriginal family violence services across South Australia to improve support for victims.

At the centre of the government's commitment to stopping sexual assault and supporting victims is Yarrow Place. The work this agency does in responding to adult rape and sexual assault in South Australia, both on the ground and at a policy level, is well renowned. Yarrow Place and many of these initiatives that I have mentioned do not just work to protect victims from harm but work to stop the abuse from ever happening again. By helping people understand that what they are enduring is unacceptable, and in many cases illegal, and supporting them to address their situation, we are not just keeping them safe for one night but for good.

We are also giving them the knowledge, the power and the strength to move forward and turn their lives around, and this philosophy has been at the heart of the Limestone Coast Family Violence Action Group. I am pleased that the state government, via representation by a number of agencies, including SAPOL, has been integral to this group. By joining forces with the non-government organisations I mentioned, much good work has been done to raise awareness of the harm caused by domestic violence.

While the veil over sexual assault and violence is lifting, there is still much more work to do. We have learnt over the past 30 years that sexual assault is not just an issue for the victim or the perpetrator but for the whole community, and we have also learnt that by standing up together against sexual assault and abuse of all kinds we can make a difference. I again congratulate the Limestone Coast Family Action Group and all those supporting their efforts in the South-East and trust that the gaps in the support services in the region will be progressively addressed.

YOUTH PARLIAMENT

The Hon. S.G. WADE (15:52): I rise to speak on the 2011 Youth Parliament held in this parliamentary building last week. Participants from around the state came together, as they do each year, to take part in the South Australian Youth Parliament program. It is a program partly funded by the Office for Youth and coordinated by the YMCA. Last week was the 17th YMCA-

managed program to be held in South Australia. I take this opportunity to congratulate the contributions made by the 79 youth parliamentarians.

The program is well-known for its capacity to engage young people from diverse backgrounds, and this year's contingent included young people from a range of cultural and linguistic, socio-economic and geographic backgrounds. Year after year I am impressed by the quality and passion of the participants, and this year was no exception. The application of bright minds to current issues is always stimulating.

This year we were treated to debates on bills such as the legalisation of prostitution, music education, traffic in the CBD, shop trading hours (I am very keen to send a copy of that to the SDA), addiction (substances), dependence reduction, education reform, environmental sustainability, and teen pregnancy prevention. In the adjournment speeches the youth parliamentarians addressed a range of issues such as youth suicide, teen depression, the need for lifeguards at Wallaroo, volunteering in community organisations and the media's influence on politics.

It is important for this parliament to tap into the vision of the youth parliament. While the debates of the youth parliament unfortunately are not published in *Hansard*, the bills are provided to the Minister for Youth. I am not aware of the process that ensues from there, but I suggest that as a parliament we should work with the youth parliament to see how we can better disseminate their ideas. Perhaps a full set of the bills and motions could go to cabinet and shadow cabinet, with perhaps a copy placed in the parliamentary library.

I wish also to commend the efforts of the volunteers, the YMCA and members of the Office for Youth for facilitating the development of the program and ensuring its continuing success. I was fortunate to be able to attend a number of sessions, but particularly I enjoyed the opening and closing ceremonies. I was present to hear an impressive closing speech by the 2011 Youth Governor, Samantha Mitchell, and I noted that one member of the other place present was drawn almost to tears. Samantha Mitchell has done an outstanding job as Youth Governor and been a strong voice for the youth of South Australia over the past year. I congratulate her and wish her well.

I also warmly congratulate Mr Thomas Manning on his appointment as Youth Governor for 2012. I met Thom two years ago at Government House at an event to acknowledge his educational achievements. He is an intelligent and articulate young man with a strong interest in politics and parliament, but above all Thom is a passionate youth parliamentarian. Thomas Manning initially entered the program under the Create Team and was elected Leader of the Opposition at the age of 16—one of the youngest the program has ever had.

Thom brings a clear vision to grow the program as an inclusive program, non-political and accessible to all South Australians. To this end, Thom and his team plan to travel to the state's rural areas and engage with the Migrant Resource Centre and other stakeholders. Thomas is currently undertaking forums across the state to engage a range of previous participants in the program as part of the development of his strategic plan to ensure that the aims of the program are met.

One of the goals of Thom and his team is to expand the program by increasing the number of participants. I wish Thom well in that goal, and I urge all members of this council and the other place to be alert to opportunities to support and engage with the youth parliament and to encourage a youth voice.

In that context, I would like to acknowledge the support that the parliament is already providing for the youth parliament. In particular, the Hon. Tammy Franks was a regular observer of the proceedings. I also noticed the Hon. Kelly Vincent on a number of occasions, as well as John Gardner and Rachel Sanderson, and of course the Minister for Youth herself was present for the closing ceremony to receive the bills. I think it is encouraging that a number of our members are taking the opportunity to engage with the youth parliament during that week. We should look for opportunities to do that through the whole year.

ABORIGINAL LANDS PARLIAMENTARY STANDING COMMITTEE: ANNUAL REPORT

The Hon. J.M. GAZZOLA (15:57): I move:

That the annual report of the committee 2009-10 be noted.

This is the sixth annual report of the Aboriginal Lands Parliamentary Standing Committee. It provides a summary of the committee's activities for the financial year ending 30 June 2010. Over the last year, the committee has consulted with a wide range of Aboriginal people in their home communities. These consultations have helped the committee's understanding of the way services and programs are delivered to Aboriginal people.

The majority of this report summarises the activities undertaken by the committee as it was constituted prior to the 2010 state election. During the year, the committee visited Aboriginal communities at Oak Valley, Yalata, Oodnadatta and Coober Pedy and numerous Aboriginal organisations and support organisations within Adelaide. The highlight for the committee was attending the hand-back ceremony of the Maralinga Tjarutja lands to their traditional owners in December 2009.

I am pleased to report that the current committee is building on the work of the previous committee particularly in its commitment to take the time to meet with Aboriginal people on their lands. I am thankful to all members of the committee past and present for their dedication and commitment. I would like to thank all the previous members for their dedication, hard work, cooperation and contributions: the Hon. Jay Weatherill, the Hon. Lyn Breuer, Dr Duncan McFetridge, the Hon. Robert Brokenshire and the Hon. Lea Stevens. I also thank those across government and the non-government sector who have contributed to the work of the committee during the period of this report.

Lastly, on behalf of the entire committee, I would like to thank all the Aboriginal people the committee has met over the past year. I appreciate their willingness to discuss their issues, share their stories and knowledge. The committee looks forward to continuing to develop those relationships in the years ahead. Sir, I commend the report to you.

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

NATURAL RESOURCES COMMITTEE: INVASIVE SPECIES INQUIRY

The Hon. P. HOLLOWAY (15:59): I move:

That the 57th report of the committee, on the Invasive Species Inquiry, be noted.

I preface my remarks by indicating that the preparation of this report predated my becoming a member of the committee; however, I am more than happy to endorse the report and commend those who have contributed to it. This is a report on the committee's inquiry into invasive species in South Australia. This inquiry was first suggested by the former member for Stuart, Natural Resources Committee member and West Coast farmer, the Hon. Graham Gunn MP back in 2009. Initial hearings in mid to late 2010 coincided with the outbreak of a mouse plague on Eyre Peninsula and a locust plague in the North-East of the state.

Recent rains in South Australia and around the nation have heralded a welcome end to one of the worst droughts in Australia's history. However, there is also a flip side: while floods were inundating parts of South Australia, Queensland, New South Wales and Victoria, the same rains were also providing a boost to pest plants and animals, including weeds, feral cats, mice, rabbits, cane toads and camels.

This inquiry revealed a wealth of community knowledge about invasive species, as well as a strong commitment to tackling them. Committee members were particularly impressed by the hard work volunteers put into combating weeds and pest animals in order to protect endangered species. Volunteers are often the first line of defence against new invasive species. Without this volunteer labour force and expertise South Australia would be much worse off.

Despite the overwhelming challenges, volunteers like Ron Taylor devote significant portions of their lives to the ongoing battle against invasive species. In the words of Mr Taylor:

> I have been over on my West Coast property dealing with one of the worst weed infestations I have seen since I have owned it. I have come back and, instead of doing my normal weed management here as a volunteer, I was asked immediately by the Department to go out and start slashing areas on the coastline because of a lack of budget by the Department of Environment and Natural Resources. I was even yesterday out there for nearly nine hours slashing wild oat that was two metres high.

Mr Taylor works about 100 hours a week volunteering and has been doing so for about 18 years, and for this I would like to thank him, together with all the other dedicated natural resource management volunteers who do so much for our state. I would also like to quote another volunteer

who gave evidence at this inquiry. In the words of Margaret Wilksch, Mount Barker councillor and long-time Landcare volunteer:

> I am really concerned, and I have been for many years, about the weed situation, particularly in the high rainfall areas. It appears to me to actually be an increasing problem, whereas it should be a reducing problem…in the last three to five years, maybe it is the global warming, weeds seem to be having a better environment and growing worse than they were before.

As someone who lives in the Adelaide Hills, I can certainly understand what the councillor is saying. On the subject of weeds, the CSIRO has estimated that escaped garden plant species account for 94 per cent of all naturalised weeds in Australia. The CSIRO reports that garden escapees comprise 69 per cent of the 954 listed agricultural weeds and 72 per cent of the 1,765 listed environmental weeds. Unsurprisingly, this phenomenon is often cited as a good argument for using indigenous species in home gardens.

Indigenous species have significant benefits for gardens. For example, the excellent and much sought-after Adelaide and Mount Lofty Ranges NRM Board's *Coastal Gardens: A Planting Guide* describes local species as low maintenance, drought tolerant and providing good habitat for indigenous fauna, including birds, butterflies and lizards. The South Australian Research and Development Institute (SARDI) Entomology has also published an excellent guide to using native plants on the Northern Adelaide Plains to benefit horticulture, highlighting their role in displacing and suppressing weeds and supporting populations of beneficial insects, thus reducing the need for pesticides.

However, while indigenous and native plants are fantastic, it is also apparent that in many places around the state our natural environment is so modified that it would be clearly impractical and undesirable to try to return it to any kind of pristine or pre-European state. Ecologist Mark Davis wrote recently in the June edition of *Nature* that, 'Increasingly, the practical value of the nature versus alien species dichotomy in conservation is declining' and that, while the bias against alien species still exists:

> Today's management approaches must recognise that the natural systems of the past are changing for ever thanks to drivers such as climate change, nitrogen eutrophication, increased urbanisation and other land use changes.

Professor Davis suggests that:

> It is time for scientists, land managers and policy makers to ditch this pre-occupation with the native-alien dichotomy and embrace more dynamic and pragmatic approaches to conservation and management of species—approaches better suited to our fast changing planet.

Professor Davis points out that, while some alien species damage ecosystems, many others do not and, in fact, native or indigenous species can be just as problematic in rapidly changing environments.

In line with this perspective, committee members heard about the negative impacts of overabundant native species such as wombats, koalas, kangaroos, emus and some forms of unpalatable vegetation (for example, the sticky hop bush, *Dodonaea viscosa*) can have, particularly on grazing lands. This is in contrast, for example, to introduced species such as the freshwater crayfish marron (*Cherax cainii*) from Western Australia, or the platypus (*Ornithorhynchus anatinus*) from Victoria on Kangaroo Island. These species are considered benign in that environment, even though they do not belong there in a strictly ecological or historical sense.

Invasive species are widespread in South Australia 175 years after South Australia's first European settlement was established in Kingscote. While combating invasive species is often portrayed as a battle, it is a battle that can never be won. Faced with a clearly impossible task of eradicating invasive species in South Australia, the committee heard that key issues are invasiveness and related impacts of invasive species, rather than the origin of the species.

While success stories regarding weed control are rare, one recent and ongoing success, of which members would no doubt be aware, is the ongoing biological control of the highly invasive *Echium plantagineuym*, commonly known in South Australia as Salvation Jane, which the CSIRO considers to be Australia's worst broadleaf temperate pasture weed. Since 1995, SARDI, working in partnership with the CSIRO and cross-border departments of primary industries, has overseen the release in South Australia of four insects designed to limit the dominance of this weed by reducing its vigour and size and the quality of the seed produced.

These insects—the crown weevil (*Mogulones larvatus*), the root weevil (*Mogulones geographicus*), the flea beetle (*Longitarsus echii*) (my Latin has come in useful—I think it is the first time I have ever used it) and the pollen beetle (*Meligethes planiusculu*).

The PRESIDENT: Would the honourable member like to repeat all that?

The Hon. P. HOLLOWAY: No, I would not, Mr President. They are proving successful in controlling the weed. Smaller and fewer plants mean that other more palatable pasture species or native plant species are able to compete more successfully, which is great news.

In this report, the committee has made some key recommendations, three of which I would like to highlight today. Firstly, the committee has recommended legislation requiring mandatory registration and microchipping of domestic cats, together with a specific control program for non-registered and non-microchipped or unowned cats.

The Dog and Cat Management Board has estimated that approximately 590,000 of these unowned cats exist in South Australia, which is about three times the number of pet cats. Unowned cats include neighbourhood cats that appear to be someone's pet but are not really. Unlike pet cats, that are generally well looked after and de-sexed, unowned cats are responsible for producing around 172,000 kittens each year. Members heard from the Dog and Cat Management Board that over a seven-year period one female cat and her young can produce 420,000 cats, so you can see that left unchecked it is a serious problem.

While visiting the South Australian Arid Lands NRM region last year, committee members heard evidence of the shocking rate of predation on small mammals and reptiles by cats. The committee was shown a photograph—and this photograph appears on page 22 of our report—of a feral cat that had been captured and killed and the contents of its stomach inspected. In this one cat's stomach were found 24 painted dragons, three bearded dragons, three striped skinks, two earless dragons, one mouse and one zebra finch, all of which were apparently the result of a single day's hunting. So, we can see what an impact there can be.

Committee members concluded that the only really effective way of controlling feral and unowned cats would be to introduce biological controls, similar to that used against rabbits, together with statewide mandatory identification and inoculation of pet cats.

Secondly, on the subject of mouse plagues, the committee has recommended a review of the rules relating to financial assistance for farmers affected by mice. Thirdly, in response to requests from NRM groups and NRM boards, the committee has recommended that DENR consider establishing a rolling fund specifically for NRM boards to access in times of emergency in order to tackle invasive species outbreaks in a timely fashion. There are also a number of other recommendations, and I hope members will consider viewing this report.

I wish to thank all those who gave their time to assist the committee with this inquiry. The committee received 26 written submissions and heard evidence from 27 witnesses. I commend the members of the committee: Mr Geoff Brock MP, the Hon. Robert Brokenshire MLC, the Hon. John Dawkins MLC, Mrs Robyn Geraghty MP, Mr Lee Odenwalder MP, Mr Don Pegler MP, Mr Dan van Holst Pellekaan MP and the Hon. Russell Wortley MLC for their contributions. I am advised that all members of the committee have worked cooperatively throughout the course of the inquiry. Finally, I thank members of the parliamentary staff, in particular the staff of the committee, for their assistance. I commend the report to the council.

The Hon. J.S.L. DAWKINS (16:11): I rise to support the motion and endorse the remarks of the Hon. Mr Holloway. I thank him for the manner in which he made those remarks, given that he comes to the committee at a time when a couple of these reports have been finalised. However, in his current position, he is the one who has to stand up here and move them in this council. I compliment him not only on doing that but also on his pronunciation, and I do not intend to repeat any of those terms.

I will make just a few comments. As the Hon. Mr Holloway said, the inquiry was first suggested by the former member for Stuart (and the seat of Eyre before it) for 39¾ years, the Hon. Graham Gunn. I think he was very concerned about invasive species right cross South Australia. As the Hon. Mr Holloway said, it was interesting that the commencement of the hearings coincided with serious mouse plagues on Eyre Peninsula and also the locust plague in a number of areas of South Australia, particularly the north-east pastoral area.

I will also highlight the comments made by councillor Margaret Wilksch of the Mount Barker council that the Hon. Mr Holloway relayed to this council. Councillor Wilksch, who is known to a

number of members of this chamber, made the comments about weeds being an increasing problem, particularly in the higher rainfall areas. I think it is not only in the higher rainfall areas: it has certainly been in many of the lower rainfall areas and in pastoral areas in the last couple of years where there has been quite a lot more rain than normal.

Many property owners will tell you that there are plants on their property that they have either not seen for something like 50 years or that they have never seen in their lifetime. We need to be vigilant in working out what these weeds are and what damage they can do to the local area, to animals and to humans.

Moving on to the recommendations, as covered by the Hon. Mr Holloway, certainly we made some recommendations in relation to cats, particularly aimed at what was described in the report as unowned cats. I am not a great cat lover. My wife and I do not have a pet cat. However—and I think a lot of people relate to this—we have a cat that is owned but visits us. It is quite a friendly cat, and I confess that from time to time we may feed it. That is one of the things that happens. There are cats that do things in the community that we certainly do not condone in the behaviour of dogs or the owners of dogs, and that is an inconsistency in the way in which we handle dogs and cats.

I recognise, and the history of this parliament will show, that any endeavours to legislate around cats have been highly controversial. However, it is worth pointing out, as the Hon. Mr Holloway did, the damage that feral cats do in the areas of the outback. I witnessed that photograph of the cat and the contents of its stomach a few kilometres north of Olympic Dam. It was quite a shock to see what one animal can do in such a short period of time.

The Hon. P. Holloway: I hope it didn't get into the Arid Lands Recovery centre.

The Hon. J.S.L. DAWKINS: That's right. Well, it was on the edge of that. In the other recommendations, we have referred to being more flexible in the way in which financial assistance can be provided to farmers affected by mouse plagues. It has been disappointing for me as a former farmer to see the way in which many people, who have gone through a drought and who have gone through a very promising season last year only to be dashed by all the wet weather in harvest, are now battling constantly against severe mouse numbers. I think we need to be able to assist people in their response to that in a more flexible manner.

The other one I will refer to, as did the Hon. Mr Holloway, is that there should be a rolling fund from the Department of Environment and Natural Resources to be accessed by the NRM boards in times of emergency to tackle invasive species outbreaks in a timely fashion—and that is the word I emphasise, 'timely'—because sometimes, by the time the government departments and some very well-intentioned officials get through the red tape and other procedures, the actual timeliness has been missed.

I commend the report to the council. I continue to highly respect the chairmanship of the committee that is provided by the Hon. Steph Key. I thank my colleagues and I thank the staff of the committee and, as I said, I commend the report to the council.

Debate adjourned on motion of Hon. B.V. Finnigan.

NATURAL RESOURCES COMMITTEE: BUSHFIRE INQUIRY

The Hon. P. HOLLOWAY (16:20): I move:

That the 58th report of the committee, on the bushfire inquiry, be noted.

I again preface my remarks by indicating that the preparation of this report largely predated my becoming a member of the committee. However, I was involved in a select committee into the bushfire inquiry, as a member of the House of Assembly, when I was first elected to parliament back in the early 1990s. It was a very interesting committee. Its membership included initially Ted Chapman and Roger Goldsworthy, who both resigned halfway through one of the tours of the committee to make way for Dean Brown, when John Olsen came back to parliament. That alone made it a very memorable inquiry, but I do have a longstanding interest in this issue.

This is the final report of the committee's inquiry into bushfires in South Australia. I am pleased to be able to say that, since the committee's interim report was tabled on 20 November 2009, South Australia has not seen any major bushfires.

Since the interim report, there have been a number of significant developments. For example, July 2010 saw the completion of the royal commission into the Victorian bushfires. The

royal commission developed recommendations broadly relevant to South Australia. However, inquiry witnesses also emphasised to the committee the importance of acknowledging the differences between Victoria and South Australia and not expecting all the Victorian recommendations to be relevant to South Australia. For example, committee members heard that South Australia has better building standards, different topography, and that the Adelaide Hills bushfire risk situation more closely resembles Canberra than Victoria, suggesting that lessons learnt from the Canberra fires are more relevant to us here.

Members would be aware that, in the recent state budget, the Treasurer, the Hon. Jack Snelling MP, announced $23 million of funding to help protect South Australians from the impacts of bushfires. These funds will improve the bushfire readiness and response capabilities of the Department of Environment and Natural Resources, with funds to be spent on employing 56 firefighters, purchasing new equipment and providing additional resources and accreditation training to CFS and State Emergency Service volunteers. Members of the Natural Resources Committee strongly support this allocation of additional funds towards managing bushfires.

In finalising this report, the Natural Resources Committee sought additional evidence on natural disasters and followed up issues outlined in the interim report, including verge parking in the Mitcham Hills. The interim report suggested allowing verge parking, which is presently illegal under national road rules, in preference to kerb parking. Members felt that allowing verge parking was a common-sense approach to reducing road congestion and facilitating access for fire units and emergency services during the fire danger season. Two years later, verge parking is still not strictly legal but remains generally unenforced in the Mitcham Hills if done in a sensible way.

On a similar matter, committee members were pleased to hear that the Mitcham council had implemented a trial involving painting a solid yellow line to indicate no parking down one side of narrow roads identified by the CFS as likely to present fire unit access problems in the event of a bushfire. The committee applauds Mitcham council and the CFS for implementing this simple, common-sense and potentially lifesaving measure and looks forward to seeing it expanded to cover other high-risk roads in the Mitcham Hills in the lead-up to the fire danger season. Committee members understand that presently 15 streets out of a potential 47 streets identified by the CFS have been marked up.

The Hon. Iain Evans MP met with the committee in March of this year, again outlining his serious concerns about a general lack of community preparedness to respond to bushfires in the Adelaide Hills. He recounted how, during a recent fire in Belair, people rang his office, amazed that the CFS was not at the top of their driveway, to which he responded that there were 10,000 homes and only 15 fire units.

The Hon. Mr Evans also reiterated his concern to members about the potential for disaster should large numbers of people attempt to evacuate the Hills too late, as fire and smoke was upon them, via a road system that is narrow, winding and choked at the best of times. The committee, of course, hopes this will never happen, but it seems that, with the present level of public awareness and preparedness, it is only a matter time.

The Hon. Mr Evans also stressed the potential for blocked railway crossings to drastically reduce people's escape options. The committee shares the honourable member's concerns and strongly supports his call for a standing committee on bushfires, recommending that consideration be given to broadening such a committee to consider all natural disasters, including bushfires, floods, earthquakes and extreme weather.

Members of the Natural Resources Committee have emphasised that this recommendation should not be seen as a criticism of existing structures in place to deal with natural disasters or the people involved; rather, the purpose of a new standing committee would be to raise the profile of disaster management among members and the wider community and to provide a mechanism for members of parliament to contribute to the discussion.

I wish to thank all those who gave their time to assist the committee with its inquiry. The committee heard evidence from 20 witnesses and received 21 written submissions. I commend former and current members of the committee: the Presiding Member, the Hon. Steph Key MP; the Hon. John Rau, the former presiding member; the Hon. Graham Gunn MP; the Hon. Caroline Schaefer MLC; the Hon. Lea Stephens MP; the Hon. David Winderlich MLC; the Hon. Russell Wortley MLC; Mr Geoff Brock MP; the Hon. Robert Brokenshire MLC; the Hon. John Dawkins MLC; Ms Robyn Geraghty MP; Mr Lee Odenwalder MP; Mr Don Pegler MP; and Mr Dan van Holst Pellekaan MP for their contribution. All members of the committee have worked

cooperatively throughout the course of this inquiry and, finally, I thank the members of the parliamentary staff associated with this committee for their assistance. I commend the report to the council.

The Hon. J.S.L. DAWKINS (16:26): I rise to support the motion and thank the Hon. Mr Holloway again, as I said in the last motion, for speaking to the matter very well, despite the fact that he has only just joined the committee.

The issue of bushfires in this state is one that I think we are all very well aware of and, in particular, the reference to the concern of members of parliament and other community members about the potential disaster of serious bushfires in the Adelaide Hills, is one that is well made. I take on the concerns that were put by the Hon. Iain Evans, the member for Davenport, as he and his family well know the aspects of the Adelaide Hills and the manner in which bushfire behaviour is quite different to other parts of the state.

It was in the Ash Wednesday events of both 1980 and 1983 that I got a very quick lesson in fire behaviour in the Adelaide Hills. I was someone who had been a CFS volunteer for some time but, as I described myself and my colleagues, I was a flat country firefighter, and to go and fight fires in such hot and windy conditions in the Adelaide Hills was something completely different.

In fact, I will never forget that in 1980 we were up at Vimy Ridge and the path of the fire had changed 180 degrees in an instant through a gully wind change and, to this day, I remain amazed that we survived the passage of that fire as it went very quickly through the area where we were parked in our truck. The first attempt to start the truck failed but, thankfully, the second time it worked and we got out of there, but every time I hear about people being burnt in a fire truck I relate back to that. It was a long time ago now but I remember it very well.

The nature of fighting fires and also of protecting properties from bushfire in the Adelaide Hills is something that I think is important for us not only as a parliament but as a community to understand better and better as much as we can. Of course, that is not to diminish the impact of bushfire right across the state. I know, Sir, from your background in the pastoral areas and in the South-East that it can be devastating. In particular, the Ash Wednesday fires in the Lower South-East were a terrible event. The Hon. Mr Evans did meet with the committee earlier in the year, as outlined by the Hon. Mr Holloway, and he passed on his concerns about the potential impacts of major fire in what is a growing population area and an area with more and more people who have never experienced fire in the Adelaide Hills.

The committee shared the honourable member's concerns and strongly supported his call for a standing committee, but we went further and recommended that consideration be given to broadening the committee to consider all natural disasters—obviously including bushfires, but also floods, earthquakes and extreme weather. While members in their deliberation wanted to emphasise that this recommendation is not seen as a criticism of existing structures, we believe that a new standing committee focused on those matters could raise the profile of disaster management among the parliament in the wider community and also importantly provide a mechanism for other members of parliament to contribute to the discussion.

I am pleased to note that the member for Davenport, as a result of the recommendation of this committee, has had drafted a private member's bill, which I understand he will move in the House of Assembly this week, entitled Parliamentary Committees (Natural Disasters) Committee Amendment Bill 2011. Given the bipartisan nature of the committee, and its support for that recommendation, I hope the government sees fit to support the establishment of that committee because I think it will be a valuable one for South Australia.

I conclude by again thanking all members, past and present, of the Natural Resources Committee for their work in this area under the chairmanship of the Hon. Steph Key and also thank the staff of the committee. I commend the report to the council.

Debate adjourned on motion of Hon. J.M. Gazzola.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ACT

The Hon. S.G. WADE (16:33): I move:

That the general regulations under the Classification (Publications, Films and Computer Games) Act 2011, made on 26 May 2011 and laid on the table of this council on 7 June 2011, be disallowed.

This motion relates to the Classification (Publications, Films and Computer Games)(Exemptions and Approvals) Amendment Bill 2010. That bill was debated in this place in November last year.

The bill aimed to place additional conditions on applying to the Attorney-General for approvals and exemptions in classifications and thereby making an application to the Attorney-General more onerous than applications to the National Director of the Classification Review Board.

While the bill claimed to expand options for South Australians on classification applications and exemptions, the barriers to approaching the state would have meant that it was a de facto exit from the field by the state. Following successful submissions to this council by the opposition, amendments were made to remove the new application fees and the requirement for additional information to be provided to the Attorney-General.

The amendments were rejected in the House of Assembly and were considered in a deadlock conference. At the end of the parliamentary processes, the government agreed to making the application process for exemption applications to the state comparable to that to the national director. This was a welcome and important change.

The opposition had been concerned that the Attorney-General may have been trying to shift responsibility for granting exemptions to the national director by hiding behind a wall of bureaucratic red tape and/or financial obstacles to abdicate the statutory role of granting exemptions and applications and thereby representing South Australian community values.

Following discussions, the commitment to level the playing field between state and national applications was agreed to. This commitment was reiterated on the public record by the then leader of the government in the Legislative Council (Hon. Bernard Finnigan) on 24 February 2011 when he said:

> Regulations will be made to the effect that an application to the minister or the national director must be made in accordance with any requirements of the national director so that the application process will be no more onerous than if made to the minister.

However, the regulations recently laid before this parliament—which by this motion, I seek to disallow—provide the following in section 4(2):

> The Minister may, in relation to an application made under section 76, 77, 79 or 79A of the Act that is being determined by the Minister, require the applicant to provide to the Minister any additional information of a kind that the Minister considers necessary to determine the application.

