LEGISLATIVE COUNCIL

Tuesday, 1 December 2015

The PRESIDENT (Hon. R.P. Wortley) took the chair at 11:01 and read prayers.

The PRESIDENT: We acknowledge Aboriginal and Torres Strait Islander peoples as the traditional owners of this country throughout Australia and their connection to the land and community. We pay our respects to them, their cultures and the elders both past and present.

Members

LEGISLATIVE COUNCIL VACANCY

The PRESIDENT (11:02): I lay on the table the minutes of the assembly of members of both houses held this day to fill the vacancy in the Legislative Council caused by the resignation of the Hon. Bernard Finnigan.

Ordered to be published.

MEMBER, SWEARING IN

The President produced a commission from His Excellency the Governor authorising him to administer the oath of allegiance to members of the Legislative Council.

The President produced a letter from the Clerk of the assembly of members informing that the assembly of members of both houses of parliament had elected Mr Peter Bryden Malinauskas to fill the vacancy in the Legislative Council caused by the resignation of the Hon. B.V. Finnigan.

The Hon. Peter Malinauskas, to whom the oath of allegiance was administered by the President, took his seat in the Legislative Council.

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (11:06): I move:

That standing orders be so far suspended as to enable petitions, the tabling of papers and question time to be taken into consideration at 2.15pm.

Motion carried.

Bills

PLANNING, DEVELOPMENT AND INFRASTRUCTURE BILL

Second Reading

Adjourned debate on second reading.

(Continued from 18 November 2015.)

The Hon. D.W. RIDGWAY (Leader of the Opposition) (11:06): I rise on behalf of the opposition to speak to the Planning, Development and Infrastructure Bill 2015. As members would know, this was to be the last sitting week of parliament. The bill came from the House of Assembly only on Thursday of the last sitting week and, as a gesture of goodwill, when the Leader of the Government, the Hon. Gail Gago, asked us to sit at 11am today to see whether we could complete the bill, we said there would be no possibility of completing the debate on the bill.

Nonetheless, when she spoke to me and the Hon. Mark Parnell from the Greens we said, 'Well, if you want to sit at 11am on this particular day, we're happy to do so,' and we would make our second reading speeches this morning on this bill, but it would not be able to be passed this week. Subsequently, the government has now made the decision that we will be sitting the optional week,

so I suspect that we will have a very lengthy committee stage of the bill next week, and I am not sure if we will be able to complete it.

As members would know, and you would know, sir, normal convention is that when a bill arrives in the Legislative Council, it sits on the *Notice Paper* for a whole week and it is then debated the following week. This allows time for some consultation and further interaction because, of course, unlike the House of Assembly, we have some other parties represented here, and in a less than thoughtful approach from the House of Assembly they do not consider the views of the Greens, Family First, Disabilities and, of course, John Darley as well.

Of course, this is an opportunity for those parties to participate in the debate and while we do not have 47 members as they do in the House of Assembly all wishing to speak, it will be somewhat of a lengthy debate, given that this bill is probably the most comprehensive overhaul of planning we have seen in the lifetime of many people, especially since the early 1990s when the Development Act was first proclaimed.

So, we are looking at the most significant piece of legislation in 30 years, and I think it is somewhat disappointing that the planning minister and the Deputy Premier, the Hon. John Rau and the Premier are desperate to get this through before Christmas, yet we are told that it will be some two to three years before all of the regulations and all the policies are drafted for this bill to come into operation.

It seems intriguing that we would have the two most senior members of the government desperate to get it through. They have in fact been lobbying the opposition leader, Steven Marshall, and he was the one who said, 'If you want any prospect at all, you'll have to sit the optional week.' I am always a bit suspicious when people are desperate to get bills through parliament.

I note today the arrival of the Hon. Peter Malinauskas to this chamber. I take this opportunity to welcome him and wish him well in his career here, but it is interesting that the Hon. Tom Koutsantonis, when speaking to his election, made comment to the effect of, 'Enjoy Peter Malinauskas while you have him.' I suspect we will not have him for many years at all and that he will be on a journey to another place.

The Premier and the Deputy Premier's passion to have this pass leads me to think that there is another agenda and that we will see a reshuffle in the government prior to the parliament resuming next year, maybe as early as somewhere between now and Christmas or maybe after Christmas. I suspect this is driven, as much as anything, by Deputy Premier Rau wanting to have this bill on his mantelpiece as something he achieved, rather than letting it go to whoever the next planning minister will be—who, Labor sources tell me, is likely to be the Hon. Stephen Mullighan—so it is interesting that we are here today to debating this bill.

As I said, it the most significant piece of legislation for some 30 years. The government has moved, I think, 85 amendments to its own bill in the House of Assembly and I think another 45 or more have been tabled since. Industry only got to see those amendments late last week and our shadow minister Steven Griffiths, who has done a fantastic job in the House of Assembly, saw them late last Thursday, at 5:30 in the afternoon.

There are another 45 amendments to the bill I believe, and the Hon. Mark Parnell can speak for himself but I think he only received those amendments late yesterday, and I am not sure whether Family First, Dignity for Disability or the Hon. John Darley have seen them. They are all shaking their heads. Again it shows a bit of the contempt in which the government holds the Legislative Council that they are not prepared to provide those amendments in a timely fashion to all members of this chamber, given that they have this desire to get the bill through this year.

The bill is, I suspect, the most important one in some 30 years from a planning perspective, and I think this is perhaps an appropriate time for me to indulge myself with a little bit of history around the planning scheme and what has transpired in South Australia in the last few years.

The South Australian public has for a long time been generally discontented with the current planning system. There is perception—and, arguably, evidence to support it—that the state Labor government is too close to developers and lobbyists. Members would know that for a period of time

I was the shadow minister for planning. Throughout that time, there were a number of what I and many others considered to be suspect dealings.

It has generally created a bad look in the development industry and the government. People now have a perception that votes, influence, development approvals and positions can be bought. As long as that perception persists, there will not be confidence in our system. A lack of integrity and accountability in our planning system is evident at all levels, from our overarching planning strategy to individual rezonings and development applications.

It has been difficult to prove corruption, particularly throughout my time as shadow minister when we did not actually have an ICAC, but there are several pertinent examples that demonstrate how the current system was, and is, conducive to negative public perception. Furthermore, the current system, which is at the whim of political interest, does not encourage good long-term planning.

From late 2010 to early 2011, I personally and on behalf of the opposition was undertaking a considerable amount of policy work centred on taking the politics out of planning. In August 2011—which, incidentally, is a few months after the current minister took on his role—I released a discussion paper which investigated moving to a more independent planning commission model.

I had met with the planning commissioner in Western Australia, Mr Gary Prattley, who had said to me that he had worked in, I think, six or seven jurisdictions—because he may have worked in New Zealand—and for some 26 or 27 different ministers in his career, and he thought the Western Australian model was the best. Incidentally, I did release a discussion paper and it got some quite significant coverage in *The Advertiser*. I will just read an opinion piece, not written by me but by *The Advertiser*. It states:

> The urban planning process in South Australia has become compromised by a commonly-held belief that there is favouritism shown towards developers over the interests of communities on the suburban fringes. This view is not aided by the cosy and financially lucrative relationship between developers and the Labor Party, along with inexplicable decisions such as massive unplanned expansion of the Mt Barker area despite the overwhelming rejection by local residents.
>
> Proposals put forward by the Liberal Party to correct the perceived imbalance deserves serious consideration, especially the creation of a truly independent planning commission mirrored on the body created in Western Australia.
>
> Such an authority would remove from the process many of the individual wants of the Minister, while incorporating representatives from government agencies to ensure better co-ordinated planning.
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> Under the proposed system the Minister would be allowed to oppose the wishes of the commission, but this would have to be done publicly, not behind closed doors.
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> There is a view in the community that it is too easy for developers to win the ear of the Minister. The fact there seems to be little justification for the enormous scope of some developments which have been imposed by communities lends some weight to this argument.
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> The proposed development at Mt Barker was an obvious example, drafted as it was with almost no integration with the existing community and with little regard to the impact on local infrastructure.
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> It may come as a surprise to some that the major development proposals come with 'facilitation fees' factored into the cost; expense accounts used to wine and dine those in public office who are in a position to influence the outcome of projects.
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> Another significant change proposed by the Liberal Party is the status of 'major project' only to be applied to ventures which have state significance, rather than those which meet an artificial cost threshold.
>
> The Liberal Party has tapped into considerable disquiet over the impact the development is being allowed to have, particularly in areas such as Aldinga, McLaren Vale, the Barossa Valley and Mt Barker. Entire communities feel they are being dictated to by enormous development interests which have the potential to totally change the character of their areas and quality of their lifestyle.
>
> The State Government is considering better protection for the Barossa and McLaren Vale, but given what is happening in the Adelaide Hills it could be accused of closing the gate after the bulldozer had bolted.

That was a commentary written by *The Advertiser* after we released that discussion paper. It is interesting to note that the current minister, who was only a few months into his role, was quick to dismiss that paper in a major speech he delivered to the Urban Development Institute at a luncheon.

I appreciate that while he could not allow the opposition to be seen to be being on the front foot, some four years on he has presented a rewritten act largely based on the very system that we had been proposing.

At the UDA lunch, minister Rau also attempted to distance himself from planning decisions which had been made. His message was a little confused. He said there would be no more Mount Barkers on his watch, but later saying he supported the Mount Barker development. It is interesting to note that he said 'no more Mount Barkers', but I had an interesting discussion recently around the Seaford Rise development with the member for Mawson, and also on Twitter with Mr Philip White, a renowned wine writer. That, in particular, was a piece of land that was sold to the developers under the Labor government.

It was while the Hon. Leon Bignell, Minister for Tourism, Sport, Recreation, Racing and Agriculture was the local member. It was sold on his watch and it was the Labor Party that allowed that urban encroachment to take place. He will say, 'Of course, but it was rezoned,' or that decisions were made back in the eighties. The rezoning certainly was but even through the deepest, darkest days of the State Bank debacle and the terrible financial mess we found ourselves in, the Liberal government choose not to put that piece of land (a government asset) on the market. That sale had been resisted for decades. It was the Labor government who sold it and it was on the Hon. Leon Bignell's watch.

So, as the local member, it was on the Hon. Leon Bignell's watch, prior to being a minister, that he and his parliamentary colleagues in the Labor Party and the Labor government sold that piece of land. I find it a bit hard to believe that then it was, of course, that we had to have the McLaren Vale and Barossa protection zones because of urban sprawl and urban encroachment, yet it was the Labor Party that was delivering that to the local communities via the party that was represented by their local member.

But I do appreciate—and I digress a little on that particular issue—that from the outset in his ministry that the Hon. John Rau, Deputy Premier, has been working towards a more transparent system. This legislation represents a great deal of work by him and his department. This overhaul has been a long time coming and it is clear from looking at previous planning debacles that the failure of the system is apparent at all levels.

At the highest policy level, we have the 30-Year Plan for Greater Adelaide as a premier example. The former minister commissioned the Growth Investigation Areas Report to inform the 30-year plan and we all know that, of course, we had a consultant—I think it was Connor Holmes—who was working for both the government and the developers. In this place, I have said a number of times, Connor Holmes disclosed the conflict. They advised the government that they were working for both, but the government did not care; the government said that was not important.

Connor Holmes has been, I think, in some cases, talked of in a poor light, when actually they were very open and transparent. They did say to the government, 'We are working for the developers and owners of the land', but the government was happy to accept it. I might come to some of the Ombudsman's recommendations around that in a moment, because we actually are looking at a complete rewrite of what we call the Development Act—it will be the Planning, Development and Infrastructure Bill—and so, of course, these are important issues that have been the failings of the previous regime and the previous legislative framework and we need to actually have a close look at them.

Connor Holmes was the author of this report and simultaneously working for the property developers to see if they could redevelop the same land. The document identified broadacre land outside the urban growth boundary, supposedly ripe for development. The opposition argued that to allow proper scrutiny for the 30-year plan, the government needs to identify the alternative parcels of land which have been considered and subsequently rejected.

We saw in the 30-year plan the Mount Barker land and of course, we had Buckland Park. Mount Barker in particular was identified as being perfect for development, but the government never released any details of any other land which had been looked at and which may have been, even in its own eyes, not quite perfect for development. It was never able to offer up any other alternatives for growth, so, of course, it was a very narrow focus; it was all about Mount Barker.

The Growth Investigation Areas Report was not released, and I think the developers and interested parties took court action to make sure that it was kept confidential. It was interesting that the Ombudsman did an investigation into the Growth Investigation Areas Report procurement. I will just read some of the recommendations in his final report in March 2013. There are about a dozen dot points here; I will just quickly read them. Of course, Primary Industries and Regions South Australia (PIRSA) was the agency where planning sat at the time. The report states:

- PIRSA failed to report its non-compliance in the GIA project procurement process with the State Procurement Board's Acquisition Planning Guideline, in its 2008-2009 Annual Procurement Compliance Report to the Board. This was contrary to the State Procurement Board's Reporting Policy.
- Planning SA approached potential consultants and requested, received and shortlisted their 'capability statements' prior to the delegate giving formal approval for a selective tender process to occur. This was contrary to the State Procurement Board's Acquisition Planning Guideline.
- Shortlisted consultants were requested to submit a proposal for the GIA project consultancy, prior to the final Acquisition Plan being completed and signed off. This was contrary to the State Procurement Board's Acquisition Planning Guideline.
- Consultants who were asked to provide capability statements should have been informed of the basis on which their statements would be evaluated. This would have enabled the consultants to provide a more targeted response, and ensured transparency in the procurement process. I note that this was not a requirement under the Board's Acquisition Planning Guideline at the time; and the Board's recent guidelines have been amended to require the publishing of selection criteria during procurement.
- Despite the failings above, there is no evidence to suggest any substantive unfairness to any of the potential consultants in the GIA project procurement process, or that Planning SA officers did not act in good faith.

I think that point there, that when you saw the consultants declare their hand that they were working for both the government and the property developers, I think that is why the Ombudsman found that, 'Despite the failings of the above, there was no evidence to suggest any substantive unfairness in any of the potential consultants in the GIA project procurement process…' He went on to say:

- Government agencies must be vigilant about the probity of potential consultants during their procurement processes, in particular in relation to conflict of interest.

In the next point:

- The State Procurement Board's policy and guidelines should provide more detailed guidance to assist to address the issue.

The next point is:

- Before and during the GIA project procurement process, Connor Holmes were making concerted representations to the Minister about expanding and developing Mount Barker, on behalf of five developers, the Mount Barker Consortium. Further, Connor Holmes had identified in the procurement process that they had involvement in the Mount Barker area. In my view, [the Ombudsman's] Connor Holmes were therefore conflicted in relation to the proposed GIA project work concerning Mount Barker.
- This conflict of interest was not identified by Planning SA…

So, there has been a failure in the procurement system of Planning SA and in any of the procurement documentation, including the acquisition plan or risk management plan. The report continues:

- Planning SA should have alerted the Crown Solicitor and sought advice about the probity implications of Connor Holmes' conflict of interest in relation to Mount Barker, at the same time as it requested and received advice about conflict of interest involving a Connor Holmes' representative in respect of the 30 Year Plan procurement.

  This may have mitigated any risk that the appointment of Connor Holmes as the GIA project consultants presented, in relation to the Mount Barker aspect of the project.

There are only two to go:

- The State Procurement did not conduct a 'probity investigation' of the GIA project procurement process (and nor was it required to), as described in paragraph I (b) of the referral for investigation by the Legislative Council under section 14(1) of the Ombudsman Act…
- It would be in the public interest for the government to revisit its views, and consider releasing the GIA project report, in recognition of:

- the probity failures in the acquisition planning process of the GIA project procurement
- the failure to identify and address [the] conflict of interest in relation to Mount Barker during the procurement process
- transparency and accountability concerns expressed at the time by the president of the SA Division of the Planning Institute of Australia on behalf of the membership.

So, you can see this is just an example in recent times where either the system let us down or staff in Planning SA turned a blind eye or just simply did not understand the issue around the conflict of interest, which caused a massive amount of concern with the public during that period of time. I will carry on.

The overarching policy reached through the document went on to dictate major future rezonings, population targets and dispersal—this was the GIA. Labor failed to generally consult on the planning questions, the authenticity of public consultations and any rezonings which have ensued. On the 30-year plan, we all said, 'Let's have a plan.' It is good to have a plan but, in the end, we do not believe it was ever properly consulted on, and in the end I am not sure the community has really grasped it.

At the next tier of planning is rezonings. We have a few historic examples in Mount Barker and Gawler East. The Mount Barker DPA has been the most resonant example of the problems which developer-driven planning policy creates. The DPA was instigated by a consortium, the companies of which at the time had collectively donated, to my recollection, some $2 million to state Labor over the previous 10 years.

The plan to double the population of Mount Barker and the surrounding township to almost 50,000 in 15 years has not been supported by a basic infrastructure plan and, most notably, there was an inadequate traffic plan to support a doubling of the traffic. Of course, we all know the freight task was going to double. The Freight Council says the trucks coming down the freeway are going to double in the next 10 years and probably double again from that. There was a lack of any published information on the basic community facilities that would be included.

Consultation on the DPA at the time was merely a facade of community engagement. I think there were some 1,310 hectares of rezoning factored into the state government's HELSP document which was the housing, employment, lands and something, I think, document. I do not have it written here, but I think it is housing, employment and lands. I think even the Hon. Mark Parnell is not able to help me on that one, but HELSP is the acronym for it. The document was produced prior to the completion of the public consultation, and the majority of the 540 public submissions were pretty much seemingly ignored.

Of course, at this time, I also point out that you have the DPAC (Development Policy Advisory Committee) involved in the consultation process. It listens to the speakers at public hearings and evaluates the submissions against the development plan. I will not let the Hon. Mark Parnell get off scot-free on this. There is a public perception that DPAC's independence means that advice provided to the minister will be divided from any political or developer interests, providing a vital chance for the public to make meaningful representations.

The Hon. Mark Parnell often capitalises on this perception and, obviously, demands that the minister release the advice. What the Hon. Mark Parnell does—and good on him for the way he does it—is to get the community to come along and put in submissions, but really all that DPAC has to do is judge the proposed development against the development plan.

So, often with the submissions that are made by the public and the comments they make, DPAC is not in any position to actually assess that, because it is not within its guidelines to use. So, the Hon. Mark Parnell is a good politician and makes the most of those particular events, but sadly in the end all that happens is that we have a greater level of community frustration, because the community feels like it is not being listened to, but in fact DPAC is not really able to listen to them.

The act states that the minister's obligation to seek from DPAC is subject to his opinion on whether the proposal is accorded with the planning strategy. In other words, the minister arguably does not have to seek any advice at all, especially in the case of Mount Barker, which is aligned to the 30-year plan. That advice is unlikely to be of any major consequence. That was the point I made

a few breaths before: it is the way the current system is aligned and works, and people come and give evidence and make submissions on the understanding that they are likely to have an influence on a decision, but in reality they have not been able to because DPAC is judging the proposal against the planning strategy, which is a 30-year plan.

The Gawler East DPA also created significant community impression that the rezoning document was prepared by, I think, the developers Delfin, and that the Gawler region community forum also alleged that Delfin started work on the project six months before the proposed rezoning was publicised.

It was interesting that we did not really have a major infrastructure plan for that part of Gawler, and that was one of the components of the Western Australian system where land was not rezoned unless there was adequate provision of infrastructure or a plan to provide that infrastructure. We saw with Gawler really big concerns. The town was in danger of losing its character and the main street was to be clogged up.

Gawler is a particularly lovely little town—your home town, Mr Acting President—but with all that extra development, while it brings extra economic activity, if it is not managed in a respectful way with adequate infrastructure or planning for infrastructure, you end up with a lot of traffic coming up the main street. That has been a reasonably problematic rezoning.

Further, there has been much community consultation in relation to the traffic implications of the development and no resolution, often leaving the council to provide those solutions, which of course does then put an unreasonable burden on the existing ratepayers when they have to fund some of that extra infrastructure.

In this part of my contribution, looking at the next tier down, development applications, I use major developments as an example. Section 46 of the Development Act lists the criteria for major development status being triggered. The past has shown examples of where the criteria should have been applied but was not, and conversely it was argued that with most it was not applicable but major development status was issued anyway.

An example was the former Penola pulp mill, and then we had the Le Cornu site. I said to the Hon. Paul Holloway, 'For goodness sake, get something happening up there, it's been vacant for 20 years'. So, the opposition at the time said, 'Please try and get something happening, and if you've got to use a major development, do it.' Now another 10 years on it has been vacant for 30 years, and I know that we have a proposal I think with a large hotel—the Sheraton or something—plus a range of developments to go with it.

I am not sure of the actual status of that but, given that it has been 30 years, it would not surprise me if it is another decade before anything actually happens there. These examples seem to demonstrate an issue with subjective interpretation of major development criteria rather than a flaw in the criteria itself. Robert Harding of the HIA summed up section 46:

> It provides one of the very few ways in which to break the deadlock of recalcitrant, obstructive planning authorities to any type of development, which has the capacity to be opposed by small sectional interest groups.

It has now become the public perception that developers can pay to overcome these hurdles under the subjective nature of section 46, and the fact that it is an administrative decision facilitates that. I think it was the chief executive of the Makris Corporation, Mr Blunt, who said on radio at one stage that, after some discussion about their donations to the Labor Party, 'That is how the system works in South Australia.' It is a shame that that perception is there, because we do need a robust planning system, we need to have economic growth, expansion and development in our city, yet we should not have people saying, 'Well, that's how the system works.'

I have also noticed that the Buckland Park decision was outside the urban growth boundary. I did speak to Stuart Moseley from Planning, the advisor who first spoke to me; I cannot remember his exact role but he came to see me with a representative from minister Rau's office. Interestingly, I have been informed that Mr Moseley has now taken up a position in Queensland and is no longer here in South Australia—and I am getting a nod from the Hon. Mark Parnell, so he may have heard that as well.

He was the person who came to me and we had an hour and dealt with only about 15 to 20 per cent of the bill, but I have never got back to have that more formal briefing with him. It is interesting that he is one of the major architects and he is going to shoot through to Queensland before the job is done. No disrespect to Mr Moseley, but it is intriguing that he finds Queensland either more lucrative financially or less stressful, because he does not have to deal with this new piece of legislation.

I said to him, 'This new urban growth boundary that you are proposing, could we have something like Buckland Park, something that is proposed outside the urban growth boundary?' He said, 'Oh no, no, David. It will be so far north that no-one will ever want to do it.' I said, 'I beg your pardon?' and he said, 'No, no; it will be way up north somewhere.' I said, 'That still doesn't mean that if a developer chose to, and the government of the day wanted to, they couldn't rezone some land on the other side of the urban growth boundary,' and he agreed that could still happen.

So it is rather bizarre that the government has been proposing this urban growth boundary but its own architect of this new legislation is saying that could still happen, as we saw with Buckland Park where, out of the blue, the land was rezoned. It was suitable under a major development criteria but the development involved a ministerial sign-off on a substantial DPA. That is interesting, and I am not sure what the future of Buckland Park will hold. I think the Hon. Mark Parnell was one of the first to say that it was not connected by way of any real infrastructure, and the rising costs of fuel and transport mean that if you are not careful with a development like that, that is so far out on its own, it may become isolated, and be an isolated community rather than connected to this great city which we all love.

Adelaide is, I think, the fourth most liveable city in the world and maybe, if we get this development and this new bill right ,we might just make it up the ladder and become the number one most liveable city in the world. Certainly, developments and proposals like Buckland Park were off the radar ,and I was astounded when Stuart Moseley said that it could still happen but it was just that they were going to put the line so far north that no-one would ever want to do it. Why have a line if that is what can happen?

In summary, all planning decisions in South Australia ultimately hinge on ministerial consideration and decision. The 30-year plan was a submission to cabinet and any amendments to develop plans, ministerial or otherwise, require ministerial approval. Despite local government's role in assessing local developments, the minister has the power to grant major development status, and normal developments are subject to ministerially approved and sometimes prepared development plans anyway. Therefore, my fundamental argument for adopting a model similar to that of Western Australia was that in order to achieve a transparent system, where planning and development decisions are made with the sole motivation of achieving good economic, environmental and social outcomes, those decisions must be made by people without political motivations.

As Mike Rann's exit from the political scene drew to a close, urban planner Kevin O'Leary wrote an article which perfectly summarised the long-lasting damage to our planning system over that time, and I will paraphrase from some of his article. He said that instead of an overarching vision for Adelaide, Rann's administration opted for a string of showcase developments, and many of those showcase developments, unfortunately, will not meet the wider strategic needs of the city; for example, the new Royal Adelaide Hospital, essentially a stand-alone facility. At the same time there were a host of changes taking place to deliver health services and, importantly, they were changes like refocusing on preventive medicine and community health, which meant that it made sense to integrate hospitals more closely to the existing urban fabric.

I was at a function—I think it was at Colliers, they often have a midyear function for their clients—and the Hon. Kevin Foley was guest speaker. He took questions from the group but when he ran out of questions he looked at me and said, 'Ridgway, you're not in my house. You ask me a question.' So, I said, 'Thanks, Deputy Premier and Treasurer. What expert planning advice did you get before deciding to relocate the Royal Adelaide Hospital to the railway yards?' He said, 'None. Mike Rann, John Hill and I just thought it was a good idea, so we did it.'

Maybe it was a little bit relaxed at that stage of the evening, but that astounded me that we would spend it is now $2½ billion, and was at $1.1 million a year for the next 30 years, so it is about $12 billion, on a new facility that I am sure will be, parts of it, very good, but you would think that a

government that is going to spend $2½ billion or sign the state up—taxpayers, all of us, all of our families and children and grandchildren—to a debt that is going to take 30 years to pay off would seek some expert planning advice to make sure that is the best use for that piece of land. That caused me some concern, that he was quite proud of the fact that they did not get any advice: they just thought it up themselves.

Mr O'Leary compared the creation of the 30-year plan to similar documents from other worldwide metropolises, and there was no evidence that multiple growth options had been explored or evaluated, as was the case in other parts of the world, and there had not been a community engagement plan which actually attracted positive public interest in a way that the public got involved on a constructive level. The process adopted by this government only attracted public backlash and in turn got the government's back up, which caused them to want to elbow the public out of the process even more.

Mr O'Leary quite accurately pointed out that if the Rann-Foley administration continued, we would have likely seen Mount Barker-style debacles repeated in other parts of Greater Adelaide's regions. Rann's attitude to public engagement was essentially to subject it to a faux consultation process to get to the real business done behind closed doors with the development industry. After all, I think it was the Hon. Kevin Foley's view, and I am quoting him, that, 'Ultimately, you have to be a prick to get anything done in this state.'

It is interesting that, in talking about public consultation, in the Western Australian system, their independent planning commission had a process called Dialogue with the City, which is something that I was considering and we had some discussions about in the opposition party room. My recollection of Dialogue with the City is I think they chose some 1,200 participants: 400 randomly off the electoral roll, 400 who I think they chose that had a particular skillset, and 400 who could actually nominate themselves. In Perth, Channel 7 and *The West Australian* newspaper followed it quite closely.

My understanding is it was a bit like doing jury duty: if you were on there, you had to be on there. You were educated and explained as to the process it would go through, and they had a map of Greater Perth—I think there is a special term they use in Western Australia, but say it was the Greater Perth region. This group was broken into 120 groups of 10, so there were property developers, government bureaucrats, members from the public—I am not sure whether there were any politicians, but certainly members of political parties—Indigenous groups and environmental groups who were involved in this. It was a very broad cross-section of the community.

They were then told, 'We are going to have growth in Western Australia over the next 20, 30 years. Where should it go?' They were all given a big map of Perth with all of the overlays of land use; land type; and infrastructure for power, water and gas; and little population stickers, if you like. These groups all worked out where they thought the population should grow. The assumption was that there will be population growth. I think to grow any modern economy, with a growing world population and sadly some of the stuff we see in other parts of the world with displaced people and refugees—and Australia has been a very generous place over the last couple hundred years; we have always had our doors open to people who want to make a contribution to our great community and our great society—so I think the premise was there will be population growth.

These groups decided where the population growth should go, and even within the groups you may have had a couple of environmental people who were very opposed to population growth in certain areas and were being mindful of the environment, and you may have also had a developer or two. I am told it was an interesting atmospheric surround, but each group had to come up with a compromise. You could not walk away and say, 'We're not going to do it.' So, each of these 120 groups came up with a map of where they thought population growth should take place, and then all 120 maps were merged into a final map for Perth.

It did cost a couple million dollars, but that is the sort of community engagement I think we should look at in this state, where you actually go to the community and say, 'We are going to have some population growth. Where should it happen? Let's sit down in a responsible sort of way and have a chat about it.'

That is where this process fails with what the government is proposing at the moment. My recollection in WA is that they do it about once every 10 years, and there is a report to parliament on how they are going against that community decision about every five years. That is something that would be worth considering, because it does give the community a very broad say, and I will come to some of the comments of the expert panel around the planning improvements. That was done in little groups, and there were submissions to it, but when you have everybody in the room you have a much better opportunity to get a bit of compromise and dialogue between all of the different groups.

Once that is in place—in the Western Australian model, for example—the Planning Commission has a really broad guideline of what the community expects over the next decade and beyond where they want growth. It then becomes a matter of the provision of infrastructure and making sure there is adequate infrastructure over time to facilitate that growth. So, I really think that is something we should be looking at. Once that decision has been made, you expect the Planning Commission and the government of the day to actually get on and deliver where the community has identified there should be some growth.

As we look at the process in front of us though, it is not the same. As expected, with an overhaul of this magnitude, it is not without a great deal of complication. Firstly, we will be forced to consider, interestingly, these amendments that I described earlier that we have only had for a matter of a couple of days, in a very unreasonable amount of time. I know that the Greens, through the Hon. Mark Parnell, have drafted some drafting instructions, but we have not seen them. I suspect the government are still in negotiation with some of the industry groups: the UDIA, Master Builders, HIA and the Property Council, so I am not sure whether the amendments that were provided to us last week are the same amendments we will see next week, or whether there will be further amendments to the government bill.

It is interesting that we now have almost a panic rush towards the final finishing line when, as I said, it is a 30-year piece of legislation. It almost seems a bit of an arrogant and inconsiderate approach, reminiscent of many of the problems our planning system has faced. I would suggest the problem is as much to do with the culture and the attitude of the government, rather than that it is in times when it is policy and legislation that we are attempting to fix.

It is interesting to note that in last Sunday's *Sunday Mail*, there was a lift-out with a survey that *The Advertiser* had done called 'SA SPEAKS'. It is interesting that one of the reforms the minister wants out of all of this legislation is an urban growth boundary. It is also interesting to note that on page 9 of SA SPEAKS, under the subheading of 'Housing mix the perfect solution', it reads:

> NEW housing should be built on Adelaide's outskirts and within existing inner suburbs, according to the survey respondents.
>
> Almost two-thirds of the respondents want to see a mix of infill and greenfield development while the remainder were split on the merits of housing on the metropolitan fringe or redeveloping the inner suburbs.
>
> Planning Minister John Rau has championed the push for increased infill because of the high, long-term infrastructure costs of a sprawling suburbia.
>
> Mr Rau wants to legislate a boundary around greater Adelaide which would stop land outside that which was not currently marked for residential being rezoned.
>
> He said there was already more than 20 years' supply of undeveloped land on the suburban fringe zoned for housing and a move towards community preference for higher-density living.
>
> Modelling shows taxpayers have to contribute up to $89 million for infrastructure to service every 1,000 houses built on greenfields sites, on the urban fringe, almost double the $35 million per infill 1,000 houses. Housing Industry Association South Australia Branch executive officer, Brenton Gardner, said, 'The survey reflected the association's position that a mix of housing styles was important.
>
> 'We believe the public need to have choice, they need to have options in terms of housing,' he said.

I think that is something where the opposition entirely agrees with the survey, that we should have a mix of housing solutions. It is fine to say that we have a 20-year supply of undeveloped land inside the area inside the proposed urban growth boundary but, of course, that urban growth boundary is likely, if adopted, to not be able to be changed other than by parliament.

Given their track record and given that Mr Stuart Moseley from Planning SA has said, 'You'll still be able to jump over the urban growth boundary if you chose to,' it is interesting to look at the

expert panel's report. The urban growth boundary is hardly mentioned at all. There are just a couple of brief mentions, and I will refer quickly to a couple of them. The first is:

> The state planning directions will include high-level targets and policies and may be supported by guidelines. In the metropolitan area, this could include a statutory urban growth boundary.

I emphasise the word 'could'. Further on, the same document states:

> In the metropolitan area, this could—

'could', again—

> include the ability to specify a statutory urban growth boundary.

And it is interesting to note that the document quotes Fred Hansen, who said:

> An urban growth boundary would provide for and enable the redevelopment of lands within the current greater city footprint.

Mr Fred Hansen, former thinker in residence, as we all know, was somewhat embroiled in the Gillman debacle, where an employee of Renewal SA had had maladministration attributed to him or it was indicated that he had participated in maladministration.

Of course, former thinker in residence Mr Fred Hansen is no longer in South Australia. I am not sure he really understood the culture of South Australia. When I had a couple of briefings with him around urban infill, I did not think he actually understood the nature of our state's finances—or perhaps he did.

Where he comes from, which I think was Portland, Oregon in the US, they do not really care how much the state borrows. If you are going to have high-level infrastructure and trams and trains running around the city, they come at a very high cost. I am not sure about Mr Hansen's quote, but in fairness, I did think when I looked through the expert panel's report that, while there were only two or three references, one was from Mr Fred Hansen.

My intention initially was not to go through the bill clause by clause at this point but to make some lengthy contribution around the bill, and I will in relation to the Property Council's submission, because that has come to me and our shadow minister Steven Griffiths after the committee stage of the bill in the House of Assembly.

I will indicate that the opposition will be tabling some amendments probably later this week. They will be around the urban growth boundary and also some changes to allow adaptive re-use of heritage buildings. It is a particular passion of our leader, Steven Marshall, that we have these buildings that are either underutilised or not utilised at all because as soon as you happen to do anything you trigger the Building Code of Australia and a whole range of issues.