Such provisions could be used by an attorney-general to discourage applications through bureaucratic roadblocks, effectively achieving the unamended intention of the bill. The use of the regulations in this way would not be consistent with the agreement made and the commitment given on the public record.

Considering critical comments that the Attorney-General has made in the other place, I know that he will be indignant that I have chosen to move this motion without consulting him. I would make the point that the minister chose to make these regulations contrary to the public commitment without consulting me. If the government is committed to honouring that agreement, it will redraft section 4(2) of the regulations and would therefore have no problems with the current set of regulations being disallowed.

If the government is not committed to the undertakings given by the former leader of the government in the council and wishes to retain the ability to use the regulation to create hurdles, we would regard that as a breach of a commitment and a disregard for the will of this council. For this reason, we ask the council to support the integrity of negotiations between the houses and between the government and the non-government elements of this parliament, and for this reason we urge the council to support the disallowance of these regulations so that the intent behind the council's amendments to the legislation can be honoured and upheld.

Debate adjourned on motion of Hon. I.K. Hunter.

DEVELOPMENT ACT REGULATIONS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (16:38): I move:

> That the regulations under the Development Act 1993 concerning Institutional Riverbank Zone, made on 2 June 2011 and laid on the table of this council on 7 June 2011, be disallowed.

These regulations relate to one of the institutional zones of the Parklands which is the area bounded by King William Street, the Morphett Street Bridge, North Terrace and the River Torrens, so effectively the southern side of what we would call the dress circle part of the River Torrens that has the Festival Theatre. The Convention Centre and the Hyatt etc. overlook that particular area.

These regulations take them from being an institutional zone which is in the Parklands, and effectively the development controls that exist in the Parklands exist for the institutional zones. This regulation declares that zone to be a Crown development which vests significantly more powers in the minister and gives the minister almost unfettered control over the developments that take place in that particular precinct. Although the minister does have to refer any proposals to the Development Assessment Commission, clearly the minister has significant powers and the government has significant powers to proceed with developments in that particular area.

I will try not to be too long-winded because I know we have a large number of private members' matters to deal with today and also government business after dinner. This is an area that has been of interest to governments for more than a decade, and I am interested to see that on 16 March 1999 the then premier, John Olsen, unveiled a bold plan which would completely transform the heart of the city. That plan was to bring together some activities that would be out there. Premier Olsen said:

> This 10-year plan will bring together the best elements of Adelaide lifestyle, including the parks, the cultural attractions and the restaurants…The Riverbank project will do for Adelaide what the Southbank project did for Melbourne. This can be and should be our federation project.
>
> Under the plan, public plazas, terraces, paths and roads will interconnect across the site and entrances to buildings such as the Festival Centre will be changed, with stairs and terraces descending from the plazas to the park.

The government announced before the last election that it would have a redevelopment of the River Torrens area, in particular the Convention Centre, but members must recall that it only did that after the opposition had launched its policies and was given significant support and encouragement by the community for not only a covered football stadium but a master planned area along the riverbank. The government at the time (I think it was treasurer Foley) said this was going to be the 'Las Vegas of the south', that it was way too expensive, that we could not afford it, and that the opposition was being reckless.

It is interesting to note that pretty much the same plans have been spoken about for this 'dress circle' part, as I call it, of the River Torrens. Of course, the development of Adelaide Oval is now likely to go ahead. We have a bridge that is likely to come across from Adelaide Oval, but nobody quite knows where it will make landfall on this side of the river; the government has not disclosed that. Apart from the Convention Centre redevelopment, none of the government plans has been disclosed. That is the reason for wanting to disallow this regulation.

Like most South Australians, the opposition supports the redevelopment of these parts of our city, but we also support a government that is open and accountable and transparent with the people of South Australia, and before we give the minister these powers we would actually like to see what the minister and the government are planning to do. You will note from the sketches we have seen in the paper and other publications that a number of buildings are proposed within this site.

Minister Conlon has denied that any office towers or accommodation towers are planned, but I am advised that there is significant speculation within the development industry that players within that industry are talking to the government about potential development sites within that area. We saw recently a published master plan, shall we say; however, it is not the master plan, it is just some sketches that were provided to *The Advertiser*, with a building somewhere down near the old gaol.

I think the government needs to come clean as to what that is, what is planned for there and whether there is any plan to build a tower behind Parliament House on the plaza at the rear. I think most members would agree that the heritage-listed plaza behind Parliament House is probably a little tired and may not be the best use of that space, but surely the government should be comfortable enough with what it is planning to do to release the master plan prior to seeking these particular development controls.

Interestingly, it looks as though a range of water features in the river might be part of the development. I suspect that that would add significantly to the aesthetics of the river, especially at night if some sort of lighting is involved. But, Mr President, we have not seen the master plan.

Now, we have an Integrated Design Commissioner at the suggestion of Thinker in Residence, Laura Lee, who we all know is a very close friend of the Premier's, that an Integrated Design Commission be established. So, we have an Integrated Design Commission with an Integrated Design Commissioner. We have a government architect and, in fact, we have now also

engaged—I think it is ARM; I may have to correct that for *Hansard*. There is an interstate company—which is a little disappointing—but nonetheless, an interstate company has been appointed to do the master plan.

So, we are investing significant public funds in the Integrated Design Commission, with senior people such as Commissioner Tim Horton and Ben Hewett, the Government Architect, and we are spending a lot of money with a firm to develop a master plan. In fact, what the opposition is saying by moving this disallowance is not that we are opposed to the development but that we think the public has a right to see the master plan before we give development control to the minister so that people are well aware of what is being proposed.

In fact, maybe the master plan should not just be between King William Street and Morphett Street; it should probably be from the Brewery, or Port Road, through to Hackney Road. We have significant investment with the tram that has gone to the Entertainment Centre and we have the Torrens Precinct. It appears that the hospital—notwithstanding the huge financial burden it will be for future generations—will be going ahead on the hospital site, but there is a significant strip of land between the hospital and the river, and the railway line and the river, going right out to Port Road.

Of course, we have the Bowden Village development that, over time, will see more people living in that part of Adelaide and, along the tram route in through Thebarton, Mile End and Hindmarsh, I suspect there will be some significant urban infill, so we will see a lot more people living at that end of the city. I expect we will see more people on the tram, and more people living, walking and coming to the city. So really, a master plan for the whole river is probably what we need, rather than just this one in the middle.

Having said that, we know we are dealing with this particular dress circle part of the river at the moment, and we believe, given that is only a matter of weeks or a couple of months away before we will see that master plan, that moving to disallow these regulations, as I have moved, is an appropriate way to say to the government, 'We are not actually totally opposed to what you are trying to do, but show us the colour of your money', if you like. 'Show us what you are doing. Let the people of South Australia know what you have planned', and then of course we will be in a position to allow the government to proceed with its development.

Of course, when we look down the other side—when I talked about a broader master plan—we have the old Channel 7 site in Gilberton and, along the river, there is some development and urban infill happening there. That is why I think the broader picture should be to have a master plan from Hackney Road through to Port Road. With those few words, I just reiterate that this is not about stopping the development; this is about saying to the government, 'Show us what your master plan is.' You announced this well before the election.

We have now had some 15 or 18 months since the election. You announced the Adelaide Oval proposal in December 2009, so we are now coming up to two years since that was announced. So clearly, you would have assumed that the master plan should be well advanced and that the community should be able to view that master plan before we give, if you like, unfettered development controls to the minister and the government. I urge all members to support this motion for disallowance.

Debate adjourned on motion of Hon. I.K. Hunter

STATUTORY AUTHORITIES REVIEW COMMITTEE: TEACHERS REGISTRATION BOARD

The Hon. CARMEL ZOLLO (16:49): I move:

That the report of the committee, on the Teachers Registration Board, be noted.

The Teachers Registration Board—or the TRB, as it is generally referred to—is a regulatory board in relation to professional teaching standards for South Australian teachers. Its main functions are: to administer the provisions of the Teachers Registration and Standards Act for the regulation of the teaching profession; to promote the teaching profession and professional standards for teachers; to confer and collaborate with a number of institutions and organisations in relation to the appropriateness of teacher registration standards and teacher education courses; to ensure and promote national consistency in the regulation of the teaching profession; and to regularly review professional teaching standards.

The TRB is also required to have the welfare and best interests of children as its primary consideration in the performance of all its functions. The TRB also investigates complaints made

against teachers. If a complaint has merit, it may proceed to a formal inquiry. A TRB inquiry is heard by no less than three TRB members, but its practice is to hear inquiries with five board members. Of these members, one must be a practising teacher and one must be a legal practitioner. In relation to disciplinary and unprofessional conduct, inquiries and allegations against a teacher must be proved on the balance of probabilities.

Although not adversarial in nature and not strictly bound by the rules of evidence, the TRB is guided by them whilst hearing a formal inquiry. The TRB must also afford procedural fairness to the parties before an inquiry. The terms of reference of this inquiry into the TRB were adopted by the Statutory Authorities Review Committee on 17 November 2008. The inquiry came about due to the motion moved by the Hon. John Darley MLC on 24 September 2008 in our chamber. This was subsequent to the motion first introduced on 26 September 2007 by the Hon. Nick Xenophon, former MLC. The first motion was introduced in response to parents' allegations of improper conduct by an Mount Gambier teacher, which went before the TRB in 2004.

Although forming a part of the evidence received by the committee in this inquiry, the committee's role was not to make a finding in relation to the Mount Gambier matter or any individual cases. However, the committee did have regard to submissions regarding the way in which the TRB conducted that particular inquiry and also drafting suggested recommendations to improve the understanding of the processes of the TRB.

Before proceeding further, I would like to take this opportunity to thank the other members of the Statutory Authorities Review Committee: the Hons Ian Hunter, Terry Stephens, Rob Lucas and Ann Bressington. I also acknowledge and thank the staff of the Statutory Authorities Review Committee for their contribution and ongoing support. In relation to this inquiry, I particularly thank Ms Lisa Baxter for her research and report writing.

On behalf of the committee, I would also like to take this opportunity to acknowledge and thank the organisations, agencies and individuals that submitted evidence to the committee during this inquiry. The committee heard evidence from a variety of sources and received both written submissions and oral evidence. The committee also received extensive information in writing, and orally, from the TRB itself.

I personally would like to acknowledge the ongoing cooperation and assistance provided to the committee by the TRB and, in particular, I thank the registrar, Ms Wendy Hastings. Through the information provided to it from all sources, and through its own research, the committee was able to gain a clearer understanding of the key issues.

In relation to the legislative overview, prior to March 2005, the TRB was governed by the Education Act. The purpose of the TRB was to regulate the teaching profession, in that persons employed as teachers in both government and non-government sectors were qualified and fit and proper persons to be employed as teachers. By 2004, it was suggested that the provisions of the Education Act no longer met the expectations of the community or the national standards required for teachers registration. A teacher registration bill was proposed to establish the TRB as an independent body under its own legislation.

The bill formed part of the government's Keeping Them Safe child protection reforms, as it supported the protection of children and recognised the professionalism of the teachers of South Australia. The bill, and subsequent Teachers Registration and Standards Act, significantly enhances the powers, responsibilities and functions of the TRB and raises the professional standards required for teachers to be registered. Numerous agencies and organisations were consulted on the new legislation and given the opportunity to comment on the changes to the TRB as a result of the new act.

The Teachers Registration and Standards Act was proclaimed in March 2005. The TRB explained to the committee that the new act provides for rigorous measures to be imposed on registered teachers and the capacity for the TRB to ensure that teachers hold the required standards to teach—standards that are in line with the public interest and with national standards.

The new act broadened the variety of sanctions available to the TRB in relation to imposing disciplinary action against a teacher. Whereas previously the TRB only had the power to cancel the registration of a teacher, it now has the capacity to reprimand, fine, impose conditions, suspend, cancel or disqualify a teacher permanently from registration.

In relation to the background to this inquiry, the inquiry into the TRB received 19 written submissions from interested stakeholders and those included unions, education industry

associations, parents, board members, the Department of Education and Children's Services and the TRB. Importantly, the inquiry heard from parties who had experienced direct dealings with the TRB. A number of witnesses provided the committee with their own suggestions on improving the TRB; however, the majority of witnesses were happy with the current TRB processes and practices. Others noted the important role that the TRB has in enforcing professional teaching standards in South Australia.

In relation to inquiry evidence, the main themes covered in the written and oral submissions received by the committee in this inquiry included the appropriateness of the current composition of the TRB; the powers of the TRB and the registrar; the TRB's role in child protection; professional teaching standards; complaints, inquiries and sanctions against teachers; disciplinary action and unprofessional conduct; representation at TRB hearings; the relationship between the TRB and the Department of Education and Children's Services; and the publication of information and decisions by the TRB.

I note that the submission received from the South Australian Association of State School Organisations (SAASSO) contained the most number of recommendations and negative comments towards the TRB. Accordingly, the committee endeavoured on numerous occasions to invite SAASSO to attend before the committee to elaborate on its written submission. This resulted in no less than 15 correspondence exchanges with SAASSO. Requests from the committee for SAASSO's executive officer to attend the committee meeting were outright refused and, instead, two of SAASSO's officers eventually attended before the committee.

After the officers were subsequently unable to answer the committee's questions in person due to their non-involvement with the writing of the submission, the committee provided SAASSO with the opportunity to respond to its questions in writing. Some eight weeks later the committee finally received further information from SAASSO. However, I would have to say that this untimely response some 12 months after the committee's initial invitation was the main contributing factor to the delay in finalising this parliamentary inquiry. The committee has therefore expressed its dissatisfaction with SAASSO in this report and notes SAASSO's unresponsive and, we believe, disrespectful behaviour towards not only the Statutory Authorities Review Committee but also the Parliament of South Australia.

In relation to the Mount Gambier case, as I mentioned earlier, this inquiry into the TRB was initially called for as a result of parents' complaining about the way the TRB dealt with a matter concerning alleged disgraceful or improper conduct involving a teacher from a Mount Gambier school back in 2002. The matter proceeded to a formal TRB inquiry in 2004. It is prudent to note that this formal TRB inquiry was addressed pursuant to the previous governing legislation, namely part 4 of the Education Act.

After hearing the matter on eight separate occasions, the TRB found that, on the balance of probabilities, there was insufficient evidence to uphold the allegation before it. Consequently, no sanctions were imposed against the teacher. The TRB explained to the committee that, unfortunately, the majority of evidence received in that case was hearsay evidence and that the students involved did not provide sufficient direct evidence when interviewed by the psychologist and social worker from the Children's Protection Service at Flinders Medical Centre.

The TRB also stated in its submission to the committee that, with the proclamation of the current act in 2005, a number of the new provisions may have assisted procedurally with this matter. However, the TRB maintains that a different outcome would not have been expected in this particular case due to the evidentiary considerations.

The provisions in the current act referenced by the TRB in supporting this conclusion include: reporting obligations for employers and teachers which ensure that the TRB is notified if a person is dismissed or has resigned, in lieu of allegations of unprofessional conduct; the registrar's wide powers in relation to investigations and the ability to require a person to answer questions, attend interviews, provide information or produce material for inspection; and the increased range of sanctions available to the TRB, rather than being limited in having the power only to cancel a teacher's registration.

Four parents of children in the accused teacher's class were selected to give evidence at that TRB inquiry. The committee received written submissions from these four parents and from one former student who attended in the accused teacher's class in Mount Gambier. The parents and student were subsequently invited to give oral evidence to the committee. Whilst a number of their concerns related to how the school, the school's principal and SAPOL handled the situation,

the committee made it clear that the focus of this inquiry was limited to inquiring only into the operations of the TRB.

The parents raised concerns to the committee in relation to a lack of information and support provided to them by the TRB before attending to give evidence before the board. They also commented on the lack of advice given in preparing for being subjected to cross-examination and questioning at the hearing. Other concerns held by the parents included the refusal of the TRB to listen to hearsay evidence; the selection of witnesses by the TRB; and their inability to obtain formal TRB reasons for the decision.

The committee gave the TRB an opportunity to respond to the concerns raised by these parents and has included their responses in the committee's report. Ultimately, however, it was not this committee's role to make a finding in relation to this particular matter, which was before the TRB in 2004. The committee was sympathetic to issues raised by the parents in relation to the way in which the TRB conducted that particular inquiry and, as I mentioned earlier, the committee has had regard to those submissions in drafting recommendations for the minister to consider.

In relation to recommendations, the committee's formal recommendations in this inquiry arise out of the examination of all evidence received by the Statutory Authorities Review Committee. The committee's focus has remained at all times on whether the current operations of the TRB can be improved.

In relation to the Mount Gambier parents' criticisms on their not receiving adequate information prior to the TRB hearing they were involved in, the committee recommends that the TRB's current witness-proofing process be expanded and formalised to include giving witnesses the following information prior to a TRB inquiry: the names and roles of the formal parties to the TRB investigation and inquiry; the role of legal counsel representing the registrar or assisting the TRB at a hearing; the procedures used by the TRB at a hearing; the processes of examination-in-chief and cross-examination of witnesses; the right of witnesses to have a support person attend; and the possible implications and use of statements or documents during the questioning of witnesses.

The committee further recommends that a formal information package, in writing, be distributed to potential witnesses in a TRB inquiry before they are called to give evidence. This package can then be used as an aid by the potential witnesses and elaborated upon orally by the TRB or by counsel representing the Registrar when proofing the witnesses.

The committee sees this information package as an important reference tool to be utilised by TRB witnesses, and it may decrease the level of future misunderstandings by witnesses regarding TRB inquiries and processes. However, I note that the TRB articulated to the committee on several occasions that witnesses are currently proofed by the TRB before attending an inquiry. Nonetheless, if the committee's recommendations assist in avoiding any future misunderstandings they are a worthwhile consideration for the minister.

In relation to TRB decisions being open and transparent to the public, the committee recommends the publishing of case summaries on the TRB website to occur as soon as its decision has been handed down in each case. It is important to note that since this inquiry into the TRB commenced the TRB has increased the information made available to the public on its website. Concise summaries of completed inquiries are published which give an overview of the issues involved in each case. However, the committee feels that the time frame for the publication of these summaries could be shortened and that the process could be conducted on a consistent and regular basis. This information will also aid in providing teachers with updated examples of behaviour that is deemed unprofessional by the TRB.

In expanding its openness and transparency, the committee also recommends that the TRB include in its annual report the number of warning letters issued to teachers in the previous financial year. The committee received evidence during this inquiry that witnesses before the TRB had been confused as to their actual role in TRB proceedings. The committee notes that, although an initial complaint may be lodged to the TRB by a parent, the formal complainant throughout an investigation and inquiry is the Registrar.

If the matter proceeds before the board through a formal hearing, the Registrar or the lawyer from the Crown representing the Registrar, acts as prosecutor and presents the case before the TRB. To make this clear, the committee recommends that the Teachers Registration and Standards Act be amended to include a section, entitled 'Parties', which clearly lists and defines a

potential party to TRB proceedings. The committee notes the use of such definitions in legislation governing other boards and tribunals.

The Registrar of the TRB is also required to keep a register of teachers which includes specific information on the registration of each registered teacher in South Australia. However, the Registrar is only required to publicly disclose the following: registration information on the TRB website; the full name of each registered teacher and the expiry date of the teacher's registration; and the person's registration number.

The committee considers that parents and the public should have access to a TRB website that includes details listing if a registered teacher has had restrictions or conditions imposed on their registration. This accords with the recommendations and reviews made in the past in relation to the South Australian statutory health boards, including the former medical board of South Australia, which published on its website all practice limitations imposed on practitioners, excluding health conditions. The committee has, therefore, recommended that any restrictions or conditions that have been placed on a teacher's registration be listed against their name and publicly available on the TRB website.

As mentioned earlier, the current Teachers Registration and Standards Act has improved the reporting requirements of employers of teachers. However, a teacher's employer is only required to report to the TRB if they dismiss or accept the resignation of a teacher in response to allegations of unprofessional conduct and if they have reason to believe that the teacher's capacity to teach is seriously impaired by illness or disability.

The committee has recommended that the TRB and the Minister for Education consider addressing the issue of whether, in certain circumstances, the TRB should be directly notified of serious allegations—

The Hon. R.I. Lucas: Order! I am trying to listen to the member.

The Hon. CARMEL ZOLLO: I am glad somebody is listening.

The Hon. R.I. Lucas: The President has a conference going on up there, and I can't hear you.

The Hon. CARMEL ZOLLO: I am glad you are listening, the Hon. Rob Lucas. Perhaps I should start that sentence again. As I was saying, the committee has recommended that the TRB and Minister for Education consider addressing the issue of whether, in certain circumstances, the TRB should be directly notified of serious allegations made of unprofessional conduct against the teacher, even if the teacher has not been dismissed by an employer nor resigned.

The committee felt that in serious cases, such as those involving allegations of sexual abuse, it may be prudent for the TRB to be in a position earlier in the piece to decide whether an investigation and subsequent inquiry is warranted. If the TRB had the power to investigate allegations of serious misconduct at an earlier point in time, and not have to wait until the teacher has been dismissed or has resigned, it may lead to a speedier process for the victims involved.

As this recommendation necessitates review of a reasonable and consistent definition in order to define the serious unprofessional conduct allegations that the recommendation encompasses, the committee is of the view that the TRB and the minister are best placed to consider this issue. The committee received submissions in this inquiry arguing that the processes for qualifying for teacher registration have become outdated.

Submissions also suggested that the current teacher registration system does not recognise that other persons with suitable qualifications in other fields may be potentially valuable educators. The committee also heard that people with considerable skills, expertise and qualifications willing to take other pathways into teaching should be considered with an open mind. However, the committee did receive information from the TRB that it is currently possible for the TRB to grant a special authority to a person who is not registered to teach but who can teach, on the proviso that they comply with imposed conditions and restrictions.

The Department of Education and Children's Services (DECS) provided the committee with information on the Teach for Australia Program, which currently exists in Victoria and the ACT. This program allows for professionals or graduates from areas outside education to be designated a disadvantaged school in which to teach in their particular area of expertise. After two years of teaching experience, and after completing a postgraduate diploma in teaching, the person is granted full teacher registration.

The committee does not believe it is in the position of recommending a specific program to broaden the pathways into teacher qualification and registration, but it does recommend that the TRB should consult with DECS and the relevant universities on considering a program such as the Teach for Australia Program, which recognises a larger range of undergraduate study and professional qualifications.

The committee also received a number of submissions in this inquiry, which argued the way in which the TRB should be composed. In particular, the committee received opinions which called for the parent representation on the board to be increased. Currently, as is the case in other state teacher regulatory authorities, half of the 16-member board must be registered teachers. As part of the remaining board membership one member must be a parent of a school student, nominated by the minister to represent the community interest.

The committee heard that this parent representative has consistently been from the Catholic school sector. The committee recognises the need for parent representation on the TRB and is of the view that there should be two parent representatives—one from the government school sector and one from the non-government school sector. The committee sees this amended board composition as sufficiently representing the community interest.

The TRB composition also includes a requirement that there be a legal practitioner on the board nominated by the minister. The Presiding Member of the TRB must also be nominated by the minister. However, there is no formal specification as to the Presiding Member's professional qualifications. The committee heard that the TRB has consistently had a presiding member with legal qualifications, as they are called upon to offer legal advice to non-legal TRB members throughout TRB inquiries. The committee agrees that the Presiding Member should also be a legal practitioner and recommends that this specification be formalised in the Teachers Registration and Standards Act.

In conclusion, the committee is thankful for the opportunity to have inquired into and reported on the operations of the Teachers Registration Board. The committee sees the TRB as an important statutory authority which is given the crucial task of registering fit and proper persons to teach the students of our state. The committee is hopeful that the proposed recommendations, if implemented, will result in the TRB continuing to perform its statutory functions in an appropriate manner in order to successfully regulate the teaching profession in South Australia.

The Hon. R.I. LUCAS (17:16): I rise to speak only briefly this afternoon, and I will seek leave to conclude my remarks when the parliament sits next sometime in September, but I did want at the outset to make some brief remarks. I firstly thank the other members of the committee, as the chair has just done, and I also thank the staff for the work they have undertaken. In particular, I acknowledge the outstanding work of Lisa Baxter and the work she has done in drafting and crafting the committee's very many draft reports into the final report which has now been agreed by all members.

This afternoon I want to make brief comments about two issues; the first one relates to the peak parent body in South Australia, the South Australian Association of State School Organisations (SAASSO). Those readers of the report will see that there are some remarks and findings in the report that are critical of the performance of SAASSO and in particular its interaction with the Statutory Authorities Review Committee in relation to this inquiry.

I have had a long-term association with SAASSO dating back, I think, to the 1980s and 1990s when I was a shadow minister, firstly, and then a minister of education, and since that period my interaction with SAASSO as an organisation has been considerably less because I have not had direct responsibility for the education portfolio. I must say that in all my earlier experience in the eighties and nineties I had been mightily impressed by the capacity of SAASSO to represent parents within government schools.

They are not the only parent body representing parents in government schools. The South Australian Association of School Parents' Clubs (SAASPC) is another body that represents parents of children in government schools. However, SAASSO in my view has always been the peak body representing state school parents and, as I said, my relationship when I was a shadow minister and then a minister with the body has been that they have undertaken very good work on behalf of parents and their constituency during those periods.

I would have to say, and the committee has found accordingly, that I have been mightily disappointed—

Members interjecting:

The PRESIDENT: Order! I would like the opportunity to hear the Hon. Mr Lucas.

The Hon. R.I. LUCAS: —with the interaction of SAASSO with the Statutory Authorities Review Committee. Because I have had no ongoing association with SAASSO, I do not know what the nature of the problem was within the organisation. Personally, I can only surmise that there has either been a strong difference of opinion between the volunteer parents who run SAASSO and the staff appointed to work for SAASSO, or that there has been a difference of opinion between various groups within the parent body, volunteer parents, that is, one particular group against another particular group in terms of control of the organisation. I do not know, but clearly there was something amiss in relation to the governance issues within SAASSO.

As the committee has reported and I think the chair has referred to, the committee went to extraordinary lengths, having received a copy of a written submission, to try to get someone to come to the committee to answer questions in relation to the submission. My guess is that the executive officer would have drafted the bulk of the submission. I do not know that for a fact, but for whatever reason—and perhaps there was a difference of viewpoint between the paid staff and the newly elected volunteer parent members of SAASSO, or office holders of SAASSO—the executive officer was unable or unwilling, or both, or not allowed, to come to give evidence to the committee.

Then, when the newly elected parent reps came—and I have no criticism in particular of them—they were newly installed in the job and had not been involved with the drafting of the submission and therefore found it very difficult, and in some cases impossible, to answer the committee's questions in relation to the written submission which we had received some time earlier. For all those reasons, I express my disappointment. I still have confidence that the organisation can right itself in terms of looking at its governance and ensure that it continues to do the job that it should be doing, that is, representing the views of parents of students in government schools in South Australia.

I hope that those people involved with SAASSO will accept my comments in the spirit that they are given because, as I said, I have had experience with this organisation over a number of decades and I was disappointed at the interaction of this organisation and our committee on this particular occasion. Other members will speak for themselves, but I suspect that there were some other members who would have wanted to be much more critical of the issues that relate to SAASSO than perhaps the words that I have just put on the record at the moment.

The second issue I wanted to touch on briefly—and I will return to it when we further consider the report in September—is in relation to the parents of the school in Mount Gambier that was referred to in the original motion to establish this particular reference with the committee. Members will know that my original home is in Mount Gambier. Members will know that I still have family members in Mount Gambier, although my home is now in Adelaide.

I have to say that as a parent my heart went out to the parents and the families who have fought for many years now, since 2002, to achieve what they want to achieve, and that is, from their viewpoint, justice in terms of what they believe has occurred to their children. As a parent, I can understand the pain and the anguish that they felt back in 2002 and continue to feel, obviously, as they fight to have their case heard in the various fora available to them.

They were angry and disappointed at the TRB procedures and hearings in relation to this particular issue. I will address some comments about the committee recommendations in September, and the chair has also addressed some comment in relation to the committee's report. We hope that the recommendations of the committee will potentially make more transparent and understandable what are currently, in my view, complicated and difficult to understand processes that the TRB has been using.

I have to at the outset agree with the statement of the Chair. We indicated to various parties that made submissions to us individually and then as a committee that, as a committee, we had been charged with the responsibility of looking at the effectiveness and efficiency of the Teachers Registration Board. We were looking at the Teachers Registration Board as a whole. We were not there to re-hear individual cases, as the Chair has indicated. We were not there to re-hear the particular case in relation to Mount Gambier. We were there, as I said, to look at the overall issues in relation to the TRB and to be informed by the particular issues that related to the Mount Gambier school in order to make recommendations for the future in relation to the Teachers Registration Board .

I hope that parents will understand that that was a limitation on the committee and the members of the committee. Having heard the evidence of parents and having seen some of the evidence of the children—I am only speaking personally, because this is not part of the report, obviously—I am sympathetic to the concerns that they have expressed. As I said, I understand their anger and frustration over many years in terms of seeking answers to many of their questions.

It was not just issues in relation to allegations of sexual abuse that had to be considered in this case. Evidence in relation to what I would deem to be issues of competence of a teacher's performance are also canvassed and covered by the allegations that related to this particular teacher at the school. These allegations of a child being stood in a corner for much of the day to the degree where the young child soiled their pants because they were not allowed to go to the toilet were not ultimately tested at the Teachers Registration Board hearing. I think in the year 2002, when we are talking about young children, frankly, it is the sort of behaviour that should be deemed unacceptable by anybody who looks at these circumstances.

Clearly, there are difficult issues in relation to abuse of a sexual nature. I understand that it is a difficult issue in terms of being able to prove beyond a reasonable doubt something as significant as an allegation of child sexual abuse. However, there are a whole range of other issues which, in my view, strike at the heart of a teacher's competence—a teacher's general performance—which I would like to address further when we come back in September and look at some of the evidence presented to the committee.

If I leave the parliament this afternoon with one damning statistic in relation to the performance of the Teachers Registration Board and the whole processes over a long period of time, it is that when asked the question as to how many teachers had been found guilty of either incompetence or gross incompetence, we were told that there had been two teachers. I think one in 1998 was guilty of gross incompetence and one in the last four or five years found guilty of incompetence (or vice versa).

When we have some 35,000 teachers in South Australia who are registered and we get a figure like that, on something as broad as competence, that only two teachers in 15 or 20 years have been found guilty of incompetence or gross incompetence, then I think there is potentially something wrong, if I can understate the case, with our processes and the operation of the Teachers Registration Board. I do not make a direct criticism necessarily of the TRB because it may well be that not too many allegations of incompetence are being brought to the Teachers Registration Board and maybe that is a part of the issue as well.

Whilst it is part of their purview in relation to the work that they do—that is, they can look at a teacher and make a finding of incompetence in terms of their performance—maybe not too many allegations are being brought before the Teachers Registration Board on that particular issue. Maybe some are going there and the Teachers Registration Board is finding against them. I am not sure what the correct response to that is. I think that is an issue, as we further explore this particular report and as the government responds and hopefully the TRB responds to the report, that they might like to further explore as well.

Perhaps it is not the best explanation but with regard to the more serious crimes that some of the most well-known and fearsome mobsters in the United States were accused of, in the end, some of them were done for tax returns and a range of other issues like that. Nevertheless, they were still offences and they still got done for those particular offences, but the various authorities were unable to get them on some of the more serious crimes for which they had been—

The Hon. P. Holloway: Like mass murder.

The Hon. R.I. LUCAS: Well, mass murders, racketeering, a whole variety of things like that of which they had been accused for many years. The FBI and others had not managed to get them on that but, in the end, they had committed other offences for which they had been found guilty as well.

I want to flag that issue: when you get a series of allegations in relation to a teacher, some are obviously the most serious which are in relation to sexual abuse and clearly they have to be considered to see whether there is sufficient evidence. But if there is also a variety of other claims which strike at the heart, in my view, of the competence of a particular teacher in terms of their performance, I just find it unacceptable that any teacher could adopt a process where a young child could be forced to stand in a corner when they want to go to the toilet and be refused permission to go to the toilet and be left in a situation where they soil their pants and are left in that set of circumstances for the rest of that particular school day.

I am sure that all members in this chamber would not see that as being an acceptable practice in any school in South Australia or Australia. With that, I indicate that I will return to the issue when we next sit in September and I seek leave to conclude my remarks.

Leave granted; debate adjourned.

OPERATION FLINDERS FOUNDATION

The Hon. J.S.L. DAWKINS (17:36): I move:

That this council—

1. Congratulates the Operation Flinders Foundation on its 20th anniversary and success in providing support and opportunities to young men and women who have been identified as being at risk;

2. Acknowledges the terrific work done to develop the personal attitudes, values, self-esteem and motivation of Operation Flinders participants through espousing the virtues of team work and responsibility so they may grow as valued members of the community; and

3. Pays tribute to the staff, volunteers, board members and ambassadors of the organisation, past and present, who dedicate time, skills and resources into empowering youth through this worthy organisation.

It gives me pleasure to move this motion, which comes in the year when the 20th anniversary of Operation Flinders is being celebrated. Many members of this chamber would be aware that I have been a long-time supporter and promoter of this program. I declare at this point that I have been an ambassador for the Operation Flinders Foundation for a number of years. I often take the opportunity of visiting the foundation while it is conducting an exercise and of meeting as many of the participants as possible during that time.

Operation Flinders is an excellent community organisation, which receives an extraordinary amount of involvement from volunteers across the community. I am very pleased to move this motion. The Operation Flinders project was set up by Pamela Murray-White in 1991. Ms Murray-White was a teacher and former Army officer. Upon completion of her Army service, she returned to her teaching duties at the Beafield campus, dealing with students with behavioural problems. Ms Murray-White realised that there were some outdoor elements of Army life and culture that could have some positive effect on some of the Beafield students. She sought and received assistance from local Defence Force personnel to set up a program for these young people. The first exercise took place in 1991, with a total of 35 participants.

Sadly, Ms Murray-White passed on in the early days of Operation Flinders' two decades, but I know that she would be proud of where that organisation has landed today. It is a South Australian-based foundation that runs an early intervention program for 14 to 18 year olds. It provides a new direction for young people at risk.

The eight-day program in each exercise begins at Yankaninna Station, which is 65 kilometres east of Leigh Creek, in the North Flinders Ranges. The program provides young men and women who have been identified as being at risk with an opportunity to undertake a demanding outdoor program. Participants face a number of personal challenges as they are taken well out of their comfort zone. They walk more than 100 kilometres over the eight days, and the terrain is certainly not flat and provides a number of challenges to the young people involved.

Currently, Operation Flinders runs five annual exercises at Yankaninna Station and touches approximately 500 students each year, including Indigenous participants and young people who come from a range of backgrounds, including those who suffer from a physical or mental disability. In its 20 years, Operation Flinders has helped approximately 5,000 young people identified as being at risk. Evaluations of the program have continually highlighted the success of wilderness therapy and the difference it makes to the life of the participants.

This new experience ensures that those who participate develop their personal attitudes and improve their self-esteem, while valuing teamwork and the responsibilities that come as a member of a group supporting each other throughout a journey. The program aims to empower participants in the hope that the Operation Flinders experience will see them grow and develop into valued members of the community.

The Operation Flinders objectives can be summarised as follows: to increase access to programs for young people at risk; effect a positive life change for young people at risk by improving self-esteem and confidence; improve the rate of return to education; encouraging young participants to seek employment; reduce the recidivism rate of young offender participants;

continually improve the quality of the foundation's program; engage qualified, motivated and experienced staff, whether they be on a permanent, contract or volunteer basis; and effectively respond to the needs of relevant agencies to increase the resource base of the program through support from the public, corporate, benevolent and private sectors.

I must say that the foundation, particularly in more recent times, has been able to put more time into mentoring the participants after they return. I think they get great assistance from service clubs and people with experience in business in providing the support for these young people when they come back to their familiar circumstances. That is a vital part of the program because some young people, when they return from Operation Flinders, can be vulnerable to the previous influences that took them somewhat off the rails.

Operation Flinders currently receives funding through the Attorney-General's Department of the state government of $447,000 annually, but it is also very fortunate to have attracted sponsors Australia-wide. The ongoing generosity in support of these organisations plays a fundamental role in building the success of the foundation. To ensure future success we must, I think, as a community, raise awareness and promote the program to ensure that the ongoing funding for the program is secure. In doing that, the ambassadors play a role in encouraging businesses to get involved, to provide support and encouraging more people to become volunteers but also to provide in-kind support and the sort of expertise that is not always available to a small foundation the size of Operation Flinders.

I was very proud recently to host (along with the foundation) the ambassadors for a meal in this building. They are very keen to do all they can to continue to advance the work of the foundation in South Australia and beyond. I was also pleased, earlier in the year, along with the Hon. Steph Key, to host an information session about Operation Flinders, which a number of members of both houses attended. I know a number have taken up an invitation to attend an exercise—some have already done that and some are on the list to go up there in the near future. I urge all other members of this chamber, if they have the opportunity, to go and witness the work that happens during those exercises. I think they should take that opportunity.

I also mention that the Governor, Rear Admiral Kevin Scarce, has been up to the Operation Flinders exercises on a number of occasions and on his most recent visit walked with some of the young people for some days. I commend His Excellency for that support and involvement. The 20th anniversary celebration is about recognising the achievements Operation Flinders has made thus far and sharing what that organisation has to offer for future participants. It will be conducted at Yankaninna Station on 5 November; as such, I will seek to have a vote on the motion on Wednesday 19 October. I commend the motion to the council.

Debate adjourned on motion of Hon. I.K. Hunter.

OLYMPIC DAM EXPANSION

The Hon. M. PARNELL (17:46): I move:

1. That this council notes—

   (a) that the environmental impact statement and supplementary environmental impact statement for the proposed Olympic Dam expansion comparing the proponent's preferred option of exporting the uranium-infused copper concentrate to China for processing with the option for domestic processing is 'not discussed in sufficient detail to enable an understanding of the reasons for preferring certain options and rejecting others', as required in the guidelines for the preparation of the environmental impact statement;

   (b) that this absence of detail does not 'provide an adequate framework in which decision-makers may consider the environmental, economic and social aspects of the proposal'; and

   (c) that the state government has publicly expressed that it will 'strongly oppose any moves by the company to do most of the processing of minerals from the expanded Olympic Dam mine overseas'.

2. That this council calls on the state government to urgently require BHP Billiton to publicly release further detail, including economic modelling, justifying the export of South Australia's mineral wealth to China for processing over the option of processing here in South Australia.

There is no doubt that the proposed Olympic Dam expansion will have an enormous social, economic and environmental impact on our state, and as such it was declared to be a major project

under the Development Act. That declaration triggered the formal assessment of the social, economic and environmental impacts of the project through the EIS process.

A key part of any EIS process is a detailed discussion about the alternatives. These will include the alternative of not undertaking the development at all, or undertaking it in a different location or in a different way. This is an important part of the process because it helps the decision-maker, in this case the Governor (which effectively means the Executive Council), to assess not just the proponent's preferred option but the other potential options that may have been rejected as part of the proponent's assessment.

In relation to the Olympic Dam expansion, the formal guidelines for an EIS on the proposed development, published in November 2008, state the following:

> The EIS is required to:
>
> - Provide information of the existing operations, the proposed expanded operations and the alternatives considered in establishing the expanded project…From this information interested individuals and groups may gain an understanding of the proposed expansion, the need for the expansion, the alternatives…

The EIS must also include, according to the guidelines, 'A description of the alternatives investigated'. This description was required:

> Alternatives are to be discussed in sufficient detail to enable an understanding of the reasons for preferring certain options and rejecting others…

I can think of no more important aspect to this project than resolving whether the resource should be predominantly processed on site here in South Australia or in China. The implication of each path flows through to all aspects of the project. It has a huge impact on water, energy and other inputs. It also has a huge impact on waste and rehabilitation, but, most importantly, it has an enormous social and economic impact, especially on jobs.

Certainly the government is acutely aware of the importance of domestic processing. I remind this chamber of the Premier's media statement from 2007, entitled 'BHP Billiton's "China option" is not South Australia's option.' I will quote from some of that media statement. It states:

> Premier Mike Rann has told BHP Billiton that the South Australian Government will strongly oppose any moves by the company to do most of the processing of minerals from the expanded Olympic Dam Mine overseas.
>
> The giant mining company has today publicly revealed that it is exploring a 'second option' to ship uranium-bearing copper ore from Olympic Dam directly to China, with correspondingly lower levels of processing in South Australia.

The Premier is quoted as then saying:

> South Australians own the resource. South Australians own the minerals. And the South Australian taxpayer is being asked to invest massively in infrastructure to support this project. We have a right to expect a decent return on that investment in the form of jobs and economic development for the long term.
>
> We have a good relationship with BHP Billiton and will continue to work to add value to the resource. We do not want this world-class resource to be unfairly viewed as some kind of giant quarry from which both jobs and minerals are exported. I am aware that offshore processing is not the only option BHP Billiton is now considering.
>
> I met with BHP Billiton executives earlier this week, and I have made my views perfectly clear that the South Australian government, through our indenture agreement negotiations will maximise the benefit of this mine for all South Australians. I will insist that jobs and value adding are the foundation of any indenture legislation.
>
> BHP Billiton is expecting the South Australian government to invest hundreds of millions of dollars into this mine through the provision of infrastructure and services. It will require more roads, schools, health services, policing and so on. We want and expect a decent return on our investment.

The Greens could have written a large part of that because that is what we have been saying for many, many months.

It is clear that, when the EIS guidelines were finalised in 2008, domestic processing of the ore was a very real option. The guidelines for the EIS state at page 21, 'The existing and proposed processing plant site is to be illustrated...' It also says, 'The criteria for selecting the proposed plant site for the expanded operation is to be described...' and 'Integration of the existing and newly proposed plants is to be discussed...'

Clearly, it was in the guidelines that domestic processing was one of the aspects that needed to be thoroughly assessed. Therefore, it is very surprising how remarkably little discussion on alternative processing options is included in the original environmental impact statement. Essentially, in the 4,600 pages of the original EIS, less than half a page is devoted to discussing

why BHP Billiton, despite the government's overwhelming interest in an alternative to the China option, has not selected domestic processing.

The two main reasons given by BHP Billiton are, firstly, that the capital cost of the additional smelter would not provide the optimal return on investment and, secondly, that there is an operating constraint in trying to match the design capacity of an on-site smelter with the volume of ore mined. There is no economic modelling whatsoever or any details provided to justify those claims.

If we then go to the supplementary EIS, in the approximately 15,000 or so pages of that document, the domestic processing option is dismissed in just four short dot points, with the explanation that this option was assessed but rejected for the same reason as detailed in the original EIS: that the additional cost of building a new processing unit on site would 'not provide the optimal return on investment'. The question for us is: is that explanation good enough? Is it okay for BHP Billiton to essentially refuse to provide appropriate justification for their preferred option—the China option—in defiance of the EIS guidelines? Certainly the Greens do not think that this is acceptable.

I recently approached the South Australian Centre for Economic Studies to see if it would be able to do an analysis of the potential economic and employment benefits to South Australia of processing our resources at Olympic Dam. For those members who are not aware, the South Australian Centre for Economic Studies is a self-funding joint research unit of the University of Adelaide and the Flinders University of South Australia. The centre provides applied research, analysis and commentary on contemporary economic, social and public policy issues.

It offers an extremely valuable service providing a snapshot of recent economic and social trends in our state through a selection of key indicators and the dissemination of regular briefing reports that are well respected among government and the business community. In response to my request, the centre's Executive Director, Associate Professor Michael O'Neil wrote:

> There is no real physical infrastructure or labour constraints which are preventing BHP Billiton from processing locally but it appears as if there are significant costs associated with processing ore at the expanded operation. BHP Billiton has not quantified any of these costs in their EIS. More information on the various processing scenarios is needed from BHP Billiton to weigh up the costs and benefits of each option.

Professor O'Neil goes on:

> To assess BHP Billiton's conclusion that processing ore locally would not provide the optimal return on investment, further information is required from the company which quantifies the costs and benefits of each alternative. It should be noted that an optimal return on investment to shareholders does not equate to optimal return on the mineral deposit which is ultimately owned by all South Australians. The calculation of an optimal private investment return would need also to factor in the contribution of taxpayers to infrastructure and other services that enable the operation of the mine and it may be that an optimal return on public investment may warrant higher employment levels (or higher taxes, higher user charges).

He goes on:

> Given the EIS does not provide any costing information on alternative processing scenarios which BHP Billiton considered, the South Australian Centre for Economic Studies is unable to make an economic and financial assessment regarding the feasibility of processing ore in South Australia.

Professor O'Neil finishes by saying:

> It is advised that Mr Parnell further asks government to contact BHP Billiton and request more information on the processing options they considered, to obtain an indication of the total costs and benefits associated with processing the ore locally and the relative rankings of each option.

That is precisely what I am doing in this motion today. Voting in favour of this motion does not mean that any member necessarily supports domestic processing over exporting the ore to China. All the motion does is ask for more information from the company. I come back to the Premier's words from 2007. What he eloquently stated was:

> South Australians own the resource. South Australians own the minerals. And the South Australian taxpayer is being asked to invest massively in infrastructure to support this project. We have a right to expect a decent return on that investment in the form of jobs and economic development for the long term.

I think it is entirely reasonable that, if BHP Billiton wants to pursue an option that reduces the potential South Australian economic benefit of the Olympic Dam expansion, it should provide some justification and explanation to the South Australian public, who are the owners of that resource. At the moment, we have less than one single A4 page explaining the company position. There is no

data and there is scant detail. That is simply not good enough for a project that will have such an enormous impact on our state's economy. I commend the motion to the house.

Debate adjourned on motion of Hon. J.M. Gazzola.

SELECT COMMITTEE ON MATTERS RELATED TO THE GENERAL ELECTION OF 20 MARCH 2010

The Hon. T.J. STEPHENS (17:58): On behalf of the Hon. Stephen Wade, I move:

That the committee have leave to sit during the recess and report on Wednesday 14 September 2011.

Motion carried.

BUDGET AND FINANCE COMMITTEE

The Hon. J.S.L. DAWKINS (17:59): On behalf of the Hon. R.I. Lucas, I move:

That the committee have leave to sit during the recess and report on Wednesday 14 September 2011.

Motion carried.

SELECT COMMITTEE ON DISABILITY SERVICES FUNDING

The Hon. J.M.A. LENSINK (17:59): I move:

That the committee have leave to sit during the recess and to report on Wednesday 14 September 2011.

Motion carried.

SELECT COMMITTEE ON LONSDALE-BASED ADELAIDE DESALINATION PLANT

The Hon. T.A. FRANKS (17:59): I move:

That the committee have leave to sit during the recess and report on Wednesday 14 September 2011.

Motion carried.

SELECT COMMITTEE ON DEPARTMENT OF CORRECTIONAL SERVICES

The Hon. T.J. STEPHENS (18:00): I move:

That the committee have leave to sit during the recess and report on Wednesday 14 September 2011.

Motion carried.

SELECT COMMITTEE ON HARVESTING RIGHTS IN FORESTRYSA PLANTATION ESTATES

The Hon. D.G.E. HOOD (18:00): On behalf of the honourable member concerned, I move:

That the committee have leave to sit during the recess and report on Wednesday 14 September 2011.

Motion carried.

SELECT COMMITTEE ON MARINE PARKS IN SOUTH AUSTRALIA

The Hon. D.G.E. HOOD (18:00): I move:

That the committee have leave to sit during the recess and report on Wednesday 14 September 2011.

Motion carried.

[Sitting suspended from 18:01 to 19:49]

ADELAIDE OVAL REDEVELOPMENT AND MANAGEMENT BILL

In committee.

(Continued from 7 July 2011.)

Clause 8.

The Hon. R.I. LUCAS: We are opposing clause 8 with the purpose of inserting new clauses 8A, 8B and 8C, so it is a significant amendment. Just briefly, since we last debated in the chamber there has been considerable discussion between government advisers and the opposition, and other minor parties and Independents to a degree, not as much, but I will let them

speak about their amendments and negotiations, but certainly in relation to the package of amendments being moved by the Liberal Party there has been considerable negotiation.

In summary, considerable agreement has been reached between the government and the opposition in relation to at least understanding our positions. We will be moving some amendments in an amended form. The government has tabled further amendments, some of which we will be supporting and some of which we will oppose. We understand that the government's position is that it will continue to oppose some of our amendments as part of that particular package, as it did when last we sat.

The Hon. G.E. GAGO: The government supports this.

The Hon. M. PARNELL: I want to put on the record the Greens' support for the removal of clause 8. Clause 8 is one of those pernicious clauses that very often spells the kiss of death to a project even though its intent is the complete opposite. I think it is very inappropriate for the parliament, through legislation, to be granting development approval simply by legislative measure without a requirement for a development application or any level of scrutiny by anyone other than members of parliament. When I say 'kiss of death', members will recall that other notable projects where this approach was taken—the five-star resort at Wilpena, the Penola pulp mill—went absolutely nowhere. It is poor form for the parliament to provide development approval by virtue of legislation. I think removing this clause improves the bill greatly.

Clause negatived.

New Parts 3A and 3B.

The Hon. R.I. LUCAS: I move:

Page 7, after line 23—Insert:

Part 3A—Financial management

8A—Extent of financial commitment

(1) If an appropriation is made for the purposes of, or in connection with, the redevelopment of Adelaide Oval envisaged by this Act, the total amount that the Minister, or any other entity acting on behalf of the State, is authorised to make available or expend for a designated purpose is $535 million.

(2) Subsection (1) applies in relation to any amount made available or expended during the period commencing on 1 December 2009 and ending on 1 December 2019.

(3) The Minister must not, after the commencement of this section, provide or authorise the provision of financial assistance to SACA unless or until a sublease envisaged by section 5(1) has been granted to SMA.

(4) For the purposes of this section, a designated purpose means any of the following:

(a) development within the area bounded by King William Road, Pennington Terrace, Montefiore Road and War Memorial Drive, other than land that is subject to a lease or licence to the Memorial Drive Tennis Club Inc., Next Generation Clubs Australia Pty Ltd or the South Australian Tennis Association Inc.;

(b) grants or other forms of financial assistance to or for the benefit of SMA, SACA, the SANFL or any other entity (including to assist with, or to achieve, the reduction or discharge of any loan or other commitment, to pay any interest, to provide or support a guarantee, security or bond, or to provide any other form of financial accommodation).

(5) However, a designated purpose does not include—

(a) roadworks within the area referred to in subsection (4)(a) from 1 January 2015; or

(b) roadworks relating to King William Road, Pennington Terrace, Montefiore Road or War Memorial Drive.

8B—Financial supervision by the Auditor General

(1) The Auditor General must, within 2 months after the end of each designated period, prepare a report on—

(a) the extent to which money has been made available or expended within the $535 million limit specified by this Part during the designated period; and

(b) the state of the public accounts that are relevant to the redevelopment of Adelaide Oval envisaged by this Act; and

(c) the extent to which it appears that public money made available to any entity, including an entity that is not a public authority, for the purposes of, or in connection with, the redevelopment of Adelaide Oval envisaged by this Act has been properly and efficiently managed and used during the designated period.

(2) The Auditor General may, at any time (without further authorisation), audit or examine the accounts of a public authority or SMA in order to prepare a report under subsection (1).

(3) Furthermore, the Auditor General must in any event audit the accounts of SMA each year and include a report on that audit in the Auditor General's annual report.

(4) The Auditor General may, for the purposes of subsections (1), (2) and (3) exercise any power that the Auditor General has in relation to an audit or examination under Part 3 of the Public Finance and Audit Act 1987 (and that Part will apply in relation to the exercise of any such power under this section as if the power were exercised under that Act and as if any reference to a public authority included a reference to an entity that is the subject of an audit or examination under this section).

(5) The Auditor General must, after completing a report under subsection (1), deliver copies of the report to the President of the Legislative Council and the Speaker of the House of Assembly.

(6) When the President of the Legislative Council and the Speaker of the House of Assembly receive a report from the Auditor General under this section, the President and the Speaker must—

(a) immediately cause the report to be published; and

(b) lay the report before their respective Houses at the earliest opportunity.

(7) If the President of the Legislative Council or the Speaker of the House of Assembly is absent at the time the Auditor General delivers to the Parliament a report under this section, the Clerk of the relevant House will receive the report on behalf of the President or Speaker (as the case may be) (and the report or document will then be taken to have been received by the President or the Speaker).

(8) If a report is received by the President of the Legislative Council or the Speaker of the House of Assembly at a time when Parliament is not sitting, the report will be taken to have been published under subsection (6)(a) at the expiration of 1 clear day after the day of receipt of the report.

(9) A report or document will, when published under subsection (6)(a), be taken for the purposes of any other Act or law to be a report of the Parliament published under the authority of the Legislative Council and the House of Assembly.

(10) This section—

(a) is in addition to the provisions of any other Act or law requiring the accounts of a company or other body corporate to be audited; and

(b) is not in derogation of any such provisions.

(11) In this section—

designated period means—

(a) a period commencing on 1 January in each year and expiring on 30 June in the same year (both dates inclusive); and

(b) a period commencing on 1 July in each year and expiring on 31 December in the same year (both dates inclusive);

public accounts has the same meaning as in the Public Finance and Audit Act 1987;

public authority has the same meaning as in the Public Finance and Audit Act 1987.

Part 3B—Development assessment

8C—Development assessment

(1) The Development Plan that relates to the area of the Council will be taken to provide—

(a) that the Adelaide Oval Core Area is an area or zone that may be used predominantly for the purposes described in section 4(2); and

(b) that the Adelaide Oval Licence Area is an area or zone that may be used for the purposes described in section 7(3).

(2) To the extent of any inconsistency between subsection (1) and the Development Plan referred to in that subsection, subsection (1) will prevail.

(3) Any development—

(a) undertaken within the Adelaide Oval Core Area associated (directly or indirectly) with the redevelopment of Adelaide Oval, its stands or other facilities, or in connection with a lease under section 4 or a sublease under section 5; or

(b) undertaken within the Adelaide Oval Licence Area associated (directly or indirectly) with development within the ambit of paragraph (a), or in connection with a licence or sub licence under section 7,

will be taken to be complying development under section 35 of the Development Act 1993 and Category 1 development under section 38 of that Act.

(4) The Development Assessment Commission will be taken to be the relevant authority under section 34 of the Development Act 1993 in relation to any proposed development within the ambit of subsection (3).

In speaking to this, the minister now, under amendments to be moved by the minister [6] to my amendment, is going to, in the first instance, seek to delete subclause (3). Is that correct? Yes.

Can I address that firstly and say that this is part of a package of amendments that we have agreed to with the government's advisers and the opposition will support the minister's move to delete subclause (3). So, whenever the Chair decides that he wants to do that, we are in your hands.

In speaking to that and the package of amendments, can I indicate that that particular subclause is related to an earlier amendment that we passed when last we sat—amendment No. 22. Members would remember that we said in that amendment that the minister—

The CHAIR: Order! I remind that cameraman: they are only to point that camera on people on their feet. That does not look like it is pointing on the Hon. Mr Lucas to me.

The Hon. R.I. LUCAS: It has a wide-angled lens.

The CHAIR: The Hon. Mr Lucas will not encourage the cameraman. The cameraman will find himself widely escorted to the door if he does not follow instructions from the Chair. The Hon. Mr Lucas.

The Hon. R.I. LUCAS: Thank you, Mr Chairman. I am a modest man. I did not require it to be on me. The committee has passed amendment No. 22, which was that the minister had to use his or her best endeavours to grant a sublease to the SMA under this section by 15 March 2012, but it was linked to this subclause 8A(3).

Without going through the technical provisions, the bottom line was that, given that the government's arrangements with SACA were such that we understand the money for the approximately $85 million repayment of their loans for the Western Stand was going to be paid around about November, December of this year, this provision would have meant, in essence, the SMA taking over in maybe November or December as opposed to March of next year.

The negotiation with the government's advisers is that we are not going to persist with this particular amendment but, on recommittal under [Lucas-4] 9, we will be moving a change to that earlier provision, and it will be that the minister must grant a sublease to the SMA under this section by 15 March 2012, so it will not be a best endeavours.