I will move those amendments probably next week when we go to the committee stage. I know that minister Rau has had some discussions with Steven Marshall in relation to those and he has indicated that the government is likely to support them, but I just put on the radar for other members that we are likely to have an amendment in relation to the urban growth boundary and some amendments around adaptive re-use.

Maybe I will leave the Property Council's comments until towards the end, but among the industry groups, of course, we have the Local Government Association, the Urban Development Institute, the Housing Industry Association, the Master Builders and the Property Council, who are the practitioners who deliver product to the consumer. I note that we are in a jobs crisis. We have the Minister for Employment in this chamber and, every question time, we ask questions about unemployment and it seems to be going up and up and up.

The Hon. G.E. Gago: It's not: it's going down!

The Hon. D.W. RIDGWAY: No, it's going up. There is a trend line of it going up. Her leader and premier, Mike Rann, said he was going to create 100,000 jobs, and it has not even made it to 10,000: it is about 6,000 jobs. While the first focus of this bill should be about having an open, robust and transparent system, it should also be about making sure we get strong economic growth that provides some level of comfort for the community that it is going to be quality economic growth that is going to sustain this community and this society for many decades, if not centuries, to come. It is

interesting to note that all of these bodies are the ones that are somewhat concerned. I will read some of their concerns into *Hansard*. This is from the Master Builders Association and it states:

> Master Builders SA believes there are significant shortcomings in the Bill as it stands.

This was dated 27 November at 5pm. That was last Friday after, I think, they may have seen the amendments that are still perhaps in the mix. I know that there are negotiations or conversations between these groups and the minister's office as we speak. It goes on:

> The proposed amendments (to date)—

which they have put in brackets which I expect means they see more—

> go some way to rectifying those issues by introducing two forms of infrastructure levy. We are also heartened by the assurances from Deputy Premier John Rau that he will work with industry groups to improve any shortcomings over time. We are more inclined to work with the State Government on this issue because the underlying Bill promises to cut red tape for our industry. At the end of the day, this means jobs.

Which is, I think, what we are all here for. It continues:

> The following issues remain significant impediments to our unqualified support for the Bill. The Environment and Food Production Areas/Unban Growth Boundary: the Department of Planning, Transport and Infrastructure has indicated that infill development is occurring faster than expected. We therefore believe there is no need to create a new boundary that may significantly increase prices, industry costs and create an artificial barrier that faces significant challenges to move in future—even when needed to sustain jobs. Excising these provisions would, together with reducing penalties such as discussed below, allow Master Builders SA to provide strong qualified support for the Bill. Failing their excision, the removal of the Parliamentary entrenchment provisions would be significantly supported by industry.

They go on with regard to penalties and state:

> The Government has increased penalties five-fold without reason. In its least charitable light, this is a cash grab on an industry that is facing significant challenges. These must be reduced for our support.

It continues:

> We continue to be concerned about the powers relating to the infrastructure levy—although the amendments reduce some of those concerns—and the Planning and Development Code. The Deputy Premier has promised to consult industry over these matters, and we take him on face value.

Of course, he may not be the minister next year when this is being dealt with. That may be a cop-out for the next minister to say, 'Well, I didn't give you that undertaking.' This will be an interesting question for the minister to answer so I will put it on the record: can the minister guarantee that the Deputy Premier, minister Rau, will be the minister for planning beyond February of next year so that he can honour his commitment to industry to consult with them, or will they have to deal with another minister? The Master Builders' statement goes on:

> On this basis, we would urge the Liberal Party to support South Australian industry by supporting the Bill only where provisions relating to the Food Production Areas/Urban Growth Boundary are removed (or entrenchment removed) and where the penalties are reduced in the interests of jobs.
>
> We will forward a copy of the letter we send to Mr Rau to all parties in the interests of being clear.

I now move on to the Housing Industry Association. It is probably no surprise to the Hon. Mark Parnell that he gets mentioned in this letter, but the Deputy Premier has referred to him in a scathing way. I will not quote it, but it is fair to say that notwithstanding that I have mentioned this and reminded the Hon. Mark Parnell on dozens of occasions that the Greens continually preference the government—and I think we have a list of about eight or 10 marginal Labor members of parliament who were elected at the last election on Greens' preferences—yet we have been encouraged by the government to guillotine this debate and cut him off from his opportunity.

We have resisted and will always do so. We have always believed that there should be a chance for anybody in this particular place, but especially somebody like the Hon. Mark Parnell who has been a planning lawyer in his professional career, to have every right to explore this bill on behalf of his party but also the people he represents in this parliament. I am sure that at the end of the day his party will make its decisions on preferences, as it always does, but I also like to remind the Hon. Mark Parnell that his friends in the Labor Party are not that friendly towards him at the moment.

This statement is from the Housing Industry Association on the urban growth boundary:

No further amendments were proposed, just re-iteration that the process for review would be 5 years, not be discretionary as was the case previously, and would be a transparent process. This still does not address HIA's opposition to a fixed boundary, requiring both houses of parliament needing to amend the boundary. The minister himself expressed the difficulty of getting his Bill through the upper house; ironically we share that same concern in relation to future UGB changes!

Of course, infrastructure levies are a big concern:

The latest levy amendments introducing different classifications of infrastructure does not address HIA's opposition to infrastructure levies, and introduces complexities with likely unintended consequences. All the more reason to delay the Bill until February to give everyone time to digest, consult and discuss without rushing such important legislation. For example the introduced Charges on land section (163B) appears complex and concerning.

HIA will examine the amendments and provide further comment to you, but as advised to the Minister, will not consider altering our position until adequate time and consultation has taken place.

That is from the HIA. Perhaps I will go to the UDIA next. I met with the UDIA yesterday. I had a quick meeting with them, and again I have a briefing, just a quick note, from them to Steven Griffiths, again dated on Friday, after they had received those amendments. In terms of the UDIA response, we have a scheduled meeting on Monday, which was the earliest opportunity for us to convene, which is their sort of policy committee, to go through these, after which time I will be in a position to say whether we support or otherwise the infrastructure components. I met with Pat Gerace and John Stimson yesterday and they said they were meeting with their policy subcommittee. I have contacted them today and they have not finalised their position. This is their position as of last Friday, about midday:

We support the separation of schemes—

this is for infrastructure levy—

into two distinct categories and have predicted a limiting of the types of infrastructure that can apply to scheme 1. We remain concerned about scheme triggers for payments. Under section 158(1)(b), the trigger for payment under scheme one can be a change of planning and design code, i.e. rezoning. The UDIA model—

which is one that they provided—

has always been that if there is no change to anyone's current activity, and they do not seek to have any subdivision of development application approved, they should not be subject to an infrastructure charge. Any changes imposed under those circumstances are likely to hinder or impede the success of any infrastructure scheme.

My understanding of that is that if you have some land rezoned and you still have a farm in the middle of that land and you do not wish to rezone it, you wish to continue farming, a new infrastructure levy should not be charged on your land. Yet, I think the UDIA is saying that in this particular amendment that has been recently proposed by the government, if you have a parcel of land, you may still be subject to an infrastructure levy, even if you do not wish to rezone it. I think that is where the UDIA is concerned. They also remain concerned that:

In relation to scheme 2, in particular section 161(6)(a), a scheme can be initiated through a practice direction issued by the commission and approved by the minister. This is an alternative to having a 75 per cent threshold. Given the breadth of infrastructure and the capacity for any such scheme so significant in nature, we believe there needs to be much more rigour and scrutiny than currently exists.

As I said, I was going to go through the whole bill clause by clause, but—

The Hon. M.C. Parnell: Do it; do it.

The Hon. D.W. RIDGWAY: No, I don't think I will. My colleague in the other chamber, the member for Goyder, Steven Griffiths, shadow minister for planning, has gone through it line by line and raised a whole range of questions, which we may come back and address next week at the committee stage of the bill rather than go through it line by line here. The second reading speech is not the place for that.

My understanding of the 75 per cent threshold is it is for an upgrade—let's say to put a tram down Unley Road—and that if you get 75 per cent agreement of the landowners who are impacted by that development (i.e. it will probably give them an increase in land value), then you can levy an infrastructure levy on them. Again, I have asked the question about minister Rau being the minister to honour his commitment to negotiate with stakeholders, and also this question. For example, it is probably $100 million or $200 million to put a tram down Unley Road to the Torrens Arms Hotel or Cross Road, or wherever the government may see fit to take it. How will that cost be apportioned?

Under their model, 75 per cent of people agree, 100 per cent of people have to pay, but do they have to pay for it all? Do they pay for a portion of it? What portion do they pay for? Over what time frame do they pay for it? There is a whole range of questions under the infrastructure levy.

If you go into a new subdivision with all brand-new houses and you need a connector to the freeway, I thing you can perhaps sort of understand that there are 10,000 new homes, and you get a nice new connector onto the Northern Expressway or the South Eastern Freeway. But where you have, in existing suburbs, existing residences and businesses, the opposition would like to know exactly how that will be apportioned. Is it, as I understand, that if 75 per cent of land owners agree, 100 per cent will pay?

Let's say it is a tram line. I think, in the early days of the 30-year plan, there was some discussion. It used to be 400 metres or 800 metres that people would walk. There was a sort of threshold as to how far people would walk to a tram station.

The Hon. M.C. Parnell: 800.

The Hon. D.W. RIDGWAY: The Hon. Mark Parnell reminds me it is 800 metres that, notionally, is the distance that people will walk to catch a train, tram or bus and, beyond that, they will drive. I will use the hypothetical example of Unley Road. If we put a tram down Unley Road, under this model, and 75 per cent of land owners agree, is that 75 per cent in the 800-metre circle around each tram stop? Is it 75 per cent of those who just front Unley Road? We do not know what it will be. What portion do they pay? Is it the whole cost or part of the cost? Over what time frame do they pay that cost?

You could arguably say that, over these last 14 years, our state debt has gone up, so we have not actually paid anything off. If you had entered into a scheme over 14 years ago under this government, the debt has just got bigger. If it was a piece of infrastructure that was clearly defined, and a scheme on its own that the residents knew had a debt of X and every year it was being paid down, they would know when the payment was finished. I think we need a lot more information. I notice the two diligent advisers sitting over there making some notes, so hopefully that is something they will bring back some answers on for minister Gago's summing up, if that happens this week. Going back to the UDIA's comments, they stated:

> In relation to other parts of the bill, on Wednesday this week, our executive reaffirmed its opposition to the urban growth boundary.

In terms of the development assessment panels, they remain firmly resolute that the changes should be made and local government should participate in policy formation and engagement, and not in assessment. So, I am just looking at the time; we have still got plenty of time, so I do not need to rush myself—

The Hon. M.C. Parnell: Don't rush.

The Hon. D.W. RIDGWAY: The Hon. Mark Parnell says I do not need to rush. The UDIA have provided me with just a couple of pages. I will not read their whole matrix on each clause, but I will just go through some comments they made around infrastructure schemes and some of the other comments they have made. This was on 18/11, so it was just at the conclusion of the committee stage of the bill.

> Infrastructure Schemes
>
> 1. The UDIA supports in principle the inclusion of provisions enabling the establishment of a particular form of infrastructure scheme.
>
> 2. The current provisions are not however supported by the UDIA in their original form (including the *Amendments moved by the Minister for Planning on the 16 November 2015*) because—
>
> a. The range of infrastructure capable of inclusion in the schemes is too broad and particularly includes items that are traditionally provided by State or Local Government or (notwithstanding how desirable they may be) they are not generally necessary (or 'essential') to support or facilitate development of infill, brown field or greenfield areas;
>
> b. The schemes are exposed to the risk of political pressure by having the relevant Minister of the day responsible for initiating schemes, determining their scope, approving schemes and funding arrangements;

c. The triggers for initiation of schemes are very broad and uncertain, leaving open the risk that poor infrastructure choices will be made without proper regard for need or commercial prudence;

d. The rating method to fund schemes, at present, is itself broad and again open to the risk that it [seems to be] a new tax or levy, but this time on infrastructure.

e. The rating method is plagued by the complication of determining questions such as who will benefit, the relevant proportion of their benefit and the period over which the benefit may accrue.

3. While these identified concerns might be capable of resolution, the UDIA maintains that considerable detailed analysis and consultation will be necessary to do so. We maintain that an identifiable scheme type exists which can provide much of the benefit, but with [much] less of the potential risk.

The next title, 'Indexed charge type scheme supported' states:

4. The form of scheme that the UDIA supports is an indexed charge imposed on a scheme area which is payable only after a development trigger event. We suggest that the Bill be altered so it expressly provides for this limited scheme type (for the sake of this submission 'scheme type 1').

5. Whether it may also provide for other scheme types is not yet something which we can support without seeing further detail.

6. The essential elements of the indexed scheme type 1 are described below.

Scope of infrastructure—Scheme type 1

7. The items of infrastructure should be limited.

8. We suggest a separate definition to deal with infrastructure subject to these schemes (for the purpose of this submission we will adopt the term 'prescribed infrastructure'). The list of infrastructure should be the core items necessary to enable development (infill or greenfield) such as those currently contemplated in Part 9 of the regulations namely—

a. Energy

b. Water supply

c. Sewer

d. Roads

e. Stormwater

f. Telecommunications

9. A broad range of infrastructure (such as trams, railways, recreation areas etc.) might be appropriate for other schemes, but the essence of this scheme is to limit the imposition of a charge to core infrastructure only.

Their next heading is 'Scheme initiation and purpose', and states:

10. An independent expert entity (such as the State Planning Commission) should initiate and approve a scheme and determine the scope, applying legislated criteria.

11. The Act should specify (and Minister's Amendment No.1 [Planning—2] of 16.11.15 is a partial and imperfect attempt at this) that the purpose of a scheme is limited to circumstances where it is required (necessary or desirable) to coordinate, provide or facilitate—

a. the orderly and timely provision of necessary prescribed infrastructure (or investment in such infrastructure); or

b. funding for prescribed infrastructure;

It goes on to say:

and that infrastructure—

c. will enable the development or redevelopment of land and which cannot be provided or funded by other means;

d. is for the rezoning of land for increased development potential;

e. will support, service or promote the significant development; or

f. requires the cooperation or coordination in the design, construction and funding because of its scale and the range or nature of parties whose agreement is required.

12. A scheme must not be initiated to displace the obligations to provide, maintain or operate infrastructure which apply to the Crown or Local Government.

13. The SPC should be obliged to take into account any relevant State or Regional Planning Policies in making decisions about schemes and should consider any necessary amendments…to give effect to a scheme.

14. A scheme should be capable of initiation by the SPC on any proposal by any person (the Minister, a land owner, a 'developer', a council etc.). We suggest this so that the decisions about infrastructure are free from any criticism of political interference.

15. As an alternative (but not preferred) approach, the Minister might initiate a scheme, but only on advice from the SPC or another independent expert entity.

16. The Minister ought not to be empowered to approve any scheme. The power ought always to rest with an independent expert entity (subject always to Parliamentary scrutiny).

The next heading is 'Charge against land, not a rate':

17. The charge is a figure representing a particular unit cost ($/hectare, $/dwelling, $/m² floor area etc.) of contribution to the prescribed infrastructure under the scheme. The charge is noted against the title to the land and is secured against the land by the Act.

18. Payment is not triggered by any land transaction.

19. The obligation to *pay* is linked only to a trigger event in the nature of the development of the relevant land. The Act should define the trigger of the event as lodging of a plan or of a division or obtaining Development Approval to commence a development (building or change in use);

20. The charge is indexed (because it might be paid by a trigger event in 10 years time) by some appropriate index (for instance CPI, a flat rate or some other index etc.) to be determined by an independent expert entity (such as ESCOSA).

21. The charge and the index is reviewed on a regular basis (such as 5 year intervals) and when circumstances require by an independent entity (such as ESCOSA).

22. Once paid, the charge is lifted from the title.

They were the points I was making before about any particular charges on landowners for, if you like, the hypothetical tram down Unley Road: who would pay, for how long would they pay and, at the end of the scheme, would they then not have to pay it anymore? In this document, at point 23:

23. The scheme can be 'imposed' on the scheme area (e.g. it is not voluntary thus captures 'rogue' landowners). Owners who don't want to develop and don't want to pay are 'protected' because if they never develop, they never pay. The trigger is critical to this scheme. It is not triggered by re-zoning alone, only by the action of undertaking development.

24. The Act should protect certain development against liability to pay the charge. This should include:

a. balance allotments or 'super lots' (larger parcels carved out for future division and development at a later stage or by a later developer;

b. the continuation of existing uses at the same scale or intensity (within reasonable flexible constraints);

c. potentially some specific uses (such as community recreation facilities, parklands, a single dwelling on an existing allotment etc.).

25. The Act should provide for the option of payment once (a lump sum) after the trigger event, or by some other means (such as by regular quarterly or annual payments, even by converting the payment to a rate collected by the Local Government mechanism etc.).

26. The Act should enable 'in kind' contributions (such as a developer undertaking some of the works or providing land to accommodate the infrastructure required by the scheme) and a rebate mechanism (e.g. to rebate other rates and taxes to adjust for in kind contributions above the charge value etc.). Such contributions could be provided in advance of a trigger event, but would require agreement or some codification about how the in kind works are costed in order to count towards the payment of the indexed charge.

Determining the charge value/amount

27. The charge ought to be set out by an independent expert entity. It should probably be independent of the infrastructure providers and government. ESCOSA is probably as well placed as any entity to form this function.

28. It is critical that the charge is set at an amount that will enable development. Otherwise, if it is too high, there will be no development triggers to generate payment. The act must include principles about setting the charge. The principles should include the following:

a. The scope of the infrastructure subject to the charge must comply with the principles (see below) limiting it to that which is required.

b. A charge should be limited to recover the reasonable capital costs of the prescribed infrastructure (less any contributions of funds from sources other than the charge);

c. The area subject to the charge should be set having regard to:

i. the direct and indirect benefit the land or occupants thereof will derive from the prescribed infrastructure;

ii. any potential negative effect of the charge on the development of the area, housing affordability or incentives for investment and economic development;

iii. achieving sufficient area to generate the necessary funds over time for the prescribed infrastructure;

iv. the extent to which the contribution area may overlap another contribution area under another scheme (or proposed scheme); and

d. Any charge should be set taking into account any existing arrangements for the funding of the same or similar infrastructure within the area to be subject to the scheme.

There is only a page or so to go:

Scope of works

29. The works themselves must be designed, constructed and procured in a manner which avoids unnecessary infrastructure and 'gold-plating' of infrastructure.

I will just break here for a minute. This is not in the UDIA's comments, but I remember some discussions around providing wastewater treatment for the Mount Barker area and SA Water. I do not remember the exact figures but it was a horrendous amount of money that SA Water wanted to charge to do that when I think there were a whole range of other options on the table that would have been at a much lower cost.

I think point 29 of the UDIA's submission that 'the works must be designed, constructed and procured in a manner which avoids unnecessary infrastructure and gold-plating of infrastructure' is an important one. If people are going to have to pay, they should only pay for what is adequate to do the fit-for-purpose job that they require. It continues:

30. The UDIA maintains that one of the most effective mechanisms to achieve this is to ensure that whoever pays for the work has a considerable say in what the work will be and how it will be procured. Where government dictates the required work but obliges others to pay, we have seen a consistent tendency for large contingency costs to be included, for the wish list of works to be extensive and for the standard of works to be far greater than on comparable infrastructure provided by the public sector. That is not to seek the cheapest solution possible however. A balance must be struck.

31. The mechanisms to achieve this include principles in the act about the nature of works and the purpose of schemes as well as a contestable and transparent process for determining the scope and the nature of works and designing, procuring and constructing the relevant infrastructure.

32. The act should include principles about the scope of infrastructure in a scheme such that the infrastructure must be—

a. fit for purpose;

b. capable of adaptation to changes in standards or technology over time (to the extent possible);

c. where possible, capable of augmentation or modular extension to accommodate growth over time;

d. where appropriate, designed to build capacity to allow connections or augmentation by others to leverage the initial investment in infrastructure;

e. to a standard or 'design life' appropriate to the nature and lifespan of the development it will service and any investment or cost recovery measures associated with the infrastructure;

f. capable of being procured and delivered in a timely manner to facilitate and promote orderly and economic development.

The next heading is 'Delivery and Procurement'.

33. The procurement of infrastructure can provide an opportunity to limit costs. The process and principles ought to ensure that it can be procured and delivered in a timely manner at a reasonable cost. The relevant principles to be embedded in the act should be—

    a. infrastructure shall be provided at a competitive cost which avoids unnecessary expense;

    b. procurement processes ought to be contestable (that is not limited to one government agency or semi-governmental authority with monopoly control over the infrastructure and access to it);

    c. costings for infrastructure (for the purposes of the charge to be imposed) ought to be open and transparent (including all calculations and assumptions);

    d. infrastructure should be procured and delivered in a timely manner to facilitate and promote orderly and economic development;

    e. the design of and procurement process for infrastructure should be dynamic, flexible and adaptable to the changes in circumstances in the area that it will serve.

34. The works should be done on a timetable to facilitate and enable development, investment, economic growth and employment.

Again, Mr President, you see that word 'employment'; it is very much about jobs, and the UDIA is a good driver of jobs in our economy. It continues:

Deployment timetable principles should allow for infrastructure such as head-works up front where appropriate or staged and following development where appropriate.

The next heading is 'Consultation'.

35. Consultation on infrastructure schemes is important on all issues from the area for any contribution to the nature and extent of infrastructure to be provided.

36. The [State Planning Commission] should be obliged to consult with owners of land within the area of the scheme and any contribution area and undertake public consultation on the proposed scheme in accordance with the Community Engagement Charter.

37. Consultation does not end after the scheme is devised. The scheme coordinator or SPC should develop a public engagement plan to inform and consult with landowners, councils and infrastructure entities within the area of or concerned with the scheme over the course of the scheme and thereafter to inform and consult with those persons and the public generally in accordance with that plan.

The next heading is 'The Scheme Coordinator'.

38. The scheme coordinator should be properly qualified and experienced and should be independent. The scheme coordinator should be answerable to the SPC, not just the department or the minister.

39. The scheme coordinator's tasks should include:

    a. to search for and secure funds for the scheme from sources other than the charge on land within the scheme area;

    b. development of a procurement and delivery plan for the scheme that aligns with the principles set out above;

    c. to oversee the expeditious and timely delivery of any infrastructure or works that form part of the scheme;

    d. to amend the Planning and Design Code to incorporate such overlays or other policies as are necessary to give effect to the scheme;

    e. to provide advice to the SPC on any works, measures or actions or other persons or entities which are not subject to the scheme which are necessary or desirable to give effect to the scheme;

    f. to coordinate and apply money to deliver the scheme (initially from the state treasury, which over time is reimbursed by payment of the indexed charge following trigger events).

The next heading is 'Delivery and participation by others a fundamental weakness'.

40. Other entities, particularly government agencies, will be critical of the delivery of successful schemes. The bill does not oblige other government agencies such as SA Water, the Commissioner of Highways, local government, etc., to cooperatively participate in schemes.

41. This will be a fundamental weakness in the effectiveness of the schemes.

Funding schemes

42. The funding schemes should be more than just a charge mechanism over land within the scheme area. Other sources of funds should be exploited to the extent possible.

43. Funding schemes should be based on the following principles:

(a) To innovate voluntary, flexible arrangements are preferred over the imposition of mandatory contributions;

(b) Arrangements that seek to provide incentives for investment of capital (including where appropriate return on investments) which will promote the expansion and improvement of infrastructure;

(c) Funds raised within a particular contribution area should be spent on the prescribed infrastructure within that contribution area or on a prescribed infrastructure outside the contribution area which will be of benefit to the serviced land within the contribution area;

(d) An arrangement should equitably apply the costs and benefits of prescribed infrastructure both spatially and temporarily to as broad a selection of participants in the development and land use, including councils and state agencies, as reasonably practicable;

(e) The leverage and security of government back funding and index charge should be used to attract, source and secure funds from other sources.

Parliamentary scrutiny

44. Schemes should be subject to the parliamentary scrutiny provisions of the bill and reviewed by the ERD committee and disallowance by either house.

Other schemes

45. The UDIA is not opposed in principle to other schemes. It is conceivable that schemes of broader types of infrastructure, even as broad as essential infrastructure, as previously described, which are subject to an agreed charge or rate, may be acceptable. It is even possible that schemes where a rate is imposed without consent (but subject to other important protections) might at least conceivably be appropriate.

46. While the UDIA has not ruled out entirely that there is a possibility of supporting other schemes, we maintain that considerable further draft legislation, consultation and consideration is required to ensure such schemes are fair and deliver effective outcomes for the people of the state.

47. The UDIA would welcome the opportunity to engage further consultation and deliberation over such possible schemes but does not presently support their inclusion in the bill at this stage.

That is reasonably long-winded, but I think it demonstrates that the actual infrastructure levy is something that the property sector I think generally now is quite supportive of in principle, but you can see by the UDIA's concerns that there is a whole range of issues that they raise.

I am not sure whether we will get a response from the minister, but I would I guess have made those statements on behalf of the UDIA. I will be interested to see if there is some response from the minister or the minister's office. I am getting a bit of a nod from the adviser's chair, so hopefully they will, because I think it is important. Especially next week when we are looking at the committee stage of the bill, that will be something that we will need to look at quite closely.

I do have some further notes here from the LGA. I will not go through all of it, because some of it is just background and they have some issues which have been settled through draft amendments, but there are a number of outstanding issues in relation to the proposed infrastructure funding scheme. They refer to a briefing paper done by their lawyers, Wallmans. Again, I think it is worth putting these comments on the record so that at least the government can respond to those:

2. There are a number of outstanding issues in relation to the proposed infrastructure funding scheme.

Why is this important?

- The proposed scheme exposes councils to significant exposure to financial liability to fund the infrastructure that is currently provided by the developer or the state.

I make these dot points—I will not pose them as questions, but I would actually like the minister to respond to these points (the UDIA ones I have just put on the record) and I think there are about three pages of points that the LGA make about this particular bill. The first one was about significant exposure to financial liability. They go on to say:

- While upfront contributions are theoretically recoverable over time, Councils may be required to borrow considerable capital and carry significant debt.

I think that is a concern for local government. They continue:

- There are no guarantees provided that the levy will recover the level of debt funding secured by the council to pay the upfront contribution.

That is the point I was making earlier for the advisers, as to exactly how these schemes might work. The next point states:

- Such a scheme could be imposed on councils with very little consultation.

I think that is also important. Again, the point I made is that the current minister says he is happy to consult and deal with people, but we do need some assurances from the government that he will be the minister the industry will be dealing with, and the LGA will be dealing with, over the next couple of years. The next two years will be the most critical because that will be the drafting of a lot of the regulations and all of the policies that will underpin this new planning framework. The LGA goes on to say at point three:

3. No further detail has been provided about the operation of the private certification scheme. The LGA remains concerned about the lack of oversight and accountability of private certifiers (Clause 90).

'Why is this important?' they ask, and they list some points that I think I would like a response to:

- Giving private companies the ability to undertake statutory function for profit requires a significant amount of oversight. This is not currently occurring, and there has been no genuine evidence-based evaluation of the operation of the existing private certification scheme (despite the government committing to a 12-month review process).
- The LGA sought feedback from councils and has collected numerous examples of errors being made.
- From a study of some 145 privately certified Res Code applications, 64 errors were reported. Errors included Res Code not applying within that area, application not meeting Res Code criteria or insufficient information being provided.
- When an error is made by a certifier, it often falls upon the council to remedy the issues—which takes time and resources. Certifiers have no accountability to the community and no responsibility for ensuring compliance with their decisions/conditions.

Their fourth point is that:

4. Council's role in the care, control and management of public land has been diminished relating to development occurring over footpaths and roadways. (Clause 95)(introduced via amendment) & Schedule 6 Part 7, 21&22.

- In instances where a development approval has been given in accordance with the Planning & Design Code, a Council would no longer be able to use the provisions of the Local Government Act to regulate an encroachment onto council land, an alteration to the road, or the use of council land for business purposes (as it relates to that approved development).

Again, it is certainly some concerns that the LGA have raised. It continues:

- This may be a reasonable amendment if, indeed, the council was the authority issuing the planning consent. An internal consultation process could be undertaken to ensure all relevant matters were considered as part of a single assessment process.
- However, the expansion of private certification and state assessment authorities means that there are likely to be circumstances where the council would have no say in how the public land is used (only an ability to set a fee once a decision has been made).
- Issues of risk and liability need to be considered for encroachments that threaten public safety or result in property damage. Current approval processes consider public liability insurance.
- As a compromise, these clauses should be excluded from applying in instances where a council appointed body/person is not relevant authority.

The fifth point they make is:

5. The LGA is still seeking appropriate limits to be placed upon the early commencement of rezoning/policy amendments.

And they make the following points:

- The use of interim operation has traditionally been used in circumstances where a higher level of protection is proposed to be applied to an area (heritage & environmental protections etc.) The interim operation is applied as a safeguard.
- In recent years, interim operation has been applied as a way of fast tracking investment, such as the Wind Farms DPA in 2011/12.

It may well be answered at some point by others, but I might just ask the question: ministerial interim DPAs have been used a number of times—and this is not an LGA question, this is me putting in my own question—the wind farm was one, and we know that developments are assessed in the current system, and under the DPA at the time. The interim DPA is the one where they are assessed if the application is lodged when that is in place. This is a broader question, but I am intrigued as to how the new scheme will work for interim DPAs.

We saw that the wind farm DPA was used almost in reverse. Often, interim DPAs are put in place to stop opportunistic development until something is rezoned, whereas I think the wind farm DPA actually allowed opportunistic development applications. I am not sure any of them have been built; nonetheless, there was significant community concern about those and concern among landowners, especially in some of our farming areas.

I note that we still endure the highest electricity prices in the nation. I am not sure it is all attributable to wind farms, but we certainly have not seen prices going down because we have been using renewable energy here in South Australia. Anyway, I digress: we are talking about the LGA's comments here around interim operation. I will repeat those words:

- In recent years, interim operation has been applied [by way of] fast tracking investment, such as the Wind Farms DPA 2011/12.
- While it's recognised that there are significant economic advantages in this approach, it is disruptive to genuine public consultation processes and undermines community faith in the system.
- If this practice is overused or used unnecessarily, it will be counterproductive to the effort of bringing community engagement to the front end of the system.
- An 'early commencement' clause would be unnecessary if the government had faith in its ability to process zoning and policy amendments efficiently.

That reminds me that I know from some of the other literature I have read and comments on the bill that the minister wants to have an early engagement of the community in that whole rezoning development process. I think that comes back to the point I made about the example in Western Australia where they actually had a very large, all-embracing process so that everyone was on the same page.

As I mentioned, at that point, a local radio, a TV station and a newspaper were involved. I am not sure that they actually produced a lifestyle program, but I know that Channel 7 in WA did some sort of documentary and the newspaper followed it, so that people were engaged very much at the front end at a very broad level. I would encourage the government to look at that and to make sure that you do have some sort of community buy-in early.

I also think, in relation to this particular point, often people are not interested until it actually affects their backyard, until something is actually happening in their very neighbourhood. I also think there is an opportunity for the government—and perhaps all of us—to encourage people to be involved and understand what is going on at a much earlier stage of the process, although everybody these days has busy lives, so to find the time for all of us to be involved is probably quite difficult.

The sixth point they make is that councils have not been specifically consulted on the proposed environment and food production areas—which, of course, is the urban growth boundary—and that the bill makes no provision for this to occur. They say:

- Despite industry groups having been closely consulted on Clause 7 of the Bill, the affected Councils have not been consulted on the draft map.

The minister says he wants early buy-in and early engagement but, at the time this was printed, which was last Friday 27 November 12:15pm, the LGA had not been consulted on the actual draft map of the urban growth boundary. It goes on:

- Township boundaries are likely to be of significant interest.

I am reminded of the Barossa and McLaren Vale protection zones. I think the boundary was put around the township of Eden Valley, whereas the locals actually wanted a bigger boundary because they had a little community store that was on the edge of not being viable. Some extra houses in their town and some more families would have meant that the little store would be viable and able to stay open for those things we all take for granted when you live in a bigger place like the city. You can get a carton of milk or some eggs and bacon on a Sunday morning if you have forgotten to get any, a newspaper and some essentials for community life.

I am intrigued that local government has not been consulted. It is a significant failing of the process if the LGA are prepared to put their name to a document dated 27 November at 12.15pm—so, only last Friday—saying that they have not been consulted on the draft map and the township boundaries that are likely to be of significant interest. The document continues:

- The LGA has not been provided with a copy of the draft map to facilitate feedback from councils.
- It is recommended that the Minister hold an urgent briefing session for affected councils which will provide further information on the proposal and respond to any questions.

I am sure that every township, to my understanding, has a boundary around it now, the same as the McLaren Vale and Barossa protection zones, and every community should be consulted on where that boundary is. The minister will say, 'It's the existing township boundary and there's probably adequate land rezoned inside that boundary', but the community should be consulted about it because that is something the minister is proposing can only be changed by passage through both houses of parliament.

One of the comments made earlier was how difficult this piece of legislation has been to get through both houses of parliament and the contempt, effectively, that this place is being held in by being asked to deal with that within one day of it being put on the *Notice Paper*. I suspect the same will happen if the urban growth boundary becomes part of the statute and it is part of the parliamentary process to change it. I can see all sorts of horse trading and games and all sorts of things happening, but I can also see the House of Assembly making a decision and then the Legislative Council again being treated almost with contempt.

The opposition is not convinced that we need an urban growth boundary, but you would think that at the very least local councils would have been consulted. In reading this document, right at the very end, one of the most significant components of this reform is the urban growth boundary but the minister has not bothered to consult with the LGA. Their recommendation is a document they provided to the minister last Friday. Has the minister now provided the LGA with a copy of the map and has he consulted with all of the affected councils? Point 7 states:

No convincing argument has been made about why the Minister must have broad power to appoint a local or regional council panel.