The compromise is that we will not persist with this particular amendment, which might have meant a transfer in, say, November or December, but we will now make it hard and fast that it is 15 March 2012, rather than best endeavours because, clearly, best endeavours did not mean that it had to occur by 15 March. That is one aspect of the amendments; that is, we will support the minister's deletion of subclause (3) but, on recommittal, we will be amending that provision that relates to 15 March.

One of the overall aspects of this significant amendment is the issue in relation to the $535 million cap. Without boring witless all members and those who are here this evening, the history, very quickly, is that the government originally had committed to $450 million and not a dollar more for the project, then that changed to $535 million and not a dollar more. It is on the public record that the member for Croydon, Mr Atkinson, moved successfully in caucus that not a dollar more than $535 million would be spent on the project.

The government, through various ministers and the Premier, have committed to not spending a dollar more than $535 million and so, the Liberal Party, in terms of accountability, has crafted an amendment in this particular clause which essentially says, 'Okay. There will be $535 million and not a dollar more for the project.' The minister will move amendment No. 2 later, which I will address, which does raise some issues in relation to that, but I will address those comments when she moves her amendment.

This also introduces financial supervision by the Auditor-General—again, in terms of accountability, this is an $80 million project. As I indicated in the second reading, we are talking about a considerable investment of taxpayer funds and the brutal reality is that, in 20 or 30 years' time, if the SMA does get itself into financial difficulties, does incur significant financial liabilities and, if at the same time SACA has no money and SANFL has no money, then ultimately who is going to be responsible for any potential financial mess that is there? Clearly, the onus would come back on the taxpayers and the government of the day.

So, it has been our strong view in terms of accountability that the Auditor-General needed an ongoing role and needed to be able to report on a regular basis, on an annual basis, in terms of the financial health of the SMA in terms of what was going on and, certainly from what the government has said publicly, they are prepared to accept this set of amendments as well.

There are detailed provisions under 8B about the financial supervision by the Auditor-General, the tabling of reports, a variety of other things and, for the sake of time again, I do not intend to go through all of those because, as I understand it, there is broad agreement with the supervision issues that relate to the role of the Auditor-General.

Then under 8C there are issues that we have discussed in other amendments and in the second reading before, and I do not intend to go for those. This 8C relates to the development assessment. The Hon. Mr Parnell just made some comments in relation to the deletion of clause 8. This is what we believe is a compromise and defensible position in relation to development assessment that we have spoken about at length during the second reading and in earlier stages of the debate. With that, I urge support for the package of amendments incorporated under amendment No. 33, new clauses 8A, 8B and 8C.

The Hon. G.E. GAGO: I move:

New clause 8A(3)—Delete subclause (3)

New clause 8A(4)(b)—Delete paragraph (b) and substitute:

(b) grants or other forms of financial assistance to or for the benefit of SMA, SACA, the SANFL or any other entity in connection with the development of Adelaide Oval (including to assist with, or to achieve, the reduction or discharge of any loan or other commitment, to pay any interest, to provide or support a guarantee, security or bond, or to provide any other form of financial accommodation but not including amounts that have been agreed to be paid in relation to interest costs incurred by SACA for loans provided for the Western Stand Redevelopment).

As the committee has already been informed, the government is opposed to moves by the opposition that no funds can be provided to SACA before a lease exists with SMA on the grounds of existing legal arrangements between the government and SACA. As a result, the government has introduced an amendment to delete subclause (3) from the opposition's amendment [Lucas-4] 33. The government has also introduced an amendment to paragraph (b) in subclause (4) to the opposition's amendment [Lucas-4] 33.

The government has committed an upper limit of $535 million towards the project. It has no intention to spend beyond this limit; however, the wording in subclause (4)(b) introduces a restriction on the application of the government's funds, given that an accounting restriction would capture capitalised interest in the order of about $1.5 million on an existing loan arrangement with SACA. Notwithstanding that the current arrangements with SACA waive the capitalised interest, the opposition's amendment will reduce the amount of available funding that can be applied for construction by the actual value of the capitalised interest.

The government is also supportive of 8C, the replacement clause, as it allows the redevelopment to be assessed by the Development Assessment Commission. We are happy to deal with those matters agreed to by way of a recommittal process.

The Hon. R.I. LUCAS: Mr Chairman, I take it that the minister has now moved both of her amendments Nos 1 and 2?

The CHAIR: Yes.

The Hon. R.I. LUCAS: On that basis, I have only addressed amendment No. 1, which we are agreeing to, but I now want to address amendment No. 2. It is one of the few issues tonight, hopefully, where there will be trenchant opposition from government and opposition in terms of the amendments. The government's amendment No. 2 in their package of amendments (No. 6) actually adds the words, as the minister has indicated, to our existing 8A(4)(b):

...but not including amounts that have been agreed to be paid in relation to interest costs incurred by SACA for loans provided for the Western Stand Redevelopment).

As the minister has indicated, at the moment that comes to an extra $1.5 million. As I said earlier, the Liberal Party's amendment is predicated on the government's commitment that there will be not a dollar more than $535 million go into this particular project. We know that it has found creative ways to get around that with the bridge, $40 million going into the Convention Centre budget, and various other things, but this bill, and our amendment, seeks to lessen the government's capacity for creativity and limit it to not a dollar more than $535 million.

In essence, this is saying that, rather than not a dollar more than $535 million, it will be $1.5 million more than $535 million. The government is saying that there will be $535 million on the project plus $1.5 million on a deal that the government has evidently done with SACA in relation to paying its interest costs. There is no way in the world that this can be spun by the government that this is not part of the project because it is a loan in relation to the Western Stand redevelopment, that these are the assets that are being sold into the deal from SACA.

That is why the government is giving SACA $85 million plus, and we will address that in a moment. There is no way that this is not part of the deal, and to that end, before I conclude my remarks, I put a question to the minister: has SACA already had about $1 million in interest costs paid already, separate to the $1.5 million? Is that $1 million coming out of the $535 million?

The Hon. G.E. GAGO: I have been advised that the arrangements are that there is $1 million owed to SACA for interest that will come out of the $535 million.

The Hon. R.I. LUCAS: Let us be clear about that. There is already $1 million that is going to be paid to SACA in terms of interest costs, in relation to the Western Stand redevelopment loan, which will come out of the $535 million. That is because the Premier, former treasurer Kevin Foley, and senior Treasury officers giving evidence to the Budget and Finance Committee all said that the government's position was that the interest costs had to come out of the $535 million. We took evidence at the Budget and Finance Committee that made that clear from the Treasury officers' viewpoint, and the former treasurer also made it clear that that was a requirement.

So $1 million of the interest costs are already coming out of the $535 million. With this amendment the government is saying that there is evidently another $1.5 million it will pay in interest costs for SACA, but that will not come out of the $535 million; it will be not a dollar more than $535 million but $536.5 million. Is that $1.5 million a final cost or is it only the current estimate? Could it actually be higher by the time everything is repaid?

The Hon. G.E. GAGO: I have been advised that it is, in fact, an estimate.

The Hon. R.I. LUCAS: It is currently an estimate; it could be higher or it could possibly be lower. The interest cost could actually be higher than the $1.5 million. So what we are being asked to sign off on here is, at the moment, an estimate of $1.5 million, but it could be higher than that by an unknown sum.

My second question is: does this mean now that the total payments, in terms of the deals the government has done with SACA, will be $85 million, plus $1 million of interest costs, which will come out of the $535 million, plus an estimate at the moment of $1½ million, which the government is seeking to take outside of the $535 million? Does that mean that the current estimate of the total payments to SACA for its loans on the western stand will be not $85 million but an estimate of $87.5 million?

The Hon. G.E. GAGO: I have been advised that the government has legal concerns regarding the wording of 8A(4)(b) as it relates to previous legal loan agreements with the Treasurer. The government is completely supportive of the intent of the bill and appreciates the opposition's arguments and explanations of the wording and their intent. However, as a responsible government, the government cannot support the amendment as it stands.

The government's commitment is to spend $535 million on this project, not one dollar more. Our commitment was to pay SACA an amount of $85 million as a grant, and we paid $30 million of that to SACA in August. However, to protect our ongoing interests, we then made that a loan.

The Hon. R.I. LUCAS: The $30 million?

The Hon. G.E. GAGO: The $30 million. Our intention is that, once legislation is passed, it will revert to a grant, as was our original commitment. The opposition amendment will decrease the government's ability to spend our $535 million on this project. So, it will actually reduce the value of that by an estimate of $1.5 million, probably more. What it does is it takes that money out of the project, which obviously is not our intention .

The Hon. R.I. LUCAS: I might need to repeat my question. Whilst the minister was getting the answer to the earlier question, she might have missed by next question, which is: can the minister now confirm that the government's current arrangement with SACA is to pay SACA an $85 million grant—and there is $1 million of interest subsidy, which will be within the $535 million, and there is $1.5 million current estimate (and, as the minister has just said, probably more) interest subsidy the government wants outside the $535 million? Is the government's current estimate of total payments to SACA for the western stand $87.5 million?

The Hon. G.E. GAGO: I have been advised that the answer to your question is no. The cost will be $85 million for the project, plus $1 million out of the $535 million for interest.

The Hon. R.I. LUCAS: In relation to the taxpayer payments to SACA, the minister's advice was that $85 million is the grant and $1 million in interest subsidies which is part of the $535 million. Why isn't the other $1.5 million in interest subsidy also included in terms of the total payments to SACA, making it $87.5 million?

The Hon. G.E. GAGO: The advice I have received is that the government's intention was always to give $85 million as a grant and not a cent more. We are only talking about the protection the government implemented when it forwarded the first $30 million to SACA, in the event that this project did not proceed. If this legislation passes the project proceeds, and there is going to be an $85 million grant to SACA, as previously proposed.

The Hon. R.I. LUCAS: There is an $85 million grant, but the minister in a previous response (based on advice) agreed that there would be another payment of $1 million in terms of interest subsidy costs, so that is $86 million that is going to be paid to SACA. The minister's previous answer confirmed that.

What I am asking the minister to confirm or advise this house now is: why isn't the $1.5 million current estimate of the further interest subsidy also added to the $86 million, giving a figure of $87.5 million? Is that not an interest subsidy which is being paid to SACA to reimburse them for their costs? They get the grant, they get $1 million in interest subsidy within the $535 million, and another $1.5 million in interest subsidy for their loan as a result of the legal agreement you have, giving a total of $87.5 million.

The Hon. G.E. GAGO: I have been advised that the $1.5 million is not money that we are paying to SACA; it is money that SACA would have to pay to us if the project did not proceed. If the project does proceed, it is a grant for $30 million, not a loan, and we are not paying any more to SACA.

The Hon. R.I. LUCAS: I have to say that I am more confused than ever. In the nature of the discussions I had with the government's advisers, I understood this was a further interest subsidy cost, and that is what we have been talking about up until now. Now the minister is saying that if the project does not proceed it is what SACA would have to pay the government. We are not talking about that; we are talking about the project proceeding.

My understanding, from the discussions with the government's advisers, is that if the project proceeds, given the legal agreements the government has with SACA, there is this issue of the interest costs at the moment, which add up to $1.5 million. Someone has to pay for them—either SACA or the government. My understanding is that the government is telling us it is the government that has to pay them. This amendment is just working out whether it comes out of the 535 or it does not. However, what the minister has just said is completely opposite to the understanding that the shadow treasurer and I had in terms of discussions with the government's advisers.

I think it is important that we place on the record and make it quite clear here what it is that the government's advisers are saying in relation to this. Our understanding (the shadow treasurer and mine) is that this was an additional $1.5 million cost and, indeed, the minister said earlier, 'If it comes out of the 535, that will mean $1.5 million less to be spent on the capital build of the project.' The automatic inference of that is that it is $1.5 million of real money less that could be spent on the project because it is going to be spent on interest subsidy costs under our amendment. That is our position: the total costs should come out of the 535.

I know it is on advice, but I do not understand the last advice the minister has received and put on the record in relation to this issue. I do not think the government can argue the case that, 'Hey, if we don't have our amendment, we're going to have $1.5 million of real money less to spend on the capital build,' and then say, 'Well, it's not actually money that's, in essence, real money that's going to go to SACA.' I think there is an inconsistency in the minister's advice on this particular issue which needs to be confirmed for the committee.

The Hon. G.E. GAGO: I have been advised that our intention, if the bill passes, is that we will forgive SACA the requirement to pay us the interest due on the loan that we set up to protect us handing over that first $30 million. We are forgiving SACA the requirement to pay the interest to the government. The opposition's amendment effectively catches that as an extra payment to SACA, and that is not the intention, nor is it the fact.

The Hon. R.I. LUCAS: I will not delay the proceedings this evening much more on that. Whilst that answer does not clarify it exactly, it does make clear the nature of this amendment. We will have the opportunity, I guess, with Treasury officers and SAFA officers to get the technical detail perhaps in another forum. Let me conclude by indicating that we will be strongly opposing this particular provision (b). It is a simple argument: the minister even said again tonight, 'Not a dollar more than $535 million.' It is quite clear that, if this amendment passes, there will potentially be an extra $1.5 million and, as the minister said, probably more, because that is only a current estimate of the costs.

The potential cost is $536.5 million, or a little bit more depending on interest rate movements, obviously, between now and when the deal is finally resolved. To be consistent with the government's position, as announced firstly by former treasurer Foley and the Premier, and to be consistent with the caucus resolution moved by the member for Croydon, Mr Atkinson, not a dollar more than $535 million to be spent, and to be consistent with this particular amendment that we are moving to keep the government to that particular commitment, I urge members to oppose this attempt from the government to squeeze an additional $1.5 million, or possibly more, out of the deal.

The Hon. G.E. GAGO: I think we have provided all of the clarification that is possible. Members of the agency and officers have been spent time speaking to the opposition and crossbenchers. I urge those crossbenchers to support the government in relation to this particular proposal. Put most simply, I can assure members that the $1.5 million is not an extra payment to SACA.

The Hon. M. PARNELL: I have been listening very carefully to the debate and I thought I had it clear and then it became less clear, and it is clarifying again in my mind. The Greens have always been concerned about the amount of money that this project is costing—$535 million for 12,000 extra seats. I know there is more than just extra seats, but it is an incredibly expensive project and all of us can think of other pressing community needs where this money could be well spent.

The Greens support the provision, which reduces the amount of wriggle room for the government to evade the commitment it has given to the South Australian people, which is that not a dollar more than the $535 million will be spent. From listening to the Hon. Rob Lucas's questions and the honourable minister's answers, it seems to me that, whether it is a cheque handed over or a $1.5 million debt forgiven, it is real public money.

If the implication is that the $535 million drops town to $533.5 million, then so be it. That means that in relation to the two amendments before us, the first of the government's amendment I do not believe is contentious—I have not heard anyone speak against it—and we will support it, but the second amendment we will not support and will stick with the original paragraph (b) of subclause (4) of the new section 8A that is being inserted. We will be supporting the original Liberal amendment and will not be supporting the government's amendment.

The Hon. A. BRESSINGTON: Same here: I will be supporting the Liberal's amendment and not supporting the government's amendment.

The Hon. D.G.E. HOOD: Just a question for the minister: what are the implications in real terms, what is the practical effect of this $1.5 million? What does SACA claim they will miss out on if they have to repay this $1.5 million in interest? What is the actual impact?

The Hon. G.E. GAGO: The impact is that it will be $1.5 million less that the government will have to contribute to this project, possibly more.

The Hon. D.G.E. HOOD: My question is whether they have indicated what that means in real terms? Okay, $1.5 million, but what is the impact of that $1.5 million?

The Hon. G.E. GAGO: It means that the project budget is reduced by $1.5 million, but in terms of which part of the project could not go ahead, I would not be able to provide you with that. Clearly the project as outlined would not be able to be fully paid for, by $1.5 million.

The Hon. D.G.E. HOOD: Did the government make a commitment when they loaned this money to the SACA that it would be interest free, effectively?

The Hon. G.E. GAGO: I am advised that the deal with SACA was that it would be interest free and a grant if the project proceeded. If the project did not proceed we have protected our interest and reverted it to a grant.

The Hon. D.G.E. HOOD: Sorry, last question, I think. That being the case, was there a formal agreement, as in a written agreement, between the SACA and the government to that effect? That is, if this does not occur, would the government be in breach of that agreement?

The Hon. G.E. GAGO: I have been advised that, yes, there is a formal legal agreement, and that is why SACA has to receive its full $85 million, and that would result in $1.5 million less to spend on the project.

The Hon. D.G.E. HOOD: I do have one further question, that being the case. I do not want to delay the committee, but we are right at the nub of it here. It is fair to say, then, based on that answer, minister, that the SACA was never expecting to pay this $1.5 million; that it had always understood that it would not be faced with that expense?

The Hon. G.E. GAGO: I am advised that that is correct.

The Hon. D.G.E. HOOD: Family First supports both amendments.

The Hon. J.A. DARLEY: Having heard that explanation, I will be supporting the government on both amendments.

The Hon. K.L. VINCENT: It is with a very heavy heart that I support the government on this.

Amendment to amendment carried; proposed new clause 8A(3) negatived.

The committee divided on the Hon. G.E. Gago's amendment to proposed new clause 8A(4)(b):

AYES (10)

Brokenshire, R.L.	Darley, J.A.	Finnigan, B.V.
Gago, G.E. (teller)	Gazzola, J.M.	Holloway, P.
Hood, D.G.E.	Hunter, I.K.	Vincent, K.L.
Wortley, R.P.		

NOES (9)

Bressington, A.	Dawkins, J.S.L.	Franks, T.A.
Lensink, J.M.A.	Lucas, R.I. (teller)	Parnell, M.
Ridgway, D.W.	Stephens, T.J.	Wade, S.G.

PAIRS (2)

Zollo, C.	Lee, J.S.

Majority of 1 for the ayes.

Amendment to amendment carried; new parts as amended inserted.

Clause 9.

The Hon. M. PARNELL: I move:

Page 7—

Lines 27 and 28—Delete 'or to land within the Adelaide Oval Licence Area that is subject to a licence under this Act'

Lines 233 and 34—Delete 'or within the Adelaide Oval Licence Area'

My understanding is that my amendment [Parnell-1] 8 is identical to [Lucas-4] 34 and also my amendment [Parnell-1] 9 is identical to [Lucas-1] 35. The effect of these amendments is to make it clear that the Adelaide Parklands Management Strategy under the Adelaide Parklands Act and also the management plan under chapter 11 of the Local Government Act will apply to the Adelaide Oval licence area. Under the government's bill, both those documents were not to apply. These amendments say that they do.

This is under the section entitled 'Interaction with other acts' and it is the section that guides decision-makers as to the information they should take into account when making their decisions, so I think it is important that we acknowledge that the Adelaide Parklands Management Act is only some six years old. I understand that the strategy under that act—and the minister will perhaps correct me if I am wrong—is identical to the management plan under the Local Government Act and that those documents should continue to apply to the licence area, which I remind members is the larger area bounded by the road network. It does not include the core area where the oval itself sits.

The Hon. G.E. GAGO: The government rises to oppose both of these amendments. The Adelaide Oval licence area is integral to the overall redevelopment and operations of the Adelaide Oval. It is not unreasonable for the government to seek certainty in securing appropriate tenure over this land, particularly in terms of the length of the licence period. The government will ensure, through its own arrangements with the SMA, that the Parklands in the licence area are protected and, wherever possible, enhanced through the redevelopment of the Adelaide Oval.

The Hon. R.I. LUCAS: As the honourable member has indicated, the Liberal Party has some amendments so we will be supporting them. As I indicated earlier, I think in debate on amendment No. 25, we see that these, while perhaps not strictly consequential, are part of a package of amendments that the opposition has moved. The earlier amendment No. 25 was successful and I think all members, other than government members, supported it. I think that was the case with that amendment. This is a part of that package of amendments in terms of a compromise position that I outlined in the second reading on behalf of the member for Davenport and the Liberal Party, and we therefore will be supporting the amendments moved by the Hon. Mr Parnell.

The Hon. J.A. DARLEY: I will be supporting those.

Amendments carried.

The Hon. R.I. LUCAS: I move:

Page 7, after line 34—Insert:

(3a) Despite section 11 of the *Development Act 1993*, the Development Assessment Commission is not, in the exercise and discharge of its powers, functions or duties under this Act, subject to the direction and control of the Minister responsible for the administration of that Act.

This amendment, I think, is a result of further discussion with parliamentary counsel and the member for Davenport. This committee has already supported a package of amendments so that, essentially, when there are some issues of dispute involving the SMA and the council, there is a dispute resolution mechanism, I guess, which is the Development Assessment Commission (DAC) as the independent umpire, as I outlined on behalf of the Liberal Party in the second reading and in earlier stages of this debate.

Our advice is that, evidently, there is a section in the Development Act which does allow the minister to direct DAC and, clearly, it would not make much sense, if we were going to set up DAC as an independent umpire, that the minister could then direct DAC when it is meant to be an independent umpire. This is, in essence, seeking to resolve that particular problem so that DAC can undertake the role envisaged by this package of amendments of being a dispute resolution mechanism, or the independent umpire, on a number of issues.

The Hon. G.E. GAGO: The government is opposing this. We do not believe that there is any reason for this to be in the legislation.

The Hon. M. PARNELL: The Greens are supporting this amendment for the reasons set out by the Hon. Rob Lucas.

The Hon. D.G.E. HOOD: So are we, Mr Chairman.

The Hon. J.A. DARLEY: And I, Mr Chairman.

Amendment carried; clause as amended passed.

New clause 9A.

The Hon. R.I. LUCAS: I move:

Page 8, after line 2—Insert:

9A—Council leases, licences and approvals in adjacent area

(1) The Council must not grant a prescribed lease, licence or approval in relation to any part of the adjacent area without the consent of SMA.

(2) A lease, licence or approval granted in breach of this section is void and of no effect.

(3) In this section—

adjacent area means the area bounded by King William Road, Pennington Terrace, Montefiore Road and War Memorial Drive (other than land that is subject to a lease or licence to the Memorial Drive Tennis Club Inc., Next Generation Clubs Australia Pty Ltd or the South Australian Tennis Association Inc. and land that constitutes part of the Adelaide Oval Core Area or the Adelaide Oval Licence Area);

prescribed lease, licence or approval means a lease, licence or approval to use land for a business purpose that—

(a) is granted to a person or body other than the Minister or SMA; and

(b) confers rights on the lessee, licensee or holder of the approval (as the case may be) in relation to a day on which an event is to be held at Adelaide Oval or *Adelaide Oval No. 2*.

This is an issue that has been raised since the last debate by the SMA football and cricket interests. It raised the notion of 'ambush marketing', that is whether there might be the potential, where the SMA and Adelaide Oval have endorsed Coopers products or Vili's pies, or whatever it might happen to be, that the council might have the capacity, through areas such as Cresswell Gardens or Pennington Gardens or other areas, to license other competitors, that is a rival beer product or pie product, in those particular areas.

Clearly the SMA has a financial and a business interest, as do their sponsors, in not allowing the sort of circumstance where 50,000 people are pouring into the Oval where Coopers, for example, are sponsoring the product within the Oval, and there is a rival product outside—or with pies or whatever it might happen to be. This particular amendment is simply seeking to ensure that ambush marketing—there is a variety of other terms for that—will not be allowed or permitted in those areas immediately adjacent to the Adelaide Oval.

I am sure the very good people in the Adelaide City Council would not even have contemplated such dastardly practices, but, potentially, less generous city councillors in 20 or 30 years' time might. This seeks to ensure that that set of circumstances is not a temptation for future Adelaide City Council members, and it seems to make sense. We urge support of the amendment.

The Hon. G.E. GAGO: The government is not opposed to this amendment. We appreciate the intent behind amendment no. 2, which provides the SMA with rights in the event council intends to provide tenure over adjacent land to third parties, therefore we are not opposed to these two amendments.

The Hon. M. PARNELL: Whilst the outcome of this amendment is not in any doubt, and whilst normally I would need to address a question to the mover, the fact that the government is not opposed to the amendment suggests that the government has given some consideration to it. What I want to ask about is whether we can make sure that the type of leases, licences and approvals that would offend this protection would be constrained to the sort of matters that the Hon. Rob Lucas raised.

It seems quite reasonable that you do not want the rival commercial entities being licensed by the council to use the Parklands. That makes sense, but my understanding is that, for example, if someone gets married in the cathedral and they want to take photos or they want to do some things over in the gardens, then there is an approval process. I do not know if it is a formal licence process. I just want to make sure that there is not going to be a blanket prohibition on any form of lease, licence or approval in this area on match days, because it seems that some will be completely non-contentious, non-controversial.

If I can partly answer my own question, I see that the amendment says that the council—meaning the Adelaide City Council—must not grant a 'prescribed lease, licence or approval'. So, if I could ask the minister to clarify whether she would understand the term 'prescribed lease licence or approval' to relate to the types of issues that the Hon. Rob Lucas talked about and that it would not catch, for example, other forms of permission that do not in any way interfere with the conduct of football or cricket at Adelaide Oval.

The Hon. G.E. GAGO: I have been advised that it prevents ambush marketing on days where there is an SMA event.

The Hon. D.G.E. HOOD: For the record, Family First supports the amendment.

New clause inserted.

Clauses 10 and 11 passed.

New clause 11A.

The Hon. R.L. BROKENSHIRE: I move:

Page 8, after line 13—Insert:

11A—Pedestrian bridge

(1) Subject to subsection (2), if a pedestrian bridge is to be constructed over the River Torrens from an area within the vicinity of Adelaide Oval to an area on the southern bank of the river, the bridge should be sited so as to provide a direct connection between the Adelaide Oval and the area situated between the Festival Theatre building and the Drama Centre building.

(2) Subsection (1) does not apply if—

(a) the Minister determines, in a report laid before both Houses of Parliament, that a bridge complying with the requirements of that subsection would involve considerable additional expense when compared to a pedestrian bridge on an alignment further to the west (the 'alternative bridge'); and

(b) the construction of the alternative bridge is approved by a resolution passed by both Houses of Parliament.

(3) In this section—

Drama Centre building means the building which, on the commencement of this section, houses the Dunstan Playhouse, the Space Theatre and the Artspace.

Initially, when the government put the concept up to us and we went to briefings, etc., I understood that one of the fundamental factors with this concept for a reinvigorated Adelaide Oval was that the entrance to the main entrance from the CBD precinct across the river to the southern entrance was to come off of the plaza between the two main shells of the Festival Theatre.

I can remember that those people giving the briefing said that it was paramount that that occur, because it was fundamental to the benefit of all the other developments and redevelopments that were occurring, had occurred or were intended to occur. They said that it was going to be paramount to the opportunities for foot traffic accessing the railway station, the new extended tramline and also the general bus services that travel north, south, east and west running through King William Street, North Terrace and that general precinct. Also, as I understood it, it was important in that it would allow for the reinvigoration of opportunities into the central part of the central business district.

Based on that and a lot of other analysis, and discussions between my colleague the Hon. Dennis Hood, party members and others, we made a decision to support the government on this redevelopment. There was a lot of in-depth discussion between Dennis Hood and myself over that, and it was agreed that we would support the government. Then all of a sudden, out of the blue, on about 5 July, there was a story in the paper saying that the footbridge may go to the Convention Centre.

Following that, I FOI'd quite a lot of documentation, which I received expediently in an unusual way from all players involved in where the footbridge should go to benefit the community of South Australia, who, at the end of the day, is putting in this $534 million, or thereabouts, plus an additional $40 million that was unfunded.

I received a very quick response to my FOI. It was interesting to see that, contrary to what the government had been saying—including the Premier—there were some very urgent meetings. A joint signed letter went off to the Premier, the minister responsible for the infrastructure project, the minister responsible for DTEI (the Hon. Patrick Conlon) and, I think, the Deputy Premier as well. The letter was signed by the head of the Festival Theatre complex, the head of the now InterContinental (the old Hyatt) and also the head of the casino, saying that they had serious concerns about—

The Hon. R.I. Lucas: And the SMA.

The Hon. R.L. BROKENSHIRE: And, as Rob points out, the SMA. The SMA was absolutely consistent about the fact that where this footbridge went was paramount to the project. I will put on the public record that we are supporting this project, but that is not without some personal concerns that I have about the ad hoc way in which this project was developed and the fact that there was enormous pressure from the AFL, arguably to underpin the future of Port Power and stop the AFL from having to inject millions of dollars into the survival of Port Power year in, year out—as it was put to us—and the dividend that was ultimately paid, as I understand, to the CEO of the AFL. So, all of a sudden, all this comes back onto the taxpayers of South Australia.