This is the LGA's point of view. It goes on:

- The Bill gives the Minister the power to step in and dismiss a council panel and appoint a new panel in its place.
- The Minister explained the Lower House is necessary because a Council panel may go 'off the reservation' and the whole Council has become 'dysfunctional'.
- There are no limits placed on the Minister in this regard.

Sometimes I would agree with the council. I have seen some ministers going off the reservation and occasionally some dysfunctional ones. The final point they make is:

- The level of state government control emphasises concerns about local planning matters being recast as state political issues making them even more contentious.

They continue:

- A number of additional technical issues have been raised in discussions between the LGA and the Department and the LGA will be seeking assurances that these matters will be addressed through future instruments.

As you can see, the LGA has a significant number of concerns. We talked about the urban growth boundary and then, of course, the protection zones that exist and I am just reminded of the McLaren Vale Distillery. I will inform members that it is progressing but, in my understanding, it is in the Hills Face Zone. I do not know the exact address but I went to their construction site once and it is in McLaren Vale.

It is, if you like, a boutique distillery that will produce a couple of hundred bottles a day of whiskey. It is a long-term investment and it will add to our tourism and our food and beverage offerings as it is unique. The micro-distilling industry has taken off somewhat in other parts of the world. I see this as a really good opportunity, because we produce some of the world's greatest and best barley here in South Australia. It is often used by brewers around the world to make great beer and I am sure that it will make great whisky.

The McLaren Vale Distillery is being set up and it is in the Hills Face Zone. However, the distillery cannot bottle, because bottling is seen as an industrial activity. Even if they want to screw the lids on by hand and they only want to do 200 bottles a day (1,000 a week over five days) they are not allowed to bottle. Their whisky will be stored in barrels to age, as whisky often is, but they cannot bottle it; to do that they have to go out of their location and down the road to a bottling facility at McLaren Vale.

However, when you are a distillery the produce that is distilled on your property is in a bond store so that you do not pay any excise on it. The moment it leaves your property you are obliged to pay excise. The crazy thing is that they will load their whisky up and take it about four kilometres down the road and have to pay the commonwealth government excise; then have it bottled and then bring it back to their facility to store it; and then claim the excise back.

That is all because they are not allowed to even screw on 200 caps a day by hand. That is not just a product of the McLaren Vale protection zone. I wrote that quick note to myself earlier, because I think that is one of the things that I would like the minister to explain, particularly given that she was the Minister for Agriculture Food and Fisheries and the Minister for Forests and, I think, the minister who launched the government's initiative of premium food and wine from our clean environment.

We have the Hills Face Zone. I do not think anyone wants to see it developed, but we would like to see the encouragement of small boutique industries. Maybe there needs to be a limit of 50,000 bottles—which is 1,000 bottles a week, 200 a day—that you can screw the caps on by hand, or cork by hand. I would like the minister to come back to the chamber on how those sorts of developments could take place and whether this current bill allows those sorts of things to happen more easily. The government is talking about this urban growth boundary and the environmental and food protection areas. Surely those sorts of developments should be allowed to take place relatively easily, because they add from a tourism point of view and they add value.

I know we are not here to talk about whisky, but my understanding is that a $300 a ton barley crop would generate something over $20,000 in taxes, GST and excise, and the distillers are not complaining. You have an industry that is quite happy to pay its tax. There is obviously a revenue stream to government, but there is also the added benefit of some regional employment. You are not going to see these things set up in the middle of the city or the middle of big towns; they will quite often be in areas where you will add to that tourism, and that food and wine experience.

I would like to put that on the record, and get some response from the minister. These people are tearing their hair out. They tried to establish one in Mount Barker, up in the hills, and could not. They eventually got development approval down in McLaren Vale. I saw one of the proponents last weekend and he said, 'It's almost ready; we've laid the floor.' They were very well progressed, but it has been a nightmare for them to get this established. Yet, we are looking for economic growth and for jobs and we simply have not had that over the last few years. You just shake your head when they could not even screw the caps on their bottles by hand because it was deemed to be a bottling facility.

I know we are nearing the end of the first session, but I want to quickly refer to the Property Council's comments. I will not go through them all in detail. We are trying to get some more comments

from them, and I may add them at the committee stage of the bill. But I will perhaps just read a couple of comments from them:

As publicly stated, the Property Council does not support the inclusion of a statutory urban growth boundary. This is a national position of the Property Council. Moreover, the requirement for both houses of parliament to amend planning boundaries is seen as far too inflexible, which would make it difficult for South Australia to react flexibly to demographic economic changes in the context of a transitioning economy.

They go on to say:

The Property Council notes the proposed environment improved protection areas can be drawn at the first instance by the minister but then any amendment requires the support of both houses of parliament. We don't see such an entrenchment provision is warranted for what is a matter of planning and development policy. We should have the flexibility to change as required. Moreover, if independence is the intention of the reform, the planning commission should be empowered to have a greater role, along with a regime of parliamentary scrutiny.

Such a mechanism can also constrain the supply and limit choice. For example, families who value extra place or who work outside the metropolitan areas should have the ability to choose a house and a lifestyle which sits their needs. We also see the entrenchment provision as potentially impeding mature and considered development of future industry for the state for the instance of development of residential housing needed to support new industries or for the expansion of existing industries, for example entering the food export market in regional areas close to agricultural zones.

They go on to say:

We recognise the need to protect the state's food production areas, especially in the context of South Australia's focus on growing its food exports. However, we do not support the mechanism that is currently drafted, as it is too inflexible, which could lock South Australia into a planning zoning system which does not keep up with changing circumstances in the state, as it is too difficult to pass any amendments through both houses of parliament.

So, that is from the Property Council. As I said, they make a whole range of comments about the bill itself, which I will probably save for the committee stage, but I just want to touch also on the infrastructure levies. The Property Council has a concern about the infrastructure levies. They say, in their response to some amendments that were introduced in the House of Assembly:

The Government included some amendments that are aimed at addressing the industry's concerns with the originally drafted provisions. It is our view that these provisions are an improvement on the original Bill, however, they need further work to ensure that property owners are not the subject of punitive taxation and that there are no unintended consequences associated with the infrastructure framework.

Concerns raised to date include:

- A scheme should only be triggered on an area of land when development actually occurs.
- Approval of all affected property owners should be required.
- The need for cost-benefit analysis and rigour around infrastructure planning and delivery.
- The importance of depoliticising infrastructure provision.
- Need to ensure that any funds raised through such a scheme are guaranteed to be spent on delivery of the infrastructure and not rolled into general government revenue.

The Property Council has voiced these concerns with the government and is advised that more amendments are being prepared to these provisions. We would welcome further opportunities to brief Members of the Legislative Council on these amendments as they become available.

Interestingly, we have just seen these amendments late last week. We have not had feedback from the Property Council in writing. I have had some verbal feedback that it is sort of okay but, on the 75 per cent buy-in from people on, if you like, the potential for a tramway down Unley Road, their internal policy group are still discussing that. We will certainly have something by the end of the week, and I have spoken to them this morning. They then make a point about clause 185, entitled Off-setting contributions:

This new section enables the establishment of a scheme by the Minister, a joint planning board or a Council (the latter with the Minister's approval) to require the person undertaking development or who has the benefit of an approval to make an contribution to a fund, to undertake in kind works or a combination thereof into a scheme to address a particular issue.

There is a risk in this provision that car parking is never actually provided or the rate or price for car parking is not commercially viable. With some modification we see this clause as potentially beneficial, but only if sufficient safeguards are inserted to prevent it simply being a further means of taxing developers.

They also go on to say, similarly to the UDIA, a little bit about the actual amendment itself, but I will just quickly read the end point:

> Sub-section (3)(a)—delete the word 'requirement' leaving it to read 'an ability for a person who is proposing to undertake development…' In the alternative if the requirement component is to be retained then the amount of any contribution should be approved by an independent entity such as ESCOSA.

I will not go into all the details the Property Council is making because we are approaching lunchtime and, probably, a lot of those issues were raised by the UDIA in their comments, but I think it is important to note that they saw that, if you have an infrastructure scheme, then it is important to have some independent umpire—ESCOSA has been mentioned by other industry groups in this particular debate—to make sure that those charges are fair and equitable.

You can see that this bill, as I said in my opening remarks, is probably the largest reform of planning in some 30 years. It is a particularly large bill. We have seen the government now with 80 or 85 amendments in the lower house and 40-something here. I suspect, given the track record of the government, we will beat the lower house and probably have another 30 or 40 more amendments that will come out of the debate over the next two weeks.

The way it has progressed is somewhat frustrating, and I think it is a good example and a good lesson maybe for the minister to perhaps have learnt, and for future ministers to learn. He did not actually ever consult on this bill. The consultation was done by tabling it in parliament and getting a front-page headline in *The Advertiser*.

Had he actually gone out and consulted on a draft bill two or three months before, I suspect that all of the issues that have been raised could have been dealt with by negotiation and probably dealt with, so that when it was introduced in the parliament it would have had a much speedier pathway through it.

When you look at the point the LGA made that councils, as of last Friday, had not been consulted on the urban growth boundary and the boundaries around their townships, yet this is something the minister has been quite passionate about, you would have to ask why, given that there was only passing reference to the urban growth boundary in the expert panel's report, when they did introduce it they did not actually go on and consult with local councils.

In my final remarks I am reminded of when Ian Henschke interviewed Brian Hayes QC and they were talking about the expert panel findings. To his credit (and I certainly did not prompt him) Brian Hayes made some comments about an independent planning commission, regional panels and regional activities. Ian Henschke said, 'This is exactly what the Liberals introduced or proposed some three years ago' and Brian Hayes said, 'No, I don't think so.'

To his credit, Ian Henschke said, 'No, that's exactly what they proposed, modelled on the Western Australian system, independent planning commission, regional panels', etc. etc., and Brian Hayes' comment was, 'Well, okay, if that's what the Liberals introduced that's good, because that's what we're going to do'.

I am pleased to say that in the broad context of what we are looking at in the next couple of weeks we have something that the Liberal Party had considered in the broader sense as being a sensible way to go. I am not sure the government has it right, and certainly the urban growth boundary is something we are very concerned about. We are concerned with not so much the infrastructure levy but the way it will be apportioned and exactly the mechanisms of how that will work.

We are still somewhat concerned about that, but I indicate that in a broad sense the opposition will be moving some amendments around the urban growth boundary and some around adaptive reuse. I think there is an opportunity to reactivate some of those properties in the city that are underutilised or not utilised at all.

Certainly we are interested in getting some answers from the minister on questions that I have asked her today. The key one is: given that minister Rau has looked all the stakeholders in the eye and said he will negotiate in good faith, will he be the minister who will be negotiating post the passage of this bill? I look forward to a response from the government on the other questions I have proposed, and I look forward to the committee stages of the bill.

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

Sitting suspended from 12:58 to 14:15.

LIQUOR LICENSING (ENTERTAINMENT ON LICENSED PREMISES) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

CONTROLLED SUBSTANCES (SIMPLE POSSESSION OFFENCES) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

EVIDENCE (RECORDS AND DOCUMENTS) AMENDMENT BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT (FIREARMS OFFENCES) BILL

Assent

His Excellency the Governor assented to the bill.

STATUTES AMENDMENT AND REPEAL (BUDGET 2015) BILL

Assent

His Excellency the Governor assented to the bill.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

District Council Reports, 2014-15
- Ceduna
- Clare and Gilbert Valleys
- Franklin Harbour
- Goyder
- Mount Remarkable
- Murray Bridge
- Onkaparinga
- Peterborough
- Playford
- Port Lincoln
- Renmark Paringa
- Tatiara
- Victor Harbor
- Wattle Range

By the Minister for Employment, Higher Education and Skills (Hon. G.E. Gago)—

Reports, 2014-15—
- Adelaide Cemeteries Authority
- Australian Energy Market Commission
- Courts Administration Authority
- Criminal Investigations (Covert Operations) Act 2009
- Electoral Commission of South Australia
- Equal Opportunity Commission
- HomeStart Finance

Legal Practitioners' Fidelity Fund
Legal Profession Conduct Commissioner
Office of the Public Advocate
Public Trustee
Riverbank Authority
South Australian Civil and Administrative Tribunal
South Australian Housing Trust
State Coroner
State Emergency Management Committee
State Procurement Board
Technical Regulator—Electricity
Technical Regulator—Gas
Urban Renewal Authority
West Beach Trust

Report to Parliament on the Darlington Upgrade Project—Tree Removal and Pruning

Regulations under the following Acts —

Intervention Orders (Prevention of Abuse) Act 2009—Prescribed Amount and Details
Work Health and Safety Act 2012—Miscellaneous

Rules of Court—

District Court—District Court Act 1991—

Civil—Amendment No. 31
Civil—Amended version of Amendment No. 31
Civil—Supplementary—Amendment No. 3
Special Applications—Supplementary—Amendment No. 1
Special Applications—Supplementary—Amended version of Amendment No. 1

Legal Practitioners Education and Admission Council—Legal Practitioners Act 1981—Amendment No. 8

By the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Reports, 2014-15—

Breakaways Conservation Park Co-management Board
Food Act 2001—Amended Page 36
Native Vegetation Council
Plant Health Act 2009—Fees

Regulations under the following Acts—

Livestock Act 1997—Miscellaneous
Major Events Act 2013—

Australia v New Zealand Cricket Test Match
Twenty 20 Cricket Matches—Australia v India

Native Vegetation Act 1991—Credit for Environmental Benefits—General
Primary Industry Funding Schemes Act 1998—Apiary Industry Fund—Miscellaneous
SACE Board of South Australia Act 1983—Miscellaneous

By the Minister for Manufacturing and Innovation (Hon. K.J. Maher)—

Surveyors Board of South Australia—Report, 2014-2015

Regulations under the following Act—

Harbors and Navigation Act 1993—Miscellaneous

ANSWERS TABLED

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

Ministerial Statement

PINERY BUSHFIRES

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:23): I table a copy of a ministerial statement relating to the Pinery bushfire made earlier today in another place by my colleague the Hon. J. Weatherill.

SEXUAL ORIENTATION DISCRIMINATION

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:23): I table a copy of a ministerial statement relating to the LGBTIQ law reform made earlier today in another place by my colleague the Hon. J. Weatherill.

ECONOMIC PLAN

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:23): I table a copy of a ministerial statement relating to the economic priorities update made earlier today in another place by my colleague the Hon. J. Weatherill.

CLIMATE CHANGE

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:23): I seek leave to make a ministerial statement on the subject of South Australia leading action to tackle global warming.

Leave granted.

The Hon. I.K. HUNTER: This year is set to beat 2014 as the hottest year on record, and the experts are predicting that next year will beat 2015 as the hottest year on record once again. We have no choice other than to take global warming seriously and to act on it, but what we do have a choice about is how and at what pace we act, and South Australia has chosen to lead. We want to take full advantage of the enormous potential in transitioning to a low-carbon economy.

On Sunday 29 November, the Premier and I released South Australia's new Climate Change Strategy. It is the result of an unprecedented level of engagement with business, community, researchers and scientists, including the advice provided by our expert panel made up of Dr John Hewson, Dr Frank Jotzo and Ms Anna Skarbek.

At the heart of the strategy is our target to achieve net zero emissions by 2050. We will do this by growing renewable energy, encouraging innovation and the application of low-carbon technologies. Many of these initiatives will be showcased as part of our Carbon Neutral Adelaide strategy, which is underpinned by the sector agreement that the Premier and the Lord Mayor signed on Sunday 29 November.

This will include encouraging energy efficiency and renewable energy in the built environment, incentivising the use of electric and low-emission vehicles and applying smart technology for lighting and managing the flow of traffic and pedestrians. This type of innovation will not only help us achieve a carbon-neutral Adelaide and net zero emissions but, importantly, it will generate investment and jobs in these new sectors.

We know this is the case because many of the world's biggest companies are investing in low-carbon technologies. For example, two of Australia's largest companies, AGL and Origin, have joined thousands of the world's big businesses and investors alike, including IKEA, Nike and Goldman Sachs in the 'We Mean Business' initiative to address global warming, and it is this economic potential of transitioning to low-carbon economies that will be a big feature of the COP21 meeting in Paris.

In addition to politicians and policymakers, business representatives and investors will also be there, and both the Premier and I will be telling them loud and clear that, if they want to innovate

and perfect the low-carbon technologies of the future necessary to halt global warming, they need look no further than South Australia, because this government is acting to prepare existing industries and drive growth in the clean tech sector by taking solid action against global warming.

We are acting in concert with South Australians, over 6,000 of whom marched for climate action on Sunday and the 75 per cent of whom, according to the *Sunday Mail* survey, who want more renewable energy. No other state is doing more than we are to lead a fair transition to a low-carbon future, and we will realise the economic opportunities as a result. I table the South Australia Climate Change Strategy 2015-2050.

Parliamentary Committees

SELECT COMMITTEE ON TRANSFORMING HEALTH

The Hon. S.G. WADE (14:26): I lay upon the table an interim report of the Select Committee on Transforming Health.

Report received and ordered to be published.

STATUTORY AUTHORITIES REVIEW COMMITTEE

The Hon. G.A. KANDELAARS (14:27): I lay upon the table a report of the Statutory Authorities Review Committee on its inquiry into the State Procurement Board of South Australia.

Report received and ordered to be published.

NATURAL RESOURCES COMMITTEE

The Hon. G.A. KANDELAARS (14:27): I bring up the report of the Natural Resources Committee 2014-15.

Report received.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. T.T. NGO (14:27): I lay upon the table the report of the Environment, Resources and Development Committee 2014-15.

Report received.

Ministerial Statement

FIREARMS AMNESTY

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:29): I table a copy of a ministerial statement relating to firearms amnesty made earlier today in another place by my colleague the Hon. Tony Piccolo.

Question Time

WATER ALLOCATION PLANS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:29): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation, and Minister for Water and the River Murray a question about Limestone Coast water licences.

Leave granted.

The Hon. D.W. RIDGWAY: Some weeks ago I visited the South-East and met with a couple of drought-affected farmers. I know the government has been down there recently with the country cabinet and I think minister Bignell was talking about all the good things he was going to do for farmers in respect of drought, although I am sure they will be waiting with bated breath to see if he actually delivers. Nonetheless, on this particular occasion I met with a landowner who had a 600-megalitre water licence valued at around $1,200 a megalitre, so almost three-quarters of a million dollars of asset.

This landowner had applied for a Drought Concessional Loan—and I think one of the conditions that PIRSA puts on these loans is that you have to have 60 per cent equity—and he advised us that he was unable to use the water licence as an asset for that equity calculation. My question to the minister is: is there anything under DEWNR and his responsibility that precludes a licence holder from using their water licence as an asset, especially when securing a Drought Concessional Loan?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:31): I thank the honourable member for his question without notice. I can only say at this stage, without getting further advice from my agency, that in some areas, of course, there are controls on how much water can be utilised and traded out of that area.

When we do water allocation plans the whole idea is to break regions down into areas that have been overallocated, for example, where there needs to be action to pull that back, or regions where there may be surplus water that hasn't been allocated or where, for example, the science has given us confidence that their water resource is sustainable into the future and can be allocated with a high degree of confidence about that sustainability.

In terms, therefore, of assets, that's a question really for the bank, and it comes down to whether that water licence is tradeable, if there are any constraints on whether that water can be taken or whether, in fact, the allocation has to be reduced. Without further information about the honourable member's constituent and their business case, I will have to take that on notice and bring back a response.

WATER ALLOCATION PLANS

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:32): I have a supplementary question. It isn't actually the bank: it's Primary Industries that has said in relation to eligibility for a Drought Concessional Loan that the landowner was not able to use the water licence that was issued by the government of some 1,200 megalitres for security for a Drought Concessional Loan. So it's not the bank: it is actually a government agency.

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:32): If it is the government agency PIRSA, which is not part of my portfolio responsibilities, I will undertake to take that question on notice and ask my agency to question PIRSA about its requirements. However, as I say, it may well pertain in exactly the same way: if the water is not portable, if the water has to be reduced in a region, for example, there may be very good reasons why it can't be used for that purpose. But I undertake to take that question on notice and bring back a response.

ENVIRONMENTAL WATER ALLOCATIONS

The Hon. S.G. WADE (14:33): I seek leave to make a brief explanation before asking the Minister for Water and the River Murray questions regarding environmental water allocations.

Leave granted.

The Hon. S.G. WADE: The Commonwealth Environmental Water Holder sold 22.864 gigalitres of commonwealth environmental water allocations on 18 November. Of that 22.864 gigalitres, more than 95 per cent was bought by Victorian, Goulburn and Murray irrigators. The remaining 1 gigalitre was sold to licence holders in South Australia. The sale, I am advised, was conducted on an open tender process over three days and received 525 eligible bids with 53 of those bids considered best value for money for the commonwealth. My questions to the minister are:

1. Did the South Australian government tender for any water in the recent tender process?

2. Is the government considering any future purchases of commonwealth environmental water allocations?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (14:32): I thank the honourable member for his most important question. In relation to the commonwealth water holder

and its ability to trade water, the honourable member may recall that I took some issue with the commonwealth on this matter I think somewhere over the last 12 months, because my concern was very much about whether, in fact, the commonwealth water holder should have been banking that water and utilising it for dry periods.

However, I can advise the chamber that I was convinced that there are some potential benefits for South Australia in allowing the commonwealth water holder to trade excess water at times when it is not required, to build up a resource for utilisation in times when it is required and when it is facing a dry situation on the Murray.

In terms of the South Australian government buying water out of the Goulburn Valley, I can advise the honourable member that to my knowledge we have not been in that market. I suspect his supplementary question will be why, and the question that needs to be answered there is about how much water is wasted in terms of transportation down to the border and whether it is more effective to use that water in the local vicinity rather than risk evaporation costs and transportation costs in water.

We would not normally be in the market as a government to buy water unless we were actually buying it to return it to the river in terms of our environmental promises during the Murray-Darling Basin agreement processes. As I understand it, we are about 75 per cent of the way there already in terms of what we are required to return, and we are pretty confident that the project plans into the future will well and truly meet the requirements that we have signed up to.

To the best of my knowledge, the state government has not been buying water from the Goulburn. I understand water was also traded out of New South Wales for one day and it was oversubscribed and had to be closed within 24 hours. I think some of that water was traded in South Australia, from memory. My advice may have been four licences or four amounts but, to the best of my knowledge, they traded into the private market for irrigators to use.

EMPLOYMENT, HIGHER EDUCATION AND SKILLS MINISTER

The Hon. R.I. LUCAS (14:36): My question is directed to the Leader of the Government. Given the background briefings being given by the Premier's media advisers about the minister's future prospects, what one specific new initiative to create jobs next year in her portfolio areas would the minister argue to the Premier and South Australians justifies keeping her in the ministry?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:36): I thank the member for his appalling, churlish question. It is indicative that his long career in politics has been reduced to this, to trying to hurl personal abuse at public servants who cannot protect themselves in this place. You always know when you have the Hon. Rob Lucas on the run, because what he resorts to is a personal attack and personal abuse.

What the Hon. Rob Lucas has trouble dealing with is the fact of his own failed career, as a former failed treasurer. He comes into this place and he is obviously threatened by the incredible work that this government has done, the incredible success of the Rann Weatherill government and the longevity of this government. That is a threat to him, and so he comes in and attempts to hurl abuse at this.

I am incredibly proud of my track record amongst a wide number of portfolios over 10 years—incredibly proud—and I continue to work hard in any capacity that this government wishes me to do. I have given that commitment and I am prepared, as I said, to work in any capacity whatsoever for the future success of this government.

In terms of some of the really important projects that I have had the great pleasure and privilege to be able to contribute to are things like the Riverland Sustainable Futures Fund, which I was able to scope, manage and run. It was almost to fruition, and resulted in 235 jobs.

The Hon. R.I. Lucas interjecting:

The Hon. G.E. GAGO: He asked questions about jobs that I am creating, so he squirms now because he just does not like to hear the facts: 235 jobs. He could never measure up; he never created anything constructive in his space, closing schools and selling off our public assets.

So, there was $4 million in government commitment to the Upper Spencer Gulf Enterprise Zone Fund. Around 116 FTE positions were created. I have talked in this place before about my establishing SinoSA, which is part of an internationalisation strategy for Bioinnovation SA to assist South Australian businesses to export to China, and particularly assist our smaller, high-tech businesses to get a foothold. I have talked about that many times in this place, but I am happy to raise it again.

There are currently nine companies that have been assisted, and that was a platform that I helped establish and initiate. I certainly have strong plans to continue to support that platform and to continue to assist in driving further small, high-tech companies to participate in that platform and to grow jobs from that. I certainly have intentions to do that into the future.

For instance, Micromet is one of the companies that is part of the platform. It's a wastewater treatment company that uses a particular technology to clean. It has been assisted by SinoSA to negotiate an MOU with a Chinese corporation. They anticipate that this has got the potential to lead to thousands of those filtration units being developed here in South Australia for use in China, and they have indicated that that increased production, they believe, in the reasonably short to medium term, will result in an increase of 75 full-time equivalents.

There is Ellex Medical, Ziltek, Jackson Care and others. As I said, I will be working very hard to increase the number of these small South Australian high-tech businesses that reach into these markets, and to grow industries here in South Australia and grow jobs.

The Gather Great Ocean Group, who have invested considerable funding here in South Australia, harvest kelp. At the moment, they make a liquid fertiliser, but they have plans to expand that. They have invested research money in conjunction with Flinders Medical Centre, and they have also invested in research back in China to help create markets for the use of kelp in high-value products amongst pharmaceuticals and cosmetics.

Again, I look forward to continuing to be able to work with companies like this to grow, to work with our universities to participate in research that they need to grow and develop new industries to be located here in South Australia, and to grow future jobs—I certainly look forward to that. I had great pleasure in establishing the artesian cheese making academy, and I noticed—

The Hon. D.W. Ridgway: Artisan, not artesian.

The Hon. G.E. GAGO: Artisan, I beg your pardon. I believe, from the paper on the weekend, that Kris Lloyd, who assisted me in setting up that cheese academy, has won a particular position in an international forum to judge cheese, so these things have helped elevate these small, artisan industries into larger, more substantial industries that have been able to expand. As I said, as they expand, they are able to put on more people and grow jobs. That's just a small example that I saw in the paper this weekend that has clearly benefited from one of the initiatives that I have instigated.

I have talked in this place many times before about my creating WorkReady—an incredibly important training policy that refocused efforts and resources on improving the education and training outcomes with direct employment opportunities. For 2015-16 I announced about 134 employment and training projects, supporting about 8,200 participants and potentially with over 4,000 job outcomes.

Again, I very much look forward to increasingly improving connections with training and employment outcomes in real jobs—not just a row of Cert.2s sitting on the wall but real outcomes that I have been able to achieve. I look forward to continuing to grow those opportunities. One of the other tasks I have set for the department is to improve our completion rates, so we are working very hard to use the levers to ensure that our RTOs are focusing very hard on improving those completion rates.

The Internet of Things Hub has just been opened in conjunction with the Adelaide City Council and Cisco, a tripartite arrangement. I believe we are the first Australian capital city to have

opened such a hub. We have a unique relationship with Cisco. We have become one of its lighthouse partners, the only city in Australia to have been awarded that recognition.

Some of the work I have been able to do enabled that to happen. One of the areas that I am particularly interested in growing is particularly early start-ups around that Internet of Things space, and using information technology to create innovative solutions, to drive industry and drive jobs. They are just a couple of areas on which I have focused my attention in the past and areas on which I wish to focus my attention in future.

INTERNATIONAL EDUCATION

The Hon. G.A. KANDELAARS (14:46): I seek leave to make a brief explanation before asking the Minister for Employment, Higher Education and Skills a question about international education.

Leave granted.

The Hon. G.A. KANDELAARS: The government is committed to growing the number of international students studying in South Australia, as well as encouraging stronger links between South Australia and other international education institutions. Can the minister provide an outline of the government's recent mission to Indonesia that will assist in achieving these objectives?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:47): I thank the honourable member for his question. Indonesia is obviously an incredibly important strategic partner for South Australia, both culturally and economically. It is one of our closest international neighbours. Last week I was very pleased to be able to lead a delegation on a visit to Indonesia to focus on exploring business—

The Hon. D.W. Ridgway: Lost your luggage I heard.

The Hon. G.E. GAGO: We did lose our luggage; we all lost our luggage for three days. I tell you what, it was a hot and steamy Indonesia we arrived in, and were in the one set of clothes for almost three days, so it was not a pretty sight. Nevertheless, we did our best and soldiered on and made do.

That delegation was about exploring business opportunities and promoting the expertise of South Australia in the international education sector. South Australia has a long history of engagement with Indonesia. In 2014 around 5,000 Indonesian tourists visited South Australia, and our education and training providers hosted more than 400 Indonesian students. Indonesia is also a very important trading partner for South Australia, with the total two-way trade exceeding $595 million in 2014-15.

During my visit it was evident that there was a great deal of opportunity to grow our relationship with Indonesia. Indonesia is the only South-East Asian country to be represented in the G20, and Indonesia's middle class is expected to double to 141 million people by 2020. Indonesia is also the ninth largest source market for international students in Australia, and it is clear that it is a market with great potential to see future growth.

While the main focus of my visit obviously was on international education, I was pleased to be able officially to represent the South Australian government at a number of Indonesia Australia Business Week events.

Business Week is an Australian government initiative which aims to promote Australia and Australian capability. With a program tailored to major industry sectors, it provides an ideal opportunity for delegates to understand the market and network with potential partners to deliver trade opportunities. Not only did IABW provide me and my delegation with the opportunity to network with education and training providers, it was a valuable opportunity to be briefed about some of the targets that the Indonesian government has set to achieve the level of growth required for skilling its workforce.

I was delighted to have the opportunity to meet with the Indonesian education agents and alumni of South Australia's education institutions to promote the benefits of studying in Adelaide.

Events such as this one provide an opportunity to profile South Australia as an international study destination and support the ongoing recruitment activities of Adelaide's educational institutions in Indonesia.

During my visit to Jakarta I met with the Secretary-General of the Ministry of Finance, with a representative of all three public universities here in South Australia and also Carnegie Mellon, to present South Australia's capabilities and encourage more students to study in South Australia under the Indonesian government's SPIRIT and LPDP scholarships. It is an amazing opportunity. The Indonesian government gives out thousands of the scholarships to their students to study overseas, and they plan to increase that significantly, up to about 5,000 over the next couple of years. Currently, only one of our universities is technically listed to be eligible for the LPDP scholarship, so one of the things we did while we were there was to lobby to have all three listed and meeting the criteria necessary to access those scholarships more readily.

I also travelled to South Sumatra with Scope Global, the South Australian government-owned company, to further progress an MOU signed by Scope Global and the South Sumatra sports committee. During my visit with the Governor of South Sumatra, we looked at ways that South Australia could assist South Sumatra in human resource capacity building and accrediting sports training people for the ASEAN Games in 2018 and the 2019 Asian Games that are going to be held there. I think there is probably lots of work that we can do there.

I also had the pleasure of travelling to South Australia's sister state, West Java, where I visited the Bogor Agricultural University. It is recognised as one of Indonesia's leading universities and has a very close relationship with Adelaide University, which I was pleased to promote and work at ways of enhancing that.

During my visit, I was pleased to be able to give a presentation at the International Centre for Applied Finance and Economics conference and again generally promote South Australia's educational capabilities and future cooperative partnerships there in Indonesia.

CLARE'S LAW

The Hon. T.A. FRANKS (14:53): I seek leave to make a brief explanation before asking the Leader of the Government, on behalf of the Premier, a question about Clare's Law and the protection of children.

Leave granted.

The Hon. T.A. FRANKS: All members would be aware that White Ribbon Day was last week. They would also be aware of the government's very important announcement to consider what is called Clare's Law in the UK. I note that in announcing this law the Premier made reference to this law protecting people like Zahra Abrahimzadeh and Luke Batty. I note the words of Ms Batty, whose son Luke was murdered by his father, in supporting Clare's Law. She stated:

> I think we spend all our time protecting the perpetrators of violence and I think we should be looking at what we can do to support our victims.
>
> So you know for me I certainly was a victim too of privacy and not being told that Luke's father was facing charges of child pornography. I mean these are incredibility important pieces of information that help you to understand perhaps the severity of the situation you are in.
>
> There were other things I didn't know Greg [Luke's father] had done or was doing, involving violence with other people, that would have given me a lot more clarity on perhaps the extreme danger I was in.

My question to the Premier, via the minister, is: will Clare's Law also consider protecting not just the partners of those perpetrators but also those who are ex-partners and parents of children who are also in danger?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:54): I thank the honourable member for her most important question and for her ongoing interest and advocacy in relation to protecting and supporting women and children against violence. Indeed, the Premier recently announced that we would look at the possibility of legislation that could assist; in effect, a perpetrator database that police would be able to use in a proactive rather than a reactive way.

I know that creates a range of complexities. It is not a simple thing to do; nevertheless, we believe it is time for us to take up the challenge and to look at seeing whether we can apply something like that here in South Australia.

Of course, here in South Australia we already have a serial offender database, but it does not work in quite the same way. It was an election commitment to develop a database that identified serial domestic violence offenders. That database was operational from late 2014 and I have been informed that as of 25 November 2015 there were 426 alleged offenders.

These are alleged offenders only, alleged perpetrators, against whom there has been a complaint made but they have not necessarily had charges laid against them or been found guilty of any offence. That is why it is a database that cannot be as readily shared as the database we are now looking at. Nevertheless, it is still an incredibly valuable database and we are one of the few states—in fact, I think we are the only state, although I will double-check that—to actually have this serial offender database.

The development of the database aligns with our agenda of protecting women against domestic violence. It identifies serial domestic violence offenders across women's domestic violence and Aboriginal family violence services, and improves risk management in key services involving the Family Safety Framework, information sharing and risk assessment processes.

Previously, women's domestic violence and Aboriginal family violence services were not able to easily identify whether an offender had had a complaint against him previously, but the database enables 18 domestic and family violence services, including the Domestic Violence Gateway, to identify offenders who have had more than one victim who has accessed their services, and to share that information with agencies such as the police.

As I said, we are very pleased we have that database up and going. It certainly has its uses, but I think extending that to a system where police can actively call a potential victim and forewarn them about their association with an offender is a very worthwhile step to explore.

CLARE'S LAW

The Hon. K.L. VINCENT (14:58): A supplementary question. On the issue of the database, how will the government identify whether a person requesting this information is in a relationship that might equate to risk, given that there are some potential privacy concerns? How does the government intend to deal with that issue?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:59): The honourable member has hit on one of the complexities to which I referred. There is a range of human rights issues that have to be sorted through. There are other jurisdictions that have this system in place, so we need to look at how they are operating and the sorts of frameworks they put around this to protect the rights of individuals as well as, obviously, protecting potential victims of domestic violence. They are the very things we will need to work through. I think the Hon. Tammy Franks did ask a number of quite specific questions, which I am happy to take on notice and bring back a response.

PINERY BUSHFIRES

The Hon. J.S.L. DAWKINS (14:59): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question regarding government assistance to local communities following the Pinery bushfires, particularly regarding efforts to mitigate soil erosion.

Leave granted.

The Hon. J.S.L. DAWKINS: On Saturday, I visited a number of localities in the Adelaide Plains and Lower North that were severely impacted by the terrible fire which started in Pinery on Wednesday. I would like to take this opportunity to recognise the incredible resilience and determination of local residents in the recovery efforts, which have of course already started. I would also like to put on the record my thanks to all the volunteer firefighters from South Australia and Victoria, as well as emergency services and government personnel, who assisted during the terrible

fire and are now assisting in the significant recovery efforts that have begun. Of course, that thanks from the community is demonstrated in signs and other forms right across the region.

Unfortunately, as a result of that horrific fire, severe soil erosion is beginning to occur across much of this land. Already, the impacts could be seen as I drove through the area on Saturday along fence lines and road verges. Much of my criss-crossing of the fire ground, largely on unsealed roads, demonstrated that land that would normally not be at risk of wind erosion is now extraordinarily vulnerable. That fear particularly came to fruition in the high winds yesterday with the associated impacts on road traffic due to poor visibility.

Given this, my question to the minister is: will the minister update the council on what the Department for Environment, Water and Natural Resources, the two relevant natural resource management boards and other government agencies will be doing to assist farmers and local government bodies in mitigating the severe soil erosion that has occurred on the Adelaide Plains and Lower North as a result of the Pinery bushfires?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:02): I would like to thank the honourable member for his most important question. In answering it, I might just give a little bit of background to update the chamber on what we know at this point in time in the aftermath of the fire. The Pinery bushfire started on Wednesday 25 November north-west of Mallala at approximately 12.15pm, under the influence of strong winds gusting to 90 km/h, which burnt approximately 40 kilometres through cropping land to the south-east before being impacted by a south-westerly wind change.

The fire escalated rapidly over the course of the day. Multiple Country Fire Service resources, including aircraft and two large air tankers from New South Wales, responded; however, due to the rate of spread of the fire, smoke and visibility suppression, efforts appeared to be largely ineffective in halting the spread of the fire. The fire burnt 82,500 hectares, with a 260 kilometre perimeter. The fires caused major damage in the areas of Owen, Hamley Bridge, Wasleys, Kapunda, Freeling, Tarlee and Greenock.

The fire was declared contained at midday on Friday 27 November, transitioning from response to recovery. CFS crews are continuing to secure the perimeter of the fire and to work on hotspots. I am advised that, as of Monday 30 November, 82,600 hectares were burnt; 87 dwellings and approximately 400 outbuildings have been destroyed; 89 pieces of farm machinery and 98 vehicles have been ruined or significantly damaged by fire; and of course there is the tragic loss of life. Two people died in the fire, and a further 31 people have been treated for injuries, five of whom are still listed as critical. Our thoughts go to all those affected by the fires, their families and their friends. We are thinking of them.

In terms of recovery efforts, they commenced on Wednesday 25 November. This includes the local recovery coordinator, Mr Monterola, meeting with the four affected local councils of Light, Clare and Gilbert, Mallala and Wakefield on Friday 27 November. A local recovery committee has been established and held its first meeting on Monday 30 November. Emergency relief centres were established on Wednesday 25 November and two continue to operate at the Balaklava Sports Club and the Gawler Recreation and Sports Club.

Over the weekend, staff from the Department of Community and Social Inclusion, in conjunction with Red Cross and pastoral care, began offering an outreach service, including home visits to meet those affected by the fires in their own home or at other gathering points. Five teams providing outreach and mobile relief centres are also being considered. The Gawler Emergency Relief Centre will remain open 24 hours per day until further notice, I am advised.

As at 4pm on Monday 30 November, 1,162 people have been assisted in the emergency relief centres, and 13 families have been provided 24 nights of accommodation to date. Red Cross volunteers have been supporting relief activities in the emergency relief centres. Red Cross has received around 650 registrations and 165 inquiries through the Register.Find.Reunite. service as of Monday 30 November.

Going to my agencies and their involvement in the recovery phase, it is estimated that the department of Environment, Water and Natural Resources have contributed approximately 2,100

hours to the firefighting effort to date. CFS local resources are now being either rested or involved in local recovery efforts and, therefore, increased DEWNR resources have now been deployed to assist. Strike teams are involved in day and night shifts for the coming days, with approximately 41 staff involved.

In terms of ecological damage, as I said, response activities are now transitioning to recovery. The focus at this first early stage is on community recovery; however, environmental recovery will form part of recovery plans that will be developed over the next few days. I am advised that at this stage, it is too early to know what the environmental damage from the fire has been. Assessments will be conducted as part of the recovery process, and DEWNR will liaise with other agencies involved in recovery and consider what action should be taken.

DEWNR will also undertake assessments of important habitat to determine the extent of environmental damage that has occurred. However, until the fireground has been declared safe, DEWNR are unable to do any detailed assessments of environmental damage to the area. However, a rapid assessment of important habitat and ecological communities has been undertaken by DEWNR.

Habitat for the endangered pygmy blue-tongue lizard was only minimally damaged, I am advised, and it is therefore unlikely to have impacted that lizard. The critically endangered peppermint box woodland was impacted by the fire; however, the extent of the impact has not yet been determined. It is also possible that the fire impacted the critically endangered iron-grass natural temperate grassland, but again we await the assessment process.

DEWNR will also be able to provide advice to landholders on land-management practices to assist in the rehabilitation of their land. Northern Hills, Coast and Plains District and the Adelaide and Mount Lofty Ranges region have commenced a local recovery group focusing on natural resources rehabilitation, including the rehabilitation of soil and creek beds. This group includes representation from PIRSA, EPA, Light and Mallala councils, Northern and York region, and other areas of DEWNR to ensure coordination of responses to issues that may arise. This group will work under the direction of the local recovery committee.

The local recovery group will provide support and engagement at community events, in particular working through ag bureaus and other primary industry organisations. DEWNR will be partnering with PIRSA in developing strategies to address significant environmental impacts, including mitigation of soil-erosion issues, impacts on watercourses and damage to areas and native vegetation.

DEWNR will also be involved in developing information and knowledge-sharing workshops in partnership with communities to identify other areas of concerns and needs. Once the fireground is declared safe by the CFS, DEWNR officers will assist in assessing impacts to natural resources investment in the region and planning for provision of assistance to landholders around rehabilitation.

Recovery plans developed as part of this process will include recommendations for environmental recovery. As I said earlier, it is too early yet to know what the potential impact on waterways might be, but I understand that landholders are taking appropriate steps right now to minimise soil erosion, and DEWNR can provide advice on how best to do this.

In terms of the EPA, residents are returning to their properties following the recent fires and are now faced with a massive clean-up and waste disposal issue. The state government is waiving the waste levy for fire-affected councils and communities in recognition of the significant burdens associated with the recent events in the Mid North. The EPA is assisting farmers by offering advice on the disposal of waste, including animal carcasses where there have been significant stock losses.

The EPA is working closely with other state government agencies and local government on these matters and has published advice on the disposal of burnt items from bushfires and other waste management issues on its website. The EPA has used social media and the Alert SA app as effective tools for the quick dissemination of its advice on the appropriate management and disposal of animal carcasses, fire-affected asbestos, impacted water contained in water tanks and dams, damaged septic tanks and their wastewater, damaged pesticide and chemical containers, and copper chrome arsenate treated timber. I have also asked my agency to work closely with PIRSA in

the longer term to deal with issues that would relate to smoke taint for vineyards and winery industries.

LIMESTONE COAST

The Hon. T.T. NGO (15:09): My question is to the Minister for Sustainability, Environment and Conservation. Can the minister tell the chamber about the recent country cabinet held along the Limestone Coast and some of the important environmental activity taking place in the region?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:09): I thank the honourable member for this most important question. Just last week, ministers travelled to the Lower Limestone Coast area for the country cabinet. It was a fantastic opportunity for us all to meet with members of the local community and see firsthand the work that is taking place within the region and their involvement with many of our projects and programs across government.

The Department of Environment, Water and Natural Resources has a very strong presence, of course, across the state and in that region in particular, thanks to our NRM model. Due to the very nature of this portfolio, we listen to and take regional concerns very seriously, as I have demonstrated time and time again in response to questions in this place. The great thing about country cabinet is Aunty Joan's cream puffs and I was very pleased to sample some of the wares of the Hon. Leon Bignell's Aunty Joan. I was told I could not escape from country cabinet—

The Hon. R.L. Brokenshire: She votes Liberal.

The Hon. I.K. HUNTER: She may, the Hon. Mr Brokenshire, but she certainly makes a pretty good cream puff, I can tell you. The great thing about country cabinet is that it gives regional residents the chance to personally discuss matters directly with ministers and chief executives. It also gives ministers a chance to witness some of the great things that are happening in particular regions around the state.

From Sunday 22 to Tuesday 24 November, country cabinet met right up and down the Limestone Coast. We were admonished by what used to be SELGA and is now the Limestone Coast LGA that they are transitioning the name away from SELGA. Many of us still use that old acronym and we were politely reminded that the new labelling is in place and we chuckled to ourselves when some of them actually used the old name themselves, but it is something we are all getting used to as we redirect our efforts towards the Limestone Coast region and away from the South-East.

This is a beautiful area, of course, as you know, sir, with significant tourism, agriculture and forestry activities. In addition to official cabinet duties and deputations, it was a pleasure to meet members of the community in Mount Gambier during the community barbecue and the public forum held at the Mount Gambier High School, as well as community leaders and volunteers during an afternoon tea at the Kingston Football Club.

On Monday 23 November, I took advantage of my time in the South-East to visit Blackford Drain and see the proposed alignment of the South East Flows Restoration Program which is proceeding apace. This program is the result of $60 million of investment made by the state and federal governments to assist in the managing of salinity levels in the Coorong South Lagoon and enhance water flowing into wetlands in the Upper South-East.

On Tuesday 24 November, I joined community members and volunteers at Carpenter Rocks for two very important events. Firstly, we were celebrating two land acquisitions that will create an important native vegetation corridor for about 50 kilometres from Carpenter Rocks Conservation Park to Southend through Bucks Lake Game Reserve and Canunda National Park.

In addition to the state government contribution, I would like to thank the following organisations for their very generous contributions that have made these acquisitions possible: Nature Foundation SA; Foundation for National Parks and Wildlife in New South Wales; Friends of Naracoorte Caves; Friends of Mount Gambier Area Parks; Friends of Shorebirds, South-East; the Millicent Field Naturalists; and Friends of Canunda and Beachport Parks.

The second event was to celebrate the *Hawthorn* being declared an historic shipwreck and the unveiling of the interpretive sign to alert visitors of the wreck. We have had over 800 shipwrecks

along our coast, but the great thing about the *Hawthorn* is that it is easily accessible from the beach and could be a great additional tourist attraction for this beautiful area. In fact, it is only several metres out, so people with snorkelling gear can get out and visit the *Hawthorn* directly.

The Hon. D.W. Ridgway: Did you snorkel out and have a look?

The Hon. I.K. HUNTER: It was a little rough that day and I decided that discretion was the better part of valour. I did join students and teachers from the Millicent High School who presented their project to increase the number of highly endangered Yarra pygmy perch.

There are only four known locations in the South-East where this fish still exists and, thanks to the students of the Millicent High School, an additional 600 fish were released in the last year alone. I would like to commend the students and the school for promoting such a wonderful program, and I understand they now have a backup site in one of the lakes in Mount Gambier.

I thoroughly enjoyed meeting so many of the locals in the South-East and celebrating their achievements and listening to what they care about and I thoroughly enjoyed Leon Bignell's Aunty Joan's cream puffs. I would like to thank all the residents, community groups and volunteers in the South-East for their hospitality and their very kind welcome.

The PRESIDENT: Supplementary, the Hon. Mr Parnell.

LIMESTONE COAST

The Hon. M.C. PARNELL (15:14): Did the minister take the opportunity to meet with or talk to the Lock the Gate protesters who attended the country cabinet; and does he agree that their campaign is in line with the government's climate change strategy, in that they are promoting keeping the South-East for food production and not gas production?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:14): Yes and no.

WORLD AIDS DAY

The Hon. K.L. VINCENT (15:14): I seek leave to make a brief explanation before asking the minister representing the Minister for Health questions about World AIDS Day and public health service provision for people with HIV/AIDS.

Leave granted.

The Hon. K.L. VINCENT: As members may well be aware, today is World AIDS Day, as it is every year on 1 December. The aim of the day is to raise awareness across the world and in our local community about the issues surrounding HIV/AIDS, including but not limited to prevention, tackling stigma, and providing services to people already living with HIV/AIDS. It is a day to show support for people living with HIV and to commemorate those who have unfortunately been lost to the condition.

Here in South Australia, SA Health has made a significant change to service provisions in programs for HIV/AIDS prevention and support for people who are HIV positive. Despite their excellent engagement with the HIV positive community, programs previously run by Positive Life SA were not awarded the tender—as members would know from my previous contribution in this place—following a new tendering process this year. The successful program run for, I believe, some 30 years, is a collaborative approach between the Victorian AIDS Council and SHine SA and is now called the South Australian Mobilisation and Empowerment for Sexual Health (SAMESH). My questions to the minister are:

1. Given that organisations like Positive Life were run by a board that was 100 per cent HIV positive but are no longer funded, what efforts are being made to include people who live with HIV in the newly funded programs?

2. Are there any peer-led aspects or board to the SAMESH program as there was in Positive Life?

3. While prevention of HIV/AIDS is, of course, vital, support for those who have already acquired HIV is also essential, particularly given the stigma that still exists in 2015; what is the newly funded SAMESH program delivering for South Australians currently living with HIV/AIDS?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:17): I thank the honourable member for her most important questions and will refer them to the Minister for Health in another place and bring back a response.

LOW CARBON ECONOMY STRATEGY

The Hon. J.S. LEE (15:17): I seek leave to make a brief explanation before asking the Minister for Sustainability, Environment and Conservation a question about the low carbon economy strategy.

Leave granted.

The Hon. J.S. LEE: The minister outlined earlier today that the government is releasing its low carbon economy strategy and stated that the government would adopt a target of zero net carbon emissions by 2050. In the report it also recommends that South Australia should produce 100 per cent green energy relatively quickly using a mix of solar, wind and other sources, yet not through a nuclear power station. It's also noted that InDaily had reported on the government's investment strategy in this area. My questions to the minister are:

1. Has independent modelling been conducted to assess how many jobs will be created and over what time frame?

2. Will the government's low carbon plan result in an increase in household energy costs?

3. What advertising budget has the government allocated to promote its strategy to the public?

4. How much taxpayers' money will the government spend for the minister and the Premier to travel to attend international forums overseas?

5. What incentive package will the government offer to attract international companies to South Australia to implement its low carbon strategy?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:19): You can hardly believe it, can you, that in this day and age you would actually have a member of the Liberal Party stand up in here, after they just dumped their climate-sceptic prime minister, after they had just got rid of the bloke who said that climate change is crap, and they have a new bloke who has been banging on for years and years about climate change and how important it is, and how we have to have an emissions trading scheme at a national level, and they come in here today and ask these tired, old, Tony Abbott-style, ideological questions about one of the most important issues that this country, this state and this world is facing today?

What do they come in here with? What do they come in here with but this rubbish, this absolute Tony Abbott rubbish, that 'climate change is crap' business again. Let me just take them through some of the key issues. Let's just remind ourselves along the way of the amazing successes that this state has had in terms of renewable energy—$6.6 billion worth of investment in renewable energy in South Australia. Why does it come here? Because Tony Abbott and the Liberals at a national level think, 'Oh, wind farms are ugly.' They much prefer the open cut monstrosities of coal mines to wind farms. We have the Leader of the Opposition in this place who thinks that wind farms are ugly, and he would not want to be near one. It beggars belief.

Let me just refer to a few august journals of recent times. Let's have a look at *The Weekend Australian*, not known for its pro global warming issues. 'Global climate fund worth billions', it says. The Hon. Ms Lee might like to listen to this:

World leaders are preparing to announce a multi-billion-dollar fund to spearhead research into low-carbon technologies at the opening of next week's climate change summit in Paris.

A 'multi-billion-dollar fund to spearhead research into low-carbon technologies at the opening of next week's climate change summit in Paris'. That might just set off a little bell for you. Where is that investment going to be, Ms Lee? Where is it going to be if we don't stand up for South Australia and say, 'We are leading in this area and we want a slice of that investment for South Australia, for South Australian jobs.' Let's have a look at *The Australian Financial Review*—

The Hon. J.S. Lee: Answer the question!

The PRESIDENT: Order! The Hon. Ms Lee.

The Hon. I.K. HUNTER: They don't like these answers, Mr President.

The Hon. J.S. Lee interjecting:

The PRESIDENT: Order! The Hon. Ms Lee, you've asked your question. The minister is answering it in the way he sees fit, so you sit there and listen.

The Hon. I.K. HUNTER: *The Australian Financial Review* is another august journal not known for its support for the Labor Party in the great scheme of things. It states:

As *The Australian Financial Review* has argued before, some sort of global emissions trading scheme will be the only way to achieve the lowest cost, most efficient cuts [to emissions]. This will mean scrapping the Coalition's price-distorting direct action plan.

This is *The Australian Financial Review*:

This will mean scrapping the Coalition's price-distorting direct action plan. A price signal with an overall emissions cap is the only way to discover the truly efficient energy producers.

This is a market mechanism—a market mechanism. These are the people who espouse the market at every turn, and yet at this stage they are saying, 'No, we don't want a market approach to global warming. We don't want a market approach to how we might cap our emissions.' Let me go to *The Saturday Age*. This paper occasionally takes a slightly different line, but it is balanced:

It is a 'nonsense' to claim deep emission cuts would devastate the economy and at the same time ignore the cost to the economy of floods, heatwaves, and other climate change fallout, says Australian National University Energy Changes Institute director Ken Baldwin…Professor Baldwin says Australia must 'balance the costs of acting against the costs of not acting'.

'It's a nonsense to say this will cost us money in order to reach a 45 per cent target without saying how much that saves by doing nothing about climate change,' he said, pointing to predictions of extreme weather, lost agricultural production, increased health problems and infrastructure failure.

What the like of the Hon. Ms Lee do in this place and elsewhere is pretend that there are no costs to not acting. They pretend that there is absolutely no cost to our economy, to our agricultural sector, to our health sector, to our community, for not being out in front and leading on climate change. It is rubbish; absolute rubbish. The cost of not acting will mean we will have to pay more and more the later we leave it to act. Everybody understands this except some of those troglodytes from the Tony Abbott era who have not passed through the Legislative Council yet, but their time will come, I am quite sure.

In terms of attracting international investment, I have already outlined $6.6 billion worth of investment in South Australia. We have 41 per cent of the nation's installed wind generation capacity in South Australia. How did that come about? By chance? Not at all. That came about because we went out of our way as a state to welcome these energy innovators into our state and to set themselves up—and employ South Australians, Ms Lee. Another thing you forget about is that this investment will employ South Australians in jobs.

The Hon. J.S. Lee: How many?

The Hon. I.K. HUNTER: Well, let's talk about Snowtown—Snowtown when they put up the wind farms. Let's not worry about the several hundred who are employed in the construction and erection of these towers. What about 15 people now in Snowtown with good, long-term, well-paying

jobs, building the resilience of that local community for the next 10 or 15 years? You want to wipe them off the face of the state.

Well, that's not what we will do. We will go to Paris, we will spruik the benefits of South Australia's investment in renewables, and we will spruik our strong support as a state for action on global warming. We will invite businesses and industries right around the world who want to develop innovations to seize these opportunities, these economic opportunities, which will come about from being an early adopter and an early leader, to come to Adelaide, come to South Australia, set up here and employ South Australians in the economy of the future.

SCIENCE, TECHNOLOGY, ENGINEERING AND MATHEMATICS

The Hon. J.M. GAZZOLA (15:25): I seek leave to make a brief explanation before asking the Minister for Science and Information Economy a question about STEM.

Leave granted.

The Hon. J.M. GAZZOLA: Linking students with industry is vital to ensuring students enter the workforce with the skills and capabilities to succeed in a changing industrial climate. Can the minister inform the chamber of an initiative that will help link students with industry?

The PRESIDENT: Minister.

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:25): I thank you, Mr President, and the honourable member for his most important question. Science, research and innovation are the heart of South Australia's capacity to develop a strong economy that brings lasting benefits to our community, and STEM skills are a key cornerstone to innovation. The government is implementing several very significant policy reforms and program initiatives to encourage the take-up of STEM-related careers and to equip our future workforce with the skills to drive innovation.

One such initiative is the Defence and STEM scholarships and internship programs. These programs comprise three main streams. The Defence Honours Scholarship Program is aimed at attracting high-achieving students to a career in the defence industry by supporting them to undertake their honours project, working directly with employers in the defence and defence-related sector. In 2015, eight students were awarded scholarships to a total value of $80,000. The second round for 2016 is currently open to applications from students and will close on 30 November 2015.

The Edith Dornwell scholarships are the second stream for this, valued at $20,000 per annum for three years to a women-specific scholarship in STEM that will be overseen by the Office for Women and aims to help retain women in STEM careers by providing a graduating or recently-graduated woman with three months' full-time or six months' part-time fully-paid employment with an organisation whose focus is in STEM.

The Defence and STEM Internship Program is designed to enable students to gain valuable industry experience through structured work placements with local technology-based companies. Round two of the program has resulted in nine South Australian university students recently securing internships with local companies to get a head start in their careers in the defence, science and technology sectors, at a value of $135,000.

The interns will be hosted by a range of companies, including Australian Welding Solutions, Frazer-Nash Consultancy, Babcock Pty Ltd, Simulation Australasia, bzbay Pty Ltd and the Defence Teaming Centre Aerospace Alliance. Whilst completing their internships, students will be working on projects ranging from information technology and software design to projects involving mechanical, maritime and aerospace engineering.

I am very pleased to advise the chamber that the recent round of the Defence STEM Internship Program has attracted more female applicants, with two of the successful candidates being women. I would certainly like to congratulate all the successful recipients of the Defence and STEM Internship Program, and I wish them every success in their placement and their future careers.

WATER LICENCES

The Hon. R.L. BROKENSHIRE (15:29): I seek leave to make a brief explanation before asking the Minister for Climate Change, the River Murray and so on and so forth a question regarding water licence levies.

Leave granted.

The Hon. R.L. BROKENSHIRE: I declare my interest and my family's interest as farmers and irrigators before explaining the rest of my question. Farmers across the state, particularly irrigators, are becoming more and more concerned about the outrageous cost of water levies to be able to produce food in South Australia. In the South Australian Dairy Farmer Association newsletter of 24 November 2015 they talk about NRM water licence levies. They say that earlier this year the rural community was angry about the emergency services levy (and they still are), but the recently announced increases in water planning charges, commonly called cost recovery, have united rural South Australia to a new level of frustration.

Farmers, like the rest of the community, are prepared to pay fair and reasonable fees and charges for government services, but in this case there has been little transparency and the farmers believe they are paying well over the odds and that they are victims of government revenue raising. The article goes on to say that there is one way to resolve the situation and that is through an independent review. If the government and the NRM boards that have been ordered by the government to raise the additional money have nothing to fear, they should welcome a call for a review.

Former premier, the Hon. Rob Kerin, in his Primary Producers SA report refers to the inconsistent approach by the state government, on the one hand seeing the opportunity for agriculture to grow the economy but on the other imposing charges that will see investment in agribusiness sadly go interstate. In fact, this is so important, involving significant extra costs for farmers, that all irrigation industries are currently working on coming together under the PPSA banner to have the strength of a united stand on the issue.

My question to the minister is a simple one: will the minister agree to an absolutely independent review and, if he does agree to the absolutely independent review, will he then take notice this time of the independent review rather than the citizens' jury he put up in the South-East, which said that governments should pay more for maintenance on the drainage scheme? Because it did not suit him, he ignored it. This time, will he agree to an independent review and listen to what it says?

The Hon. I.K. HUNTER (Minister for Sustainability, Environment and Conservation, Minister for Water and the River Murray, Minister for Climate Change) (15:32): I thank the honourable member for his most important question, and particularly for the very respectful, cordial and humble manner in which he asked it. I think it reflects well on him and on the way he conducts himself in this chamber. I will give him an answer in a similar vein.

Very briefly I will remind him of a previous answer I gave in this place. The government is committed to delivering on the NWI commitment we made, the National Water Initiative signed back in 2010-11, to cost recovery targets for water planning and management activities. As I said in the previous answer, we have shielded the farming community from this cost recovery for at least the last five years and the last five budgets, in ways that are very evident when you compare costs of water levies in this state with New South Wales and Victoria, for example. I will briefly go over that again, but it is on the *Hansard* record, so I will not belabour the point.

It is very important that there is a cost signal sent in terms of water management, and that is what we are doing. We are only going to recover something like $6 million to $7 million out of the roughly $40 million my department spends in terms of water planning and management. If you compare the current water levy in the South-East (or the Limestone Coast) for 2015-16, it is $2.67 per megalitre. An obvious comparison point is groundwater charges in New South Wales. The majority of these New South Wales charges range from to $5.92 per megalitre to $6.95 per megalitre.

The Hon. R.L. Brokenshire interjecting:

The Hon. I.K. HUNTER: It is not irrelevant at all. This is what the cost recovery targets are delivering for irrigators.

The Hon. R.L. Brokenshire: I'm not interested.

The Hon. I.K. HUNTER: No, the honourable member is not interested in facts, he is not ever interested in facts. The facts are that the cost in the South-East is $2.67 per megalitre. In New South Wales you would be paying $5.92 to $6.95 per megalitre. In a similar vein, the South Australian Murray Darling Basin NRM region: the cost you pay for a megalitre in New South Wales and Victoria is $10.51, rising to $11.05, and in South Australia it is $5.63—more than half.

So, the facts do not stand with Mr Brokenshire and his arguments; the facts stand with the government. We are asking for a modest cost recovery and a contribution to all the water and science management planning that goes into this area. We think that is fair.

Bills

PLANNING, DEVELOPMENT AND INFRASTRUCTURE BILL

Second Reading

Adjourned debate on second reading (resumed on motion).

The Hon. M.C. PARNELL (15:35): I rise on behalf of the Greens to speak on the Planning, Development and Infrastructure Bill. I will note at the outset what all members know: that this is the longest, most significant and most detailed bill that we have dealt with this year. It is an incredibly complex piece of legislation. It has well over 200 clauses and is over 200 pages in length. It is, in fact, a once-in-a-generation rewriting of our land-use planning laws. It is seriously a considerable piece of work. This bill replaces the 1993 Development Act, which is now 22 years old.

Members who have been here as long as I have (coming up to 10 years) would know that this has been a favourite topic of mine over my whole time in this place. I have moved probably hundreds of amendments to the Development Act over that time. I have moved many motions, many disallowance motions for regulations, and have asked many, many questions.

In fact, I think this legislation has been the subject of some of the low lights of this parliament, in particular as the former minister (the Hon. Paul Holloway) and I sparred on this legislation into the early hours of the morning. I am hoping that the debate on this bill will be a bit more civilised, but I am nervous that the government is proposing to rush this bill through.

I want to reflect a little on what appears to be the thinking behind the government wanting to push this bill through all of its stages, not only in this final parliamentary sitting week but they are also suggesting that the optional sitting week might be used next week. The government has listed this bill as a priority.

One of the questions we would be asking ourselves is: I wonder who is behind that? Which of the stakeholders is pushing the government to get this bill through as a matter of urgency. The answer is: none of them. None of the stakeholders are pushing this through. I will go through in my contribution today what some of the stakeholders are saying about this legislation. It is certainly not because the community sector is pushing it through.

I will at this point acknowledge that I have been working for many years on planning law reform with the Community Alliance, being the umbrella group for residents and ratepayers associations around South Australia. I am very pleased that a number of members of the Community Alliance and members of their individual organisations have taken the trouble to come to parliament and sit here in the gallery today. A number of others came earlier, at 11 o'clock. They thought they might hear me, but they had a treat in store for them and instead heard the Hon. David Ridgway—their luck.

I acknowledge the interest that community groups are showing in this bill. It is certainly not at their request that the government is seeking to push this bill through its final stages. It is certainly not the local government sector that is asking the minister to push this bill through in a hurry. I will refer at some length to things that the Local Government Association has said, as well as what

individual councils and councillors have said about this bill. It is not even the industry stakeholders who are urging the government to push this bill through.

In fact, Mr Acting President, I know you are up with modern technology, so you would appreciate that the Master Builders Association have been tweeting live from the Legislative Council this morning and commenting on some of the Hon. David Ridgway's comments. I will just refer to some of those tweets citing the Hon. Mr Ridgway:

> Ridgway: Greens, Independent, Family First, D4D handed amendments in recent days. Should treat MLCs with greater respect.

I absolutely agree with the Master Builders SA tweet. Another one, again referring to the Hon. David Ridgway, read:

> concerns about attempt to push through Planning Bill before Christmas when it will take another 3-5 years.

Obviously what they are referring to is the fact that this bill is not the end of the planning reform process but the start; there are a number of other bills that we will be seeing over coming years to give effect to the new regime.

So if it is not any of the stakeholders who are pushing the government to rush this bill through, why is the government doing it? I am going to offer two explanations: one of them is generous and one of them is less so. The generous interpretation is that the government—the ministers, in particular, the executive—lack an understanding of how the Legislative Council works, lack an understanding of our bicameral system of parliament, and seem to have forgotten—being slow learners—that the government of the day has not controlled this chamber since the 1970s.

Minister Rau can go to the Leader of the Government in the Legislative Council and say, 'Just push it through, that's what we'd do in our chamber,' but, to its credit, this chamber behaves better than that and insists on proper debate being undertaken. That is the generous explanation.

The less generous explanation is that this government has utter contempt for the parliament, and it has contempt for the Legislative Council in particular. Certain parts of the Labor Party have never accepted that this house of review is an integral part of our democracy, and that is to their shame. Government members often believe they can just rush things through and that they can do it with minimum debate.

In fact, if you look at some of the debate in the other place you will see that they went to midnight, I think three times they went to midnight, and at one point the minister did let himself go a little bit, describing critics of the legislation as 'morons' (I think that was the word he used). One of the other things he said was that the bill was now in such fantastic shape that the upper house would just wave it through without debate. Well, he was wrong on that count.

The thing that bothers me about the way the government treats the Legislative Council is that they take their own sweet time when it suits them. I think it is often more to do with pride than with good legislation, that they just decide, with a snap of a finger, that there has been enough scrutiny and they are going to just ram the legislation through.

I know the minister is frustrated; he would like to get this through. It may have been on his plate for many years but it has been on our plate, in the Legislative Council, for just over a week. As members have said before—the Hon. David Ridgway referred to it—the way this place works is that in a bicameral system of parliament, when we get the bill we start considering it, start looking at amendments and consulting with stakeholders. That is not to say that many of us have not already been consulting with stakeholders; I have been talking to stakeholders about this for three years.

I had three groups in just last week—the Urban Development Institute, the Property Council and the Housing Industry Association—and certainly in my discussions with those three groups none of them were urging this bill to be pushed through. They still had serious concerns with it. I am grateful that the opposition, generally, is not about to bow to the government's unreasonable demands. They do sometimes collude but, unlike Labor, they do believe—

Members interjecting:

The Hon. M.C. PARNELL: No, I said 'sometimes'; not this time, but sometimes they do. They do actually believe in a bicameral system of parliament and they will allow debate.

I am going to put on the record now, and I will probably say it a number of times in the course of this debate, that when we get to the end of the second reading contributions I will be moving that we adjourn the debate, and I will be moving that the detailed committee stage be an order of the day for the resumption of this chamber's work in February next year. I very much hope that the Liberal Party will join in that call. I know the crossbench have already told me that they are supportive of adjourning at the end of the second reading.

In terms of the unholy rush that the government is trying to impose on us, I remind members that the final report of the Expert Panel on Planning Reform was delivered to the minister in December 2014, so that is a year ago that the government had that report. The government then took about nine months to write the bill, but we are being asked to pass it in a few days, having only had it for a few weeks. In fact, we still do not have the final version of the bill, because not only were there I think 85 or 90 amendments in the lower house, but also there are another 55 amendments to come.

I do want to look at some of the history of this. Let's go back to this Expert Panel on Planning Reform. They were established in February 2013, so that is getting close to three years ago. The members of that panel were Mr Brian Hayes QC, Natalya Boujenko, Stephen Hains, Simone Fogerty and Theo Maras AM. The Hayes committee, as part of their consultation with the committee, took about two years to consider what changes needed to be made.

In August 2014 (so that is over a year ago), they produced the document 'Our ideas for reform,' and then getting close to a year ago now on 12 December 2014 they produced their report 'The planning system we want,' and that included 22 proposed recommendations. The government sat on that for three months. They got the report on 12 December and the response was not handed down until 25 March 2015. The government then set about drafting a new bill.

Those who pay attention to estimates would have seen that minister Rau was quizzed about the fate of this bill and when we might see it. He promised us that we would have it before the winter break. In fact, if you go back to the *Hansard*—I do not have it in front of me now—I think the words 'heads will roll' are included on the record if he did not get his bill before the winter break.