As a country person, I am seeing enormous neglect of South Australian rural and regional areas from this government. I had to consider very diligently the arguments and, having done that, I saw overall merit in the project. Why all of a sudden should a government then decide that it is okay to have two or three options as to where this footbridge may go? One of the concepts was that it go to the Convention Centre.

The facts then started to come out and, not long after I got the FOI and there was another story in the media, the Convention Centre admitted that, of the amount of money that it had appropriated for the third stage upgrade and development of the Convention Centre, surprisingly, $40 million was going to go to what they described on radio as money to help upgrade the landscape and to other opportunities for the amenity of the locality within the Riverbank Precinct.

That is code for the fact that this government, which initially said that it was not going to do anything and then made a commitment under duress from the AFL to spend about $480 million, from memory—then that became $534 million or thereabouts and then not one dollar more—still had to actually provide a footbridge and it did not have any money for the footbridge. It had no allocation, no idea where that money was going to come from and it did not want to have any more money on the balance sheet, over and above what it already has, with respect to debt.

So, then comes the announcement for the upgrade of the Convention Centre and a nice little figure, $40 million, appears. You could do a lot with $40 million when it came to lawns, flowers, plants and pavers around the riverbank precinct, but that $40 million is not for any of that, as I understand it now. That $40 million is to get the government out of trouble on a footbridge.

I say that, if the government is going to manipulate taxpayers' funds that way to get itself out of trouble, then it ought to be honest and clean with the South Australian community when it comes to: one, where the best place for the footbridge should be; and, two, being honourable to the members of parliament who were briefed, who were actually shown all of the high tech IT presentation of this beautiful footbridge rolling out from the Festival Theatre into the main southern entrance of the new upgraded stadium.

We still, I do not believe, have had the truth told to us in this parliament. In fact, I do not believe that this government damn well knows where the footbridge is going to go, and that is not good enough. Here we are with all these amendments, at the eleventh hour, being asked to pass this this week, so that the government can get on with this project before the end of this year, to

satisfy commitments that are required between cricket and football. They want us in this Legislative Council, where the only analysis is done because nothing is being done in the other house on behalf of the South Australian community, to rubberstamp again $40 million and it will work out where it goes down the track, when it ultimately gets a master plan or whatever.

This state is in deep trouble at the moment. I am not going to hide from those facts. I do not want to pull the confidence of this state down, but I am in business myself and I know how tough it is out there. This ad hoc, kneejerk reaction, make decision on the run mentality of this government has got to stop and that is why I have moved this amendment. Let us see what happens with this amendment here tonight. It is very clear and it simply ties in with what we were shown when we went to the presentation—twice, in fact, as my honourable colleague says. Twice we were told and shown where it had to go.

There has been discussion and debate about whether or not this should all occur before a master plan comes out. It has gone so far down the track, Family First for one have locked into it. It is going to go ahead before a master plan, but something that is so fundamental and pivotal to all of this is public transport because the whole idea is to encourage people to use rail, bus and tram as much as possible. Then let us put it in a position where we as a parliament know on behalf of the South Australian constituents just where this bridge is going to go.

At the moment, we are told, not by the government, not by the minister, not by the Premier, but by the head of Adelaide Convention Centre that they do not intend, or have never requested, for the footbridge to go to the Convention Centre. But something has gone on and I want to put on the public record that I do not blame the head of the Convention Centre or, indeed, the board of the Convention Centre for perhaps rattling the cage and saying, 'Hang on a minute. All of a sudden we have got to find $40 million to ensure that there is a footbridge.'

If I was on that board, I would be saying, 'If they damn well want $40 million, put it through to the Convention Centre,' because you actually have probity issues and that around what that $40 million is potentially when the Auditor-General has a look it all with respect to the decision that has now been made by the Convention Centre. So, at the moment, we have no absolute commitment from the government as to where $40 million is going to be spent with a footbridge pivotal to this whole concept, as we have been told. So, that is why I have moved this amendment.

I am disappointed, in summary, that I have had to move this amendment because I should not have had to move it because we were told it was a done deal. The only problem was they did not have $40 million. With that, I strongly recommend to my colleagues that this amendment be supported because I think the South Australian community are sick and tired of being treated in contempt by the government and, whilst it might be arguable that now 50 to 60 per cent of people in the state support the Adelaide redevelopment, I think they want some certainty and I am sure that I, at least as one MP, want to guarantee a commitment tonight from the government as to where this footbridge is going.

The Hon. G.E. GAGO: Indeed, the general public of South Australia do want certainty, but they do not want a dud bridge, so we can certainly agree on those matters. The government rises to oppose this amendment. The government does not object to an amendment specifying that the bridge, for instance, should be located to facilitate easy and convenient access between Adelaide Oval and public transport on the southern side of the river. Our aim is that the bridge will service public transport.

There is no intention, and never has been any intention, to run the bridge from the Adelaide Oval to the Convention Centre nor is there any intention, and there never has been any intention, to build a bridge that requires the public to travel around in circles to get from one side of the river to the other.

The government opposes an amendment that specifies a particular design solution in the legislation before anyone has been engaged to actually design the bridge. If this amendment succeeds, it will mean that it will funnel spectators into a 2.4 metre-wide footbridge and then on to a footpath outside the Casino. Basically, it will send everyone to the front door of the Casino (SkyCity) to a footpath outside SkyCity, which is taken over by SkyCity. If you think about it, it is the cafe North, tables and chairs, valet parking, and I draw your attention to the fact that it takes spectators 25 steps above the Railway Station, so people have to then circle down and around and back to the station. So, it is unlikely that what is being proposed in this amendment is going to be the best solution for the members of the public.

A designer will be engaged and, when a designer is appointed, we expect that we will receive advice on things like the height of the structure, the impact it has on views from King William Street towards the west, we expect advice on the best way to get direct access to the concourse of the Railway Station and to North Terrace—of course, which are on two different levels—and it will involve extensive public engagement and consultation. It is unnecessary, and I would say irresponsible, at this point in time to pre-prescribe one solution in legislation when subsequent work may in fact show that it is not the best solution.

The Hon. R.I. LUCAS: The issue of the bridge is an issue that I have raised publicly. I will put on the record my views, and they are that the views that have been supported by the SMA, the Casino, the Festival Centre, the Intercontinental and public transport advocates seem to make most sense to me in relation to the location of the bridge—and that is broadly the bridge that the Hon. Mr Brokenshire is talking about. The minister has just indicated—on the record—what a terrible prospect this bridge alignment would be, because it would funnel people into what is currently a 2.5 metre wide section and then past the Casino.

That is of no concern to me. It might be of concern to those who are opposed to gambling and casino issues, but I do not have any problems or concerns with that. The minister was pointing that out as some sort of shock, horror, terrible thing. I remind the minister that, as the Hon. Mr Brokenshire said, this is actually the proposal that her government and her advisers put to people like the Hon. Mr Brokenshire. I did not attend those particular briefings, but I accept the validity of what the Hon. Mr Brokenshire has said, and no-one has denied that.

The minister stands up today and says, 'This is a terrible solution. It will have people going past the Casino, what a shocker!' It will have them funnelled into what is currently a 2.5 metre wide pathway—

The Hon. G.E. GAGO: It is 2.4 metres.

The Hon. R.I. LUCAS: Sorry, I stand corrected. I was exaggerating: it is a 2.4 metre wide pathway. I remind the minister that this was her government 's solution, this is what they put to people—

The Hon. G.E. GAGO: The SMA.

The Hon. R.I. LUCAS: The government advisers and the SMA were working arm in arm all the way through this, so I do not accept the notion that, 'Hey; it's the SMA.' This is what was being put to the SMA, the Festival Centre, this is what was understood by the InterContinental, the Casino, and public transport advocates. If it is such a shocking solution, then the government and its advisers, together with the SMA and whoever else was involved—the government and the taxpayers were paying for all this—have to accept responsibility for it.

As I said, the minister puts this issue of going past the Casino as a terrible thing, but I do not think it is. I think it is a sensible proposition. I do not have the hang-ups in relation to gambling that obviously the minister and some other members may well have. I remind the minister and members that more than 10 years ago the original master plan for this particular precinct had an upgrade of the entrance area on Station Road, and the removal of valet parking, as part of a long-term master plan vision, as well as thoroughfares past a redeveloped Station Road for the Casino, part of which should be funded by the Casino. The immediate cry from the government would be, 'Who is going to pay for this?' Well, part of it should be funded by the Casino.

At that stage the North restaurant was not there, and they wanted to do other redevelopments along that particular area as well. Of course, part of it will relate to car parking issues, which the government will not want to talk about in this particular debate. I will not delay the chamber, but there will have to be resolutions to car parking issues for obvious reasons, both at Adelaide Oval and in this part of the Riverbank precinct.

I remind members (and not everyone will recall this) that the original HASSELL master plan talked about linkages from North Terrace through to the riverfront, one of which was through Station Road past that terrible location, the Casino—shock, horror—and down to the riverfront. One of the proposals in the master plan was for a footbridge, obviously at that time the exact location had not been developed to the stage of the current thinking.

The CHAIR: That was Colonel Light.

The Hon. R.I. LUCAS: I think you are a century or two out there, Mr Chairman. It was in the period 1999 through to 2000 or 2001. Indeed, one of the government's key advisers on this

project, Mr Manuel Delgado, was one of the key advisers to the Riverbank cabinet committee at the time, which I chaired. He would have had all those proposals and master plans, etc., there.

Things have changed since then. We now have an Adelaide Oval redevelopment, and I accept all that argument. But this section, the discussion about a thoroughfare from North Terrace to the riverfront, past Station Road, was always part of that old master plan development, and in my view there is nothing wrong with having that in this particular development.

The second point I make (and the Hon. Mr Brokenshire has made the point and I have made it publicly as well) is that the government has created this problem of its own making because of the blowouts in the Adelaide Oval. The government hid $40 million in the Convention Centre budget, etc., and my views on that are publicly known, and I will not repeat them.

What the government is seeking to do here is: it is not a bridge to the Convention Centre but it is a bridge somewhere between the Festival Centre and the Convention Centre, and the government says that it wants to funnel it into the concourse to the railway station.

One of the problems is with one of the designs that have been floated with all of these other parties and it relates to the 20,000 or 25,000 people coming out of Adelaide Oval. One of the proposals the government's advisers are talking about involves 37 steps down, straight outside of the Adelaide Oval, and obviously an equivalent number, or around about an equivalent number, of steps up on the other side; that proposal was for a lower hung bridge than what had originally been floated.

The clear safety issues of having 20,000 or 25,000 people pouring out of Adelaide Oval, shuffling down 37 steps, potentially in the rain or whatever it is, makes no sense to me anyway but, as I understand it from the government, it is now looking at a range of options. That was just one of the options, evidently, that was being strongly opposed by the SMA, in particular, football and cricket interests.

Before coming to the other technicalities of the amendment, the other point I make in relation to this issue of the bridge is that the government is talking about funnelling into the train station, but public transport is not just trains. Whilst I am not an expert on public transport, trains do not go everywhere in South Australia in terms of getting you to a location: there are buses and there are trams.

One of the advantages of the proposed alignment is that it is close to the railway station but it is also close to the north-south buses that go along King William Road, and it is also close to the tram links on North Terrace. There is certainly an argument, in terms of public transport, that it better provides for those broad options, not just funnelling you into the train option.

I am not sure there are too many trains that are heading east of the city, where perhaps some of the Crows supporters might reside, and I am not sure there are trains heading in some of the other suburb directions where Crows and Power supporters might be residing. So, one has to look not just at trains but also at trams and buses. In terms of my position I put publicly, I am supporting the notion of the bridge as promised by the government in its briefings earlier.

The problem I have with the Hon. Mr Brokenshire's amendments is that, essentially, we, the members of parliament, are ultimately potentially going to have to vote on an alignment, a design and a cost for a bridge. The Hon. Mr Brokenshire has discussed the first part of his amendment, but the second part is that, if the government wants to come back with a different option, we in both houses of parliament will have to vote for various bridge options in terms of whatever it might happen to be.

With the greatest respect to the Hon. Mr Brokenshire, whilst I am happy to express a view in relation to things, I do not hold myself out to be an architect, a design engineer or a structural financial expert in terms of costs and all those sorts of things in relation to the project. The view of my Liberal colleagues, in particular, the member for Davenport, who is handling the issue, is that, in the end, we will be the ones having to decide on both potentially a cost issue and on a design issue and those sorts of things.

The Hon. P. Holloway: Perhaps we could call it the Legislative Council bridge!

The Hon. R.I. LUCAS: That's a wonderful idea the Hon. Mr Holloway has suggested.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I think that, to be fair, it ought to be—

An honourable member interjecting:

The Hon. R.I. LUCAS: —the Holloway Memorial Bridge perhaps; that might be fitting. Anyway, let's not be diverted by these out-of-order interjections from the soon-to-be-retired honourable member. It is for those reasons that I and the member for Davenport have a concern in relation to supporting this amendment. It is not that we move or resile from our publicly stated view that the bridge alignment he is talking about seems to make the most sense, but we are honest enough to say that we have not seen all the other detail in terms of the costings, the design and stuff like that.

We would prefer not to be in a position at some stage in the future where in the end we have to be, as two houses of parliament, the arbiters and determiners of what is the best design and cost. For those reasons, we will not be supporting the amendment from the honourable member.

The Hon. M. PARNELL: Whilst the outcome of this amendment now seems quite clear, having heard from both the government and the opposition, I want to put on the record that the Greens share the concerns of the Hon. Robert Brokenshire.

In fact, the day *The Advertiser* broke that story (which I am sure the government will still maintain was a beat-up and not a real story) it frightened many people into thinking that, despite what the government had been saying, maybe a footbridge was going to be built that serviced other than genuine public transport passengers, that maybe it was going to go further west towards the Convention Centre or maybe towards the car park that is proposed on the other side of the river from Adelaide Oval.

In fact, the Greens felt so strongly about this that we actually came out saying that our support for this whole project hinged on things like getting the footbridge and public transport right—that is how important it was. I fully support the intent of what the Hon. Robert Brokenshire is trying to do with this.

The minister sets out a range of problems, which I accept are real problems if the Riverside precinct, as we now know it, stays the same. It seems clear that it is not going to stay the same; it is going to be redeveloped in some form. It may well be that the landing place, if I can put it that way, that the Hon. Robert Brokenshire has put forward, which on the present scenario is the best spot for it to land, may not be the best spot for it to land once the redevelopment has gone ahead.

I am not talking about something that goes to the west, over to the Convention Centre. It may be that we could get a footbridge that goes even closer to North Terrace or even further towards the railway station, the tram stop and the bus routes. I am not quite sure what alignment it would take but, if we consider that the whole railway precinct where the current valet parking is will be redeveloped, it may well be that we get a better outcome for public transport, which I know is what the honourable member is seeking to achieve.

That brings us to some of the technical difficulties with this amendment. For example, if in a reconfigured Riverside precinct the bridge were to go further than the landing place between the two Festival Centre buildings, the way the amendment is currently worded it would not be possible to consider that because the chances are that it would be more expensive and, under the amendment as drafted, it is required to be cheaper and to the west when, in fact, it might be more expensive and further south.

I think the technical difficulty of the parliament doing the actual design work mitigates against supporting this amendment as it is drafted, but the intent of it, and what I know the honourable member is trying to achieve, the Greens absolutely support. The question then is: can we accept the commitment the minister has given—that it is and always was the government's intention to make sure that the footbridge maximises accessibility by public transport? Some people will accept that commitment and some people will not, but at the end of the day I appreciate that the minister has put on the record that that is their intention.

I think the technical issue that would inevitably require the parliament to sign off on alternative bridges, which may well be even better than the Hon. Robert Brokenshire has put forward, suggests that we should perhaps leave this amendment for now, but I know the honourable member and the Greens will be watching like hawks to make sure that we are not dudded and that we do get the best possible footbridge that services especially public transport passengers, whether they be on rail, tram or bus.

The Hon. R.L. BROKENSHIRE: Could the minister confirm to the committee that $40 million of the appropriation for redevelopment of the Adelaide Convention Centre will be going directly to the funding of the footbridge?

The Hon. G.E. GAGO: I have been advised that the answer is yes.

The Hon. R.L. BROKENSHIRE: Can the minister assure the house that if this amendment does not get up and, indeed, at some stage in the future they finally work out where they are going to put this bridge, that it will have full accessibility for people with disabilities, mothers with prams and pushers, older people with walking sticks and frames, gophers and the like?

The Hon. G.E. GAGO: Yes.

The Hon. R.L. BROKENSHIRE: Can the minister explain to the house, if the footbridge now, in the wisdom of this very highly intelligent government, is going to shift to the west of its original proposed site when they were selling the spin to members of parliament, how will it better enhance access to Adelaide Railway Station, for a start, particularly in consideration of possibilities of a $250 million extension to the Casino? How and where does it think that people will then be able to enter the railway station?

The Hon. G.E. GAGO: These will be matters for the design experts.

The Hon. R.L. BROKENSHIRE: For someone who is just a simple country boy like myself, can the minister explain to the house how the government can make a commitment to spend $534 million plus another $40 million on infrastructure into Adelaide and have a fundamental part of that, the gateway to it being a footbridge, expecting us to sign off tonight or tomorrow on this whole bill? Can the minister explain to us how we can have confidence in the government when it does not even know where the footbridge is going to be located?

The Hon. G.E. GAGO: The location of the bridge will be a matter for design experts. We have outlined all of the features that that bridge will be required to meet to facilitate the gateway to the oval facility, public transport, etc.

The Hon. R.L. BROKENSHIRE: Can the minister confirm to the house, given her points in opposition of my amendment, whether the government has any planning now or intend to have any planning as part of the master plan and whether it has any money allocated to build infrastructure that would be an impediment or prevention in entirety to putting the footbridge back to where I understood the original concept was to have it, and that is between the two main shells of the festival Theatre complex in the area known as The Plaza?

The Hon. G.E. GAGO: I have been advised that we have consultants who will be putting a master plan together and then, once that is done, we will be employing design consultants to design the bridge.

The Hon. R.L. BROKENSHIRE: I gather that my colleagues have all had their say. I can count and it appears that my amendment will not get up. However, in talking to my amendment and in concluding my comments to the amendment, all I will say is that it is no wonder the state of South Australia is rapidly losing any confidence they had in this government when we are here tonight as a parliament trying to represent the community of South Australia and we have a $40 million investment and we do not even know what it is going to be and where it is going to go.

It is incredibly disappointing that this government treats the state of South Australia and the parliament as it does. I am frustrated, disappointed, annoyed and angry on behalf of the South Australian community that we are running a state like we are at the moment. It is an absolutely unacceptable situation by the government to expect the Legislative Council to conduct business on behalf of South Australians the way it is putting this bill to the parliament.

New clause negatived.

New clause 11A.

The Hon. M. PARNELL: I move:

Page 8, after line 13—Insert:

11A—Public Transport Plan for Adelaide Oval

(1) The Minister must, within 12 months after the commencement of this section, prepare a report on strategies to encourage members of the public to travel to events at Adelaide Oval by public transport.

(2) The report must include a plan to achieve a target of at least 70% of members of the public using public transport (wholly or in part) to attend events at Adelaide Oval once the redevelopment envisaged by this Act is completed.

(3) The Minister must, within 6 sitting days after the report is completed, cause copies of the report to be laid before both Houses of Parliament.

As I alluded to in my contribution to the Hon. Robert Brokenshire's amendment, this issue of public transport is absolutely critical for the Greens. The reason for that is that the single biggest advantage that we see in bringing first-class sport—football, AFL football in particular—back to Adelaide Oval is the incredible capacity that we now have for this to be a public transport focused venue. I do not think it is pushing the envelope too far to say that a development like this could be absolutely transformational when it comes to Adelaide's public transport and the attitude of Adelaide citizens to using public transport to get to major events.

Members would have heard that currently, with football played at West Lakes at Football Park, about 80 per cent of people drive and about 20 per cent use public transport. The government has said that it thinks we could get to half the people using public transport. The Lord Mayor of the City of Adelaide has suggested that we could get 70 per cent of people using public transport in whole or in part, and I think that is a fine target for us to aspire to.

The amendment that I have put forward requires that the minister, within 12 months after the commencement of the section, must prepare a report on strategies to encourage members of the public to travel to events at Adelaide Oval by public transport. In fact, it is a requirement for the government to have a plan, and that is all it is. If members think that that might be something that is new or novel, I point out to members that the Adelaide Oval was upgraded not that long ago in relation to the Western Stand.

To get that upgrade, the SACA had to go to the Development Assessment Commission, and the Development Assessment Commission gave SACA a development approval that set out a range of conditions and requirements. I refer members to the approval for the Western Stand redevelopment that was granted by the Development Assessment Commission on Thursday 26 February 2009. We are just talking 2½ years ago. The Development Assessment Commission said:

The applicant is requested to submit reports on the following matters to the Development Assessment Commission and Adelaide City Council:

i. An integrated transport management plan for the operation of Adelaide Oval. The report shall consider options to encourage increased use by patrons of public transport and nearby public parking stations and avoid an increased and on-going use of the Park Lands for temporary parking and/or service access.

This requirement for a plan was already a requirement on, in this case, the cricket authorities as a consequence of the last upgrade of Adelaide Oval, so it is not a novel requirement. My understanding is, and I would love to be corrected—

The Hon. G.E. Gago: You are going to change our mind.

The Hon. M. PARNELL: No, I am going to be very quick, minister. My understanding is that that report might not have yet been prepared, in which case the report that I am calling for in this bill would effectively replace it and would enable the cricket authorities to meet their obligations to the Development Assessment Commission. As the minister suggested that the government will be supporting it, I will not speak any longer. It is a key requirement for the Greens and I would urge all honourable members to get behind this amendment.

The Hon. G.E. GAGO: I rise to support this amendment. We think it will assist in helping to improve and advance the way we use public transport.

The Hon. R.I. LUCAS: The Liberal Party will not oppose the amendment. I have to say, personally, I am not convinced, as I have indicated to the honourable member about this aspirational goal as he sought to cajole my support for 70 per cent public transport. He has indicated that currently it is 80/20 per cent at AAMI Stadium, but that this 70 per cent was the Lord Mayor's goal. I am not sure what public transport expertise, with the greatest respect to our current Lord Mayor, he has. I have not know him to be an expert on public transport planning. He tweets and he is the Lord Mayor, but I remain to be convinced of his expertise in this area. Why we would be signing off on 70 per cent because the Lord Mayor has this particular goal, I remain to be convinced.

The government is supporting it; we will not oppose it and certainly will not divide against it. We do not have a problem with the public transport plan, as I have indicated to the Hon. Mr Parnell, but we were just not convinced about the 70 per cent goal because the current Lord Mayor happens to think it is a good idea.

New clause inserted.

Clauses 12 and 13 passed.

New clause 13A.

The Hon. R.I. LUCAS: I move:

Page 8, after line 27—Insert:

13A—Special annual sublease fee

(1) SMA is liable to pay the following amounts to the State on account of a sublease granted to SMA under section 5:

(a) in relation to 2015/2016 financial year—$200,000;

(b) in relation to 2016/2017 financial year—$400,000;

(c) in relation to 2017/2018 financial year—$600,000;

(d) in relation to 2018/2019 financial year—$800,000;

(e) in relation to 2019/2020 financial year—$1,000,000;

(f) in relation to each succeeding financial year while SMA holds a sublease over any part of the Adelaide Oval Core Area under this Act—$1,000,000 (indexed).

(2) An amount payable under this section in relation to a particular financial year must be paid by SMA to the Treasurer by 31 July immediately following the end of that financial year.

(3) The Treasurer must pay all amounts received from SMA under this section into the Sport and Recreation Fund established under the *Gaming Machines Act 1992* for the purposes of the Active Club Program or, if that program is discontinued, a program that provides financial assistance to South Australian not for profit community based active recreation and sporting organisations.

(4) In this section, $1,000,000 (indexed) for a particular financial year means an amount obtained by multiplying $1,000,000 by a proportion obtained by dividing the Consumer Price Index for the quarter ending on 31 March in the financial year immediately preceding the relevant financial year by the Consumer Price Index for the quarter ending on 31 March 2019.

(5) In this section—

Consumer Price Index means the Consumer Price Index (All groups index for Adelaide).

The new clause 13A is in [Lucas-8]. There was an original version of it in [Lucas-4], which has now been superseded.

The Liberal Party's position was that rent should be paid. As members know, it increases from $200,000 over a five-year period up to $1 million. One of the issues raised with the Liberal Party, which we have agreed with the government, is that it was unclear under our amendment what happened after year 5 and the SMA wanted some certainty. So we have provided in our amendment that that will be indexed at $1 million and it cannot therefore capriciously be increased significantly after year 5. That is one aspect of the new amendment.

The second part was this debate raised by the Hon. Mr Hood. I pay due regard to the Hon. Mr Hood raising the amendment. He had an original amendment that was for junior sport. I think the Hon. Ms Franks had an amendment, which I think was junior and country sport. So, we had a number of amendments. I think we then had [Hood-2]—if I can call that [Hoodie-2]—which was a refinement but nevertheless still heading to junior sport, but that particular amendment was going to be $500,000 or $1 million from year 1 rather than factoring up—

The Hon. D.G.E. Hood: For junior sport in the country.

The Hon. R.I. LUCAS: Okay, for junior sport. So, it was getting quite complicated. Members can speak for themselves but potentially some or all of those amendments might be withdrawn, but we will wait for that debate.

Our new amendment, drawing on the contributions from the Hon. Mr Hood, the Hon. Ms Franks and others, was seeking to come to some common ground and to use some existing process. I pay due respect to the member for Davenport, who was a former minister for recreation and sport and who has some considerable knowledge of this particular area. This money would go into the Sport and Recreation Fund, but that part of the fund which is the Active Club Program.

Lower house members in particular will be familiar with that. It is, according to the member for Davenport, governed by an independent committee. The structure was set up in the post Ros Kelly whiteboard era and, as a result of that, it was set up so that the minister had no direct responsibility in directing these grants into particular electorates. There is an independent committee which makes recommendations, and then ultimately the lower house members provide grants to clubs within their area.

The guidelines are quite specific, I am advised, so that if you are a club with pokie machines you are not entitled to grants under this particular program, and there are other guidelines as well, obviously, in terms of how the particular program operates. What it does provide is funding for sport and recreation. It is not just junior sport, but it is for youngies and oldies; it is not just country, but it is metro and country; and it is not just sport, but it is sport and recreation.

It is the broadest possible opportunity for usage, and it uses an existing structure which is already there and which could therefore be augmented. The member for Davenport, I know, has spoken to a number of members. He has some knowledge in this area and he—and ultimately the Liberal Party—strongly recommend that this particular new amendment is a compromise amendment which might attract the possibility of support from the largest number of people in the chamber.

The Hon. G.E. GAGO: The government rises to support this amendment—well, at least not oppose it. The government's proposal was for sports to allocate additional funds to junior and country sport, not rent. However, sport is not objecting to this, so therefore we will not oppose it.

The Hon. D.G.E. HOOD: Just very briefly I would like to thank the Hon. Mr Lucas for his kind words there. I withdrew my amendment, frankly, because I think that the amendment proposed by the opposition is a superior one for the reasons that the Hon. Mr Lucas outlined. It is certainly broader and, for that reason alone, I think it deserves a tick, and it will receive Family First support.

The Hon. T.A. FRANKS: I am also happy to indicate that I am withdrawing my amendment, as this is a superior one. I thank the member for Davenport for his briefing earlier on today, and I think that it is refreshing to finally talk about sport and recreation in this bill.

New clause inserted.

Clause 14.

The Hon. R.I. LUCAS: I move:

Page 8, line 29—Delete 'lease' and substitute: sublease.

My advice is that this is consequential on—or it is part of the package of amendments which started with my amendment No. 25 and then flowed onto, I think, amendments Nos 34 and 35. It is part of a package of amendments which has now been supported by the council, and we urge support for this particular amendment as well.

Amendment carried; clause as amended passed.

New clause 14A.