He did not get his bill. I do not know whether any heads rolled—I am not interested in that—but he did not get his bill, and neither did we. It was not received in the lower house of parliament until 8 September. That is nine months after receiving the final report, and six months after finalising the government response to that report, they finally tabled a bill. It sat on the table in the House of Assembly for a bit over a month before it was debated.

I have no criticism of that process. I have no criticism of the length of time they have taken because, as I have said, this is one of the most fundamental pieces of legislation we are dealing with this year. It is certainly the longest and it is certainly the most complex. We are rewriting the entirety of our planning laws for the first time in 22 years, and it needs to be done properly. But, even though the government had taken all that time, they still had not got it right. They still had dissatisfied stakeholders, and so we then had all these amendments being introduced by the government in the lower house.

The opposition, as I understand it, did not introduce any amendments. They have held their fire until this chamber, and that is appropriate as well. There are 55 more amendments, and we were provided with them yesterday afternoon in draft form. We have been told that the final form will not be that much different, if at all, to the draft form, but we only got them at about 5 o'clock last night. There was some argy-bargy with the minister's office that we were supposed to have got them Friday morning of last week.

I have checked with the engineers in the parliamentary network support group. They said, 'Don't bother looking for it; you didn't get it. It did not arrive', and no other crossbench member I have spoken to got those amendments either. What I am doing is just showing that the moveable feast of this complex bill, with amendments yet to be filed, incredibly complex, was only received in draft form in the week of the final sitting of parliament.

When the bill was debated in the lower house, what level of scrutiny was the government prepared to allow honourable members in that place? You might think me a bit of a sad character, but I did actually extract all of the debate in the House of Assembly, snip it out of the *Hansard* and paste it into a Word document. I can tell you (I did not count them myself: the machine did it) it was 166,000 words. In 10-point font, it goes for 240 pages. That was the amount of debate that was allowed in the lower house of parliament, and I have to admit that I have not had a chance to read it all yet.

One of the things I find frustrating with the way the government treats this is that they seem to forget that we have our own legislative agenda to deal with in this place and that we do not actually hang on their every word in the lower house and take their copies of *Hansard* home each night and read them and then put them lovingly under our pillows. We do not do that.

I know that a lot of questions were asked in the lower house by the shadow minister, the Hon. Steven Griffiths, and others. I still do not have a handle on which of them were answered. I do not know—maybe the minister has an extensive second reading closer and we will get some of those answers. The point I am making is that that bill went through an extensive process: it went to midnight on three nights, and yet we are being told that we are to rush it through this week and in the optional sitting week.

The other thing I found galling about this process is that, in the three years that the expert panel has been working and that the government has been drafting responses and drafting this bill, the government has, nevertheless, persisted in putting through its own amendments to the existing Development Act. In fact, they put through fundamental changes that go to the heart of the system: who was responsible for development assessment, the threshold levels at which different relevant authority kicks in? They have been doing that despite the fact that the whole system was supposed to be under review by the expert panel.

For example, in December 2013, the government was pushing through changes to the Development Act, and they did not even have the courtesy to tell Mr Hayes or his committee what they were doing. They were not consulted, and that has been confirmed. But if anyone else—me, for example—tried to introduce any amendments to the Development Act during any of the last three years, we were told that it was completely inappropriate because it was premature for us to be introducing changes to legislation because there was a planning review underway. The hypocrisy is absolutely galling.

Over the last three years, I have introduced many amendments to the Development Act. Many of these have been done on behalf of the community alliance; as I said, the umbrella group representing residents and ratepayers associations throughout South Australia, and the government refused on the grounds that they would be premature. No-one is suggesting that a government does not have the right to govern, but they do lose credibility when they hide behind a review when it comes to considering private member's bills, and yet are happy to rewrite the law to suit themselves at the time of their own choosing.

As I said at the time, back in December 2013, it is no wonder that local councils are fuming. Not content to remove local councils as the decision-makers for new housing developments, in particular, over four storeys in height, the government has also decreed that local councils do not even have to be consulted. As I said back then, this is quite outrageous, and it shows that the government is treating local councils with contempt.

My point is that I do not think that attitude has at all changed, and it augurs very poorly for the new regime that we are told is being put in place: a charter of citizen participation; the end of announce and defend; a more consultative approach—I just do not see it.

In terms of the bill before us, I mentioned that we have 55 government amendments apparently on their way. The Hon. David Ridgway alluded to the fact that he had amendments on three topics on their way, and I understand the Hon. Kelly Vincent has some. I think the Hon. John Darley has some as well, and I cannot recall whether Family First has amendments.

The point is that if the government persists in trying to push this through this week and next, none of us will have a chance to consult properly on these amendments and talk to stakeholders—whether they be industry stakeholders, local government stakeholders, or the community.

In terms of my amendments, I have provided parliamentary counsel with a spreadsheet—some 15 pages of amendments—and I have got some more to come. They are working hard, I know, to try to get amendments back. My point is that even if we do get all our amendments drafted, even if they are all back, I still maintain that it is inappropriate for us to be dealing with this bill next week.

That is not to say that I do not want to work: I am happy to come back for the optional sitting week. I have said that every year. I am happy to come back and happy to work hard, but we should not be debating this bill. If they want to come back next week, let us debate some of the other pieces of legislation. There are plenty of them on the *Notice Paper*.

This debate in the Legislative Council is the most important part of the debate in many ways, because the government does not control this chamber. This is the pointy end. The bill was allegedly—and I use that word advisedly—read for a first time in this chamber on Wednesday 18 November, having passed through the lower house of parliament the day before on the Tuesday. But in fact, it was not provided to us until Friday 20 November, some two days after it was allegedly read a first time.

Perhaps I should have insisted on the parliamentary tradition of actually having the bill read. On the day that this bill was notionally read a first time, maybe I should have suggested to the Clerk that she read the bill. Of course, I do not think the Clerk would have thanked me at all, for two reasons. The first reason is that she did not have it, because they had not actually printed the bill with all the government amendments in it; we physically did not have it. The other thing is that, on my calculation it would have taken probably at least eight hours to read the entire bill.

The Clerk has been let off the hook from having to do that, but the point I am making is, when we say that the bill is read a first time, we should have a copy of the bill in our hands. A bill should not be read for a first time in this place without the bill being present. People might say that that is not the convention. I think it should be the convention, if that is not the case.

Nobody has been dragging their feet on this bill. I have certainly been consulting with stakeholders and working on the bill since we got it in September. As I said, I am happy to sit in the extra sitting week, but we should not be debating this bill. We should adjourn this bill at the end of the second reading.

What I think would be unhelpful is if we have a stoush over procedural matters either at the end of this week or early next week. I really do hope that the Liberal Party will take the advice of the stakeholders, including the various stakeholders that the Hon. David Ridgway referred to, and agree with the crossbench that no harm is done by moving this bill back to February. In fact, the government has put no cogent reason before us as to why it is urgent.

I want this parliament to deliver to the people of South Australia the best bill we can. Later I am going to go through a number of the amendments that I will be moving, and I note that some of these amendments have already passed this chamber. They are previous amendments that the Liberal Party and the crossbench have supported and, now that we are rewriting the planning legislation, I will be bringing those back and I fully expect the Liberal Party and the crossbench to support them again. They were good ideas a year ago and they are still good ideas.

That is going to take us some time to work through. I do not want to force the Liberal Party to try to do things on the run: I want them to have the chance to consider these things properly in the party room, to reflect on the fact that they have previously supported some identical amendments to the ones that I will be moving this time and give them every opportunity to act consistently.

My commitment to the government is that, if due process is followed and we are given adequate time to develop and to consult on our amendments, then I will certainly do my best to be as efficient and as evidence-based as possible when we do get to the detail of this bill next year.

Whilst all members in this place are equal, I do remind people, in case they wonder why Parnell gets so excited about this, that this did represent a huge part of my life for 10 years as the solicitor with the Environmental Defenders Office. I have more experience in the administration of

this bill than any other member of parliament, and I think I can put forward amendments that will make the bill better.

One of the things the government needs to consider—and, again, this is still in relation to timing—is that if it does insist on proceeding next week, there will undoubtedly be amendments passed which means that the other house has to sit next week as well. If we do not complete this bill until midnight on Thursday, they will be here midnight on Thursday. If they send us back a message saying, 'Please don't insist on your amendments,' what are we going to do then? I have been saying this for weeks: there is no way this bill is going to pass every stage this week or next, so the government just needs to get that message.

I think there is also a serious chance that some of the government's headline items in this bill are destined to fail, yet if the government gave more time they might have some chance of success. The urban growth boundary springs to mind. My rough understanding of the numbers is that they probably do not have the numbers to get that through; they may well have if they allow for a more considered debate.

I am old enough to have been part of the previous planning review. This process was colloquially known as The Planning Review: 2020 Vision and conducted through the early 1990s. At that point I was the newly-appointed campaign manager for the Australian Conservation Foundation. My predecessor, Jacqui Gillan, who was a member of the Adelaide City Council for a time, handed the mantle over to me and I was part of the community reference group. What that process and this process have in common is Mr Brian Hayes QC. He chaired up the 2020 Vision planning review process back in the early nineties, and he has also chaired this process 20 years later.

I can recall attending countless meetings in the State Administration Centre which were aimed at discovering from the community what it wanted from its planning system. Personally, I think I have contributed to entire forests being felled for the butcher's paper that no doubt exists in a basement somewhere in the planning department. We were consulted until we were blue in the face, and the final product of that process was the most disappointing thing: it was pretty much business as usual.

The legislation that came out of that process was not that much different to what had gone before—but that is not what the community said. Similar to this process we have just gone through with the most recent Hayes review, a lot of what the community is saying does not find its way into this legislation. The community talks about liveable cities; it talks about having open space where kids can play; it talks about having public transport to reduce car dependence; it talks about maintaining urban biodiversity, places where birds and lizards can live as well as people in cities; and it talks about human-scale development—development of a scale that recognises that we are Adelaide, we are not New York.

These are the things that people talk about during public consultation sessions—20 years ago and now—and yet these things do not find their way into the legislation. Part of what we need to do as a Legislative Council in amending this bill is to write some high-level principles back in to the legislation. That is not to say that the system that we have had for the last 22 years is perfect. In fact, it is not perfect and I will be spending a considerable amount of time going through its imperfections. However, I do support rewriting and replacing the system. It is overdue for reform and the Greens will support its replacement, but we are not going to support replacing it with just any old thing. At present, what is before us is just any old thing. It needs a lot more work.

We want to replace the Development Act with something that is better and something that delivers on community expectations. The headline item for us is that we want to make sure that people are put back into planning. That has been the mantra for some years of the Community Alliance—put people back into planning.

They have not just taken that out of some market testing or focus group; it comes from the real-life experience of communities around South Australia that, when it comes to planning law and policy, the development industry in its most general form, has been calling the shots and has been getting its way, and it has been at the expense of genuine democracy and genuine community participation, so many of the amendments I will be moving go to that question of public participation.

We want to redress the balance that has swung too far in favour of the interests of property developers and away from communities and their needs.

Since the 1993 bill came into operation—and it came in, I think, about a third of the way through 1994, from memory—we have seen some things that it has done well and we have seen some abject failures as well. Many of the things that went wrong with the bill I raised during my 10 years as a solicitor with the Environmental Defenders Office, and I have raised many more of them in my 10 years in state parliament. The lens through which I am looking at this bill is how well this new regime would deal with some of the poor planning decisions that we have seen over the last 10 or 20 years, and that does involve a bit of a trip down memory lane.

The question is: will this bill lead to better planning outcomes for communities? I have actually gone and looked at previous issues that I have been engaged with in my 10 years in state parliament. For this, I am grateful for having a very good archiving system and a very handy website that has every speech, motion, bill and media release on it. When I type in the words 'development act' I get 626 hits in separate documents.

That is the number of times that I have talked about the Development Act in the 10 years that I have been here. As tempting as it is to go through all 626 of those documents, I am not going to; I am going to go through the greatest hits. The point I am making, though, is that it should be no surprise to members that this is something that I am passionate about.

When I pulled from the archives some of the planning issues that I thought might be informative, the first one that popped up was the Cheltenham Racecourse. The Cheltenham Racecourse was a great case study of the government refusing to engage with local communities, refusing to talk with local residents or negotiate on any outcome other than their original predetermined outcome.

Whilst there were various views on Cheltenham Racecourse, my view was that a solution that overwhelmingly redressed the imbalance in open space that is faced in the western suburbs would have been the right answer. I still think there were good opportunities for development there as well, in particular along the railway line. You could have had more than half that area preserved as open space, with appropriate areas developed along the railway line. That, of course, was the flavour of the month a few years ago. Everyone was talking about TODs—transit oriented development. It has gone out of the language lately, but the concept is as sound now as it was then. That was the spot to put the development.

The Cheltenham Park Residents Association, one of the feistier groups in Adelaide, quite courageously took the matter to the Supreme Court. They were on a judicial review, from memory, arguing that the minister had not taken into account all of the relevant considerations that he should have, in particular, stormwater management. I note from their latest newsletter that I think they are still back in court, now fighting to keep poker machines out of their community. The Cheltenham Racecourse was an excellent example of how not to do things.

One other aspect of the Cheltenham Racecourse was that there were three contiguous parcels of land and they should have been dealt with as a whole and strategically planned accordingly. Those three parcels of land were the Cheltenham Racecourse, the old Sheridan factory site (where they made sheets and things) and then you get over to the St Clair site.

I asked minister Holloway in parliament many times why they would not consider them all as a whole. The answer was fairly cynical: the answer was that certain commitments had been made in relation to open space at Cheltenham and if they regarded the three blocks as a single development opportunity, they would not have been able to short-change the community on open space in the other two sites, which is what they ultimately did.

Of course, that brings us to the infamous St Clair land swap, again a fairly shameful part of South Australia's planning history. The government kicked an own goal at the very outset. Regardless of what you think about the merits of the land swap, the own goal was short-changing the community and offering them less land in exchange for the park that they were taking. They were offering them an old, contaminated industrial site of less area than the well-loved community park that they were taking. It was a dodgy land swap.

There was no shortage of designers and architects who did the calculations and worked out the community was short-changed. We know of course that that dodgy land deal ultimately resulted in a wholesale change at the Charles Sturt council, and the election of a mayor who was prepared to bat for her local community.

The next one that crops up on the list is Buckland Park. Buckland park is one of those rare planning cases where the normally conservative professional association—the Planning Institute of Australia—actually comes out with a press release paraphrasing, 'What are you doing?' They were gobsmacked that this project, which had been criticised for many years by just about every town planner out there, was somehow getting preferential treatment by the government by being given major project status, and the land being rezoned for housing when any town planner worth his or her salt had agreed that this was the wrong spot for urban development. It was a flood plain—a flood prone area of land far removed from any services.

In fact, when you look at the documents that were put out for the Buckland Park project — and we have had minister Hunter today talking about carbon neutral cities—they agreed that, by I think it was the year 2023, a massive 5 per cent of trips might be by public transport. In terms of future urban development in our state, to be designing and approving housing estates out in the boondocks and agreeing that no-one will get public transport, they will all drive, they will all probably have two cars and have massive commutes, it is just astounding to think that this is effectively the same government as the one that approved that—just remarkable. We still have not seen sods turned, but it is not for want of having all the approvals in place. It is just a bad project, and I hope the market speaks and the market says this project will not go ahead.

That then brings us to another urban sprawl planning disaster for South Australia at Gawler and Gawler East in particular: Concordia. Again, the lack of integration between land use planning and transport planning comes to the fore because there was an opportunity to commit to a rail extension out into Concordia. There was no commitment at all. All they were interested in doing is fast-tracking the rezoning of urban fringe land for housing because that is what the development industry was asking of them. They were asking for fringe development, and that is what the government was delivering.

Also up north, you had the Gawler Racecourse. Again, that was a case of the state government overriding the local council. The local council ultimately, I think, went to the Supreme Court again over that one. The minister's approval for a retail precinct on part of the Gawler Racecourse site was made within a day or two of the government going into caretaker mode, just before the March 2010 state election.

It was no surprise that heavily involved was prominent former Labor Party senator Nick Bolkus. He was in it up to his neck, as were planning consultants Connor Holmes. Both of those were planning consultants and lobbyists involved with the notorious Buckland Park development, so that led not just me but many people to come to the conclusion that there was only one winning combination for getting your development approved in South Australia: you needed a former Labor Party senator, preferably someone with access to fundraising, and the firm of Connor Holmes.

Ex federal Labor MP Nick Bolkus attracted controversy over many of the developments where he acted as a lobbyist. He was, of course, at the same time the chair of the South Australian Labor Party's major fundraising body, SA Progressive Business. Certainly, questions were asked about potential conflicts of interest involving not just the Labor Party through its political wing but also Connor Holmes, which was acting on behalf of developers, advising developers, at the same time as it was advising government on the future of urban growth in Adelaide, in particular the task of identifying new land for new housing estates as part of the 30-year plan.

That brings us to Mount Barker. As tempting as it would be to go through chapter and verse of Mount Barker, I will just touch on a few of the issues. The Hon. David Ridgway referred to it as well, quoting planning minister John Rau, who famously said 'no more Mount Barkers on my watch'. That was I think probably the first quotable quote that we got out of the minister on his appointment to that office. He had very good reason for saying that, because Mount Barker was a disaster at every level. It was not just a simple matter of unnecessary urban sprawl. People might say, 'Well, now, hang on, Mount Barker's not part of metropolitan Adelaide, that's not urban sprawl,' but I can

tell you that it is. Ninety per cent of workers in Mount Barker commute down the freeway to Adelaide. It is a dormitory suburb of Adelaide. Pretending that it is some self-contained little country community is an absolute fiction.

But, of course, members might recall that planning minister Holloway stood up in parliament, I think in about 2008 from memory, and announced that he was going to rezone 1,300 hectares of prime agriculture land around Mount Barker for a housing development. He mentioned in his statement that he was asked to do so by seven property developers. The very first time I got to ask him a question—I cannot remember whether it was a supplementary or question time the next day—I said, 'Name them, name these property developers who are so influential that they have convinced you to rezone all this land around Mount Barker,' and he did name them.

So, I immediately lodged a freedom of information application and said, 'I want to see the correspondence between the planning minister, the planning department and the consortium of property developers.' The government fought hard to deny that. In the end they handed the baton over to the property developers, who ultimately took the matter to the District Court; they were so desperate to avoid disclosure of their dealings with the government over this dodgy rezoning deal.

What was fascinating, just a couple of the snippets that came out of the freedom of information documents—because of course I won the case—was that the developers achieved part of what they wanted and they managed to bog it down in the court for over two years, the object being to make the documents as stale as you can before they emerge into the public light.

But just two things came out: one of them was a frantic exchange of correspondence between the planning minister and the consortium of property developers, represented by Connor Holmes. Paraphrasing those communications, it went along like this: 'Dear minister, if you don't immediately rezone this land for urban development, we might not be able to fulfil our commitment to pay for the second freeway interchange off Bald Hills Road.'

Ultimately, the government did as they wished and pushed through the rezoning. Fast forward a few years, when they are now talking about building the second freeway interchange, and who is paying that? The property developers who told the minister they were up for it: rezone this land for us and we will pay for the freeway interchange for you? No, they are not paying for it; they are paying a tiny proportion of it, while taxpayers are paying most of it—federal taxpayers and state taxpayers—absolutely outrageous!

The second thing that came out of the Mount Barker documents was an email from an officer in the planning department, and the email went something like this. It said, 'Is anyone else surprised by the fact that the map produced by Connor Holmes in advising the government where new houses should be located is exactly the same map that Connor Holmes prepared when lobbying on behalf of the property developers who own land at Mount Barker?' This officer in the planning department was saying, 'Am I the only one who thinks this is odd?'. Well, of course, he was not the only one who thought it was odd, but that view did not prevail in the department and of course the rezoning went ahead.

The Ombudsman had a good look at it, the ICAC Commissioner has had a good look at it. The Ombudsman was scathing; for the ICAC Commissioner the bar is a bit higher, so not quite the result there, but it was absolutely dodgy. The minister was quite right to say, 'No more Mount Barkers on my watch' when he assumed the mantle of planning minister.

This Mount Barker development was hand-in-hand with the 30-year plan and the Growth Investigation Areas Report that the Hon. David Ridgway referred to at some length in his contribution. This is a project that was absolutely full of conflict of interest. In fact, one of the amendments that I think is going to be needed in this legislation is something to guarantee that strategic planning is conducted in the public interest by publicly employed planners. There is a huge conflict of interest in using the small pool of private sector planners to do strategic land-use planning on behalf of government. The answer is simple: just don't do it.

I will get some advice from parliamentary counsel on whether it needs legislative reform, but my advice to government is: just don't do it. You got it wrong at Mount Barker, you got it wrong up at Gawler, you will get it wrong at the next place you do it as well. Do not do it. Do not use private planning consultants for public interest strategic planning.

I will work again through this list of planning matters that I have been involved with. The purpose of this is to find the lessons for improving the bill that is before us. It is relevant, and directly so. I mentioned transit oriented development—a good idea but no longer talked about. Certainly the bill and the planning policy that is developed under this bill, I think, should advance that concept further.

The Le Cornu site: in terms of watercooler conversations, when people are looking for a bit of a case study of what is wrong with the planning system, everyone comes back to the Le Cornu site. For those who do not know—I do not think anyone does not know, but in case they do not—it is basically the case of a prime piece of real estate in North Adelaide remaining idle for decades. Nothing is being done there, a prime spot for development.

It is just an eyesore for the community. The question that is always asked is: why isn't anything built on the Le Cornu site? Of course, everyone loves to point the finger, and what people would do is point the finger at the local council (the Adelaide City Council) and say, 'It's their fault. They haven't approved development on that site.' Well, they have.

The problem from my perspective always was that the planning scheme for that area, the zoning for that area, made it clear that this was a site that would accommodate medium level rise, maybe around the three-storey mark. It was not a high-rise site, yet developers kept either buying the land or at least hanging onto the land thinking in their heart of hearts that it was a 10-storey site when in fact it was only ever zoned for about three, and as a result it stayed vacant. Ultimately, it wasn't the local council not saying yes to developments: they would say yes to every development that met the criteria in the development plan.

Ultimately, of course, the government stepped in and, rather than do the right thing and do a proper rezoning exercise and community consultation over appropriate heights, just declared it a major project. That is their shortcut, because, as you know, major projects—and I do not think it is any different under this bill than under the previous one—do not have to comply with the planning scheme and are unchallengeable—so basically open slather; declare it a major project, open slather, do what you want. Yes, sure, you might have to put in an embarrassing report to state parliament saying, 'We've just ignored all the planning rules but no-one can stand in your way; you'll get what you want.'

Also, in the last 10 years we have raised the issue of building safety. People often forget that the planning system is a combination of planning approval and building approval. We have the Building Code of Australia and various state amendments to that plan. We had that tragic situation—I think it was the golf club—where the roof collapsed, so we do need to pay attention to the building rules as well as the zoning and planning rules.

That brings me to the issue—in fact, I will skip over this issue; I will mention it now and then come back to it in detail later—of political donations from developers. No exposé of planning in Australia is complete without a good look at the corrupting influence of political donations from developers. I will just put that on hold for now and come back to it.

Another issue we dealt with was referrals of planning applications to government agencies. On a number of occasions I would—I thought quite sensibly—advocate for reforms to the referral system. What I am talking about with the referral system is that if, for example, you want to build a factory that requires an EPA licence, under the Development Act it has to be referred to the EPA; it is a referral. If you want to build something on a major road where you have issues of access and egress, a fast food outlet on Main North Road or something, you have to consult the Commissioner for Highways. If you want to build something on the coast you have to consult the Coastal Protection Board. There is a list of agencies that need to be consulted.

However, whenever I have tried, over the years, to improve that list by adding relevant agencies to it we get told that they cannot do that because they are interested in reducing the number of referrals, not increasing them. You get the situation, for example, where a body that is responsible for water management—say for catchment management—would not be consulted if someone built a new shopping centre with 100 hectares of bitumen car park, or something, that will obviously have a massive impact on flows into the local creek. The NRM boards responsible for water do not even have to be consulted.

In fact, the system is so crook that even those bodies that do have to be consulted get ignored. I have raised this with the EPA at committee hearings in parliament. I posed the question to them, 'EPA, you are consulted about these things. How often is your advice taken heed of?' Their answer was about 80 per cent; in other words, 20 per cent of the time they are ignored. You have to ask yourself what is the point of having an expert environmental agency if planning authorities are allowed to ignore them 20 per cent of the time. It makes no sense.

Another development we looked at was the Southern Ocean Lodge on Kangaroo Island. That is obviously a controversial one, because I think it makes a bit of dough; it is very expensive to stay there. I have not been there myself (although I have a nephew who is a cook there), but it certainly was a prominent development in a wild and remote location. People may have thought that was okay, but then you start seeing the spin-off developments. One of them was the heliport, because rich people who can afford to spend a thousand dollars a night or whatever for luxury accommodation do not want to just sit in the bush—

The Hon. J.S.L. Dawkins: That is the cheap rooms.

The Hon. M.C. PARNELL: The Hon. John Dawkins has obviously checked it out; he says they are the cheap rooms. My understanding is that it is, I think, Dick Smith's daughter and son-in-law; Dick Smith, the famous helicopter pilot. They have always wanted a helicopter landing, but they were told they could not have a helicopter facility as part of that site. What did they do? They went to the neighbouring farmer and said, 'Can you host our helicopter pad?' the reason being that rich people like flying helicopters over sea lion colonies and over wild coastlines.

That is very bad for the environment, not good for nesting ospreys and sea eagles, yet the planning system is not vigorous enough to basically say, 'No; these conditions were attached for a reason and we are not going to let you skirt around them by going next door and just putting your facility on someone else's land.'

In terms of major projects, one issue I raised some years ago was the level of consultation required. This came to a head when the media was reporting a new major project—I think it was on Goodwood Road, close to the showgrounds—and the mayor of Unley (I cannot remember who that was, it was not the current mayor but the previous mayor) found out about it when the journalists rang up; read about it in the Messenger Press.

I thought, 'What is wrong with this system when the government does not even bother telling the relevant local council that it is about to declare a major project to be a major development under the Development Act?' So I put forward a very simple amendment—I think it was about one line—saying that if the government was going to declare a major project then please tell local council. It was not very radical. Of course, it did not get through. Let us bring it back, let us put it back on the agenda this time.

The stripping of powers from local council authorities is something that has proceeded apace in the last five years. The first cab off the rank was stripping the Adelaide City Council of its power to assess any development worth more than $10 million. In my view, I do not think the council fought quite hard enough. I tried to fight it but I do not think there was an appetite; maybe it was a defeatist council back then. They should have fought that harder, because they were basically accepting the fallacy of the minister that they were incapable and competent in dealing with these complex developments. I do not believe that was the case.

Having had success in stripping powers from the Adelaide City Council for $10 million, the government has now tried it on again. Then they decided, 'Okay, anything in the inner suburbs that is more than four storeys high, let's strip that off councils as well. Let's give that to the Development Assessment Commission, because you know you can't trust councils.' There was no evidence presented that they were doing a bad job or were incompetent at assessing these developments—just stripped.

Then they went one step further, and I think this was only last year, and they said, 'Anything worth more than $3 million, why don't we take that off local councils as well?' The origins of that one I think are fascinating, they are corrupt, and they are illegal, and I say those words advisedly. As people might know, the Shahin family and their company, Peregrine Corporation, wanted to either build or refurbish a number of service stations to expand their On The Run network. From memory,

I think there were about 22 proposals around the state, and they were being assessed, properly, by local councils in the areas where these developments were proposed. I think there was one up in Gawler and one down in Aldinga.

I think it might have been the Aldinga one where the local council (and I am pretty sure about this), at the request of the Grape Wine Tourism Association down there and a number of other community groups, said, 'No, wrong location. It's the wrong spot for an On The Run. We're not going to approve it.' I think that was the only one that got knocked back; there may have been one other. So, the company went crying to the government and said, 'This is outrageous. We've had a local council say no to our development application.'

The government came up with this brilliant idea. They said, 'Why don't we put this $3 million rule in and we can strip local councils of their planning authority if the development is worth more than $3 million.' They thought that would be great, but what they forgot, of course, is that most of these individual petrol stations were not worth $3 million. I had some analysis done on a couple of them: the average was about $800,000. Even when you counted the value of the Twisties on the shelf or the petrol in the tank under the ground, even when you added in the carpet, the curtains and everything you could possibly do, you still could not get to $3 million.

So, what did the government do? They said, 'Well, this sort of On The Run chain is effectively one development. It is one development that might be in Aldinga and the Barossa Valley and all points in between, but we are going to count it as one development, and if you add them all up, they are all worth more than $3 million, so therefore we are going to strip the councils of their planning powers.'

I still cannot for the life of me believe why no-one challenged that in court, because that was a winner. That was an absolute winner. They would have won, and it is probably not too late, because this new regime is not going to come in for a while, but you heard it here first: it is an unlawful way to behave, to strip councils of their powers and use dodgy arithmetic to pretend that a petrol station in Gawler is part of the same development as a petrol station at Aldinga. It is just wrong.

We then had the Global Financial Crisis and we had the nation-building program kick in, which I will say was the right call by the then federal Labor government. I know it was criticised, but spending money in the community on infrastructure was the right call. The Greens in the federal parliament supported that national infrastructure spend, but the state government still managed to mess it up. What they did is they said, 'If the money for the development, whether it's housing or a school hall or whatever it might be, came from the nation-building program (if it was stimulus money, in other words) then we are going to let you override the planning laws.'

That pesky significant tree that was standing in the way? Forget about it; you do not have to comply with those planning laws. You do not have to consult all of the people you would normally have to consult over your development. So, what we saw was that agencies like the CFS, EPA and Coast Protection Board did not have to be consulted as long as the money for the development came from the stimulus fund.

As a result, some schools that had lodged applications to build halls, classrooms and whatever who had been knocked back by local councils because they were inappropriate developments for the site—there might have been a significant tree in the way, too close to the boundary, whatever the reason was—basically went straight back to the Coordinator-General with their defeated applications, relodged them, and this time they were approved, no questions asked. So again, does the bill before us allow that sort of behaviour to continue? Yes, it does. We need to put measures in place to curb that sort of behaviour.

Back on major projects, and the Penola pulp mill was one of my favourites from about 2007. The Penola pulp mill was a great example of a case where major project declaration was warranted. I know a lot of the time I am in here saying, 'They're misusing major project status and declaring things major projects that shouldn't be—a block of flats in Hindmarsh Square a major project? I don't think so.' But that gets declared while the $2 billion pulp mill down at Penola does not rate; that is not a major project. The government said, 'We're going to do much better than an EIS. We're going to do much better than a rigorous environmental assessment; we'll get a committee of the lower house

of parliament to have a look at it and they'll determine whether it's a good project or not.' It was an absolute sham.

As it turned out, it was a project that was being promoted by some white shoe brigade who did not have any experience with pulp mills. They just wanted to onsell an approval to someone. No-one bought it; it never happened; it was a complete waste. But if ever a project was deserving of an environmental impact statement, it was the Penola pulp mill.

I make the point, for those who do not know, that under South Australian law, the only trigger for an environmental impact statement—the only trigger for an EIS is that it must be declared a major project or a major development. If you do not declare a major project you cannot demand an EIS. The two things go hand in glove; they should have done it, and they did not.

Over on the West Coast we had the Cape Bauer so-called eco-tourist village declared a major project. That went nowhere. Then we come to Newport Quays, a fantastic example of where the government, having the ear of the property developers and ignoring the local community, got it so terribly wrong. I can remember being in the sweltering town hall 12 years ago, whenever it was—a long time ago, before parliament—when they were consulting with the community over the future zoning of the Port Adelaide precinct, and the community were up for renewal.

They could see that their community was stagnating, and they really wanted new development. They wanted to see something happen, but they did not want to lose all of the character of the Port. They said, 'Well look, it's a working port, it's part of our heritage; we want to hang onto that. We want to hang on to public access to the waterfront. We want to hang onto the things that make Port Adelaide a special place.'

The government ignored most of that, and in the end basically handed it all over to an exclusive consortium to develop. It was not successful: people who did buy the early apartments lost money. Then, of course, you had the debacle of the proposed development at Dock 1 where it was realised that this location, which I will say is a fantastic spot for new houses—I love Dock 1 and it would be a good spot, but it had two things going against it. One was that it was far too close to Adelaide Brighton Cement, being within a kilometre of the cement works, and the other thing was that it was far too close to the Incitec Pivot fertiliser plant. Apart from those two things, it was a great location for new houses.

They managed to worm their way around Adelaide Brighton by simply deciding that, 'It shouldn't be a kilometre, let's reduce it to 800 metres, and if we measure the 800 metres from a point a bit further away, we can actually miss the circle.' So, they got around that one but they could not get around Incitec Pivot.

However, the relevance of this case study to this bill before us is: how did we know that SafeWork SA, the health department and the EPA had so strongly recommended against development in this location? How did we know that? Did we know it because the government volunteered that information? Did we know it because they put it on a planning portal? And I do like the planning portal when we get to see that, I like that: that's good, tick, planning portal. Did they do that? No. I had to get the first one off the back of a truck—a leak—and the second one through freedom of information.

The relevance to this bill is that freedom of information is now being ruled out in terms of obtaining copies of these planning documents. The SafeWork SA document was a good one. It said, 'Well, if something goes wrong at Incitec Pivot, it will flatten Port Adelaide, including this location.' I think the Hon. David Ridgway was part of the select committee. We had them in giving evidence.

The Hon. D.W. Ridgway: We went for a visit.

The Hon. M.C. PARNELL: We went for a site visit to Incitec Pivot and they maintained that it was not volatile, that it was a form of fertiliser that was not prone to explosion. Of course, we had all seen on our television the one in Texas that went up and flattened kilometres around. One in France went up and destroyed the outskirts of, I think, Lyon or one of the cities out there. Of course, that could not happen in Port Adelaide, but when you look at what the relevant authorities were saying, SafeWork SA was saying, 'Don't do it; it could blow up; it could explode.'