The Hon. G.E. GAGO: I move:

Page 8, after line 32—Insert:

14A—Temporary use of adjacent area during construction period

(1) Despite any other Act or law (and without the need for any further consent, approval or authorisation), the Minister may, for the purpose of carrying out works for the redevelopment of Adelaide Oval during the construction period, enter and remain on any land in the adjacent area and do any of the following:

(a) take any vehicles, machinery or equipment on the land;

(b) deposit any material on the land;

(c) undertake works on the land;

(d) erect fences, workshops, sheds and other structures of a temporary character on the land;

(e) divert vehicles and pedestrians through any part of the land;

(f) occupy, and do any other works on, the land necessary for the purpose of carrying out works for the redevelopment of Adelaide Oval.

(2) A management plan under Chapter 11 of the *Local Government Act 1999* that applies to the adjacent area during the construction period is taken to be modified to the extent of any inconsistency with subsection (1).

(3) The Minister may not, however, remove or damage any trees in the adjacent area in the exercise of powers under this section.

(4) If, in the exercise of powers under this section, any damage is caused to land in the adjacent area, the Minister must take reasonable measures to make good the damage at the end of the construction period.

(5) In this section—

adjacent area means the area bounded by King William Road, Pennington Terrace, Montefiore Road and War Memorial Drive (other than land that is subject to a lease or licence to the Memorial Drive Tennis Club Inc., Next Generation Clubs Australia Pty Ltd or the South Australian Tennis Association Inc. and land that constitutes part of the Adelaide Oval Core Area or the Adelaide Oval Licence Area);

construction period means the period ending—

(a) on the day on which the Minister publishes a notice in the Gazette, declaring the end of the construction period for the purposes of this definition; or

(b) 31 December 2014,

whichever occurs first.

This amendment involves the temporary use of land for construction. Given the challenging construction program and numerous activities that need to be undertaken within and outside the core area, it is of paramount importance that the land immediately surrounding the core area is made available to the minister during the construction period. This amendment will provide the contractor greater flexibility in scheduling and carrying out works resulting in a safer work environment and a more timely construction program with less disruption and inconvenience to the public. The amendment also requires the minister to ensure that the adjacent land is suitably protected during the construction period and to make good any damage.

The Hon. R.I. LUCAS: This is a new amendment from the government subsequent to our debate two weeks ago for the reasons that have been outlined by the government, and we have had further detail from the government's advisers in a briefing. We accept the sense and the need for this particular amendment and intend to support it.

New clause inserted.

New clause 14B.

The Hon. R.I. LUCAS: I will move my amendment in an amended form, that is, that it be new clause 14B, rather than 14A, because we now have a 14A. I move:

Page 8, after line 32 [clause 14B]—Insert:

14B—Deadlock provision—SMA

It will be taken to be an agreement between the directors of SMA that, in the event of a tied vote on any question to be determined by the directors—

(a) the matter will be referred to the President of The Law Society of South Australia with a request that he or she establish a process and appoint a person or body to determine the matter; and

(b) the directors will accept the decision that arises as a result of such a determination of the matter,

unless the directors resolve to adopt an alternative course of action in the circumstances of the particular case.

This amendment is a replacement for the original 14A in [Lucas-4] 38, which is the deadlock provision amendment.

I spoke about this during the second reading debate, and in essence what has occurred is that the SMA indicated that its deadlock provision was in its partnership agreement. I asked for a copy of the partnership agreement. I got a letter back from, I think, the SMA through Mr Delgado, or somebody in the government's advisory team, which said, 'No, we can't give you a copy of the final agreement because it hasn't been finalised yet, but here are the principles within it.'

I then advised parliamentary counsel, 'Here are the principles,' and the principle was that the deadlock provision is that if there is a tied vote, essentially between football and cricket, the partners had agreed that it would go off to the President of the Law Society to establish a process to resolve the difference. So, with parliamentary counsel, all we were intending to do was to reflect the agreement already existing as opposed to the partnership agreement.

The problem with the partnership agreement or the operators agreement is that at some stage in the future one of the parties could say, 'We no longer want to be bound by the partners agreement.' They cannot be compelled to continue to sign or agree to a partners agreement if they do not want to. As I indicated in the second reading, I cannot remember any legislation that we looked at where there is not some sort of deadlock-breaking provision, whether it is a deliberative and a casting vote for a chair or an odd number of members. Whatever it might happen to be, there is some mechanism to break deadlocks.

Parliamentary counsel drafted on my behalf a deadlock-breaking provision which reflected what we were told was the partners agreement. Subsequent to that, the government advisers, based on advice from the SMA, indicated that they had some concerns, and we had further discussions with the SMA, and I can outline the circumstances; that is, perhaps there might be a vote at the SMA where there is a tied vote but SACA and the SANFL do not really think it is important enough or significant enough to have to go to the trouble of the President of the Law Society establishing some sort of dispute-breaking mechanism.

It might not be a major issue. It might be as simple as—let me pick a trifling issue—who is going to speak first at the opening of the Adelaide Oval in 2014 and stand there next to either the Labor premier or the Liberal premier, whoever it happens to be at the time. Let's not get political.

The Hon. M. Parnell: What, here?

The Hon. R.I. LUCAS: Exactly, at this late hour. Is it going to be the football boss or the cricket boss, or whatever it is? There might be a tied vote of four-all, or whatever it is, but they do not think that is really such a big issue that it has to go off, because it is a tied vote, to the Law Society president to resolve. They may resolve otherwise, that is, an alternative way of resolving it. They might say, 'We will toss a coin, or whatever, and we will sort it out amongst ourselves,' so they would have to agree to an alternative mechanism for resolving the issue.

This new amendment is saying, 'Okay, the Law Society option is there for something intractable when we cannot resolve the issue between the two parties,' as is consistent with their current (or soon to be) partners agreement. However, if there is a range of other issues where they do have a difference of opinion initially but then they agree on some alternative means of resolving the issue, then the new amendment seeks to allow them to agree to some alternative means or course of action.

Another issue that has been raised in recent times with me is that maybe one of their provisions might be that if there was a dispute and they could not agree they could resort to a default position, which is the status quo. As I outlined to football and cricket, that is not always going to be possible because it might be an entirely new set of circumstances where there is not a status quo. But, if there was a status quo type issue, this amendment, on my advice, would cover that.

They could have, for example, an alternative mechanism—a partners agreement over and above the legislation—which said that in certain circumstances, on some core principles, or whatever it is, if they cannot agree they resort to the status quo or stay with the status quo, and that could be their alternative course of action in the circumstances of the particular case if they so agreed amongst themselves.

The amendment is drafted to try to reflect their current set of circumstances but to provide a legislative framework for it. In the event that there is an intractable breakdown 20 years down the track and it becomes impossible, there is a mechanism for resolving disputes between the two warring parties, short of having to come back in here and amend legislation or take over the

project. That is always a possibility for a future parliament, I guess, but it is an attempt to try to set a deadlock provision in the legislation.

The Hon. G.E. GAGO: The government rises to oppose this amendment. Cricket and football remain adamant that they cannot accept this amendment. They advise government that it puts into legislation a set of legal arrangements that are not yet fully defined. While the government will and has compromised on many other areas, we cannot accept this, especially given the advice from SACA and SANFL.

The Hon. M. PARNELL: I have a question of the minister, given the vehemence of the government's opposition to this clause. Is there not an escape provision, if you like, in what the honourable member has put forward? Basically, he has put forward a deadlock mechanism but it concludes with the words, 'unless the directors resolve to adopt an alternative course of action in the circumstances of the particular case'. That would say to me that, whenever there is a dispute and the SMA does not want anyone else interfering, they will just resolve to resolve their dispute in a way other than what is in this clause. I am just wondering what real harm this clause does.

The Hon. G.E. GAGO: I am advised that if this amendment succeeds it will give an avenue for one of the sports to have access to legislation to operate outside of the agreements that will exist between the two sports. That is why the sports in particular feel so strongly opposed to this.

The Hon. M. PARNELL: I thank the minister for her answer. I accept that in some ways this mechanism is outside the scope of the bill, which is about the project and how it should proceed rather than attempting to govern the internal procedures of the Stadium Management Authority. The bill before us is not a Stadium Management Authority bill which establishes the authority and sets out who is on it and how it is to operate. On the basis of the minister's answer, the Greens will not be supporting this amendment.

The Hon. R.I. LUCAS: I am disappointed to hear that, but let me just place on the record again why I think this is an important issue and add to it. As I said earlier in relation to some of the earlier amendments, if there is a breakdown in governance of the SMA, it will ultimately be the taxpayers who will have to pick up whatever financial liabilities and mess has been created during that period.

I outlined in relation to some of the earlier amendments that there could be a breakdown, where SANFL and SACA have no money, the SMA has, through poor governance and a breakdown in their governance, incurred significant financial liabilities or problems and then we have a breakdown in governance, where one of the parties says to the other, 'We are not going to be bound by this gentleman's agreement, this partners' agreement we have between us, which is outside the legislation.'

What they are saying to us is they are going to have this partners' agreement where two parties agree to resolve their disputes by going off to the Law Society and having things resolved and whatever other mechanism they might want to have. That is just an agreement between two parties. If there is a major breakdown between the two parties at some stage in the future and one of the parties says, 'That's it; we are tearing up the partners' agreement. We are not going to be bound by that anymore,' there is nothing the other party can do. An agreement is an agreement between two parties. It cannot bind them for 80 years, whereas the legislation potentially can.

In that set of circumstances, where there is a breakdown in governance, and where there is a major problem at some stage in the future—and I do not envisage that happening in the immediate future—there is then no deadlock provision, because the two parties have in essence torn up their agreement and we have two warring groups unable to resolve anything because the structure of that body is 4:4. They either both have to agree or nothing happens; that is the way it has been structured.

I do not accept this argument that this is a body separate and apart. This is a body ultimately that the taxpayers and we the government, the parliament, will be responsible for, because we are pouring nearly $600 million worth of taxpayers' money into a project which ultimately they are going to govern, run and control. If there are problems, the problems will come back on the taxpayers and the government.

Whilst I acknowledge what the Hon. Mr Parnell has said, I urge the other minor party and Independent members to support this particular deadlock provision because it is not something

separate and apart. In my view it is integral to good governance and it is integral to protecting the taxpayers' interests in relation to this particular project.

The Hon. J.A. DARLEY: I will be supporting the opposition's amendment.

The Hon. G.E. GAGO: I just want to put one more thing on the record, and that is that any sublease to the SMA is preconditioned by the licence between the minister and the sports. The SMA is a ground manager and there is no reason for them not to work together in the best interests of the Adelaide Oval. I urge members to oppose the amendment.

The committee divided on the new clause:

AYES (9)

Darley, J.A.	Dawkins, J.S.L.	Hood, D.G.E.
Lee, J.S.	Lensink, J.M.A.	Lucas, R.I. (teller)
Ridgway, D.W.	Stephens, T.J.	Vincent, K.L.

NOES (10)

Bressington, A.	Brokenshire, R.L.	Finnigan, B.V.
Franks, T.A.	Gago, G.E. (teller)	Gazzola, J.M.
Holloway, P.	Hunter, I.K.	Parnell, M.
Wortley, R.P.		

PAIRS (2)

Wade, S.G.	Zollo, C.

Majority of 1 for the noes.

New clause thus negatived.

Clause 15 passed.

Schedules 1 to 5 and title passed.

Bill recommitted.

Clause 4.

The Hon. G.E. GAGO: I move:

Page 3—

Lines 32 and 33 [clause 4]—After new subclause (1) insert:

(1aa) A lease must be granted by the Council under subsection (1) within 30 days after the making of the request by the Minister (or such longer period as the Minister may allow).

The opposition has proposed that the council must grant the minister a lease and licence over the core and licence areas respectively. The government's amendments ensure these arrangements occur in a timely manner and provide the minister with a high degree of certainty regarding the nature of the terms and conditions of those arrangements.

The government believes it is reasonable that the council grants a lease and licence within 30 days. This is an important provision, ensuring that the project is able to maintain its obviously challenging program. To provide greater clarity, it is proposed that the lease and licence granted by the council will only be subject to terms and conditions specified by the minister.

The Hon. R.I. LUCAS: This is a new amendment moved by the minister and the government since we last debated the bill. It has been the subject of discussion by the member for Davenport and myself, and I indicate the Liberal Party's willingness to support this amendment and a related amendment to clause 7.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 3, lines 32 and 33 [clause 4]—New subclause (1a)(b)—delete 'may be' and substitute:

will only be

I think the minister has exactly the same amendment, amendment No. 2, on her set of amendments 4. So, I assume that the government agrees as well. This was an issue that was discussed during our last debate. The opposition has discussed this with the government, and the result of that discussion is that we agreed to move this particular amendment. The government is moving a similar amendment as well, so the government and the opposition are agreed on this particular change. We think it provides a certainty. If there was any potential doubt—we did not really think there was—in an excess of caution, we were prepared to move this amendment.

The Hon. G.E. GAGO: Yes, the government has a similar amendment; you are right. I thought we had already dealt with both clause 4 amendments. Therefore, we will be supporting the honourable member's amendment.

Amendment carried; clause as amended passed.

Clause 5.

The Hon. R.I. LUCAS: I move:

Page 5, after line 6 [clause 5]—Delete subclause (9) and substitute:

(9) The Minister must grant a sublease to SMA under this section by 15 March 2012.

I did foreshadow the debate on this amendment earlier in the evening. This is part of a package we have agreed with the government. It in essence says, rather than best endeavours, the minister must grant a sublease. The minister now must grant a sublease rather than using his best endeavours to grant a sublease, so the deadline date is now agreed between the government and the opposition as 15 March 2012.

The Hon. M. Parnell: The Ides of March.

The Hon. R.I. LUCAS: The Ides of March.

The Hon. G.E. GAGO: The government supports this amendment.

Amendment carried; clause as amended passed.

Clause 5A.

The CHAIR: The next amendment is to further amend new clause 5A. I do not know why they do not get it right in the first place. We would not have to have all these amendments to amendments that have been already inserted.

The Hon. R.I. LUCAS: Mr Chairman, I am sure you did not intend to be critical of parliamentary counsel.

The CHAIR: Well, I might have been.

The Hon. R.I. LUCAS: I am certainly not going to join in because parliamentary counsel has worked very hard on this particular issue.

The CHAIR: Worked as hard as they have to.

The Hon. R.I. LUCAS: They have had to cope with significant further amendments to the Liberal Party amendments, the government amendments and, to a much lesser degree, of course, the minor parties in this place. My advice from the member for Davenport, after discussions with parliamentary counsel, is, on further reflection, we need to move this technical and drafting clarification to the package of amendments which have already been endorsed by this house. I move:

Page 5, after line 6—Clause 5A(7)(a)—delete 'relevant recommendation' and substitute:

determination of the Treasurer under subsection (4)

The Hon. G.E. GAGO: The government will be supporting this amendment.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 5, after line 6—Clause 5A(12), definition of *relevant recommendation*—delete the definition

I move this with the same explanation. It is a technical and drafting clarification by our very competent and hard working parliamentary counsel.

The CHAIR: They have worked three times as hard as they should have.

The Hon. G.E. GAGO: The government supports this amendment.

Amendment carried; clause as amended passed.

Clause 7.

The Hon. G.E. GAGO: I move:

Page 5, after line 35—After new subclause (1) insert:

(1a) A lease must be granted by the Council under subsection (1) within 30 days after the making of the request by the Minister (or such longer period as the Minister may allow).

What this does is grant a lease and licence within the 30 days. I have really spoken to this previously.

The Hon. R.I. LUCAS: This is related to the amendment No. 1 the minister moved just a little while ago from her package of amendments [Gago-4]. We supported that one and we support this particular amendment as well.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 6, line 1—Delete 'may be' and substitute:

will only be

It is similar to the amendment No. 1 which I moved and which has already been supported.

The Hon. G.E. GAGO: The government supports the amendment.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 6, line 6—After 'car parking' insert:

on grassed areas within a park-like setting in association with events at Adelaide Oval or *Adelaide Oval No. 2*, or otherwise in accordance with the regulations

The Hon. M. Parnell: The grassy knoll.

The Hon. R.I. LUCAS: Yes, the grassy knoll amendment. In essence, I am going to speak to related arguments and discussions in relation to amendments Nos 5, 6, 7 and 8. I move:

Page 6—

Line 7—After 'providing' insert:

reasonable

Lines 9 and 10—Delete paragraph (c) and substitute:

(c) activities that are ancillary to the redevelopment of Adelaide Oval or Adelaide Oval No. 2; or

(ca) activities that are ancillary to the use of Adelaide Oval or Adelaide Oval No. 2 and take place—

(i) on a temporary basis for a period not exceeding 1 month; or

(ii) on a temporary basis for the purposes of a special event or activity prescribed by the regulations for the purposes of this paragraph; or

Line 11—Delete 'playing' and substitute:

the playing and watching of

This was one of the issues that we debated two weeks ago. Subclause (3) provides:

A licence under this section authorises the minister (or the holder of a sub-licence under this section) to use the land subject to the licence (or sub-licence) for the purposes of—

Then it lists five separate purposes. The first one is providing car parking.

One of the issues that was raised, and I think the Hon. Mr Parnell and others raised it, is that we have this dispute-breaking mechanism called the DAC, but the issue the Hon. Mr Parnell and others have raised is: what are the grounds in the end for the DAC to make judgements when it is being asked to make judgements about whether the minister has been reasonable or has not been? The original drafting has just the words 'providing car parking'. This first amendment inserts after 'car parking' to provide car parking:

on grassed areas within a park-like setting in association with events at Adelaide Oval...or otherwise in accordance with the regulations

Broadly, these amendments (and this particular one) are to try to give DAC more direction in relation to what we are intending through this package of amendments.

As to this car parking here, one of the concerns councils had, residents in North Adelaide have had, and others have had about all of this is that maybe—and I am not speaking about the current City Council—at some stage in the future someone might have a vision that, instead of the grassed car parking areas, we might end up with it all being bitumenised, providing 24-hour car parking seven days a week for events unrelated to events at Adelaide Oval. No-one is envisaging that and no-one is wanting to support that. This is about events at Adelaide Oval. But that is one of the concerns that has been expressed in relation to what might occur in the future.

In some of the other areas there have been similar concerns. My amendment No. 7, which talks about 'activities that are ancillary to the use of Adelaide Oval or Adelaide Oval No. 2' and take place:

(i) on a temporary basis for a period not exceeding 1 month; or

(ii) on a temporary basis for the purposes of a special event or activity prescribed by the regulations for the purposes of this paragraph.

One of the concerns that has evidently been raised is that maybe at some stage in the future the Crows might want to build a permanent Crows Shed in this particular licence area. We are currently advised that they do not and they are going to have their Crows Shed in the core area in the indoor cricket facility. Maybe at some stage in the future, if they win a premiership or two and their supporter base grows—and all those ifs—then maybe that will not be big enough for them and they might want to build a permanent facility in the licence area, or maybe even the Power might actually get off the bottom of the ladder and win more than two games a year and they might want to build a tent in the licence area to house all of their supporters on a permanent basis.

The Hon. M. Parnell: A phone box.

The Hon. R.I. LUCAS: 'A phone box,' says the Hon. Mr Parnell—but potentially permanent facilities. No-one is supporting or intending that that sort of permanent development be in this particular area. The current purposes are there. There may well be occasions where for a temporary period of not more than a month they may well, for a special event or whatever it is, want to construct some temporary facilities that are there, but this is not to be a mechanism for ultimately sneaking in some permanent facility.

All of these particular provisions in this package of four amendments are intended—they do not go as far as I suspect the Hon. Mr Parnell wanted in terms of providing certainty for DAC, but they go some way toward the sorts of arguments the Hon. Mr Parnell and others were developing in terms of giving greater certainty to DAC in terms of making the judgements that in this compromise package of amendments were going to ask the DAC to undertake.

For the last one of that package we are adding not just playing, which is providing facilities for playing sport; it is for playing and the watching of sport, so for the spectators who go there as well. It is there to provide greater clarification, and we urge members to support what we see as a sensible package of amendments.

The Hon. G.E. GAGO: The government will support these amendments.

The Hon. M. PARNELL: I cannot let this go without a very brief comment. They do not go as far as the Greens would have liked. Our amendments, which were not successful, were to have a genuine level playing field where the council, as custodian of the Parklands, could negotiate on a very equal footing. Nevertheless, this is certainly an improvement on what we have got, and clarifying the range of activities that can be subject to a licence certainly makes it clearer as to what is allowed and what is not. The fear of permanent structures is, I think, removed once this

amendment passes, and if it gets into a dispute resolution situation at least the Development Assessment Commission will have more guidance as to what is reasonable and what is not.

Amendments carried.

The Hon. R.I. LUCAS: I move:

Page 6—After line 18 [clause 7]—Delete new subsections (5b), (5c) and (5d) and substitute:

(5b) Subject to subsections (5c), (5d) and (5e), any use of land under a licence (or sub-licence) under this section, and any associated works on land subject to the licence, will be subject to the provisions of the Council's management plan under Chapter 11 of the Local Government Act 1999 that relate to the Adelaide Oval Licence Area.

(5c) If, after 1 July 2011, the management plan referred to in subsection (5b) is amended or Sis revoked and replaced by a new management plan, the amendment or the new plan (as the case may be) will not apply under subsection (5b) unless the Minister agrees (and until the Minister so agrees, the management plan as in force before the amendment or revocation will continue to apply under subsection (5b) as if it had not been so amended or revoked).

(5d) If—

(a) the Minister considers—

(i) that a provision of a management plan that applies under subsection (5b) is unreasonable in connection with the use of any part of the Adelaide Oval Licence Area; or

(ii) that the Council is acting unreasonably in relation to the administration or implementation of the management plan; or

(b) the Council considers that the Minister is acting unreasonably in refusing to agree to an amendment or new management plan under subsection (5c),

the Minister or the Council (as the case may be) may apply to the Development Assessment Commission for a review of the matter.

(5e) The Development Assessment Commission may, on application under subsection (5d)—

(a) determine whether or not a provision of the relevant management plan or an act of the Council or the Minister (as the case may be) is reasonable; and

(b) subject to a determination under paragraph (a)—

(i) direct—

(A) that a provision of the relevant management plan be varied or revoked; or

(B) that a decision of the Council be varied or revoked or that a different decision be made; or

(C) that the Minister agree with an amendment to the relevant management plan or to a new management plan; or

(D) that any related action be taken,

(and a direction under this subparagraph will have effect according to its terms and despite the provisions of Chapter 11 of the Local Government Act 1999 or the Adelaide Park Lands Management Strategy under the Adelaide Park Lands Act 2005); or

(ii) confirm any act or decision of the Council or the Minister to be reasonable in the circumstances.

This was the subject of debate earlier as well, and again it was something that the Hon. Mr Parnell engaged in, as well as the government. During the last debate I think the government indicated that it was looking at amendments in relation to our amendments. As a result of discussions between the member for Davenport, the government's advisers and myself we have now drawn up this new amendment, with the wonderful assistance of parliamentary counsel.

In essence, this amendment seeks to resolve some of the issues the government raised, and that the SMA raised as well, in relation to the management plan; that is, it will be the current management plan, and if that is then changed it will be subject to the approval of the minister. Again, using the structure that we have used with other amendments, if there is then a dispute it will ultimately be up to the Development Assessment Commission to resolve any difficulties.

So we have used the same framework to try to resolve the issues, but we have sought to resolve some of the issues that the government has advised. This is a compromise amendment we have developed as a result of those discussions with the government and its advisers.

The Hon. G.E. GAGO: The government supports this amendment.

Amendment carried.

The Hon. R.I. LUCAS: I move:

Page 6, lines 27 to 29 [clause 7]—New subclause (8)—after 'subject to' insert:

section 202 of the Local Government Act 1999 or

This is a drafting or technical amendment clarifying the real intent of our earlier amendments.

The Hon. G.E. GAGO: The government supports this amendment.

Amendment carried; clause as amended passed.

Bill reported with amendment.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (22:29): I move:

That this bill be now read a third time.

I want to use this opportunity to thank the opposition, the minor parties and Independents for their hard work and efforts. They have worked in an extremely cooperative and collaborative way with the government to resolve their differences and to work towards formulating a compromise position in a number of very, very difficult areas. This covered issues that individuals and various parties felt very strongly about, and the government wants to recognise the efforts of other parties and Independents.

I also take this opportunity to thank parliamentary counsel for their extraordinary efforts. Parliamentary counsel was incredibly helpful in relation to the complexity of amendments and amendments to amendments, and then the redrafting and refiling of amendments. They provided us with a great deal of assistance and made our life considerably easier, so I take this opportunity to particularly thank parliamentary counsel.

The Hon. R.I. LUCAS (22:31): I join with the minister in thanking parliamentary counsel, in particular, for their hard work. I thank the government and its advisers for their preparedness to engage in discussions with all interested stakeholders in relation to the issue. As I said during the second reading, this development was not the preferred option for the Liberal Party, but we accept that we lost the election. This development, subject to successful tenders, will proceed. Any development that has $600 million spent on it will, we hope, have much improved facilities for patrons and provide a much better event and viewing experience for those who are there—but that is for another day.

In conclusion, I want also to thank my colleague, in particular, the member for Davenport. He has had carriage of the bill on behalf of the Liberal Party. He has been tireless in his discussions with stakeholders, in particular. I know that he has had countless hours with the council and interested groups from the electorate of Adelaide but with the stakeholders within government and sporting circles as well. Then he has also had to work with his own colleagues within the Liberal Party in relation to this issue. So, I place on the record acknowledgement of the member for Davenport for his hard work.

I do not have an exact calculation, but the reality is that, in the end, a significant number of the almost 50 amendments moved by the Liberal Party to the bill have been accepted by the government, and a significant number of others were supported by either the majority of Independent and minor party members or, in many cases, all the Independent and minor party amendments.

We think those amendments do some significant things. They place a cap of $535 million, give or take this $1½ million of interest, on the project costs. I am still not convinced of the government's response given in this house, I must admit, but I will pursue that in the Budget and Finance Committee with Treasury officers.

There is significantly increased accountability in terms of the Auditor-General's oversight of the project and the expenditure and accountability for taxpayers' money. There is a significantly increased role for at least bodies such as the Development Assessment Commission and others to reflect the views that were put by the residents and constituents of the member for Adelaide in relation to this bill.

Importantly, there is a return to the Sport and Recreation Fund, ultimately, of up to $1 million a year from this project. We hope that the project will be as successful as football and cricket believe it will be. Their small repayment to sport and recreation, not at the elite level but at the grassroots level, throughout South Australia of ultimately $1 million a year will provide important funding for country and metro sporting and recreation facilities and clubs.

They are the major points that have been achieved by the hours that we have put in in the Legislative Council and, as I said, up to 50 amendments moved by the Liberal Party, all of which, except for two, or perhaps three, were ultimately accepted by the numbers in the Legislative Council. So, with that, we support the third reading of the Adelaide Oval Redevelopment and Management Bill.

Bill read a third time and passed.

DEVELOPMENT (BUILDING RULES CONSENT—DISABILITY ACCESS) AMENDMENT BILL

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

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (22:37): I move:

That this bill be now read a second time.

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

Leave granted.

Since the Commonwealth *Disability Discrimination Act 1992* (the DD Act) came into force in March 1993, complaints to the Australian Human Rights Commission have shown inconsistencies between the requirements of anti-discrimination law and building law in Australia. This has continued to cause difficulty for the building industry.

In 2000 the Commonwealth Government amended the DD Act to allow for the development of disability standards for access to premises. In 2001 the Australian Building Codes Board was asked to develop a proposal for technical requirements which could form the basis of these Premises Standards. Standards were developed and endorsed by the Commonwealth House of Representatives Standing Committee on Legal and Constitutional Affairs. The Committee reported to the Commonwealth Parliament on 15 June 2009.

It is intended that the 2011 version of the Building Code of Australia will incorporate the requirements under the Premises Standards through identical technical provisions and these will apply to most Building Code of Australia building classes. This includes office blocks, education facilities, retail outlets, entertainment venues and buildings used for commercial activities. The Premises Standards do not cover detached private residences, apartment blocks and flats which are not used for short-term rent, or a private residence attached to a building of a different classification, such as a caretaker's residence.

The Premises Standards set performance requirements and provide references to technical specifications to ensure dignified access to, and use of, buildings for people with a disability. They clarify the general non-discrimination provisions of the DD Act in relation to the design, construction and management of buildings.

Complying with the Premises Standards satisfies the DD Act non-discrimination requirement for the matters covered by the Standards. If a person acts in accordance with the requirements of the Premises Standards, a successful complaint cannot be made in relation to that action under the DD Act. Accordingly, compliance with the Building Code of Australia will ensure the same level of protection. The purpose of the Premises Standards is to ensure greater and dignified access to, and use of, buildings for people with a disability and also provide greater certainty to the building industry, particularly where an applicant is seeking to upgrade or extend an existing building. The Standards set performance requirements and technical specifications for non-discriminatory access and provide a practical and on-going means to improve building access. The Standards achieve this by requiring that all new buildings, as well as upgrades or extensions to existing buildings requiring building approval, meet these Standards.

As a consequence of the national approach to this issue technical amendments to the *Development Act 1993* are required to ensure the legislative framework supports the introduction of the *Disability (Access to Premises—Buildings) Standards 2010* (Premises Standards), prepared under the Commonwealth *Disability Discrimination Act 1992*.

The specific amendments to the Act are:

- Clause 4—includes a new definition of affected part to define the areas of a building that are necessary to provide a person with a disability with a continuous path of travel from the principal pedestrian entrance of the building to the location of the proposed new building work.

- Clause 5—a number of technical amendments to ensure the performance requirements of the Building Code in relation to people with disabilities apply when existing buildings are upgraded.

I commend this Bill to the House.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Development Act 1993*

4—Amendment of section 4—Interpretation

This clause inserts a new definition of *affected part* for the purposes of the proposed amendments to section 53A. It is proposed that an affected part of a building (in relation to which building work is to be carried out) will be the principal pedestrian entrance of the building and any part of the building that is necessary to provide a continuous accessible path of travel from the entrance to the location of the building work.

5—Amendment of section 53A—Requirement to up-grade building in certain cases

This clause amends section 53A, in relation to the application of subsection (1), by deleting the provision of a prescribed date in the section and replacing it with reference in subsection (1) to a prescribed date that is to be prescribed by regulation.

This clause also amends section 53A(2) of the Act in light of changes to the Building Code relating to access and facilities for people with disabilities. Currently, a relevant authority may require additional building work where prescribed building alterations are undertaken and building access and facilities for people with disabilities within any other part of the building are inadequate. This clause proposes to amend the section so that the relevant authority may, when prescribed building alterations are undertaken, require additional building work in the affected area of the building if the affected area does not comply with the performance requirements of the Building Code. The restriction on the section only applying to buildings constructed before 1 January 1980 is to be deleted.

The clause also inserts a new subsection (3) providing for the regulations to specify circumstances in which a relevant authority may not require building work or other measures, or a specified kind of building work or measure, to be carried out under subsection (2).

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

STATUTES AMENDMENT (COMMUNITY AND STRATA TITLES) BILL

Second reading.

The Hon. G.E. GAGO (Minister for Regional Development, Minister for Public Sector Management, Minister for the Status of Women, Minister for Consumer Affairs, Minister for Government Enterprises, Minister for Gambling) (22:38): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill will improve protections for consumers who buy into or own units in strata and community titled developments. Greater protections are required for community and strata title property owners, especially those that engage strata managers.

This project started with calls to introduce licensing of body corporate managers. It became clear, however, during early consultation that the concerns of unit owners extend beyond concern about the performance of body corporate managers. These concerns are to be addressed in this Bill through specific measures designed to increase the transparency and accountability of body corporate managers as well as giving owners greater access to information about the affairs of their strata or community corporation.

Although this Bill does not introduce licensing or restrictions on who may act as a body corporate manager, the idea has not been abandoned completely. The National Occupational Licensing System due to commence in mid-2012 will bring in a national licence for property agents. Those jurisdictions that currently regulate body corporate managers will be bound to adopt that licence. It would have been confusing and inefficient to introduce a State-based licence scheme to have that replaced shortly thereafter by the national scheme. It is intended to re-examine the issue of licensing body corporate managers under the National Licensing System once that is operational.

The comprehensive suite of measures contained in this Bill includes pre-contractual and contractual disclosure for body corporate management contracts, restrictions on the duration of such contracts, termination

rights in relation to such contracts, better disclosure of conflict of interest and commissions as well as restrictions on the grant and exercise of proxies for body corporate voting and a penalty notice system for by-law and article breaches. Concerns about the actions of developers during the period of establishing a new community titled development are addressed by making it clear that a developer is a fiduciary of the community corporation and must act in the interests of the corporation as it will be constituted after the developer ceases to control the corporation.

A significant new consumer protection initiative will accompany this Bill. A dedicated strata information and advice service will be established to provide unit owners with information about the rights and obligations attaching to community and strata titled properties. Another message that emerged strongly through the development of this Bill was that unit owners are confused about their rights and obligations and about where to turn for information. Once armed with this information, many of the disputes between unit owners and their body corporate or body corporate manager can be avoided.

The law of agency already prohibits some allegedly common abuses by body corporate managers, such as the making of secret profits at the expense of the body corporate. A body corporate manager is an agent of the body corporate. Agents owe their principals duties of good faith and not to make improper use of the manager's position to gain, directly or indirectly, an advantage personally or for any other person. The Bill is intended to augment these duties. While the Bill and the existing legislation impose criminal sanctions for breaches of duties such as failure to disclose conflicts of interest, these provisions are not intended to derogate from the common law fiduciary duties.

History of the Bill and consultation

This project started with the release of a discussion paper by the former Attorney-General, the Hon. Michael Atkinson MP in late 2003, which canvassed opinion on a wide range of possible reforms to the regulation of community and strata titles. That was followed up with a private member's inquiry into this area initiated by the Hon. John Rau MP.

That early consultation led to the drafting of a Bill to amend the *Community Titles Act* and *Strata Titles Act*, which was released for consultation with affected parties in December 2008. Comment was invited on the draft Bill from organisations likely to have an interest in the Bill as well as people who had written to the Attorney-General in recent years with complaints or concerns about strata matters. It soon became clear that many members of the community wanted to have a say on this issue and so the consultation was opened up to the general public.

The draft Bill was significantly revised as a result of that consultation, in particular to remove provisions that would have changed how community and strata corporation finances were managed.

In light of the significant changes to the draft Bill, the revised Bill was released for a further brief period of public consultation in December 2010, as a result of which further adjustments have been made to the Bill.

During consultation on the draft Bill comment has been received from over 50 respondents, including the National Community Titles Institute (NCTI), the Property Council (SA Division), the Commissioner for Consumer Affairs, the Law Society, the Legal Services Commission, the Real Estate Institute of South Australia, the Australian Institute of Conveyancers (SA Division), several strata managers and a number of strata owners.

There was broad support for most of the measures contained in this Bill. The NCTI and individual body corporate managers who commented supported the proposed disclosure and insurance requirements for managers. The NCTI was concerned with, and later opposed, the proposal to provide for termination of contracts with managers.

In parallel with finalising the draft Bill, work has been undertaken on the feasibility of establishing a specialist information service on community and strata title matters. It became clear from consultation that many unit owners are confused about their rights and obligations under the community and strata titles legislation and unsure about where to turn for information and advice. There have been discussions with the Real Estate Institute and Institute of Conveyancers about funding such an initiative from the Agents Indemnity Fund administered under the *Land Agents Act* and *Conveyancers Act*. The Government appreciates their strong support for this significant new consumer protection initiative, which is underpinned by amendments contained in this Bill.

Rights to terminate contract with body corporate manager

When a community corporation comes into existence, the lots are owned by the developer. The developer therefore has control over the corporation and can appoint the body corporate manager. There have been some cases reported interstate where developers are said to have auctioned body corporate-management rights for terms as long as 25 years. The developers receive the money from the sale of the rights and leave the incoming owners bound to pay management fees that are well above market rates. Future owners are bound by the contract with the body corporate manager, even if its terms are unfavourable.

The legislation as it currently exists is based on the notion that corporations are responsible for running themselves and that, where used, a manager would assist the corporation rather than effectively run it. Currently the *Community Titles Act* provides that a community corporation may revoke a delegation of its functions to a body corporate manager at any time, even if there is an agreement to the contrary. If the delegation of power is revoked, as can now happen in the case of a community corporation, then the manager is no longer able to act for the body corporate. The Government had intended to give full effect to this provision by providing that a management contract could also be terminated, that is, that corporations ought not to be locked into using the services of a manager for a fixed period.

The Government has accepted submissions that there ought at least to be an initial period of certainty, in particular where a new development is being set up, as well as a period of transition allowed for in the event that a corporation does want to dispense with the services of a manager, hence the Bill provides for an initial period of

12 months in which a manager can lock in a corporation under contract but after which the corporation has the right to terminate the contract with 28 days notice.

Pre-contractual and contractual disclosure

Neither the *Community Titles Act 1996* nor the *Strata Titles Act 1988* defines the role of the body corporate manager. The *Community Titles Act* limits the functions of the corporation that can be delegated, thereby setting bounds to the manager's authority, but, within those bounds, the functions that the manager is to perform are a matter of contract. Unless promises are clear, disputes will arise. The Bill requires that contracts for the management of a corporation be in writing and must specify:

- the term of the contract;
- termination rights;
- the functions that are delegated to the manager; and
- the charges that will be made for the services provided under the contract.

Other contractual provisions may be required by Regulation and at this stage it is intended to prescribe the following provisions:

- that the manager promises that he or she is insured as required by law and will maintain that insurance throughout the life of the contract; and
- that each member of the corporation has the right at any time in business hours to inspect the records of the corporation in the possession or control of the manager, and how inspection can be arranged.

A copy of the proposed contract is to be available for inspection by any owner at least five clear days before a vote is taken to appoint a body corporate manager. It should also attach a copy of the manager's current certificate of insurance as well as prescribed documents demonstrating the person's eligibility to act as a body corporate manager (for example, a statutory declaration as to eligibility). Before entering into the contract, the body corporate manager will have to give the owners a prescribed pamphlet that explains the role of the manager and sets out the rights of the corporation and its members, including the rights to:

- inspect records held by the manager;
- revoke the delegation of a particular function;
- appoint the manager as a proxy and to revoke that appointment; and
- be told of any payment or benefit that the manager receives from another trader for placing the corporation's business.

Compulsory insurances

Commercial body corporate managers will be required to maintain throughout the life of the management contract a policy of professional indemnity insurance providing cover of at least the amount prescribed by regulation. It is intended to prescribe the figure of $1.5 million per claim, which is derived from the equivalent requirement under the Victorian *Owners' Corporations Act*. It is known that many body corporate managers already buy this insurance out of prudence.

Nearly everyone who has commented on this proposal to date supported it. Two commentators raised the problem of hobbyists who act as managers for just a handful of bodies corporate and could not easily raise the likely premium. However, the risk insured against is substantial. A manager who, for instance, forgets to insure the common property of even one corporation puts the owners at risk of substantial loss.

The corporation itself will also be required to buy fidelity guarantee insurance, covering the risk of theft or fraud of the corporation's funds by the manager or other persons authorised to handle the funds (for example, committee members). Such insurance is sometimes automatically included with community and strata building insurance policies. The amount of the cover will be prescribed and is proposed to be at least the maximum total balance of the corporation's bank accounts at any time in the last three years or $50,000, whichever is higher.

Both of these insurance requirements will be subject to Ministerial exemption in case problems arise with availability of the insurance.

Meetings, proxies and disclosure of conflicts

Participation in meetings remotely

Neither the *Community Titles Act 1996* nor the *Strata Titles Act 1988* provides for owners to participate in meetings by telephone, video-link or internet. The Bill provide for this, where facilities exist, at the expense of the owner concerned.

Court power to convene strata corporation meeting

An owner may need to call a meeting of the corporation. An owner who wants to sell his or her unit, for example, must provide information about the financial state of the corporation to a potential purchaser. Meetings can be convened with the approval of 20% of members, but in some circumstances it might be difficult to obtain even this level of approval. The *Community Titles Act 1996* provides, as an alternative, for a meeting to be convened by order of the Magistrates Court. The *Strata Titles Act 1988* is amended to the same effect.

Length and revocation of proxies

Purchasers of new lots off-the-plan are sometimes asked to assign their right to vote to the developer, whether by proxy or by power of attorney. The assignment is often expressed to be irrevocable. The *Community Titles Act 1996* gives owners an express right to revoke a proxy at any time but the *Strata Titles Act 1988* is silent about this. The Bill amends that Act to make clear that the appointment of a proxy or a power of attorney can be revoked at any time and that any agreement to the contrary is ineffectual. Also, having appointed a proxy is not to prevent an owner from attending the meeting and exercising his or her vote in person.

The Bill ensures that an owner is still entitled to receive notices of meetings, although these can go to a proxy as well if the corporation agrees. The Bill also limits the life of proxies to no more than 12 months under both Acts. This will compel the owner to take a decision at least every year about whether to take part in meetings in person or by proxy and, if the latter, whom to appoint. Further, a proxy appointing the body corporate manager will lapse automatically if the appointment of the body corporate manager ends.

Disclosure of conflicts of interest

The interests of holders of proxy votes may sometimes conflict with the interests of the owners they represent. A body corporate manager may, for example, hold a proxy vote for a meeting at which there is a motion to appoint a new manager. Proxy notices are required to be given to the secretary of the corporation, who is required to ensure that they are available for inspection at meetings prior to voting. If the manager holds any proxy or power of attorney for the meeting, he or she will be required to produce this for inspection at the meeting before any vote is cast by proxy or power of attorney.

Other people who vote at meetings may also have a conflict of interest. Later discovery of the conflict can cause disputes among members. Under the Bill all members of the corporation and any proxies or attorneys who attend the meeting on their behalf have to disclose any interest that they or their principals have in matters being considered by the corporation.

Chairing of meeting by body corporate manager

Often there is no member of the corporation who wishes to chair the meeting and the body corporate manager is asked to do so. The Bill provides that a body corporate manager may chair the meeting if a majority of those present votes for this. The Regulations will provide that a body corporate manager may only vote if the manager holds specific proxies to this effect and only after telling the meeting at the outset:

- that he or she may only chair the meeting if a majority of those present vote for this; that he or she has no right to vote, except when exercising a specific proxy for a member;
- whether he or she holds any and what proxies for this meeting and that they are available for inspection; and
- that he or she has no right to prevent any member from moving or voting on any motion.

Timing of meetings of secondary and tertiary corporations

At present, under section 82 of the *Community Titles Act*, a primary corporation must hold its annual general meeting within three months after the end of each financial year. A secondary corporation must then hold its annual general meeting within one month after the meeting of the primary corporation. By section 86, however, any secondary corporation that is a member of the primary corporation is entitled to vote at a meeting of the primary corporation, if authorised to do so by its members. Further, if a proposed resolution of the primary corporation is a special or unanimous resolution, then the vote of the secondary corporation on that matter will, in turn, require a special or unanimous vote of the secondary corporation. Notice of such resolutions will only be given within the weeks before the proposed meeting. In practice, therefore, there will need to be a meeting of the secondary corporation before the meeting of the primary corporation, but after the distribution of the agenda for that meeting, so that the representative of the secondary corporation knows how he or she must vote at the meeting of the primary corporation. The minimum notice period for an annual general meeting is 14 days. The result is that a secondary corporation may have to meet within 14 days before the annual meeting of the primary corporation and again within one month thereafter. Otherwise, the secondary corporation will not be able to take part in the running of the primary corporation. The tertiary corporation, if there is one, faces similar difficulties.

The Bill removes the requirement that the secondary and tertiary corporations must meet within one month after the annual general meeting of the primary corporation. It is enough to require them to hold an annual general meeting for a financial year by 31 December of the next year. Corporations are free to hold the meeting either before or after the meeting of the primary or secondary corporation.

By-laws and articles

Penalty notices for breach

The *Community Titles Act 1996*, by section 34, provides that the by-laws may impose a penalty of up to $500 for breach of a by-law. The *Strata Titles Act 1988*, however, does not provide for such penalties. The Bill rectifies this and provides that a higher maximum fine of $2,000 should be available where the scheme includes only non-residential lots. Further, the corporation under either Act will be able to issue a notice requiring a member or occupier to comply with a by-law within a specified time and warning that if this is not done, a penalty will be incurred. If satisfactory action is not taken, the corporation can issue a notice requiring payment of the penalty. The recipient can apply to the Magistrates Court within 60 days for an order that no penalty is payable but otherwise the

amount is recoverable as a debt due to the corporation. An unpaid penalty will also be recoverable by the corporation on the sale of the unit, in the same way as unpaid levies.

The Court is empowered to revoke a penalty notice if satisfied that the breach was trifling in the circumstances. The issue of continuing breach has been left to the general law as the question of when continued action or lack of action amounts to a new breach is a complex one that will depend on the particular circumstances.

Corporations should notify tenants before they enter premises to carry out work

A corporation can issue a notice to an owner to carry out work on the owner's unit. If he or she does not, the corporation can arrange for a person to enter the property and carry out the work and can recover the cost from the owner. Although the owner must be given reasonable notice of the proposed entry, there is no requirement for the corporation to notify tenants. The owner ought to notify the tenant, but an owner who has disregarded a notice to carry out work might also disregard the duty to notify the tenant. The Bill amends both the *Community Titles Act 1996* and the *Strata Titles Act 1996* to require a corporation to give written notice to an occupier, before exercising a power of entry to carry out work. It will be sufficient for the corporation to leave the notice, addressed to the occupier, in a mailbox belonging to the unit. Two days' notice will be required, except where urgent action is necessary to avert a risk of death or injury or significant damage to property.

Remedy for discrimination against unit owner

The *Community Titles Act* permits an owner to apply to the Magistrates Court for a remedy if a by-law is made that reduces the value of the unit or unfairly discriminates against the owner. The application must be made within three months of the date this happens or of the date on which the owner should reasonably have found it out. An application can be made only by a person who is an owner at the time the by-law is amended. That is because a person should not be able to complain of a by-law that already existed when he or she bought the unit.

It is common, however, for lots in new community schemes to be bought off the plan. In that case, the buyer does not become the owner for some time after the contract is made. A person who has signed a contract to buy a lot should have the same rights as an owner in respect of a by-law made after the date of contract that reduces the value of a unit or unfairly discriminates against the person. The Bill amends the *Community Titles Act* to that effect.

The *Strata Titles Act* does not provide a similar remedy for the owner of a strata unit if the articles are amended in a way that reduces the value of the unit or unfairly discriminates against that owner. The Bill provides for the same rights under the Strata Titles Act.

Insurance and maintenance of buildings

Under the *Strata Titles Act*, the buildings in a strata scheme are common property and so are insured by the corporation. Under the *Community Titles Act*, however, buildings (other than those divided by a strata plan) are the property of individual lot owners and the responsibility to insure lies with them. The Act compels insurance only where one building provides an easement of shelter or support to another, for instance, where they have a party wall. Even then, the mechanism of compulsion is to make failure to insure a criminal offence. The Act requires these owners to give the corporation a copy of the current certificate of insurance, again on pain of criminal penalty. That does not assist the other owners if, in fact, no insurance has been arranged.

Concerns were expressed some years ago by the Real Estate Institute and some body corporate managers that this approach might not adequately protect owners in community schemes. It is said that many owners would prefer the security of knowing that all the buildings in the scheme are insured and would also like the convenience and economy of dealing with a single insurer through the agency of the corporation. Often, the by-laws of a scheme are drafted so as to permit the corporation to arrange insurance of all the buildings. The validity of this approach seems not to have been challenged.

The members of a community scheme, by majority vote, should be able to agree to insure some or all of the buildings in a community scheme through the agency of the corporation if they wish. Such a vote authorises the corporation to arrange the insurance and to collect the premium from the owners according to their lot entitlements. The Bill amends the Act to make it clear that the by-laws may so provide.

As an added protection, both Acts will be amended to require the agenda for annual general meetings to include presentation of copies of all required insurance policies to encourage annual review of these policies and to impose timeframes for providing evidence of insurance status to the corporation or a unit owner.

Register of owners

The corporation will be required to keep a list of the contact details of the unit owners and make these available to other unit owners on request. This will help a unit owner who is trying to convene a general meeting.

Access to records

The corporation already has a statutory right to require anyone holding its property, including records, to return the property in response to a notice. The Bill introduces two further rights. First, all owners will be entitled to inspect any records of the corporation in the possession or control of the body corporate manager within three business days of a written request. Second, the corporation will be required to send copies of the bank statements of the corporation each quarter to any owner who asks unless a body corporate manager is handling the corporation's money, in which case the manager will be required to send a quarterly financial statement to an owner on request. In the case of a community corporation, accounts for the previous financial year must be presented to each annual general meeting. The Bill stipulates this also for strata corporations.

Time limits are also introduced for the provision of other information. In particular, the corporation will have five business days to provide a statement detailing the financial situation of the corporation and copies of general meeting minutes, most recent statement of accounts and insurance policies. This information is generally sought for prospective purchasers and it is important for the sale process that this information is provided promptly.

Corporation funds: mandatory sinking fund budget

Apart from two-lot corporations, all community corporations must establish a sinking fund for irregular maintenance or capital works and make annual estimates of future spending (section 116 *Community Titles Act*). Contributions to the sinking fund can, however, be set at negligible levels. Under the *Strata Titles Act*, there is no requirement to have a sinking fund or to estimate future spending. The Government is not persuaded that the law should require all strata corporations to establish sinking funds. To improve planning, however, and to encourage such funds, strata and community corporations other than the small groups should have to prepare a forward budget for maintenance and capital works. The Bill provides for compulsory budgets of prescribed duration, up to five years, for groups of various sizes. It is intended that a minimum three year budget (or statement of proposed expenditure) be prescribed for medium sized groups (e.g. of between seven and 20 units) and a minimum five year budget for large groups (e.g. larger than 20 units).

Audit

In the case of community corporations without managers that have more than six lots or collect more than $3,000 income a year, the corporation is obliged to have its accounts audited annually under the current law (s138). There is no corresponding obligation on strata corporations. The Bill will not change this. In New South Wales, audits are not required for corporations of fewer than 100 lots. In the case of small schemes, the sums handled are not likely to be large (probably under $10,000 per year) and the accounts will often be quite simple. Many of the owners will be able to follow these accounts for themselves and the extra cost of an audit would be an unnecessary impost.

In the case of community corporations, it is proposed to retain the requirement but to exempt corporations that collect no more than $10,000 per year, as well as those with no more than six lots and those that are owned wholly by one person. The Bill provides that any owner may apply to the Magistrates' Court for an order requiring an audit. The Court could order that the corporation must pay for the audit. Alternatively, any member could obtain copies of the financial records from the corporation and arrange an audit at his or her own expense and then apply to the Court for reimbursement of the cost from the corporation. This is a safeguard so that if a member has suspicions about the accounts, he or she will be able to have them independently checked, even if the majority of owners is unconcerned.

In the case of audits of the body corporate manager's trust account, the auditor will be required to send a copy of the audit report to the secretary of the corporation rather than simply filing the report in the manager's office as is reported to occur.

Dispute resolution

The *Community Titles Act* provides, by section 142, for an owner to apply to the Magistrates Court for a remedy if prejudiced by the wrongful act of a delegate of the corporation, including a manager, or if he or she claims that the delegate's decision is unreasonable, oppressive or unjust. The Bill includes a corresponding provision in the *Strata Titles Act*.

The Court may, on application, make orders resolving a dispute, including orders:

- requiring a person to provide reports or information
- requiring a person to take action to remedy a default
- requiring a person to refrain from specified further action
- altering the articles or by-laws
- varying or reversing a decision of the corporation or
- giving judgment on a money claim.

Without cutting down the general power to make such orders as are necessary to resolve the dispute, the Bill enables the court to also:

- declare that a vote has been validly or invalidly taken and
- declare that a by-law or article is valid or invalid.

Contracts made while the corporation was controlled by the developer

By section 87(3), once a developer sells even one lot, it loses control of the corporation. The developer is then treated as having the same number of votes as the other owners combined. As it is thought to be common for developers to require that purchasers appoint the developer as a proxy, however, the developer should be treated as controlling the corporation as long has it is in a position to control the corporation using proxy votes that are not subject to written directions on the exercise of the vote. Other examples have been cited of developers including a requirement in the by laws that a corporation must enter into an agreement with a certain service provider. Victoria has addressed the issue by a requirement that the developer act in the interests of the corporation.

This is consistent with the decision of the New South Wales Supreme Court in the case of *Community Association D. P. No. 270180 v Arrow Asset Management Pty Ltd*, handed down on 30 May, 2007. That case

confirmed that a developer owes a fiduciary duty to a community corporation by analogy with the duty owed by a promoter to a company. This means that the developer must not act in conflict of interest and must not make secret profits. That decision is persuasive, but not binding, authority in South Australia so the Bill states, for the avoidance of doubt, that a developer stands in a fiduciary relationship with the community corporation or proposed community corporation of the development. Further, without derogating from these general duties, the Bill provides that where corporation intends, during the developer control period, to delegate functions or powers to a body corporate manager or to enter into a contract for services, the developer must exercise reasonable skill, care and diligence and act in the best interests of the community corporation (as it will be constituted after the developer control period ends).

This approach should deal with the variety of ways in which a developer may prejudice a future body corporate whilst still in control of a new development.

In addition, the Bill gives the Court power to vary or terminate an agreement between a body corporate and a developer, body corporate manager or associate of either where the contract involves a breach of fiduciary duty or other duties under the Act.

Voting and special resolutions

Special resolutions are required for decisions such as changing the by-laws, giving permission for substantial alterations to the buildings or taking out insurance over and above that required by law.

Under the *Strata Titles Act*, a special resolution is passed if two-thirds of all lot holders vote for it at a validly-convened meeting. Thus, in a group of 15 units, at least 10 owners must vote in favour for the resolution to pass. If fewer than 10 owners attend the meeting, the resolution cannot pass, even though the members not attending might have no strong views on the resolution. The *Community Titles Act* takes a different approach. Under that Act, a special resolution is passed if no more than 25% of all lot holders vote against it at a validly-convened meeting. Thus, for example, in a group of 16 units, if nine owners attend the meeting and four of them vote against the resolution, it will pass even though it has the active support of only five of the 16 members. The result is that a special resolution is much more easily achieved under the *Community Titles Act*, because it is not defeated by those who are indifferent but can only be defeated by those who are actively opposed.

A meeting is only validly convened if 14 days' notice has been given to all owners, including notice of the text of the proposed special resolution. That means that anyone concerned about the resolution has his chance to vote.

The Bill amends the *Strata Titles Act* to match the *Community Titles Act* so that a special resolution is more easily achieved, that is, such a resolution could not be defeated by apathy but only by active opposition. The notice of meeting will include a statement that anyone opposed to the resolution should ensure that he or she makes arrangements to vote against it, because it will pass unless at least 25% of units vote against it.

Deposits for off-the-plan sales to be held in trust

Purchasers of units in yet to be constructed developments, who buy 'off-the-plan', pay a deposit. Several other jurisdictions (at least Queensland, Victoria and Western Australia) require off-the-plan vendors to pay all deposits to a stakeholder, such as a lawyer or land agent, who holds the money in trust until the plan is registered. Western Australia's former Strata Titles Referee advised that this provision does not deter development. Developers obtain finance to complete developments by borrowing against the security of the trust funds.

To protect consumers who provide large deposits, the Bill amends the *Community Titles Act 1996* so that developers who sell off-the-plan are required to pay deposits to a solicitor's, conveyancer's or land agent's trust account to be held on trust for the buyer until the plan is deposited and lots created. This is intended to protect the buyer in that the developer cannot spend the deposit, leaving the buyer exposed if the development does not proceed.

Developers' agents often suggest that early starts on new developments are expected, creating an expectation and allaying concerns, whilst developers cover themselves in sale contacts with extended periods, in years, for commencement of projects and include the ability to terminate contracts for lack of sales. Marketing may start before any plan is lodged with the Council. The Bill provides that if no plan has been deposited within the agreed time, required to be prominently set out in the contract for sale, the buyer can rescind the contract and recover the deposit. If an agreed period is not specified prominently in accordance with the prescribed requirements, a default period of six months applies.