I am delighted that the government has now agreed to relocate Incitec Pivot. It was a very big site. I think it employed eight people. Putting it somewhere else is a brilliant idea if we can open up the Port for development, but the relevance for now is that the community only found out about this problem by accident and, under this bill, it is going to be even harder to get access to that sort of information.

That brings me to the next development, which is again one of my favourites. It falls into the category of magic government own goals, and it is the Mayfield development. The Mayfield development is a series of three apartment blocks on Sturt Street, and there are a couple of issues here. The first issue is whether that part of Sturt Street is a good spot for tower blocks. I do not actually have very strong views on that. I think what is proposed is too high.

Personally, I am a big fan of some of the European densities that go up to about five storeys. I think that works well in a city like Adelaide. Ten, 12 or 14 storeys is probably over the top but I am not going to die in a ditch over it. But what I will die in a ditch over is the absolute arrogance that the government showed to the people of south-west Adelaide in the way that it handled the development approval for the Mayfield development.

It goes something like this: the various elements of the development industry got into minister Rau's ear and told him that the sky was about to fall in if he did not urgently and immediately rezone large tracts of the city for housing of unlimited heights, including the so-called catalyst zones, and that he needed to bring that in immediately. The minister, I think, was spooked by the fear that there might not be cranes on the skyline and he rezoned large areas of the CBD, using what are called the interim operation powers.

Interim operation is colloquially known as the 'shoot first and ask questions later' provision. What it means is that the government does not have to go through the normal public consultation process before rezoning land: it can rezone the land at the click of a finger, put it in the *Government Gazette* and then it undertakes the consultation afterwards.

The problem with that approach for the Mayfield development is that, once the land had been rezoned, two things happened in parallel. The developer lodged its application to have the development approved and the public consultation, where the community was asked, 'What do you think about the change of zoning?' happened at the same time.

The public, in good faith, put in submissions to the Development Policy Advisory Committee. They wrote submissions saying, 'This is what we think of rezoning our part of the city.' Some people said, 'Yes, we think we could do some good stuff here, but not so high.' Other people said, 'No, it's going to overshadow character.' Everyone had their views and people put in their submissions.

While they were off doing that, the developers lodged their application and the Development Assessment Commission approved the application two weeks before the public consultation hearing—not two weeks after, but two weeks before the public consultation hearing. I think there were 50 or more people who, in good faith, made submissions on the future of their corner of the world only to find that, by the time they got to the public consultation meeting, the one development they were most worried about had all ready been approved and that approval was irreversible.

Now, if that is not the greatest insult that a government can show to people in relation to planning, I do not know what is. It sent a very clear message to all of those people who put submissions in, 'We don't give a hoot what you think. We're going to proceed regardless.' That's why when I raised this with the minister and I raised it with people I have not had a single planner who has justified that one and said, 'Yes, that was a good call; we did well there.'

It was an absolute own goal, because it has basically built up a level of distrust in the community, that you cannot trust the planning system and you cannot trust the government. The implications for this bill are that the minister, despite his earlier assurances that he was going to be relieving himself of powers under this bill, has actually entrenched and centralised more power in the minister—and you wonder why people are suspicious about what is going on.

Other issues have cropped up like building on contaminated land and what happens when contamination is discovered. We make the point, of course, that when it comes to the discovering of contamination in existing urban areas, that tends not to be the realm of the Development Act or the

new planning, development and infrastructure act. The bill before us is about new development. However, we have certainly dealt with a number of cases where contaminated land has been involved.

One that I recall was I think down near Findon where the process of rehabilitating the contamination basically was an on-site process and it spewed dust all over the neighbourhood and just made people's life a misery. Of course, what had happened—and again this is an abuse of the planning system that this new bill does not redress—was that the application that they were invited to comment on was building a senior citizens centre.

They said, 'Yes, happy with the senior citizens centre,' but of course what they were not allowed to comment on and what they were not allowed to appeal against or challenge was the rehabilitation of the contaminated land on site which basically involved digging up what had been a former rubbish dump. Some of it got taken away and some of it was just hydrocarbons vented to the atmosphere—an appalling process to be undertaken on site—and, again, the community had virtually no rights.

We have the question of inner rim development, which I mentioned before and, again, I am supportive of increasing the densities for housing in areas that are close to the city. I think it makes sense. Where I differ from the government is often in relation to scale, and I certainly differ in relation to its complete inability to integrate physical infrastructure with its proposed developments. If I use just one example, take Fullarton Road and Greenhill Road.

There you have a situation where, apart from the two tall buildings that are already there—the old maternity hospital on Fullarton Road, and the old ETSA building on Greenhill Road—it is mostly two and three-storey office blocks with undercroft car parking and it makes sense to me that that could be redeveloped as housing. It is opposite the Parklands, a great location. However, when you look at the government's development plan amendment and look at its rezoning exercise it has the nerve to say that it is on an important public transport corridor—absolutely it is not.

We got the timetables out and had a look at the buses that were going along Greenhill Road. They said, 'There are three bus services.' That sounds pretty good but we had a look at them and one of them had one bus in the morning and two buses in the afternoon; one of them went off to the Hills somewhere and did not run at night or weekends; and the other one was a regular bus service but it was not in a 'go zone'. In other words, they could not even guarantee a 15-minute frequency, and yet both these roads had 40,000 motor vehicles per day.

Whilst it is not the job of the planning system to rewrite the bus timetables, it is the job of government to make sure that you do not allow increased densification and increased population without a guarantee of infrastructure. If we go back to John Rau's famous quote, 'No more Mount Barkers on my watch', the context, as I recall it, in which he made that was that there would be no more development like this without sorting the infrastructure out first. That was, as I recall, the context for that.

The inner rim development also has fuelled the minister's prejudice against local communities. From where I see it, the minister has the view that all these people are just nimbys and none of them want to see any change at all.

Of course, you can always find someone who does not want anything to change, but they are a fairly rare species. Most of the groups that I have been dealing with, whether it is the Burnside residents or whether it is people at Unley, or wherever it is, most of them are up for a level of change, but they want it to be good change. They want it to be appropriate change and they want it to be sympathetic change. This crusade that the government is on to write the public out of key parts of the development process, I think is borne out of a prejudice that does not exist in reality, and I think it is more in the imagination of the minister.

Another development that I think has important implications for this bill is the debate around the future of Torrens Island. Torrens Island is one of those fascinating places that most people have never been to. We all vaguely know where it is, because we can see a map of Port Adelaide and we can see the big chimneys from the power station, but most people have not been out there. It is quite a remarkable place. It is the location of the old historic quarantine station. I think that quarantine station has been mentioned a few times in speeches, because it was where new migrants coming to

South Australia were quarantined. I think it was also an internment camp for people of German extraction—they would have been Australian citizens, but people of German extraction—who were locked up there.

The relevance for this bill is that the government was proposing to basically subdivide for private industrial development a great chunk of Torrens Island, and it was not proposing to use the normal and proper planning processes. It was trying to sneak the development through under so-called crown development rules. Even though these were ostensibly private projects, they were effectively given a leg up of special treatment under the government's own fast-track planning stream. I just think that is inappropriate. Again, does the current system, because it has replicated the notion of crown development, stop things like that happening? No, it does not; we need to fix it.

We then come to development in the Adelaide Parklands. That is obviously topical at the moment, because we have a couple of proposals. There is obviously the future of the old Royal Adelaide Hospital: what is going to happen there? We have the O-Bahn project; a select committee is looking at that. We also had the footbridge proposal. What we have discovered with all of these is that the government has managed to find ways of getting its way and undermining the Adelaide Parklands Act, which was designed to entrench a level of protection. It has managed to get around it.

The thing that I find most difficult about it is that, although some of these projects I do not mind, and some of them I think could be quite good projects, because the government uses such a dodgy process, designed to avoid scrutiny and in particular to avoid challenge, I find myself railing against it on the basis of process rather than the actual merits of the development itself. The relevance for this legislation is that there is a part of this bill which talks about the incorporation of statutory schemes. From memory, I think there is the dolphin sanctuary and there are a few of the other statutory schemes, but the Adelaide Parklands Act is not on that list; it needs to be put back on. We need to build Parklands protection back into the development legislation.

Next, we get to aquaculture. The relevance of aquaculture to development and planning legislation is that people often forget the fact that the border of South Australia does not end at the beach. The border of South Australia extends three nautical miles offshore, and when it comes to the gulfs, Gulf St Vincent and Spencer Gulf, the state border actually includes the whole of those gulfs. What that means is that all the oyster farms and all the tuna feedlots and the kingfish aquaculture ventures are part of South Australia. They are all on land. The land might be covered by sea, but they are all development of land and therefore they are required to get development approval.

As I have mentioned, possibly more than once, in this place, the first big court cases that I conducted as an environmental lawyer were on behalf of the Conservation Council, and they were to challenge aquaculture developments, firstly at Fitzgerald Bay, north of Whyalla, and secondly down at Louth Bay near Port Lincoln.

The consequence of the Louth Bay case in particular was in fact a seminal judgement of the Environment, Resources and Development Court that helped define the meaning of 'ecologically sustainable development'. The importance of that phrase 'ecologically sustainable development' is that it is built into the current Development Act, but it is not built into the new planning, development and infrastructure act.

In fact, I will come to this point in more detail later, but the whole notion of the environment being central to our decision-making around land use is missing from this act. It was included in the old act. Mind you, it was honoured in the omission, or in the breach, more than the observance, but it was in that act, so the planning scheme, or the development plan, for offshore coastal waters had in it the magic phrase, 'All development must be ecologically sustainable.'

So, when we challenged those tuna feedlots, the Environment, Resources and Development Court got to consider what that meant. In quite a famous judgement that has been reported in the international literature, they basically decided that the onus of proof was on the developer to prove that their development was sustainable; it was not the role of the objectors to prove that it was not. That was a very important finding.

Having won that case, which was the longest planning case in South Australian history up to that point, the victory lasted all of six days because the government then stepped in with regulations under the Development Act which did not deal with any of the environmental issues that the court had considered during the trial. The purpose of these regulations was to say, 'Henceforth, no-one is allowed to challenge aquaculture.' It was as simple as that. 'You can't challenge it anymore.'

So, what did the developers do—the Tuna Boat Owners Association? They photocopied the defeated development applications, they relodged them, and this time no-one could challenge it, so it went through, notwithstanding the fact that the Environment, Resources and Development Court had found those exact same developments to not be ecologically sustainable.

That just shows you the ability that planning ministers have, or any part of the executive has, to override proper processes, including proper judicial processes. The question we have to ask ourselves is: does the current system improve on that? No, it does not. This bill does not improve that situation. The government could do exactly the same thing again.

We then had the situation of another development: the Dunes development on the Copper Coast. I will not go into that one in any great detail other than that Greg Norman appeared to be on a real winner there, lending his name to anyone who wanted to build a golf course. They could say that it was Greg Norman designed, but it was not enough to sell the blocks and that development was a complete failure. But the development assessment process was far from perfect, and I think the residents were glad that the market spoke and defeated that project.

We have then got the Victoria Park grandstand. That was a case where, as members would remember, former minister Kevin Foley was determined that he was going to get his way. He was not prepared to let the local community or the local council stand in his way. Ultimately, that project did fail, and largely it was, I think, on the strength of the Adelaide Park Lands Act. Again, it was an example of the government riding roughshod over decades of community vigilance in protecting the Parklands by selecting this eyesore of a permanent facility right in the middle of one of the largest open-space portions of the Adelaide Parklands. I am very glad that that development failed.

I mentioned earlier the 30-Year Plan for Greater Adelaide. Of course, as members may know, that plan was devised while the ink was still wet on previous versions of the planning strategy for Adelaide, which actually said you do not need this urban sprawl. The development industry was not prepared to accept that and so, before the ink was dry on the planning strategy for outer metropolitan Adelaide, they made sure the government commissioned their people to write the study and to deliver the report that they wanted.

I received a lot of correspondence a few years back in relation to the main street—Tasman Terrace, I think it is called—in Port Lincoln. Again, the case there was whether the local community was being given reasonable opportunity to talk about their desired character for that location. ltimately I think the developers prevailed; they got the building heights they wanted, from memory, but the local community was very dissatisfied with the outcome and it did affect their view of the whole planning system.

Quite early on one of my earlier forays into the development assessment system here in state parliament was when the development assessment panels were first devised. So that members are all on the same page, back in the old days, as it were, every carport, every rumpus room, every granny flat would go to a whole council meeting, and all the elected members would decide what the outcome would be. That was clearly not a workable system.

Most of the bigger councils had by this staged delegated to planning officers that sort of decision-making power, but ultimately the government came up with this model to say, 'Well, why don't we have, rather than all elected members, panels of say seven, with three elected members, three outside experts and an independent chairperson?' That was a contentious debate at the time. I can remember copping a bit of flak by supporting that proposal. Some people said, 'No, stick with local councillors, they know what's best, we want panels to be made of just local councillors.'

I accepted the government's argument that these hybrid panels were a good idea, and largely my acceptance was borne out of my experience working with councils, because of course some councils were good, experienced and professional. Other councils did not get that many development

applications crossing their desk and they were not very good at it. Some of the country councils in particular would just say yes to everything, because that is what they thought they should do.

The notion of assessing the development against the planning scheme for the area and deciding whether it fitted or not was a bit foreign to them. As one elected member from a country council put to me not that long ago, 'Mark, what right do we have to say no to anyone who wants to develop in our area?', to which my response was, 'Well, you don't have a right, you actually have an obligation to say no if what they are proposing is at odds with the planning scheme for your area. Your job is to say no; don't phrase it "What right do we have to say no?"; it's your job to say no.'

While some local counsellors do not get it, most do. Those on panels certainly do; they go through training, they understand what their job is. I think this model of panels with a mix of elected members and outside people has worked pretty well, and I would like to see that continue. I do not think the government has made the case for removing these elected members altogether from panels. I know that is still a point of contention with the Local Government Association and with the individual councils, many of whom have written to me. As we progress with this debate I will read some of the things they have said.

A sub-debate, a secondary debate, as part of this was the debate we had here in parliament about how people serving on these development assessment panels should behave. The government came up with a code of conduct for development assessment panel members. This code of conduct was, I think, well conceived in terms of what they were trying to achieve, and that is that they want to avoid the situation that has been fraught interstate in terms of corruption, where the decision maker, whether it is a local councillor or someone else, is taken to the football in the corporate box by the developer, taken out to golf days, wined and dined—what most of us would call corrupt behaviour.

The government wanted to put an end to corrupt behaviour, so they came up with this idea of a code of conduct, but the code of conduct threw the baby out with the bath water. It was so restrictive that it meant that no panel member, whether an elected member or an outside elected person, was allowed to have any conversation with anyone concerning the development. They were not allowed to inform themselves privately in any way whatsoever. I thought that that was a recipe for poorer decisions in the end.

The reason I say that is that I remember one of my local ward councillors—she has since retired—took her job on the local development assessment panel very seriously and would visit every single site of every single development application in the area. She would look at it and sometimes talk to the neighbours, saying, 'Next door's putting up a second storey on your boundary, what do you think about that?' Or she would talk to the proponent. Under this code of conduct, an elected member diligent in their job could have got the sack for having those conversations. They could get the sack if someone came up to them in the supermarket wanting to talk about a development application.

I do get it that there is a line to be drawn between corruption and independently informing yourself of the situation. The model that I put forward, which the government rejected but which I would love it to reconsider again, is one of disclosure. In other words, when these development assessment panels sit down to consider a development, the first thing they do is disclose whether they have had any conversations or any dealings with any parties involved or any interested persons and the nature of those communications. Get it out in the open, get some sunlight on it. Do not try to prevent people from finding out information. Otherwise, if they turn up to the panel hearing, the only information they have is the information that is put before them.

For example, in a category 2 development, if people who have genuinely relevant, important things to say are not even notified of the development or even given an opportunity to put in a submission and are not given the right to turn up to the hearing, they will miss out on potentially important, relevant information. We have debated that here at some length. Again, I come back to the question: does this bill fix that up? No, it does not. Could this bill fix it? Yes, it could.

I have not said this much—I think the Hon. David Ridgway mentioned it and others will—but this bill is the tip of the iceberg. The vast bulk of the planning regime, as we will know it, is going to

be in documents yet to be written. It is going to be in regulations, in the planning and design code, in state planning policy and in documents like codes of conduct for panel members.

The next lot of developments that I want to look at are wind farms. The Hon. David Ridgway has already referred to the very pleasant evening that he and I and the Hon. Russell Wortley spent in a haunted house a short distance from a wind farm, where the object of the exercise was to determine whether the noise, or the sub-audible noise, from this wind farm was such that it would prevent us from sleeping. The only thing that prevented us from sleeping was the level of snoring that was coming from rooms other than mine.

The reason I raise wind farms is that they are a good example of where the planning system has been quite slow to react. Wind farms were upon us as a concept before the planning system was very developed, and it took some time to come up with appropriate rules. Again, I found myself in a difficult situation.

Obviously, being a Greens member of parliament, being a huge fan of renewable energy, including a big fan of wind farms, I found myself on the other side of the debate, where I was actually batting for the rights of local residents to object and appeal against wind farms in their area. That is because I felt that the wind farms would have stood up on their merits, but I was determined to make sure that local citizens had every opportunity to be involved. I have always railed against the state government withdrawing notification, comment and appeal rights from citizens. We need more of these rights, not less.

As I will explain a bit later on, when we provide more of these rights we actually find that we get better outcomes. The main reason for that is that any decision-maker, when making a decision that they know is challengeable, is going to pay a lot more attention to the rigour that they need to apply because if they do not get it right they know they will be challenged.

So, appeal rights is one of those things that haunts the nightmares of the development industry and the government but they do not haunt the courtrooms. The number of third-party appeals is small and declining, yet if we had more ability to lodge third-party appeals, sure, there would be a few more lodged, but better decisions would be made that would counteract any inconvenience from the extra appeals. That is wind farms.

Then we have the industrialisation of Point Lowly. Again, that was a good case study for the incremental impact of developments on a location. The planning system is very poor at dealing with cumulative, incremental impacts, and that is because every development gets assessed on its merits and the planning authorities do not necessarily consider what is already there or what might be to come. What we had in the case of Point Lowly was that yes, you had the facility there; you can see it from the other side of the gulf, the Santos facility, with the big white gas and, I think, diesel containers, which leak. They leaked into the gulf and millions were spent trying to stem the leak and trying to prevent hydrocarbons entering the gulf.

There was already an environmental impact from industrialisation, and all of a sudden the government is proposing a whole lot of extras, none of which would have been judged cumulatively. They would have been judged individually. There was the desalination plant for the proposed Olympic Dam mine expansion. There was an additional diesel storage facility next to the one that leaks. There was an explosives works designed to store and, I think, to manufacture explosives for use in the mines.

All these things were going to be dumped into one of the most sensitive environments in South Australia—and I say sensitive because it is the home of the only known breeding aggregation of the giant Australian cuttlefish. Just a few years ago we saw the numbers of cuttlefish declining to worrying levels and no-one really knew why; they appear to have picked up, not to the levels of a decade or more ago but they do appear to have picked up. However, the consequences of one of these industrial facilities going wrong would have been devastating to the only known breeding aggregation of this unique species. That was a good example of the failure of the planning system to consider the totality of development rather than judging each individual development as if it were the only thing in the area.

The protection of the Hills Face Zone is something we have debated here, and obviously that is something relevant to the planning system. Originally this was regarded as a no-go zone for

urban development. My understanding of its history is that it was a no-go zone for very different reasons to the ones for which we now value the Hills Face Zone. We now value it because it is an open, natural backdrop to the city of Adelaide that is relatively undeveloped; it is not like a hillside at the back of Rio de Janeiro with the slums going right up into the hills.

It is a relatively undeveloped scenic backdrop to Adelaide but my understanding is that, historically, the purpose of this zone was basically because the Engineering and Water Supply Department (E&WS) could not guarantee to sewer or provide water to this area, so they zoned it as an area inappropriate for development. I think we can be grateful for that decision back then; however, because the Hills Face Zone does provide the most spectacular views in Adelaide, it is always going to be under pressure from development applications.

The future of Port Stanvac is another one we have dealt with here; a combination of planning laws, not the least of which is the contaminated site and the requirement for that to be rehabilitated before anything can go ahead. Obviously we have the future of the jetty but, again, the test we have to apply is, 'Would this new planning development and infrastructure build provide the best outcome for Port Stanvac, including a genuine ability for the community to have a say and have their views taken into account?'

We have debated the protection of the Southern Vales. Again, we had legislation before parliament which is now cross-referenced into this new legislation before us. It is slightly different now in that we have the new food production areas, which include slightly different township boundaries but, again, it is separate legislation for the Southern Vales and for the Barossa. If someone had asked whether that legislation was really necessary, it was not; they could have achieved the same results another way, but most of us did support that legislation because, symbolically, it made the strongest point we could that these agricultural zones were a key part of Adelaide's landscape and that they should stay agricultural zones and not be subdivided for housing.

With the Adelaide Oval redevelopment and the Torrens Footbridge—I have mentioned the footbridge before as part of the Adelaide Parklands development—again, the government tried a couple of different techniques. I think they tried regulations, which were disallowed, and then ultimately they eventually found a way to use a non-disallowable instrument to achieve what they wanted.

Again, it is not necessarily a criticism of the footbridge—although most people still sort of rail at the cost of it, I think it has probably been generally well received by the people of Adelaide even though it was very expensive—but the fact that the government is so fearful of community debate and community challenge that they have to push these things through and deny public involvement I think is what is most disappointing.

The rezoning of the Glenside campus is another planning issue that, in fact, in my 10 years here, is the closest we have ever got to the system of parliamentary scrutiny under section 27 of the Development Act actually working. It is the closest we have ever got to that section working. I will have a bit to say about parliamentary scrutiny of planning policy a bit later on, but the reason I mention Glenside is because there was a brief period when the Environment, Resources and Development Committee of the parliament was not entirely government dominated. There was a brief period when there were two Labor, two Liberal, one Green and the late Dr Bob Such.

When it came to the rezoning of the Glenside campus, and in particular the zoning of I think it was the Fullarton Road frontage basically for housing, the two Liberal members and I voted to disallow that planning change, and the late Hon. Dr Bob Such joined us. I got quite excited, because I could see that this was probably going to be the only time ever that parliamentary scrutiny got to work. Unfortunately, and I never did find out from the Hon. Bob Such what happened, but he had a change of heart at the last moment and a rescission motion was put in to the committee a couple of weeks later, and ultimately the government did get their way.

It is a good case study as to why it is important for the Environment, Resources and Development Committee of parliament to not be government dominated, because you actually do get a chance for the parliament to consider some of these important planning changes. As you will hear me say at some length later on, the system of parliamentary scrutiny has never worked. It has never once been applied to the full extent. It has tinkered around the edges a bit. The minister has

occasionally taken a suggestion from the committee for a minor change in planning policy, but it has never resulted in a planning scheme being brought to the floor of parliament and disallowed.

This is actually something that is lost, I think, on many of the constituents who have written to us about this legislation. So many of them, whether they are industry submissions or other submissions, say, 'We just need to make sure that the parliamentary scrutiny process applies to more aspects of the development system.' I am saying, 'Yes, but if you don't fix the actual mechanism of scrutiny, you are wasting your time.' So, I will have amendments to deal with that, and I will come to those a bit later on in my contribution.

I mentioned the 30-year plan before. One of the underpinnings of that plan were what I say are dodgy population growth estimates that were used to justify the urban sprawl components of that plan. The way it works is like this: the government put I think it was three conditions that were going to guide their future urban planning. Condition No. 1 was that we have to cater for a vastly increased population. Condition No. 2 was that we have to have at least 15 years of empty residential-zoned land.

Condition No. 3 was that the government, I think foolishly, said, 'We are not going to touch 80 per cent of the metropolitan area.' So, when you put all those things together, your options for urban consolidation are far reduced, and urban sprawl is the logical consequence. If they are the three inputs, urban sprawl is the logical output.

Part of the problem, of course, is that the 30-year plan is technically a chapter of a document known as the Planning Strategy. The Planning Strategy is a statutory document under the Development Act, and it cannot be challenged in any way. The government is not even really obliged to take public consideration into account in any serious way. It is basically the government's own document, and they can put in that whatever they like. As a result, they have put rubbish in it from time to time.

We have also debated here the use of private certifiers in relation to building approvals. That is one of those issues that are directly relevant to the current bill, because the role of private certifiers is proposed to be expanded. I am prepared to say that at the time, whilst I was nervous about an important statutory task that had traditionally been undertaken by publicly employed officials—mostly local council building inspectors—whilst I was really nervous about handing that role over to the private sector, we did not rail against it as much as we are going to rail against what is in this bill in relation to planning decisions.

I think there is a very different and more significant impact when you have a private profit-making individual deciding whether something gets planning approval compared to a private profit-making individual deciding whether the foundations have been dug deep enough. They are very different questions.

The compliance with building rules is pretty much a systematic thing. You get your tape measure and your slide rule—whatever you use—and you can work it out; it is not that hard. Provided there is oversight, private certifiers may be able to do that job; it may have improved the efficiency of building approvals. But to then go to the next step and say, 'Right, we're going to outsource to the private sector the actual fundamental decision of whether or not someone should get planning approval' I think is a step too far, and we are going to be opposing those provisions of the bill.

The next issue that we have debated here in the past which is directly relevant is the impact of climate change on sea-level rise and on coastal development. I can remember the Hon. Paul Holloway laughing at those foolish people up at Byron Bay, or somewhere, where basically they were one of the early councils to recognise that climate change was real, sea-level rise was real, and they put in place planning rules that, basically, were to deal with it, including strategic retreat.

Here at the state level, what the government has done over a period of years is to put in various rules around heights. You cannot develop below a certain height, which varies in different locations—I think it might be a metre around mean high sea-level rise, and technical people might know exactly what it is. But there are more fundamental questions about what we should do with the planning system to cater for what could be sea-level rise at magnitudes greater than we have currently experienced.

People will remember that every so often, *The Advertiser* will publish a picture or a map showing what worst-case scenario sea level looks like, and I have to say it looks pretty spooky. When people are talking about one or two centimetres then, yes, you have got increased erosion and you have got some impact. Most people do not get too scared by that, but once you start getting into tens of centimetres or into metres, then there are whole sections of our coastline that effectively become uninhabitable and, in particular, because of the impact of storm surges.

You do get the situation where the planning system has, for example, completely failed the existing coastline of Adelaide, and it costs all of us millions of dollars every year to pay for these planning failures. Planning failure number one was allowing urban development on the sand dunes along the metro Adelaide Coast. That was the source of sand to replenish the beaches; once you have built on those sand dunes the beaches do not replenish, and the beach erodes.

As a consequence, for decades now we have had a system where we have to take the sand from one end of the metro Adelaide coastline and we have to deposit it at the other end of the metro Adelaide coastline so that natural forces can send it back up to where it started from. As a result of poor planning, over decades we have had to have trucks on the beach and pipelines, and the Hon. Ian Hunter has answered questions in the past about the pipelines piping the sand along the beaches. But I will tell you where the planning system has failed more recently and that was the decision to approve the West Beach boat-launching facility.

Those of us who were involved in that campaign—and any scientist or engineer you asked—said, 'If you build a protuberance out from the Adelaide coastline, the sand, which has a natural south-to-north drift, will build up on one side of the facility and it will erode on the other side of the facility.' It is costing us millions of dollars of year to move the sand around these artificial obstructions we have created. It is absolutely ludicrous. It is like painting the Harbour Bridge: you start at one end and, by the time you finish, you have to do it again. It costs millions of dollars a year.

When the Hon. David Wotton was the environment minister and he invited me to participate in a reference panel to look at the management of sand on Adelaide's beaches, one of the things I did was actually went out into the community and said, 'Look, this is costing us a lot of money. Are you prepared to stop? Are you prepared to give it up and let nature take its course? It might mean that some houses at Tennyson get washed into the sea.' The Hon. John Gazzola, I do not know if your place is anywhere near the sea: you might get washed in.

But the answer I got was that no-one was prepared to abandon it because, as a community, we do value having a sandy beach on our metro coastline. It is one of those costs we would rather not have to pay but we are prepared to pay because we like the beach. The point I am making is that the planning system is at the heart of the problem that has resulted in citizens having to pay millions of dollars per year.

We will have a referral system under this new legislation. The referral system is currently schedule 8 of the Development Regulations; there will be a new version of that. The government has been resisting putting too many authorities on that list but we do need to make sure that climate change authorities are included on the list of people to be consulted about the potential impacts of development. It is a bit of a no-brainer, but my experience has been that, every time I have tried to add to the referral list, the government has rejected it.

In terms of that list that I have gone through, I mentioned that I had 626 hits on my online archive of references to the Development Act that we have debated over the last 10 years in state parliament, but of course the other thing I have done is introduced a large number of private members' bills over the years to amend the Development Act and also moved a very large number of amendments to government bills that amend the Development Act. I just want to give a quick snapshot of some of the bills that I have introduced in the past that I will be reprising again in amendments to this legislation.

The first one is in relation to the provision of direct notification to residents who are affected by zoning changes. It actually comes as a surprise to most people when you put it to them that the government can rezone your house and not have to tell you. When you put that to people at a barbecue—I do not get invited to many barbecues, and now you know why. If I said to someone at a barbecue, 'Did you know that the government could rezone your house and they don't have to tell

you?', most people would say, 'That can't be right; you must be wrong.' But my experience at the Environmental Defenders Office is that it happened all the time.

The worst example was a bloke who was living up on the northern plains. I think he might have been up on the Little Para somewhere and his house was rezoned from residential zone to flood plain without his knowing about it. When he did discover it, when he tried to put in a development application to improve his property and was told that he now lived in a flood zone, he put it to me that this cannot be true.

Of course when you look at the law as it currently is, the obligation on the minister is to put the notification in the *Government Gazette* and in a newspaper. The first thing I will say is that I do not know of anyone sad enough to voluntarily read the *Government Gazette* who does not work for the government or work in this place. It is not a bestseller. If you go to a newsagency, there are car magazines and all sorts of things. I do not think you can get the *Government Gazette*; no-one reads it.

It is an anachronistic provision. I am not saying we should do away with it because you do need to have a formal repository of certain notices, but to think that it is a sufficient notification for the public is rubbish. The newspaper is following in the same vein. Very few people read newspapers. The idea that you can rezone someone's house from under them and then say to them, 'But didn't you read the public notices in last Saturday's *Advertiser*,' I think is ludicrous. So I moved a bill which said that, with some exceptions, people should have the courtesy of the government telling them that they are about to change the planning rules that affect their property. I use the word 'rezoning' as a bit of a shorthand.

If they are going to rezone your house they should tell you; they should tell you that you have the right to make a comment, that you have the right to attend a meeting. Do not just let people find out, years down the track often, when they lodge a development application, only to find that the rules were changed on them. That was a very simple reform. It is not in this bill. It needs to be there.

The interim operation provisions that I referred to before in relation to the Mayfield development have been abused on many occasions by the government, and I previously introduced a bill into parliament to reform that. I am delighted that that is one of the bills that the Liberal Party has supported. They agreed with the Greens, and I hope they still do, that interim operation—it is not called that under the new system but it is exactly the same system—is a valuable tool, but it is a valuable tool for protecting the status quo whilst discussions are undertaken in relation to planning changes.

The classic example of where interim operation is an appropriate tool is in relation to heritage listing. You only have to think of this as an example: if the government says, 'We're thinking of listing this building on the local heritage list,' and then they put it out for public consultation and nothing happens while public consultation is under way, then if the owner is unhappy with that declaration the first thing they are going to do is ring a bulldozing contractor and knock the place down before the change comes into effect. That is exactly what has happened in the past.

This notion of interim operation—in other words, shoot first, ask questions later, bring the planning change in straightaway and then consult—is a valuable tool. It is a valuable tool for protecting the environment and protecting heritage, and it should be confined for those purposes. If you reckon I have made this up, members might recall that years ago I tabled in parliament a planning circular under the name of the Hon. Don Hopgood, former Labor planning minister. Again, paraphrasing his planning circular, which he addressed to local councils and developers, he basically said, 'As planning minister, you people keep asking me to use interim operation to help get your development fast-tracked; I'm not going to do it any more. That's not what interim operation is for. It's not about fast-tracking your favourite development, it is about protecting the environment and retaining the status quo pending public consultation.'

That is what it was designed for and that planning circular was under the old planning act and it pre-dates even the Development Act. It was from the 1980s. If that was a reason for introducing that measure, it is still the reason for retaining it so we have to incorporate those changes back into this bill, and I will be moving accordingly.

Another of the bills that I put forward which, again, was supported by the Liberal Party, and I think—I will have a close look at this but I think it may have been incorporated into the current bill, one of the very few things that I have moved over the years that has found some favour—is the direct notification through posting of a sign on land in relation to development. It is an old method. It has been used in most other countries in the world. It can be a sign in the window, a star picket in the yard—we have been using it for liquor licensing applications forever and there is no reason why we should not be using it for development applications.

Another bill that I was forced to introduce back in 2008—and, again, the need for this has not gone away—was to protect the rights of free speech for those who are involved in planning debates. One of the important things about planning is that people need to be able to honestly comment on proposals that are put forward. If they have concerns about it they need to be able to say that they have concerns. What they should not have to run is the gamut of developers and their lawyers threatening them with legal action for daring to comment or criticise the development.

I have worked extensively in this area—the area of SLAPP suits. SLAPP stands for Strategic Litigation Against Public Participation and is a time-honoured method where developers silence their critics by either bringing legal action or threatening legal action. You might think, 'What's that got to do with little old Adelaide? Surely that doesn't happen here?'

But if you go back to February 2008, North Adelaide residents were distributing a flyer which was encouraging residents to attend a public meeting to get information and comment on a development in O'Connell Street. The residents who distributed this flyer received a letter from lawyers representing the Makris Group of companies.

The letter threatened to sue them if they dared to raise at the meeting the issue of the Makris Group's $180,000 donation to the Labor Party, in other words, threatening residents that if they dared mention at a meeting the fact that the Makris Group had given $180,000 to the Labor Party, they would send in the lawyers. That is just outrageous: stifling genuine community debate with those sorts of bully boy legal tactics is not on, and we need to make sure that legislation deals with that.