First general meeting and voting—associates of developer

By section 79, a general meeting must be convened within three months from the date on which two or more community lots are first owned by different persons. The Bill amends this section to make clear that the developer and an associate of the developer are not 'different persons'. The same principle applies to the value of votes under section 87(3). The value of votes exercisable by the developer and any associates, taken together, is not to exceed the value of the votes of other owners.

Email communications

Both Acts provide for documents to be served by post. Some body corporate managers take the view that all communications with owners must be by post, even when owners wish to receive them by email. The Bill makes it clear that service can be effected by email if the recipient agrees.

Development contract enforcement

Under the *Community Titles Act*, a development contract is required where a community parcel is to be divided in stages or where the scheme description indicates that a developer is (or is likely) to erect buildings or other improvements on the common property. This can include completion of works on common property such as landscaping and fencing common areas. The development contract requires the developer to carry out this further work or development in accordance with the scheme description.

There is no statutory requirement to comply with a development contract (other than where these requirements might also be conditions of development approval). Enforcement therefore relies on owners taking legal action. The *Community Titles Act* provides that a community corporation, or lot owners, may enforce the development contract in a 'court of competent jurisdiction'. Accordingly, this would be either the Magistrates Court or District Court, subject to the monetary limits on the jurisdiction of the Magistrates Court. To minimise the costs for owners to enforce development contracts the Bill amends the *Community Titles Act* to give the community corporation and owner or occupier of a lot the right to apply to the Magistrates Court to enforce a development contract.

It has been brought to the Government's attention that in some cases the works to be completed include basic infrastructure such as access roads and water and electricity connections to the individual lots. There has also recently been a community titled development where the developer became insolvent before satisfactorily completing works on common property.

In ordinary torrens titled subdivisions councils enforce requirements for completion of works such as access roads, landscaping of open space, connection of services, etc as this infrastructure and open space vests in councils on completion. They do this by taking security from developers such as bonds or bank guarantees. The Government is concerned about purchasers of lots in community titled developments being at a comparative disadvantage when it comes to ensuring developers satisfactorily complete works on common property. Councils have expressed some preparedness to play a greater role in enforcing satisfactory completion of infrastructure works on community titled developments and it is intended to explore that option further separately to this Bill.

However, recognising that that may not eventuate, it has been decided to include in this Bill a mechanism to enable requirements to be placed on developers to provide security for fulfilment of their obligations under development contracts. The requirement itself and details of the form of security would be imposed by regulation. This step is taken without having yet explored or consulted on acceptable forms of security, however it is envisaged that this would be either a bank guarantee or a form of insurance similar to the building indemnity insurance that builders must take out to cover owners for the risk that a builder goes bankrupt before completing domestic building work. There is a risk that a workable scheme for providing this security will not be identified and cannot be prescribed. However, this mechanism has been included in the Bill to enable this issue to be dealt with by regulation as soon as investigations and consultation about the provision of security is complete, without needing to return to Parliament with another Bill.

Termination of schemes for redevelopment

Developers have expressed concern about one or two objecting owners impeding a majority of other owners from terminating or amending a strata scheme to redevelop the land (and thereby potentially unlock greater value in the land). Presently it is possible where owners are not unanimous to apply to the Court for an order to terminate a strata or community scheme. It is proposed to make this process more accessible by providing for applications to cancel or amend a strata or community plan to be heard in the Environment, Resources and Development Court rather than the District Court (under the *Community Titles Act*) or the Supreme Court (under the *Strata Titles Act*). Applications to the ERD Court are cheaper and the ERD Court is practised in dealing with applications of a planning nature.

It is also intended to prescribe matters to which the Court should have regard in assessing such an application. Some of the proposed factors intended to be prescribed include the relative percentages of owners for and against cancellation or amendment, the adverse consequences to the minority if the Court grants the application and conversely to the majority if the Court refuses the application and the extent to which these could be ameliorated or alleviated by court-ordered or other action.

Housing Improvement Act

The Bill clarifies the relationship between the *Community Titles Act* and *Strata Titles Act* and the *Housing Improvement Act*, under which a council can require an owner to rectify or demolish a building. The council's powers will apply to buildings that form part of a strata or community titled development, without the need for approval of the works by the corporation.

Strata and community title information service and enforcement

This Bill lays the foundation for the establishment of a dedicated community and strata title information and advice service by providing that the service may be funded from money in the Agents Indemnity Fund administered under the *Land Agents Act* and *Conveyancers Act*. One of the existing purposes of that Fund is to fund education programs about real estate matters for the benefit of members of the public. This is therefore a logical application of that Fund. Similarly, the Bill provides that that Fund can be used to pay for investigation and prosecution of breaches of the community and strata titles legislation and confers power to prosecute breaches of the legislation on the Commissioner for Consumer Affairs.

I commend the Bill to Members.

Explanation of Clauses

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *Community Titles Act 1996*

4—Amendment of section 3—Interpretation

This clause inserts a number of definitions for the purposes of the measure and amends the definitions of *special resolution* and *unanimous resolution* to allow the regulations to prescribe information that must be given in the notice given prior to the resolution.

5—Amendment of section 4—Associates

This clause makes the definition of *associates* have general application (rather than just applying in relation to developers as is currently the case).

6—Amendment of section 34—By-laws

This clause amends section 34 to allow by-laws to authorise or require a community corporation to act as agent for the owners in arranging policies of insurance and to set out a scheme allowing community corporations to enforce their by-laws by serving penalty notices. The maximum penalty that may be imposed by such a notice is $2,000 (for predominantly commercial schemes) and $500 in other cases. A person served with a notice may apply to the Magistrates Court for an order revoking the notice.

7—Amendment of section 35—By-laws may exempt corporation from certain provisions of Act

This is consequential to the amendments in clause 18 and the new definition of *first statutory general meeting*.

8—Amendment of section 37—Restrictions on making of by-laws

This is consequential to the new by-law making power relating to policies of insurance.

9—Amendment of section 38—Certain by-laws may be struck out by Court

This clause makes minor drafting amendments and extends the ability to apply for a by-law to be struck out to a person who has contracted to buy a lot (where currently it is only owners who are able to apply).

10—Amendment of section 47—Development contracts

This clause provides that the regulations may require a developer to provide security of a specified kind to a community corporation in accordance with the regulations in relation to the performance of the developer's obligations for the implementation of the scheme description.

11—Amendment of section 49—Enforcement of development contract

This clause provides for proceedings for enforcement of a development contract to be brought in the Magistrates Court (but with the capacity to transfer the proceedings in appropriate cases).

12—Amendment of section 59—Amendment by order of ERD Court

This clause requires the ERD Court (rather than the District Court) to deal with applications for amendment of a community plan and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

13—Amendment of section 64—Cancellation by Registrar-General or ERD Court

This clause gives the ERD Court (rather than the District Court) power to cancel a deposited community plan.

14—Amendment of section 67—Application to ERD Court

This clause substitutes references to the ERD Court (consequentially to clause 13) and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

15—Amendment of section 69—Cancellation

This is consequential to clause 13.

16—Amendment of section 75—Functions and powers of corporations

This is consequential to clause 17.

17—Insertion of Part 9 Division 1A

This clause proposes to insert a new Division dealing with the delegation of a corporation's functions and powers as outlined below.

Division 1A—Delegations by corporation

78A—Delegation of corporation's functions and powers

This clause provides for a community corporation to delegate its functions or powers to certain other persons by ordinary resolution. This provision is the same as one currently contained within the regulations however it also provides the circumstances in which delegation may be, or is revoked . In the case where a delegation is by contract to a body corporate manager, the delegation is revoked on termination (see proposed section 78B(4)) or expiry of the contract. In any other case, the delegation may be revoked by the corporation at any time and despite any agreement to the contrary.

78B—Body corporate managers

This clause proposes to regulate the relationship between a community corporation and a person who, in the course of carrying on a business and for remuneration, acts as a delegate of the community corporation (a *body corporate manager*).

It is proposed that a body corporate manager is not entitled to remuneration unless a suitable contract has been entered into with the community corporation, certain information has been provided to the corporation prior to entering into the contract and the body corporate manager maintains appropriate professional indemnity insurance while acting as a body corporate manager.

The clause requires a written contract, containing certain particulars, to be entered into between the body corporate manager and the community corporation at least 5 days after it has been available for inspection by members of the corporation. The clause provides that the community corporation may terminate the contract with at least 28 days notice (or lesser period that may be specified in the contract) if the relevant contract with the body corporate manager has been in force for at least 12 months.

78C—General duties

This clause makes it clear that a body corporate manager stands in a fiduciary relationship with the community corporation and specifies some of the duties of a body corporate manager.

78D—Offences

This proposed clause contains offence provisions that will apply to a delegate of a community corporation. These provisions cover the disclosure of a delegate's direct or indirect pecuniary interests, the provision by a delegate of quarterly financial statements on request, the return of records and property on the revocation of delegations and the availability of records held by a delegate for inspection and provision of a copy.

18—Amendment of section 79—First statutory general meeting

This clause amends section 79 to require the first statutory general meeting of a community corporation to be held after there are at least 2 different members of the community corporation (not including the developer or a person who the developer knows, or ought reasonably to know, is an associate of the developer).

19—Amendment of section 80—Business at first statutory general meeting

This is consequential to clause 18.

20—Amendment of section 81—Convening of general meetings

This clause includes consequential amendments and an amendment to provide that a member may not nominate another person to receive notices of meetings on his or her behalf.

21—Amendment of section 82—Annual general meeting

This clause amends section 82(2) to provide that the annual general meeting of a secondary or tertiary community corporation must be held within 6 months after the commencement of each financial year. Currently this annual general meeting is to be held within one month after the annual general meeting of the primary or secondary corporation of which it is a member (which must be within 3 months after the commencement of each financial year).

22—Amendment of section 83—Procedure at meetings

This clause amends section 83 to allow a person who is a body corporate manager in relation to a corporation, or is an employee of such a body corporate manager, to preside at a meeting of the corporation after a majority vote of those present and entitled to vote. The regulations may make further provision in relation to procedures of a meeting when a body corporate manager presides.

This clause also amends section 83 to provide for a person to attend, and vote, at a meeting by telephone, video-link, Internet connection or any similar means of remote communication, without placing an obligation on the corporation to provide such facilities.

23—Amendment of section 84—Voting at general meetings

This clause amends section 84 in relation to nominations made by an owner of a community lot for another person to vote on his or her behalf. A nomination must be in writing and specify whether it is a general nomination for all meetings and on all matters, or whether it is to be limited to certain meetings or matters (a failure to comply with this provision will invalidate the nomination). A nomination may be subject to any other condition, may only be effective for a maximum period of 12 months and may be revoked at any time by notice in writing to the secretary.

A nomination for a body corporate manager (or employee) to vote on a person's behalf ceases to have effect when the body corporate manager (or employee) ceases to be a body corporate manager in relation to the community corporation.

This clause also provides that an appointment for a person to attend and vote at meetings under a general power of attorney is to be for a maximum period of 12 months unless revoked earlier.

Copies of any nominations or appointments relating to a meeting must be available for inspection at that meeting before any voting occurs.

24—Amendment of section 85—Duty to disclose interest

This clause amends section 85 to require a persons attending and voting, or presiding, at a meeting of a community corporation to declare any direct or indirect pecuniary interest he or she may have in relation to any matter to be voted on at the meeting before the vote is taken.

25—Amendment of section 87—Value of votes cast at general meeting

This clause amends section 87 to take into account the combined voting power of a developer and certain associates of the developer (*prescribed associates*). The aggregate of the votes of the developer and the prescribed associates may not exceed the aggregate of other owners of community lots (if any).

26—Amendment of section 88—Special resolutions—3 lot schemes

This clause amends section 88 so that the regulations may prescribe additional information that must be served along with the proposed resolution under subsection 88(2)(a) for the resolution to be a special resolution of the community corporation.

27—Amendment of section 101—Power to enforce duties of maintenance and repair etc

This clause amends section 101 in relation to power to enter premises of a community corporation to perform maintenance and repair.

It is proposed to require at least 2 days' notice in writing to be given to an owner and to an occupier before the power to enter a lot for maintenance and repair under subsection 101(2) may be used. Currently the requirement is to give the owner reasonable notice.

It is also proposed to include a new provision for the entry into a lot, by an officer of the community corporation or authorised person, if urgent action is needed to avert a risk of death or injury or significant damage to property in order to carry out work that is necessary to deal with that risk. A person who proposes to enter into a lot under this provision must give the owner of the lot such notice as her or she considers appropriate in the circumstances (if any).

28—Amendment of section 102—Alterations and additions in relation to strata schemes

This clause amends section 102 to provide that subsection 102(1) (which limits the circumstances in which prescribed work may be carried out) does not apply to prescribed work carried out in compliance with a direction under section 23 of the *Housing Improvement Act 1940* (which deals with houses declared to be undesirable or unfit for human habitation).

29—Amendment of section 104—Other insurance by community corporation

This clause amends section 104 to require a community corporation (other than a corporation of a kind prescribed by regulation) to maintain fidelity guarantee insurance complying with the requirements prescribed by the regulations. An exemption may be granted by the Minister.

30—Amendment of section 106—Insurance to protect easements

This clause amends section 106 to extend the right to be provided with evidence of insurance to owners, prospective owners, registered mortgagees and prospective mortgagees (where a request is made for such evidence) and to provide that a change to terms and conditions of an insurance policy will also trigger a requirement to provide evidence to the community corporation.

31—Amendment of section 108—Right to inspect policies of insurance

This clause amends section 108 to extend the right to inspect insurance policies to prospective owners and prospective mortgagees and to impose a time limit within which a request to inspect policies must be complied with.

32—Amendment of section 113—Statement of expenditure etc

This clause amends section 113 to include additional information that must be presented by a community corporation to each annual general meeting of the corporation. That additional information is a statement of proposed expenditure (other than recurrent expenditure) for a prescribed period (provided that the regulations cannot prescribe a period of more than 5 years). A community corporation will not be required to update the information every year but new information will be required to be prepared in accordance with the regulations.

33—Amendment of section 126—Keeping of records

This clause amends section 126 to define a time period, namely 5 business days, in which an agent must, at the request of a community corporation, provide the corporation with a statement setting out details of the agent's dealings with the corporation's money. The penalty for a contravention of this provision has been reduced to a maximum of a fine of $500 from $8,000.

34—Amendment of section 127—Audit of trust accounts

This clause amends section 127 to specify that an agent must forward the statement to the secretary of a community corporation.

35—Amendment of section 135—Register of owners of lots

Currently section 135(1) requires a community corporation to maintain a register of the names of the owners of the community lots showing the last known address of each owner. This clause amends section 135(1) to include in that register the last known telephone number and email address of each lot owner and also each owner's lot entitlement.

36—Amendment of section 138—Audit

This clause amends section 138 to provide additional circumstances in which an audit of a community corporation's annual statement of accounts is not required under the Act.

37—Amendment of section 139—Information to be provided by corporation

This clause amends section 139 to require a community corporation to provide information under the section within 5 business days of the application for the information. This amendment also includes additional documents that must be made available for inspection on application by an owner, prospective owner, mortgagee or prospective mortgagee (being any contract entered into with a body corporate manager under proposed section 78B and the register of owners kept under section 135). This amendment also provides for the community corporation to provide an owner of a community or development lot, on application, with statements for all bank accounts maintained by the corporation (unless a body corporate manager maintains the accounts on behalf of the corporation).

38—Amendment of section 141—Persons who may apply for relief

This clause amends section 141 to include a person who has contracted to purchase a community lot in the class of persons who may apply to a court for relief under Part 14 of the Act.

39—Amendment of section 142—Resolution of disputes etc

This clause amends section 142 to expand the powers of a court in relation to dealing with an application under Part 14 of the Act.

40—Insertion of sections 142A and 142B

This clause inserts new sections 142A and 142B.

142A—Holding of deposit and other contract moneys when lot is pre-sold

This proposed clause prohibits the sale of a lot in a proposed community scheme prior to the depositing of a plan of community division in the Lands Titles Office unless any consideration paid by the purchaser prior to the deposit of the plan is paid to, and held of trust by, a legal practitioner, registered agent or registered conveyancer, who must be named in the contract of sale. The contract for sale may be avoided by the purchaser (before the plan of community division is deposited) in the event that this is not complied with or if the proposed plan is not deposited in the Lands Titles Office within an agreed time (which must be specified in the contract in accordance with any prescribed requirements) or 6 months if no time is agreed in accordance with the statutory requirements.

142B—Developer stands in fiduciary relationship with community corporation

This proposed clause clarifies that a developer stands in a fiduciary relationship with the community corporation (or proposed community corporation) and that the duties owed by the developer under this Act are in addition to, and do not derogate from, the duties arising out of that fiduciary relationship.

41—Amendment of section 149A—Applications to Magistrates Court

This clause amends section 149A so that it will not apply to an application under section 49(2).

42—Substitution of section 152

This clause deletes the provision on vicarious liability for management committee members and substitutes a provision allowing for prosecutions to be commenced by the Commissioner for Consumer Affairs, an authorised officer under the *Fair Trading Act 1987* or a person who has the consent of the Minister to commence the prosecution.

43—Amendment of section 155—Service

This clause amends section 155 to provide for the service of a notice under the Act by email if the person receiving the notice consents to service by email.

44—Insertion of section 155A

This clause allows money in the indemnity fund maintained under the *Land Agents Act 1994* to be applied toward the costs of investigations and prosecutions under the *Community Titles Act 1996* and the cost of prescribed advisory services or educational programs.

45—Amendment of section 156—Regulations

This clause amends section 156 to provide for the regulations to assign specified functions to an officer of a community corporation of a specified class.

Part 3—Amendment of *Strata Titles Act 1988*

46—Amendment of section 3—Interpretation

This clause inserts a number of definitions for the purposes of the measure and amends the definition of *special resolution*.

47—Amendment of section 13—Amendment by order of Court

This clause amends section 13 to make the ERD Court the relevant court to hear and determine applications to amend a strata plan and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

48—Amendment of section 17—Cancellation

This clause amends section 17 to make the ERD Court the relevant court to hear and determine applications to cancel a strata plan and contains new notification requirements and an ability to prescribe, by regulation, matters which the Court should have regard to.

49—Amendment of section 19—Articles of strata corporation

This clause amends section 19 to provide that the articles of a strata corporation may, by notice, impose a penalty for contravention of, or failure to comply with, any article. The maximum penalty is $2,000 (for predominantly commercial schemes) and $500 in other cases. A person served with a notice may apply to the Magistrates Court for an order revoking the notice.

50—Insertion of section 19A

This clause inserts a new section 19A providing that any articles of a strata corporation may be struck out by order of the Magistrates Court or the District Court if they reduce the value of a unit or unfairly discriminate against a unit holder. A unit holder (including a person who has contracted to purchase a unit) may apply to a court if he or she was a unit holder when the articles came into force and an application must be made within 3 months after the person first knew, or could reasonably be expected to have known, that the articles had been made.

51—Insertion of section 26A

This clause inserts proposed new section 26A that provides a strata corporation can only delegate its functions or powers to the extent permitted by Division 2A (see clause 53).

52—Amendment of section 27—Power to raise money

This clause amends section 27 to provide that a strata corporation may, by ordinary resolution, permit contributions to be paid in instalments and fix (in accordance with the regulations) interest payable in respect of a contribution, or an instalment of a contribution, that is in arrears.

53—Insertion of Part 3 Division 2A

This clause proposes to insert a new Division dealing with the delegation of a corporation's functions and powers as outlined below.

Division 2A—Delegations by strata corporation

27A—Delegation of corporation's functions and powers

This clause provides for a strata corporation to delegate its functions or powers to certain other persons. The clause also provides that a strata corporation may revoke a delegation in certain circumstances. In the case where a delegation is by contract to a body corporate manager the delegation is revoked on termination (see proposed section 27B(4)) or expiry of the contract. In any other case the delegation may be revoked by the corporation at any time and despite any agreement to the contrary.

27B—Body corporate managers

This clause proposes to regulate the relationship between a strata corporation and a person who, in the course of carrying on a business and for remuneration, acts as a delegate of the strata corporation (a *body corporate manager*).

It is proposed that a body corporate manager is not entitled to remuneration unless a suitable contract has been entered into with the strata corporation, unless certain information has been provided to the corporation prior to entering into the contract, and the body corporate manager maintains appropriate professional indemnity insurance while acting as a body corporate manager.

The clause requires a written contract, containing certain particulars, to be entered into between the body corporate manager and the strata corporation at least 5 days after it has been available for inspection by members of the corporation. The clause provides that the strata corporation may terminate the contract with at least 28 days notice (or lesser period that may be specified in the contract) if the relevant contract with the body corporate manager has been in force for at least 12 months.

27C—General duties

This clause makes it clear that a body corporate manager stands in a fiduciary relationship with the strata corporation and specifies some of the duties of a body corporate manager.

27D—Offences

This proposed clause contains offence provisions that will apply to a delegate of a strata corporation. These provisions cover the disclosure of a delegate's direct or indirect pecuniary interests, the provision by a delegate of quarterly financial statements on request, the return of records and property on the revocation of delegations and the availability of records held by a delegate for inspection and provision of a copy.

54—Amendment of section 28—Power to enforce duties of maintenance and repair

This clause amends section 28 in relation to power to enter premises of a strata corporation to perform maintenance and repair.

It is proposed to require at least 2 days' notice in writing to be given to an owner and to an occupier before the power to enter a unit for maintenance and repair under subsection 28(3) may be used. Currently the requirement is to give the owner reasonable notice.

It is proposed to include a new provision for the entry into a unit, by an officer of the strata corporation or authorised person, if urgent action is needed to avert a risk of death or injury or significant damage to property in order to carry out work that is necessary to deal with that risk. A person who proposes to enter into a unit under this proposed provision must give the owner of the unit such notice as her or she considers appropriate in the circumstances (if any).

55—Amendment of section 29—Alterations and additions

This clause amends section 29 to provide that subsection 29(1) (which limits the circumstances in which prescribed work may be carried out) does not apply to prescribed work carried out in compliance with a direction under section 23 of the *Housing Improvement Act 1940* (which deals with houses declared to be undesirable or unfit for human habitation).

56—Amendment of section 31—Other insurance by strata corporation

This clause amends section 31 to require a strata corporation (other than a corporation of a kind prescribed by regulation) to maintain fidelity guarantee insurance complying with the requirements prescribed by the regulations. An exemption may be granted by the Minister.

57—Amendment of section 32—Right of unit holders etc to satisfy themselves as to insurance

This clause imposes a time limit within which a request to inspect insurance policies must be complied with and extends rights under the section to mortgagees and prospective purchasers and mortgagees.

58—Amendment of section 33—Holding of general meetings

This clause amends section 33 in relation to the holding of general meetings in the following ways:

(a) to enable a meeting to be convened by order of the Magistrates Court (on the application of a person of a class specified in section 41AA);

(b) to provide that a unit holder may not nominate another person to receive notices of meetings on his or her behalf;

(c) to require the notice of a meeting to include an agenda for the meeting including those matters listed in the clause;

(d) to allow a person who is a body corporate manager in relation to a corporation, or is an employee of such a body corporate manager, to preside at a meeting of the corporation after a majority vote of those present and entitled to vote. The regulations may make further provision in relation to procedures of a meeting when a body corporate manager presides;

(e) to provide for a person to attend, and vote, at a meeting by telephone, video-link, Internet connection or any similar means of remote communication, without placing an obligation on the corporation to provide such facilities.

59—Insertion of section 33A

This clause proposes to insert section 33A which would require a statement setting out certain specified information be presented by a strata corporation to each annual general meeting of the corporation. The required information includes a statement of proposed expenditure (other than recurrent expenditure) for a prescribed period (provided that the regulations cannot prescribe a period of more than 5 years). A strata corporation will not be required to update the information every year but new information will be required to be prepared in accordance with the regulations.

60—Amendment of section 34—Voting at general meetings

This clause amends section 34 in relation to nominations made by an owner of a strata lot for another person to vote on his or her behalf. A nomination must be in writing to the secretary of the corporation and specify whether it is a general nomination for all meetings and on all matters, or whether it is to be limited to certain

meetings or matters (a failure to comply with this provision will invalidate the nomination). A nomination may be subject to any other condition, may only be effective for a maximum period of 12 months and may be revoked at any time by notice in writing to the secretary.

A nomination for a body corporate manager (or employee) to vote on a person's behalf ceases to have effect when the body corporate manager (or employee) ceases to be a body corporate manager in relation to the strata corporation.

The secretary of the corporation must make copies of any nominations in relation to a meeting is available for inspection at that meeting by another person attending and entitled to vote at the meeting.

This clause also provides that an appointment for a person to attend and vote at meetings under a general power of attorney is to be for a maximum period of 12 months unless revoked earlier.

This clause also clarifies that a decision of a corporation in general meeting will be made by ordinary resolution except where otherwise provided in the Act.

61—Insertion of section 34A

This clause inserts a new section 34A to require persons attending and voting, or presiding, at a meeting of a strata corporation to declare any direct or indirect pecuniary interest he or she may have in relation to any matter to be voted on at the meeting before the vote is taken. Additionally a nominee representing a unit holder at a meeting must disclose any such interest to his or her principal prior to the vote taking place or as soon as practicable after.

62—Amendment of section 35—Management committee

This clause clarifies that a decision to appoint a management committee or to remove a member of the management committee is made by ordinary resolution.

63—Amendment of section 36G—Keeping of records

This clause amends section 36G to define a time period, namely 5 business days, in which an agent must, at the request of a strata corporation, provide the corporation with a statement setting out details of the agent's dealings with the corporation's money. The penalty for a contravention of this provision has been reduced to a Division 9 fine from a Division 5 fine.

64—Amendment of section 36H—Audit of trust accounts

This clause amends section 36H to specify that an agent must forward the statement, that is currently required to be lodged with the strata corporation, to the secretary of a strata corporation.

65—Insertion of section 39A

This clause inserts a new section 39A which requires a strata corporation to maintain a register of the names of the unit holders which includes last known contact address, telephone number, email address and unit entitlement.

66—Amendment of section 41—Information to be furnished

This clause amends section 41 to require the information to be provided by a strata corporation under the section to be provided within 5 business days of the application for the information. This amendment also includes additional documents that must be made available for inspection by a strata corporation on application by a unit holder, prospective owner, mortgagee or prospective mortgagee. Those additional documents being any contract entered into with a body corporate manager under proposed section 27B and the register of unit holders kept under proposed section 39A. This amendment also provides for the strata corporation to provide a unit holder, on application, with quarterly statements for all bank accounts maintained by the corporation.

67—Insertion of section 41AA

This clause inserts a new section 41AA that lists the persons who may apply for relief under Part 3A. Those persons are a strata corporation, the owner or occupier of a unit, a person who has contracted to buy a unit and any other person that is bound by the articles of a strata corporation (other than an invitee or visitor).

68—Amendment of section 41A—Resolution of disputes etc

This clause amends section 41A consequentially on the insertion of proposed section 41AA (see clause 67) to refer to an applicant that has standing to apply for relief under Part 3A. The clause also includes additional grounds under which a person may apply for relief and additional orders that a court may make under the Part.

69—Substitution of section 47

This clause removes the current provision on vicarious liability of committee members and inserts a general defence (in the same terms as section 153 of the *Community Titles Act 1996*).

70—Amendment of section 49—Service

This clause amends section 49 to provide for the service of a notice under the Act by email if the person receiving the notice consents to service by email.

71—Amendment of section 50—Proceedings for offences

This clause amends section 50 to allow prosecutions to be commenced by the Commissioner for Consumer Affairs, an authorised officer under the *Fair Trading Act 1987* or a person who has the consent of the Minister to commence the prosecution.

72—Insertion of section 50A

This clause allows money in the indemnity fund maintained under the *Land Agents Act 1994* to be applied toward the costs of investigations and prosecutions under the *Strata Titles Act 1988* and the cost of prescribed advisory services or educational programs.

73—Amendment of section 51—Regulations

This clause amends section 51 to provide for the regulations to assign specified functions to an officer of a strata corporation of a specified class.

Schedule 1—Transitional provisions

1—Delegations made prior to commencement

The transitional provision ensures that delegations made before commencement of the new provisions about body corporate managers will be revocable by the community or strata corporation in accordance with the proposed provisions in the measure.

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

At 22:39 the council adjourned until Thursday 28 July 2011 at 11:00.