On the topic of developer donations, I have over the years developed a number of different models as to how we deal with it. First of all, to answer the rhetorical question, 'Why do we need to deal with it?' The answer is pretty simple: look at New South Wales. If you want to know why developers making donations to political parties is a corrupting influence, just look at New South Wales. It was one of the main features that saw Labor thrown out in New South Wales, with a resounding majority against them. It was a corrupt state; officials were corrupt at every level, at the state and local government levels.

We do need to deal with it, but you have to be smart about how you deal with it, because if you had a blanket prohibition on any developer making a donation to a political party, then of course that would catch the person building a carport or a rumpus room or adding a kitchen, or whatever it is. We are all developers when we do those things. It would have to be limited to substantial developments.

You have also then got issues around the right of citizens in a democracy to support the political party of their choice. Certainly, the model that the Greens have proposed is to put an end to those big private donations. Our model is one of public funding of elections, but until we have that it does make it difficult to ban outright one group in society from being able to donate when others can.

The model that I eventually settled on in my bill before state parliament was a disclosure regime. The disclosure regime basically said that if your development is worth more than $4 million or if you are proposing a subdivision of more than 10 lots, then you need to declare, as part of your development application, the fact of that donation; in other words, get it out into the open so it is public and people know it.

Then people can draw their own conclusions about whether it has been a relevant factor or not. Hopefully it is not relevant because it has been disclosed and people know about it. As we know, political disclosure regimes, whilst they have been improved and strengthened in South Australia since 1 July this year, are not cross-referenced to any particular activities that the donors might be involved in. They are not cross-referenced to the development application that they put in.

In case people are again thinking, 'Well, it might be a New South Wales problem, but it is not a South Australian problem', let's go back to Mount Barker. Let's have a look at that consortium of seven property developers who convinced planning minister Paul Holloway to open up Mount Barker to new broadacre development.

When we went back and looked at what donations those companies had made, we found that at least $2 million had been donated to the Labor Party. Most of that was to the Labor Party nationally, but a fair chunk of it was in South Australia. For example, the total was $179,500 that went directly to Labor. The companies involved included Urban Pacific, which was part of the Macquarie Group, and the Walker Corporation. Again, if I was going through my list of dodgy developments and links to party donors, we could go to the Festival Plaza, but I kept that one off—we might come back to it later. Certainly, Walker Corporation is there, as are the Fairmont Group, Land Services Pty Ltd and Daycorp Pty Ltd.

I have not got up-to-date figures, so these figures are about four or five years old. Since the year 2000, certainly the Walker Corporation had given $25,000 to Labor in South Australia and $1.1 million to federal Labor and to New South Wales Labor. The Macquarie Group had given $27,350 to SA Labor and just shy of $1 million—$978,519—to federal Labor and New South Wales Labor. The Fairmont Group donated $119,450 to Labor in South Australia. Daycorp made a smaller donation of $7,700 to Labor. Like I said, that added up to $179,500 to the South Australian Labor Party.

The question in the public mind is: have these companies donated to a political party because of their deep and abiding love of the democratic process, or have they made those donations because they are developers? That brings us to one of the more famous quotes that was made, and I will come to that in a second. It was a famous interview on Matt and Dave with I think the CEO of the Makris Group, which has had a lot of outings in parliament over the last few years and is the gift that keeps on giving.

Before I get to that quote, whenever I raised these issues in state parliament, planning minister Paul Holloway would get as defensive as you have ever seen him. He would go berserk, and he would accuse me of 'peddling sleaze'. Whenever I mentioned major party donors to Labor who were also property developers, I was 'peddling sleaze'.

Clearly, it struck close to home, it struck a nerve, but do not just take it from me. I always like to quote Labor luminaries on topics where I am being told I am out of line. Let's go to Paul Keating. Former prime minister Paul Keating said, 'I think we would be better off if developers were forbidden from donating election funds to municipal candidates and to political parties', so it is not a novel idea. Labor recognised it. New South Wales Labor recognised it. It cost them office. It is a corrupting influence, so we need to bring this reform back.

I mentioned my bill in 2008, which I want to reprise as part of this bill, but I think it was a couple of weeks after I introduced mine that the Morris Iemma government introduced the Local Government and Planning Legislation Amendment (Political Donations) Bill 2008, which inserted a new section 147 into the New South Wales Environmental Planning and Assessment Act, which is the equivalent of our Development Act. Under the heading 'Disclosure of political donations and gifts', the New South Wales bill provides:

(1) The object of this section is to require the disclosure of relevant political donations or gifts when planning applications are made to minimise any perception of undue influence by:

(a) requiring public disclosure of the political donations or gifts at the time planning applications (or public submissions relating to them) are made…

So, the words of my 2008 bill that need to be put into this 2015 bill were almost identical to what the Iemma government enacted in New South Wales. They saw it was appropriate, and I do too. Another bill that I introduced, which I do not think is redundant but it will require some tweaking before we reincorporate it into this current act, contained the reforms to the Development Policy Advisory Committee.

I think the Hon. David Ridgway referred to this in his contribution. He certainly referred to the fact that I am a frequent flyer at the Development Policy Advisory Committee and regularly make submissions to planning policy discussions. I actually deny that I 'whip the punters into a frenzy', to

use the honourable member's words, but I do reflect the concerns that the punters raise with me, and that is what we do in parliament. People come to us with their concerns and we reflect them.

I have been to many hearings of the Development Policy Advisory Committee, and it is almost formulaic now. hat happens at those meetings, is that someone will ask the chair—it might be Mario Barrone or someone else—'Well, here we are making submissions, what happens to our submissions?' The answer would come back, 'Well, the Development Policy Advisory Committee is a statutory body under the Development Act; we will take your considerations into account, and we will give advice to the minister.' The question from the audience is then, 'Well, can we see that advice, it's our submission, we're the ones who've made written submissions, we're here talking to you verbally, can we see the advice?' The answer is always, 'Nothing to do with me, ask the minister.'

The position that the Development Policy Advisory Committee has always taken is that it is not their job to disclose their advice to the minister, that it is up to the minister to release the advice. So, when I have come to parliament and I have asked the minister whether we can we see the advice, the answer has always been, 'No, no you can't.'

The Hon. David Ridgway may have proposed this compromise—he will correct me later if I am wrong—but in the end we managed to get some level of disclosure so that these submissions are published, but they are published after the horse has bolted; in other words, the community and the parliament, through the Environment, Resources and Development Committee, does get to see the advice from the Development Policy Advisory Committee, but only after the minister has made a final decision, and that is wrong, that is the wrong way about it.

Those people who go to the trouble of making a submission are owed the right to see how their submission was treated. If under this new regime we will have bodies, whether it is the planning commission or whatever else, providing advice to the minister then in the interests of fairness, openness, transparency and plain democratic decency, those who have taken the trouble to make submissions should be advised of the outcome, should be given a copy of the advice.

What we find out is that it is after the horse has bolted, as I have said, but when you look at something like the Mount Barker rezoning, where (I have forgotten the exact number) I think 500 or more people made submissions—

The Hon. D.W. Ridgway: It was 540.

The Hon. M.C. PARNELL: —540, the Hon. David Ridgway corrects—and if it was not 100 per cent it was 99.9 per cent against the rezoning at those hearings, yet we did not find out that the Development Policy Advisory Committee recommended in favour of rezoning until a considerable period after the meetings had been held, after the horse had bolted, long after there was any ability to do anything about it. So, we need to bring back that reform.

I have mentioned the abuse of interim operation. We are going to reprise that bill as an amendment to this bill. I also want to reprise another private member's bill I had, which was to prevent private developers from taking advantage of government fast-track rules for crown development. I mentioned the Torrens Island case, but we also had a number of proposed developments on Spencer Gulf, in particular various mining ports, that were absolutely private developments. There was no doubt they were private developments, yet they were allowed to be assessed and approved using the crown development provisions of the Development Act. Those provisions are replicated in the bill before us, so therefore we need to fix this bill as well.

In parliament over the years I have also moved the disallowance of many development regulations, and certainly, as has been said before, the devil is in the detail in this system. The regulations will be important: there is no proposal to diminish the rights of parliament to disallow regulations, but of course the government may well decide that more of the detailed planning policy will be put into other planning documents, such as the design code, rather than in regulations to try to avoid their being disallowed. I am suspicious: I think the government has given itself more options, with more subsidiary planning documents, and I am nervous about the fact that things that traditionally might have been in regulations might be put in some of these other documents.

I have tried on numerous occasions to reform the ERD Committee, and again I will have another go at that, but as I will refer to a bit later on when I talk about some of the other amendments

I have, I think it is time to now bypass the ERD Committee. The Environment, Resources and Development Committee does play an important role in scrutinising planning policy, but it must not be the sole gatekeeper between the people and the parliament.

People who are calling for the parliament to dismiss inappropriate planning policy expect the parliament to actually consider it and vote on it. They do not expect a smaller subsidiary group of six government-dominated committee members to be the gatekeeper between them and their elected representatives. So, I will be proposing not just the reform of the ERD Committee but the bypassing of that committee when it comes to the disallowance of planning policy.

In the past we have also argued or debated the appropriate jurisdiction of the Environment, Resources and Development Court. As I understand it, it is proposed that that court is to stay for the time being. There have been various conversations over the years about whether it is going to be merged into the Civil and Administrative Tribunal. My main interest in that court is that it maintains the jurisdiction it has and, in particular, it needs to maintain its jurisdiction over judicial review.

I mentioned in my contribution earlier that a number of residents groups and a number of local councils have had to go to the Supreme Court in order to make the case that the government has behaved illegally in relation to the Development Act. I think that having to go to the Supreme Court is too onerous, given that it is a cost jurisdiction. It is expensive and it is slow. I want to make sure that the specialist Environment, Resources and Development Court has that power. I also want to make sure that some of the major disincentives to civil enforcement are removed from this bill.

At present there are a number of tools that the government or developers can use to effectively make it impossible for residents groups to enforce the law. They include things like undertakings for damages, undertakings for costs and adverse cost orders. They are disincentives of such a magnitude that most community groups will not pursue action in the face of those impediments. So we have to make sure that that is fixed as well.

The final issue I want to raise is that of significant trees, because that is back on the agenda. Significant trees are regulated under the Development Act. They will continue to be regulated under the Planning, Development and Infrastructure Bill. We do need to again debate whether or not it has been made too easy for significant trees to be chopped down with no evidence being provided. I know that the majority of the parliament in the past wanted to make it as easy and as cheap as possible to chop down large significant trees, so the inability of the decision-maker to require an arborist's report was at the heart of those changes. I want to make sure that there is the ability to engage an arborist in situations where it is required.

That is a bit of a trip down memory lane: the issues that we have dealt with in my time here over the last 10 years in relation to the Development Act and why I say they are still relevant to this new bill and how we want to reform them.

I now want to go back to first principles because I think there are some fundamental flaws in the philosophy behind this bill that we need to address if we are going to end up with a bill that South Australians can have confidence in. I am going to actually pose the threshold question: what is planning law designed to do anyway? What is it for? What is the purpose of it? Certainly this bill, as we have said, is a complete rewrite of the Development Act, but the bill does much more than that: it will actually determine the nature of our cities, our towns, our suburbs and our regions for decades to come. Getting this right will result in good outcomes. Getting it wrong will result in bad outcomes.

The bill will also determine whether some of the government's other aims will be achieved; for example, carbon neutrality. We have heard about that today. We heard about it over the weekend. I think 7,000 South Australians marched in the climate rally. Minister Hunter released some new state government strategies aimed at reducing our carbon footprint.

However, there is a fundamental issue that if we get this planning system wrong then we will undermine that attempt to decarbonise South Australia. I have already mentioned Buckland Park; they knew they were never going to get decent public transit out there, they knew it would be a car-dominated, satellite, commuter suburb, and they knew that most families would probably not be able to survive without two cars. That goes directly against the government's stated climate change objectives.

The urban growth boundary has been mentioned, and that is going to be a big part of this debate. My concern is that I think the government might not have the numbers on that at this stage, but we will wait and see. Certainly, the Greens' position is that we have always supported restraints on urban growth, we have railed against urban sprawl, and we will have a look at what amendments the government or the opposition might have in relation to the urban growth boundary; however, it is a fairly fundamental thing.

What I am getting at with this is that as an enabling piece of legislation this new bill, when it is enacted, will not of itself make anything happen. You can have the best structure plans, the most comprehensive future urban character statements, you can have all the right words, but there is nothing in this bill that actually makes any of that happen. The bill does not make the government extend the tramline, it does not force the government to build parks or community infrastructure. The bill is an enabling piece of legislation, but it has to wait for someone to come along with an idea. If no-one comes along with an application for development then the act has very little work to do.

The purpose of the Development Act, as stated at present, is not repeated in the new bill. The old act, the current act, talks about orderly and economic development, but the meaning of 'orderly and economic development' is something that has changed over time. Back in the 1930s, 1940s and 1950s it probably would have seemed orderly and economic to build workers' accommodation as close as possible to the factories. It would have made sense; people could have walked to work or could have ridden their bikes to work. Now that we know more about the impact of noxious industries on human health we believe that is not such a good idea, you do not want noxious industries hard up close to where people live. So the thinking on orderly and economic development has changed over time.

In my view, at the heart of the planning system—given that it is a responsive system, it responds to things that you want to do—is this principle: that the public interest requires the curbing of the natural tendency of individuals to maximise their personal outcomes, often at the expense of public outcomes. The way the planning system deals with that is by saying to landowners, 'You can't just do whatever you want.' That might sound a bit folksy or as if I have synthesised it down to an absurdly simplistic rationale but it is important to recognise that, because the key element is that what we are doing is curbing the natural instinct of people to maximise their self-advancement.

Of course you can make more money putting more houses onto a block of land and minimising the amount of open space, you can make more money by pushing certain developments where they might not be wanted by the local community but where you think you can make a profit. The planning system says, 'That is not on. We're going to have orderly and economic development, but we also want to deliver' and again, this will sound very folksy but it is at the heart of the planning system, 'happy, functional, secure communities that are living within the natural constraints of the environment.'

None of those concepts are really built into this bit of legislation. There is no concept that what we are really aiming to do is to deliver happy, functional and secure communities living within the natural constraints of the environment. They are foreign concepts in this bill, and we need to revise the objects clause and we need to build those in, because the current objective is in relation to growing the economy. It is about economic growth, it is about promoting development, but growing the economy is not the objective of the planning system.

Economic activity is not an end in itself; it is a means to an end. It is a way of obtaining wealth and productive employment and value in our lives. It is not an end in itself. There are far more sophisticated thinkers than I who have put their minds to this issue about what the objects of planning legislation should be, not the least of these is Professor David Harvey from the University of New York. Professor Harvey is now over 80, but he has been one of the world's leading researchers in neoliberal economic theory for many decades. In his 2008 work, 'The Right to the City', Professor David Harvey notes that:

> We live, after all, in a world in which the rights of private property and the profit rate trump all other notions of rights.

In a melancholy way, he is stating that as a fact. That is at the heart of the current bill before us. It is about private property and it is about profit; it is not about the rights of citizens. Professor David

Harvey goes on to argue that one of these rights that a citizen should have, and they should have this right collectively, is what he calls 'the right to the city'. The professor says:

> The question of what kind of city we want cannot be divorced from that of what kind of social ties, relationship to nature, lifestyles, technologies and aesthetic values we desire. The right to the city is far more than the individual liberty to access urban resources: it is a right to change ourselves by changing the city. It is, moreover, a common rather than an individual right since this transformation inevitably depends upon the exercise of a collective power to reshape the processes of urbanization. The freedom to make and remake our cities and ourselves is, I want to argue, one of the most precious yet most neglected of our human rights.

That is the end of the quote, and at this point, with the words of Professor David Harvey ringing in your ears, I seek leave to continue my remarks.

Leave granted; debate adjourned.

Parliamentary Procedure

VISITORS

The PRESIDENT: I would just like to acknowledge Tracy York and the players of the Adelaide Lightning, who have the great luck of having dinner with the Hon. Mr Stephens tonight. So, welcome, it is lovely to have you here, and enjoy your dinner.

Sitting suspended from 18:02 to 19:47.

Bills

PLANNING, DEVELOPMENT AND INFRASTRUCTURE BILL

Second Reading

Adjourned debate on second reading (resumed on motion).

The Hon. M.C. PARNELL (19:47): I feel that the last few things I said just before the dinner break may well have been lost with people. We started getting a bit philosophical. I was quoting Professor David Harvey in relation to the rights of the city, and I think that once the clock has ticked over to 6 o'clock it is difficult to keep people's attention. Nevertheless, the relevance of the quote I gave was that it poses the question about whether the objectives or, as we use in legislative parlance, the objects of the bill are the right ones.

In other words, is this bill about promoting healthy communities, good neighbourliness, equity of access to public resources and a culture of sharing? Will it help us live good lives, be nice to each other and tread softly on the planet? Normally, when you talk like that, people roll their eyes and they think, 'Well, Parnell is off with the fairies. He has completely lost it', but think about it. Is our existence in cities purely as consumers and part of the economic cycle or is there more to it? If there is more to it, and this is a bill about planning for cities, then why do we not ensure that the bill has as its objects the things we are really trying to achieve? The bill, according to its objects clause, states:

> The primary object of this Act is to support and enhance the State's prosperity…

It then goes on to identify that this will be achieved through a planning system that 'promotes and facilitates development'. It is only as a secondary objective, the creation of a scheme:

> …for community participation in relation to the initiation and development of planning policies and strategies.

But if you are looking for more social or environmental objectives, they are much further down the list in subsidiary principles of planning. I made the point before the dinner break, and I will say it again, that development and economic activity is not an end in itself; it is basically a means to an end, and that end is a cohesive community, a coherent and caring society and one that treads more lightly on the planet.

At a technical level, what is unsurprising about the bill and about all predecessor bills is that it has at its heart two main issues: first of all, the writing of planning policy, in other words, writing the rules; and, secondly, making decisions about individual development applications. This bill deals with both those points, as all previous bills have done, and that makes sense. The connection between the two is pretty simple: developments should fit within the planning rules; they should fit within the

framework of planning policy. If the development does not fit or it cannot be made to fit, then it should be rejected.

But are they the only issues that the planning system should address? I would say that the planning system has been overly narrow in past years because it has been reluctant to deal with activities and the behaviour of people that also impact on our quality of life. The land use planning system has been very poor at regulating behaviour. Certainly, the planning system can zone land as being suitable for industry, but it does not speak to pollution. The planning system can create buffer zones, but they are often very crude, they are sometimes insufficient, and at other times they are unduly restrictive of other land uses.

We can zone land as suitable for farming, but the planning system is silent as to the impact of farming—for example, chemical use. That raises an interesting issue. The Hon. Robert Brokenshire often comes in here with legislation dealing with the right to farm which, on his interpretation, has included the right of farmers to pollute to the extent required in order to farm. The take-home message from legislation such as that is, 'Don't complain about spray drift or vapour drift; that's just part of farming.'

I think the planning system can be more robust, and I would like to think that in this bill we incorporate some principles that allow planning to go a bit further. I will just give one example that members would not have heard about. It is not earth shattering, but I think it is an important one. Several years ago, the town planner at Mallala had an idea that one way of using the planning system to overcome disputes between farmers and the growing residential population would be to try to zone land for a form of low impact farming. The sort of low impact farming they had in mind was, for example, organic farming that did not use chemicals and therefore was more safely conducted hard up against residential areas because there was no risk of spray drift and chemical contamination.

However, he was very quickly howled down. The people in Planning SA would have no bar of using the land use planning system to determine the type of farming. It was either a farming zone or it was not, and they were not prepared to countenance that you might have a type of farming zone that was low impact farming or, in particular, non-chemical farming. I think we can do better with the way we treat land use planning.

In terms of the problems with the system, whatever you think is wrong with the system will largely be determined by who you are. In other words, the answer to what is wrong with the planning system will differ whether you are the state government, a big developer wanting to build a new housing estate, a small developer wanting to add a swimming pool or a carport or a rumpus room, or whether you are a community group that wants to protect urban character or heritage. I want to go through some of the criticisms that have been made by those different sectors and problems they have identified with the planning system so that we can address the question of whether this new bill is, in fact, an improvement on the old.

That is the question: does the bill improve the status quo? If it does not improve the status quo, we should vote it down and stick with the status quo. f it does or can be made to improve the system, then it deserves support.

As I started to say before, one of the overall issues that we are looking at is: on whose behalf are we planning? Are we planning on behalf of the whole of the community? Are we planning on behalf of big developers? Are we slaves to trickle-down economics, so that we think whatever development people with money choose to undertake will necessarily be good for the rest of society as the benefits trickle down?

We also need to ask ourselves what the balance should be between the executive, the legislature and the judiciary. I make no bones of the fact that I think that the balance is wrong. I think it is too far in favour of the executive and not enough in favour of the legislature and the judiciary. You may well say, 'You would say that', because I am not in the executive.

One of the problems we have got is that, even though in their heart of hearts many members of the opposition know that I am right when I am trying to put the brakes on the executive and the planning system, they tend to squib at the final moment, because they know that one of these decades they will win an election eventually and they will become the executive, and they want the

powers that they rail against the government for exercising, but, of course, they will in government exercise them so much more sensibly; so they have never really supported a wholesale attack on the unfettered power of the executive, as I have been trying to do for the last 10 years.

In terms of the overall principles, there is one other one that I just want to touch briefly before I go into a sectorial analysis, and that is one of the points that is at the heart of the government's bill which I think it has got completely wrong and which I will be moving amendments to try to overturn. It relates to the government's assumption that the only proper time for citizens to be engaged in planning is at the front of the process when policy is being determined. The bill makes it very clear that when we get to the pointy end of the system, when individual development applications are being assessed, the role of the community will be severely curtailed.

The reason that I think the government has missed the point is because they have fundamentally failed to understand the way communities work and human nature. If we were living in a science experiment, I would agree with the government that technically, yes, if everyone gets involved in writing the planning policies, when individual developments come along no-one will need to have their say because they have had their say already, and it is very clear what is allowed and what is not, and therefore you do not bother notifying people about developments and you do not bother giving them appeal rights.

However, human nature as we know it and as I have certainly experienced it in the last 20 years is that, try as you may, you will only get a certain proportion of the population to get excited to come along and involve themselves in debates about planning policy. When I spoke at the Burnside Ballroom at the Community Alliance forum, to illustrate this point I put two photos up. Photo one was the meeting hall to discuss strategic planning—it is a room full of empty chairs.

The second photo was the meeting called to discuss the new development at the end of the street—that is full of people. You will fill a hall to talk about real developments happening in real neighbourhoods. You will struggle getting many people along to talk about generic planning policy. It is just the way it is. We can rail against it, we can say that people are stupid and they should get involved earlier, but it is not the way communities work.

Rather than insist on applying this theoretical model that communities should comply with the way the government want to do things, I think the government needs to just get with the project, and understand that people want to be engaged at all levels and not just at the planning policy level. In terms of the problems, the question we have to ask ourselves is: are they real or are they imaginary and to what extent are they addressed in the bill?

If you look at it from the government's perspective, one of the first problems that they have identified is that the quality of developments being approved is inadequate. To a certain extent, that issue is being dealt with in terms of new design processes that large developments have to go through, and those are processes under the existing act; so the new act I do not think will necessarily make much of an improvement there on top of the powers that are already available to government to insist on better design.

Many of the government's other stated problems with the planning system are shared with the development industry. I have talked about some of these already and I will not repeat them, but I think the government and industry have in common, for example, a concern that the level of building activity is too low and that somehow it is the fault of the planning system rather than the fault of the economy or the availability of finance, or anything like that.

As I mentioned, the government's hasty interim rezoning of land in the city was fuelled by a fear of not enough cranes on the skyline. The Mayfield development was the result, as I have explained. The point that I would make in terms of the level of building activity is, yes, we want to see people employed and we want to see a healthy building sector, but there are jobs in good development and there are jobs in bad development. It is not a question of an insistence on good development being bad for jobs. They are just different jobs; they are jobs building good developments.

The government and industry also complain that developments are not being approved either quickly enough or at a sufficient rate. I would disagree with that strongly. I note that on 17 November the annual report 2014-15 on the administration of the Development Act was tabled in the House of

Assembly. I think it was probably tabled in this chamber as well, but they have a much better online recording system for tabled papers, so I have the version from the House of Assembly.

When you go through the figures that are in that report, the message that you get from it is that overwhelmingly the answer to development applications is yes. Overwhelmingly, developments are approved. The few that are not approved are either clearly inappropriate—they are people pushing the envelope—or where problems have arisen and the applications have been withdrawn. Overwhelmingly, they are approved.

I will refer to some statistics from one council a bit later on. I asked Norwood, Payneham & St Peters for their detailed development approval statistics. In a nutshell, there were over 1,000 approvals, worth well over $100 million, and they were nearly all approved within the statutory time frames; in terms of the averages and the medians, they were all pretty good. I do not think that is a real problem; I think that is an imaginary problem.

Developers and the government complain that different councils have different approaches to planning. From an industry point of view, they do like the idea of one size fits all and that if a development is good enough for the Barossa, it is good enough for McLaren Vale. If it is good enough for the inner suburbs, it is good enough for the outer suburbs. The result of that approach was this government regulation that I referred to earlier, the $3 million aggregate spending regulation which was used by the On the Run chain to get their developments through in a variety of locations.

They were not prepared to accept that different councils might have different standards and that something appropriate in one area was not appropriate in another. The housing development industry often complains that the different zones for different types of housing should be uniform. We do not live in a uniform society. Different areas have different character; I do not think we should be foisting one size fits all across the whole of Adelaide.

The industry complains about the cost of development, and in particular the cost of infrastructure. Interestingly, there are duelling consultants out there, addressing the question of whether infrastructure is more expensive in an infill situation or whether it is more expensive on the fringe. I must admit that I have always assumed that it was more expensive on the fringe, and there is certainly a government report that indicates that, but the Housing Industry Association is very keen for me to see their report which showed that, in fact, infill development was far more expensive from an infrastructure perspective. Again, there are some issues we have to look at there.

I mentioned that industry complains about delays in development. I do not think the statistics bear that out. Certainly, there is one area of considerable delay and that is in the planning policy area in rezonings in development plan amendments. My understanding is that overwhelmingly the cause of that delay is the state government and state government agencies rather than local councils.

The industry is very worried about the planning system imposing limitations on their future options. That is code for 'they like urban sprawl, they have made their money off urban sprawl, and they want to see more urban sprawl.' We will have that debate when we get to the committee stage next year and we deal with the urban growth boundary question.

The industry wants certainty of outcomes. They do not like appeals, obviously. They like to think that, having gone through an administrative process, whether it is with a council or the Development Assessment Commission, that that is it, and that a yes means a yes and no-one can challenge that.

I think the appeal statistics, as I have seen them, do not indicate a serious problem with third-party appeals. In fact, I have the statistics for probably the last four or five years and what you find is that applicant appeals—that is developer appeals—far outnumber third-party appeals and that the numbers have been fairly constant over the last several years.

For example in 2012-13, there were only 30 third-party appeals lodged. Mind you, seven of those resulted in a reversal of the decision so they were dead right. Most of those third-party appeals were resolved without the need for a hearing, but the third parties won more often than they lost when it actually went to a verdict.

In the year before that, 2011-12, there were 37 third-party appeals and, again, of those, 13 resulted in either a reversal of the original approval or a variation. Only three of those approvals survived intact, and each year the statistics are similar.

If we take the most recent figures, there were more third-party appeals—still less than half the number of applicant appeals—but of the 70 third-party appeals in the year 2014-15, the vast bulk of them (56 of them) were resolved without the need for a hearing. With only two the third party was basically thrown out and they lost, but with six of them it resulted in a reversal of the decision.

The point that you get from these statistics—I could go through more of them—is that third parties do not appeal lightly. They very rarely have the option of appealing; it is in very limited circumstances, and when they do they have more of a chance of winning than losing. I have said that as a fairly bold statement. What is hard to tell is the vast bulk of them that are settled. We do not know on what basis they are settled. Some of them might be settled with the appellant getting nothing. My guess would be that they would probably get something, but the point is that when they go to trial, third parties have a good record of proving their case.

When we look at problems with the planning system from the community perspective, certainly the issue of appeal rights and participation more generally is at the forefront. I mentioned before that the Community Alliance's slogan is 'putting the people back into planning'. If we want to look at the framework for how you do put people into planning, a good place to start is something like the European convention on public participation in environmental decision-making (known as the Aarhus Convention).

Whilst it is a European convention, it has been signed by lots of other countries outside Europe in Central America and Africa. Basically it says that there are three main components to public involvement. The first one is access to information, the second is public participation in decision-making, and the third is access to justice. That is a useful framework to look at this.

When it comes to access to information, my experience over many years is that councils, in particular, vary in the scope of information they provide, and state agencies are similar. It has often been a tortuous task to obtain access to documents involving going to a shopfront at the council or the DAC.

Sometimes, they will take photocopies for you; more often than not, they will not let you. Sometimes, they get very confused about laws of copyright and suggest that, even though something might be a category 3 development where you have a right of appeal, they will still deny you copies of the documents. My advice as a lawyer to people is, if you get any grief in terms of obtaining documents, just appeal. Just lodge an appeal, then they have to give you the documents, and they give them to you for free. That was always the comeback to reluctant planning officers not wanting to hand documents over.

This new planning bill, I think, in the regime of access to information, does hold potential to be a lot better. The planning portal, if used properly, could be a great tool for the community to actually get access to information, but only if the government is truly committed to it and it does it properly; in other words, it puts all the information online, it does not charge people for accessing online material, and it emphasises pushing material out rather than forcing people to make applications to bring material in. If they can get that right, then it could be a good case study.

As I have mentioned, I will be moving to delete the provision that says that the Freedom of Information Act does not apply. The point is, if you understand the Freedom of Information Act, it does not apply anyway if information is published. If an agency routinely publishes information, then the FOI Act is irrelevant but, if the government declines or refuses to publish information, why should the community not be able to go through the FOI system to at least access the umpire—the Ombudsman—in terms of accessing that information?

A blanket prohibition on FOI, coupled with an anal-retentive government that does not put much stuff up on the portal, is a disaster and will send us backwards. There is an element of trust involved, but I will be looking for commitments from the government in relation to what they put on the portal.

I actually mentioned the Mount Barker FOI case. The other one I did not mention was the Festival Plaza, behind Parliament House. I tried to get the documents about what they are proposing for behind Parliament House and, again, they dragged that out in court for over a year with, basically, the objective being to make the documents as stale as possible before I could get my mitts on them, and then they withdrew their appeal. It is a no-cost jurisdiction, so I could not do anything about it.

I eventually got the documents, and that was one of the first disclosures of these multi-storey blocks that were proposed for the Parklands between Parliament House and the Adelaide Festival Centre. As I say again, we are going to be fighting very hard to keep the Freedom of Information Act alive for when the government does not routinely publish planning information.

The second of the Aarhus principles is public participation in decision-making. I have mentioned already that the government says they only really want people to engage in discussion of planning policy. I am saying they need to be engaged at the development application stage as well. It is not either/or, it can be both.

In terms of access to justice, I will be pushing for increased rights for citizens to go to the umpire and get a second opinion on a whole range of planning matters, certainly merits appeals. By a merits appeal, I mean: does the development comply with the planning scheme? That is what merits appeals are about.

The nature of our system is, because so few development applications trigger an appeal right, decision-makers can make the worst decision possible, they can make terrible decisions, they can completely disregard the planning scheme, and they know nobody can do anything about it. It is a recipe for bad decision-making. As I said before, appeal rights are a silent sentinel for good decision-making. The fact that you can go to court, even though you probably will not in 99 per cent of cases, is what provides incentive to decision-makers to make good decisions that are consistent with planning policy.

I mentioned judicial review and civil enforcement as well. We need to remove the barriers to civil enforcement and undertakings as to costs and damages. The number of civil enforcement cases in the last 20 years you could count without taking your socks off. There have been very, very few such cases brought by third parties.

Major projects have been immune from legal challenge for a long time. In fact, worse than just immune from merits appeals, they have been immune from judicial review was well, so we will be having a close look at those provisions to make sure that major projects can be challenged when the government fails to comply with proper processes.

Another concern that the community has is in relation to the extended ministerial power. The minister assured us, as this process was underway in the last couple of years, that he would be giving up some powers and that these new bodies would be created. But one of the questions we have to ask is: how arm's length are these new bodies? I will come shortly to the Planning Commission, which ostensibly is at arm's length but, depending on how the government directs it, it can become a puppet of government.

The community is worried about the corrupting influence of big business and political donations, and I have mentioned that. I alluded to it in passing but said that I would come back to it. I talked about the famous Matt and Dave interview from about 2008. John Blunt, I think his name was, one of the project managers, I think, for the Makris corporation—I think I have got that right—

The Hon. R.I. Lucas: No, CEO.

The Hon. M.C. PARNELL: The CEO of the Makris corporation: I am indebted to my colleague. He was asked by either Matt or Dave (I cannot remember who), 'Why do you give money to political parties? Why do you make these donations?' The answer was as blunt as the fellow's name. He said, 'We want our projects to happen. That's the way business works here.' It was the bluntest statement I have ever heard from a developer as to why they give money to political parties: they want their projects to happen; it is the way things work here. The community hears those sorts of things, and they have always known it, but here was someone actually saying it, and they want that fixed.

The community also lacks, I think, at a more general level, confidence in the integrity of the planning system, and planning policy in particular. They see the rules being broken with impunity and that raises the question whether, in planning policy, they are rules or guidelines. Most planners would say that they are guidelines but, when they are guidelines that are interpreted in such a loose manner that the final product is unrecognisable from the guidelines, is it any wonder that communities become discouraged and disillusioned?

The best case study I think has to be Unley Road, the increased densification of inner urban transport corridors, where the zone clearly said a five storey maximum—no more than five storeys. The very first application lodged under the new system applied for seven storeys and it got approved. The community looks at that and shake their heads and think. 'Why do we bother? Why do we even bother engaging with government and negotiating on planning policy when, the very first cab off the rank, they push the envelope and get away with it.' That is another one of these own goals. When the community sees that, they lack trust in planning policy and insist on having more of a role in development assessment, so they say, 'Forget planning policy. Give us appeal rights over every development.'

The community I think also is concerned about the impotence of parliament. I referred before to the parliamentary scrutiny provisions of the current Development Act. The new bill provides that parliament can be consulted earlier, but the fundamental problem with the system (the fact that there is a government-controlled gatekeeper between the community and the parliament) makes it unacceptable. In fact, during much of the last eight years, whilst encouraging people to come along to the Environment, Resources and Development Committee, I have spent a lot of time on expectation management.

I have to say to them, 'You get a chance. You get on *Hansard*. You come along to the committee and have a say, but you know the parliament has never, ever rejected a development plan amendment, whether from a minister or anyone else.' It is disappointing for me to have to say that. I would love to say to people, 'Come along to parliament. You never know your luck. You might, through persuasive argument, convince the committee to recommend either changes or disallowance,' but I cannot do that: I am on expectation management.

When we look at the problems of the planning system through the eyes of local government, we see a few other issues that I have not actually touched on much until now but I think they are fairly critical, and they have certainly flavoured the Local Government Association's input to the bill and those of individual councils and councillors.

Councils do not appreciate being painted as the problem in the planning system. They do not accept that they are the problem. They do not accept that they are too untrustworthy and too incompetent to participate in development assessment. They do not appreciate the fact that their elected members are precluded from being on development assessment panels. In fact, under this bill, there are only two classes of people who are so untrustworthy and so incompetent as to be precluded from being on development assessment panels: elected local councillors is one, and state members of parliament is the other—so, we are in good company.

Local councils do not appreciate that they are often overridden by ministerial prerogative. If I had a dollar for every time, in the Environment, Resources and Development Committee, we have had a local government come along and tell us about the exhaustive process of consultation and research they have done to come up with appropriate planning policy for their area only to have the minister override it on a whim or, more often, override it on the back of lobbying from some big vested interest! They hate that. They know that they are the poor cousins in the system. They want to be treated with more respect.

I think that is at the heart of most of the local government concerns. The Hon. David Ridgway went through some of the submissions that had been received. I am not going to repeat the ones that he outlined, but—

The Hon. R.I. Lucas: Hear, hear!

The Hon. M.C. PARNELL: The Hon. Rob Lucas can see the size of my lever-arch file and he will no doubt urge me to read every submission that I have received, but there are hundreds upon

hundreds of pages. I am not going to take the bait, and I will not be reading them all—as much as he would like me to—but I will start with the contribution of the Local Government Association.

I think it is fair to say that they have been very thorough and very diligent in analysing the legislation at the earliest possible opportunity. I have appreciated the time that they have spent with me to try to understand the consequences of the legislation. They came out very early with a spreadsheet showing all the clauses of the bill and all the amendments that they thought were necessary. I was pleased to see that a large chunk of those were accepted by the government in the lower house. Mind you, they plucked the low-hanging fruit. It is pretty simple just to write into the bill, 'And by the way, make sure you don't forget to consult local council.'

That has been incorporated into quite a few provisions, but that is a good thing. I do not want to demean it, but there are some more significant issues that are still outstanding. In fact, if we look at the LGA's formal submission to this bill, the first sentence of the executive summary says it all:

> As drafted, the Bill significantly curtails the role of communities in the planning system and will not be supported by the LGA.

So, that is a pretty bald statement at the start of the executive summary—that the bill, as drafted, is unacceptable. I think that is probably similar to the Greens' position, that if the bill is not sufficiently amended we will not be supporting it.

The LGA, in their submission, point out, as I have, that the objects of the act are inadequate because they overemphasise the economic considerations at the expense of social and environmental. To quote the LGA's submission:

> The State's environmental and social aspirations do not feature in the objects of the Act, creating the impression that they are not important considerations in the planning processes. The LGA believes that South Australian communities want a system that strikes a balance between competing demands for the use of land and this should be reflected in the objects of the Act.

The submission goes on for another 13 or so pages, and I will not refer anymore to that submission, but I will refer to the campaign that the Local Government Association has undertaken. I think it has been a very professional campaign. They have radio advertisements running on FIVEaa and, under the heading 'Keep planning local: have your say', they are using the slogan, 'No voice, no choice'.

I think they have done an excellent job in drawing attention to the fact that local councils are at the coalface in our cities, towns, suburbs and regions, and that they do need to be involved at a greater level in the planning system. In fact, they have actually gone to the trouble of putting out a myth-busting press release following an interview with minister John Rau on the Leon Byner show on 13 October.

They have put two pages out with what the minister said and what the facts of the situation are. The first myth-bust that they try to do is where the minister says that local councils have a poor track record of consistent decision-making. Again, you have a look at the statistics on a council-by-council basis and I think you will find that councils are not the problem. I will not go through the rest of the myth-busting.

The Hon. David Ridgway referred to two documents which are very recent. One of them is dated today from Wallmans Lawyers, who have been providing advice to the Local Government Association, and the other was some briefing notes from a meeting last Friday which the LGA held with planning minister John Rau. The Hon. David Ridgway read much of this into the *Hansard*, so I will not do it again, but the point is that as of, hour by hour, last Friday and again today, we still have stakeholders who still have serious concerns about the bill and are still wanting to engage in dialogue with members of parliament.

I say again what I said before: when we get to the end of the second reading of this bill, regardless of whether everyone's amendments are filed or not, I will be moving for the debate to be adjourned and for the committee stage to be undertaken next year. It will not be a question of whether all the amendments are in or not, because having the amendments in does not help with stakeholder consultation. We still have to talk to people in the community.

Just this afternoon, I think it was 4 o'clock (I haven't got the timestamp on it), we finally got the 70-something amendments from the government. Hopefully tomorrow, you will have 100 or more

from me. You will have a handful from David Ridgway and, as I have said, I think Kelly Vincent, the Hon. John Darley, Family First—

The Hon. K.L. Vincent: Just a handful.

The Hon. M.C. PARNELL: A handful? But there are more to come. My point is, regardless of whether we have all the amendments tabled and filed by this week, it is still inappropriate for us to be dealing with this bill in committee next week. Like I said, I am not lazy: I am happy to come back to work next week. We can do other bills; we should not do this bill.

In terms of other submissions I have received, there is quite a wealth of material from the Local Government Association, but I will skip over that and I will go to just some of the councils, because I do want to also put on the record my thanks to those who have taken the trouble to write to me. These are in no particular order, but a former colleague of mine, Kris Hanna, the Mayor of the City of Marion, has written an extensive submission. Again, the key point they have made is there is a reduction in the role of local government in the planning process, and they are not happy.

It does not take rocket science. All of us have worked with people in local government. The majority of people who put their hand up to serve at the local level do so because they have a passion for their local area, and that includes the future development of their local area. It is the main reason most people get involved in planning. So, to rule these people out or to diminish their role I think is the wrong way to go. The City of Marion points out that there is a reduced role for local government. The council says:

> 'The Bill' appears to propose a reduction in the role of Councils in both development assessment and planning policy setting. We believe local government and the democratic representation it provides should be central to any new planning system.

They also bat not just for their own elected members; they bat for the community. They say that there will be less community involvement in development assessment. Again, to quote the council's submission:

> Council acknowledges that a new Community Engagement Charter may well provide for meaningful engagement at the policy setting stage. However, this appears to be coming at the expense of engagement at the development assessment stage. It is our observation that the broader community does not interact with the planning system until it directly affects them as either an applicant or representor with direct interest in a specific development application.

He said in fewer words what I said in more words: people do not engage in planning policy, but you try to build a block of flats at the end of the street or a crematorium across the suburb or any other form of development and you will fill the town hall, because people will want to have their say. My thanks to the City of Marion.

The City of Onkaparinga have actually sent a very extensive submission, including a clause-by-clause breakdown of the bill. I should say, all of these submissions relate to the bill as introduced into the House of Assembly. Of course, the bill that we finally received (the one that I did not make the Clerk read out) last Friday was different, and I am still not sure whether it was 85 or 90 amendments that were made. So, councils went to a lot of trouble to tell us what was wrong and what we needed to fix. The letter from the Mayor of the City of Onkaparinga, Lorraine Rosenberg, states:

> At the heart of our objection is Minister Rau's clear intent to remove local government from the planning system, which in turn denotes a loss of community influence and involvement in the management of *their local places*.
>
> We believe that local government should be central to the success of a new planning system. We have the proven ability, processes and expertise to achieve this. We are best placed to understand *our community* and we always ensure that development policy reflects the character and culture of *our places*.

That is pretty straightforward, and those sentiments are reflected in other submissions. This submission is directed to all members of parliament, not just to me, and their plea with us is as follows, they say to members of parliament:

> You are critical to the success of our communities in enabling them to have a voice on development proposals that will affect them. Together we need to stand up for our local communities and ensure that they continue to have the right to have a say on what is happening in their local community…It is essential that we work together on this

crucial issue for our communities and we have developed information that will assist you in understanding the effect that this Bill will have on them.

I thank Lorraine Rosenberg and her staff for the comprehensive submission they have put in. I would also like to thank Bill Spragg, the Mayor of Adelaide Hills Council, for their detailed comprehensive submission with a spreadsheet. I will not go through all of the issues, but the themes are much the same: they are railing against what they call the denigration of the role of local government in the development assessment process. They say:

> Our Council supports any changes to the planning and development system which will make the system operate simpler, better and faster. However, we have some significant concerns in relation to the essential principles and architecture of the reforms as outlined in the Bill...

Again, primarily the diminution of the local community role. The Barossa Council put in an extensive submission under the hand of the Mayor, Bob Sloane. I will not refer to that in detail, but it is very similar. The Yorke Peninsula Council forwarded to members of parliament their submission to the Local Government Association. Their concern is, as well as the ones raised already, around cost shifting between state and local government.

They also point out that the planning minister is gaining significant extra powers in relation to the planning process, but local councils will carry the burden of administration, finance and enforcement. We will deal with those issues when we come to some of the amendments. So, that is the Yorke Peninsula. The Adelaide City Council has a comprehensive submission. Lord Mayor Martin Haese states:

> Council encourages reform that delivers efficiencies and benefits to business and the community but finds the lack of detail on the associated bodies of work and an implementation plan has made it difficult to reach a comprehensive position on the Bill.
>
> This Bill is a significant piece of legislation that warrants careful, thoughtful and detailed consideration. The Council shares the opinion of other stakeholders in that there should be more time to fully consider the Bill before it progresses through parliament.
>
> For this reason, Council calls on the State Government and members of Parliament to provide all stakeholders more time to fully consider the Bill before it progresses through parliament, particularly given the importance of the Bill and the long implementation phase of 3-5 years.

On the basis that the bill is before parliament they have provided some comments, but I think we need to heed their call. They have come to this conclusion a month after the bill was first tabled. What we have to remember is that these councils have access to considerable professional planning staff to provide them with advice. Members of parliament are not so lucky. I know that, certainly, members on the crossbench have struggled with some of the technical aspects of the bill. It is complicated stuff. If our premier local council, the Adelaide City Council, is saying that it is struggling with it, then I think we need to heed that advice and take our time.

The next local council is the City of Norwood, Payneham & St Peters. Again, it has put in a comprehensive submission. This is the council I mentioned also that had provided me with its statistics in relation to the developments it has approved in its municipality. For example, the number of development applications lodged usually number around the 1,000 mark. The value of those developments was $133.6 million in the last year. The proportion in a typical month is 221 approved, 10 refused. So, the councils are in the business of saying yes to reasonable development applications. The council in its letter to planning minister John Rau says:

> The council considered the bill at its meeting on 6 October and generally welcomes the comprehensive review of South Australia's planning system and the overall aims of the bill. However, given that the bill represents the biggest overhaul of the planning system in more than 20 years, it is disappointing that key stakeholders in the planning system were not afforded sufficient time to review, understand and analyse the bill in detail.
>
> The lack of a formal consultation process on the bill does not appear to meet the obligations of the state government's own reforming democracy policy statement released on 13 August 2015, in which the Premier stated, 'Our vision is for the government to make better decisions by bringing the voices of communities and stakeholders into the issues that are related to them.'
>
> The council acknowledges that the bill is reflective of the state government's proposed reform agenda, and that the legislation provides a framework that is intended to provide a planning and development system which is easier to administer than the current system. However, the introduction of the bill into parliament without the supporting

regulations and the planning and design code, which are integral to achieving the aims of the bill, means that it's not possible to provide meaningful comments on many aspects of the bill at this time.

I could go on as they have said more about community engagement, but you get the idea. Councils dealing with hundreds of millions of dollars, thousands of development applications, need more time to fully comprehend the provisions of the bill.

Mid Murray council put in a lengthy submission as well, which I will not refer to, but I thank Geoff Parsons, the Manager of Development Services, for sending that through. The City of West Torrens, Declan Moore, Deputy Chief Executive, made a detailed submission, and again very similar issues as raised by other councils, in particular the diminished role of local government. The Limestone Coast Local Government Association has written to us as follows:

The Limestone Coast Local Government Association is concerned that the timing of the debate on the Planning, Development and Infrastructure Bill provides very little opportunity for local government and the community to provide meaningful input into any discussion.

I am labouring the point, I guess, but here we have the biggest bill before parliament this year, the most complex bill, and I hope the government will see reason, but at present they are talking about pushing this through committee in the optional sitting week and, like I said, I will oppose that move, regardless of whether all the amendments have been lodged. In fact, once all the amendments are in, then we can start talking to local councils and other stakeholders about that.

I thank Berri Barmera council for its submission. The District Council of the Copper Coast has put in a submission. Then I come to the submissions that were made by community groups. In particular I have very much appreciated the support and advice I have been given by the Environmental Defenders Office. They have put forward a number of submissions. To declare my interest: as members know, I was the solicitor at the Environmental Defenders Office for 10 years, and I am a life member of the EDO and I value their input.

They are just biding time at the moment until a change of government at the federal level and until Legal Aid funding is reinstated. But they are not going anywhere; they are just doing it all on a shoestring at the moment. They have put quite an extensive submission forward. I will not go through it in detail now because it is largely technical in nature, but I will refer to that material when we do the committee debate in February next year.

I mentioned the Community Alliance, and there were a number of representatives in the gallery earlier today. They have put a detailed submission in and they have engaged the minister with this process the whole way through. They engaged Mr Brian Hayes the whole way through. They cannot be accused of having fudged their engagement, yet very little of what they have said has found its way into the legislation.

So I will be pushing amendments next year that are built around the two or three years that I have been working with this group and the various concerns that are born out of real life experiences such as the ones that I outlined at some length earlier. I will be working with the Community Alliance and I would urge members of the opposition and others to take heed of what they say as well.

One of their member groups, the Prospect Residents Association, have put in a submission, and again they are concerned about elected members being removed from development assessment panels. They are worried about the planning minister having too much control and they are worried about the emphasis on fast tracking approvals, which they say, and I agree, will lead to inappropriate developments being approved. They are concerned about the lack of consideration of social and environmental goals, similar to other groups.

The Friends of the City of Unley Society put a detailed submission in, and they make the point—and I think the Hon. David Ridgway might have made the same point as well—that this bill extends to well beyond the recommendations that were made by the expert panel, gives far more power to the minister than was envisaged and, if this bill passes in its current form, will result in a sense of community disenfranchisement and will not assist in addressing social needs and objectives. The Friends of Willunga Basin have written to me and, like a lot of groups, they are saying that they appreciate that after 22 years it is time to review the planning system but, as they say:

We believe there are elements of the bill which push the envelope too far and which are not favourable or desirable from a community standpoint. They remind us that being a developer per se neither bestows great wisdom

in all the circumstances nor guarantees good design or good taste and that the community has to live with the consequences of bad design and bad planning decisions for a generation or more.

They make the point that 'The broader community has a right to be involved in, and have input into, decisions which have long-term effects on matters of local interest and concern'—Geoff Hayter, Chair of Friends of Willunga Basin. I think in terms of the community submissions, that is all I will refer to.

I mentioned earlier that I have spent some time recently with the Urban Development Institute, the Housing Industry Association and the Property Council. I also have a detailed submission from the Master Builders Association, the group that was actively tweeting from the public gallery earlier in the day. Good on them for engaging in parliamentary debate.

The Hon. David Ridgway went through those submissions in some detail so I do not need to, but I just make the point, as I said earlier on: why is the government rushing this bill? Which stakeholders are urging them to rush it through this week or next? None of them. Not these industry groups and developer lobbies; they are not urging the bill to be rushed through. The community groups certainly aren't and local government certainly isn't.

I do not know whether the Hon. David Ridgway has some inside knowledge that the planning minister is not long for his portfolio and needs this chalked on his belt before he retires. It is not a rumour I have heard and the advisers are looking bemused, so they have not heard it either. The government has still not put any justification forward other than they are sick of talking about it and they want it passed. If that is the only justification, it is not good enough and I am not going to accept it.

The final thing that I want to do in the brief time allocated to me is to talk about some of the amendments. I am not in any position to talk about the government amendments that we have had for an hour or so, but I can at least give some indication of the types of amendments that I will be moving. he fact that I have to shuffle so many papers around shows that a forest of trees has gone into this bill and we need to repay the environment by getting a good bill.

Parliamentary counsel is currently working on my table of amendments. I will not go through the 15 pages of the amendments in this spreadsheet, but I will go through some of the key ones that I am keen to see addressed. One of them is perhaps a curious one, but it goes to the heart of the matter in terms of the definition of 'development'. There is a legal dispute underway at the moment between a bricks and mortar greengrocer shop and a so-called farmers' market. The greengrocer says that the farmers' market stalls are all shops and that a collection of farmers' market stalls is a shopping centre and, therefore, they need to get planning approval.

I will declare an interest as a member of the Adelaide Showground Farmers' Market. I am a big fan of farmers' markets. I think anything that can help break the Coles and Woolworths duopoly is a good thing. We need more diversity and we need more competition, but I think we also need to have a good look at the definition of 'development' to make sure that temporary structures such as the farmers' market in the car park of the Old Spot Hotel does not actually infringe the Development Act. That is just a simple one to have a look at.

The bill does recognise, in clause 11, some special legislative schemes. We need to make sure that the Adelaide Park Lands Act is one of those legislative schemes. It was basically a scheme designed to protect the Parklands from the misuse of the Development Act. Back in clause 4, the concept of change of use of land is being modified. We need to make sure that this concept of use class is not used to basically allow significant changes to take place that impact on communities without it having to go back through an assessment process.

The government would say that is exactly what they are trying to achieve, but you only have to think about it. You might have something that is a shop, and there are some shops where you would have hundreds of customers at all hours of the day and night and you have other shops where you get three customers a day. They are all shops, but they have very different impacts. I am concerned that the government tinkering with the change of use rules could result in communities being subjected to significantly different impacts without the development having to go through a proper process.

I mentioned the objects of the act. I want to put the environmental and social considerations back in there. Call me old fashioned, but 'ecologically sustainable development' still works for me. They might be the form of words that we need. The State Planning Commission in clause 17 is supposedly at arm's length from the minister, but there is a curious provision in there which says that the planning commission is obliged to take into account a particular government policy or a particular principle or matter specified by the minister. To me, that says, in the wrong hands, the minister can dictate what they need to do. The minister just needs to develop policy or principles and then oblige the State Planning Commission to take them into account. I do not think they are sufficiently arm's length. No doubt, when I have my briefing with the minister's staff on Friday, they will tell me why I am wrong, but I am not sure I am.

When it comes to the citizens' participation charter, like I said, this has the potential to be quite good, with the main proviso that it is completely inadequate, in that it is focusing on engagement in policy and ignoring engagement in development assessment. However, there are a couple of other principles additional to the ones that are there. It says that 'members of the community should have reasonable, meaningful and ongoing opportunities to participate in relevant planning'. There are some extra principles in there: 'timely' I think is one. Simple word: 'timely'. Think about it. I mentioned the situation with the Mayfield development where the public consultation was two weeks after the final decision had been made. That is hardly timely.

The other thing I would like to incorporate into that is that this idea of participation also needs to incorporate access to information, because there is not much point participating in something if you have been denied key access. There is a range of new principles we could put in there, and one principle that I have always subscribed to is that if you are genuine about community engagement then members of the community should have access to the same information that the decision-maker has.

I do not know about other members of parliament, but I have certainly presented at various bodies and one, I remember, was the Native Vegetation Council. I knew they had a report in front of them but they would not tell me what was in it, and I said, 'Look, my ability to meaningfully participate depends on me knowing what's in that report.' They said, 'No, we're not going to tell you what is in the report. Tell us what you think.' Given that the report was a technical ecologist's report, it was very difficult for me to actually engage. So members of the public should have access to the same information as decision-makers.

I mentioned earlier that the emphasis must be on routine publishing of the information, not requiring people to go to lengths to obtain it for themselves. In other words, put it out there, put it on the portal, put it on the website. In relation to that, I think some legislation, in the earlier days of the interwebs, had this notion that people would be charged for online information. Certainly, particular newspapers—and *The Australian* springs to mind—like to charge after you have read your first, I think, three articles. We need to make sure that this online planning portal is free; I am happy to accept payment on a cost recovery basis for hard copies or for discs, but online should always be free.

The provision in the Citizen Engagement Charter that talks about community engagement should be weighted towards engagement at an early stage and scaled back when dealing with settled or advanced policy—delete that. Cross that out. It is the wrong policy approach. Similarly, delete the provision in clause 44 that provides that the charter must not relate to the assessment of development applications. I think it should relate to both. In terms of the preparation of the charter, under this new model there are various planning documents that will be subject, notionally, to disallowance by the gatekeeper, being the ERD committee. I want to make sure that the charter is included in those documents and, as I said earlier, I want to bypass the ERD committee as well.

I mentioned the planning portal, and I think that is quite exciting. I like the idea of the routine publishing of planning information. I hate having to front at the counter and argue with counter staff about my right to look at documents; it is almost mediaeval, the way they do that. We need to make sure that provisions that enable the minister to prohibit or restrict information are not abused. Currently, under clause 52 all the minister has to do is put something on the *Government Gazette* saying that certain information is prohibited, restricted or limited. He does not have to give reasons,

and I think that power needs to be constrained. I mentioned that clause 53, the Freedom of Information Act, needs to be written back in rather than removed.

There are a couple of principles that I think are quite important. They are all important, but the one I really want to spend just a bit of time talking about—I have done parliamentary scrutiny, and early commencement, which is the new name for interim operation, I have mentioned already—the one that I think is really fundamental, is clause 95. This goes to the heart of the matter because, as I said before, you have two elements in this planning regime: you have planning policy, and then you have individual development decisions, and the link between them is that the decision about an individual development application should, in some measure, be consistent with the planning policy.

The words that have been used for the last 22 years are that a development should not be approved if it is 'seriously at variance' with the planning scheme. Those have been the words: 'seriously at variance'. Sometimes those words have worked well and sometimes they have been a complete failure. Ask the people of Unley Road whether a seven-storey building is 'seriously at variance' with a maximum of five storeys and they will tell you that it is. Could they do anything about it? No, because they were denied the right to appeal because it was a category 2, which meant no appeals. Let's look at what the government has got in the bill at present. They have done away with the 'seriously at variance' test and the new test is:

> …the development is assessed as being appropriate after taking into account—
>
> (i) the relevant provisions of the Planning Rules;

I will just say that again:

> …the development is assessed as being appropriate after taking into account—
>
> (i) the relevant provisions of the Planning Rules;

That is far weaker than the 'seriously at variance' test. All the development has to be is 'appropriate'. There is no rigour in that at all and the planning rules just have to be taken into account. They do not have to be followed.

I have to say that whilst there is one part of me which is very sympathetic to a flexible outcome-driven planning system of assessment, performance based, the fact that it has been abused so badly over the years says, 'Bring back black-letter law. Bring back a law that says that five means five, that 10 metres means 10 metres and does not mean 15 metres.'

That is what the community is now clamouring for. They want black-letter law written back into the planning system. The planners do not necessarily like that because they want flexibility to be able to approve innovative solutions to complex problems, but the community has been ripped off so often that they want to go back to black-letter law. We do need to have a look at the language and at whether these planning rules are rules at all, or are they guidelines or are they just vague things to be taken into account and potentially ignored.

My current solution is that the words 'seriously at variance' should be modified and the new words should be 'at variance'. Anything 'at variance' with the planning scheme should not be approved. That is a tougher standard. It means that when you write 'five storeys' into a planning scheme, it damn well means five storeys; it does not mean seven or eight or nine. We know that developers are going to push the envelope.

Maybe—and this is why we need more time to consult on amendments—the deal is that five storeys go through as a complying-type of development and any pushing of the envelope goes to full public consultation and appeal rights. Maybe that is the solution: anything that exceeds the parameters automatically is the equivalent of what is now category 3 appeal rights. Maybe that is the solution. I am happy to talk about that with the government, but at present my current solution is to replace the word 'appropriate', as that is too weak, and go back to the 'seriously at variance' test but drop off the word 'seriously'.

There are various other amendments as well, and I pointed out earlier that I have reprised all the old bills I have introduced over the years and incorporated them as well. I know parliamentary counsel is working hard. They are working into the night on the amendments but, as I say, even if I

do manage to get all my amendments finalised by tomorrow or the next day, I am still going to insist on this bill being deferred. I think it is an insult to the Legislative Council.

As I pointed out, every stakeholder is on our side, and if minister Rau wants to have a media war about the upper house obstructing government legislation I can tell him where the hearts and minds are going to be. He is not going to win that one. He has everyone out there against him, not wanting this bill rushed through at this stage. As I have said, it is the most important bill we are dealing with this year, and we have a great opportunity to get a good planning system in place.

I am supportive of rewriting the 22-year-old Development Act, but I do not want to replace it with something worse. I am in the hands of the chamber as to how we proceed. My feeling is that it will be a far more constructive debate if we do it properly next year, and I certainly hope that the government will see reason. I hope that the opposition—who have previously indicated that they were similarly inclined to leave this to next year—stick by their guns as well and that we do not see an unholy rush during this optional sitting week, which is guaranteed to make mistakes and, as I said, guaranteed to not get a final bill anyway because we will be passing amendments, there are potentially going to be deadlocks, and there is no way that this is going to be done and dusted. One final thing I will say is that—

The Hon. R.I. Lucas: Hear, hear!

The Hon. M.C. PARNELL: I can say more if the Hon. Rob Lucas wants. The minister's staffers have sent a note through and pointed out to us that another bill is on its way in the new year. To quote from the email:

> For your information please also note that the department continue to compile a set of minor/technical miscellaneous amendments to the bill, which amendments the minister has foreshadowed may be moved during a further necessary implementation bill in the new year.

I am thinking that we had all those amendments in the lower house, we have just had 72 or whatever it is in the upper house and the department is admitting that there are still things that it has not got right and they are going to have to have a further necessary implementation bill in the new year. My invitation to the government is, 'Don't bother with that. Let's get this bill right. Let's get it right over summer and let's come back in February,' and I look forward to the committee stage of the debate then.

The Hon. K.L. VINCENT (21:00): I will speak briefly this evening to the second reading of this bill and indicate that I appreciate the government briefing provided to my office on 23 September, I believe it was, and the additional briefing by Mr Chris Kwong and Mr Matthew Loader to my staff last week.

Before I go any further, there are several people I would like to thank. I particularly thank parliamentary counsel for drafting the many amendments we have before us (Dignity for Disability's included, which I will talk about shortly) and all the staff who have worked very hard on this very lengthy and very detailed bill. I would also like to thank the other staff who are assisting not only with this bill but with the general running of parliament. The reason I want to do this is that I was reminded of how we members are not the only ones who make sacrifices by sitting into the evening to discuss these important and lengthy issues.

Of course, we have Hansard here fulfilling a very important role and creating a public record of everything that is said, but the reason I want to mention this specifically is that during the dinner break I wandered into the library, as I am known to do, and got talking to Bianca, one of the research librarians. Tonight is the first night ever that Bianca has not been home to say goodnight to her two and four-year-old children. So I would like to put on the record my thanks to all the staff who have worked very hard on this bill and who keep parliament running to make sure that we can give these important issues the consideration they deserve.

This is certainly the most significant piece of legislation considered by this parliament this year, particularly in terms of length. Although other issues, such as improving the justice system for all people, including people with disabilities, have been a very important priority for Dignity for Disability, we are certainly keen to give this adequate consideration. As the key plank of a year-long process of planning law reform, this bill demands careful and detailed consideration in this place.

It is clear from the number and variety of organisations and interest groups that have lobbied my office, and certainly other offices as well—we have heard a number of them mentioned by the Hon. Mr Parnell—that it has prompted a range of concerns. I would like to place on the record some of the concerned people and organisations who have taken the time to contact me. They include:

- Frank and Margaret Hardbottle;
- Alex and Kim Paschero;
- Jennifer Comley;
- Dr Jonathan Deakin;
- Kristina Barnett; and
- Graham Webster.

Also, the following residents groups:

- The Community Alliance South Australia;
- Friends of the City of Unley Society;
- Prospect Residents Association;
- Local government;
- The City of Adelaide;
- The City of Marion;
- The City of Norwood, Payneham & St Peters;
- The City of Onkaparinga;
- The City of West Torrens; and
- The Local Government Association of South Australia.

I also thank the property development peak bodies:

- Master Builders South Australia;
- Property Council of South Australia; and
- The Urban Development Institute of Australia SA Branch.

Members of my staff also met with Community Alliance's Carolyn Wigg and Tom Matthews, and a staff member also represented me at the forum organised by Community Alliance, which was held at the Burnside Town Hall on 21 October. I do apologise that I was not able to be there, but I am very thankful to my staff for representing me, so that I could hear about the concerns raised at what I understand was a very active and important meeting.

I understand, of course, that the planning minister and Deputy Premier John Rau, shadow planning minister Griffiths and the Hon. Mr Parnell also spoke at that event. With the exception of the planning minister, I understand that the all of these people and organisations I have mentioned have advised me that they do not support all of this bill or some of it in its current form.

To summarise, community representatives are certainly worried that the effect of the bill would be to exclude residents and councillors from the planning approval process, and developers are worried about limits to urban growth and the impact of the proposed infrastructure delivery scheme. I am certainly carefully considering each of the concerns raised. In addition to acknowledging the range of concerns received, I say that this bill in its current form is missing out on several opportunities, not least of which is the opportunity to give prominence to the principle of universal design, also known as universal accessibility or accessibility for all.

I stressed the importance of universal design in my submission on behalf of Dignity for Disability in our submission to the Expert Panel on Planning Reform in February of this year. In that

submission we cited the National Disability Strategy to which South Australia is of course a signatory. It specifically refers to universal design in chapter 1 on inclusive and accessible communities. In addition, as members would know, if not from their own background then from my repeated contributions in this place on the subject, that Australia is also of course party to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), which defines universal design as:

> …the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. 'Universal design' shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Members may recall that in 2012 I had the great privilege to have the opportunity to visit Norway, where universal design was first introduced as a planning concept, as I understand it, in 1997. For the record, just to be blunt and to illustrate how far behind South Australia is on the topic of universal design, in 1997 I was nine years old; in fact, universal design principles are incorporated into the objects clause and a number of provisions of Norway's Planning and Building Act 2008, as I understand the title is translated.

When I was in Oslo, I visited the Norwegian national parliament, which happened to be undergoing a major building renovation. This may sound familiar to members, because it was around the same time that this same parliament was having some renovations done of its own. However, there was a stark difference in my experience of visiting the Norwegian parliament while it was being renovated. It starkly contrasted to my experience of visiting this very parliament of which I am a member, because, notwithstanding the disruption of the renovations, I and any other wheelchair or mobility aid user, parent with a pram, elderly person on a walker, and so on, entered the building through the same door as everyone else.

When I mentioned to people in that parliament, when I was visiting—either staff members or members of parliament I spoke to, or even just tourists and visitors to the parliament—that currently in my own workplace, the Parliament of South Australia, I was entering through the basement car park, they quite frankly could not believe that to be true and certainly could not believe that they would accept that in their country where universal design is now in legislation as a beneficial planning concept.

Not to minimise the fact that we have come a long way with design in this building—and I certainly do not want to downplay the hard work that has been done there—I think this one relatively simple example shows that still we have a long way to go, not just in this parliament but in the entire state.

I understand that the Norwegian government has an action plan for Norway to be entirely universally designed by 2025, and given that many cities in Norway are some hundreds of years older than our dear old Adelaide, I think it is time that we stopped using the excuse that Adelaide is just an old city and that is the way things are.

Universal design is particularly important not only from a perspective of enabling social inclusion, but also for the economy. Ireland has, in recent years, renewed its entire public bus fleet, making, as I understand it, all buses accessible to mobility aid users, elderly people, parents with prams and so on, by ensuring that all buses have the ability to 'kneel', so to speak, lower to kerb level to allow easier entry as there is no step to get over.

I understand that the nation of Ireland and the government of Ireland underwent this replacement of its entire bus fleet in the midst of the global financial crisis, which is generally a time during which one might not have expected to see these types of large projects undertaken. But Ireland did and they did it because they recognise, as Australia and the state of South Australia should, that universal design is good sense and an investment in the future of the state and the nation.

I understand that it worked out to be cheaper in the long run to replace the entire bus fleet, as I understand it worked out to be less expensive to deal with a single contractor providing all the buses, rather than several contractors providing different buses for different fleets.

By removing environmental barriers such as steps, narrow doorways and so on, universal design makes it easier for people with disabilities to become consumers of goods and services and to find employment opportunities. Of course, it makes sense that if we are able to enter your business

or your store, you are more likely to get us as customers and therefore have us spending our money there.

This is certainly one of the reasons that Dignity for Disability was very disheartened and quite vocal about the Adelaide City Council shopfront renewal scheme earlier in the year—I forget the exact title, but I think members know what I am referring to. Although it did have some provisions for accessibility, what was promoted in terms of the glossy brochures and the front pages of the brochure and so on was the ability to give your shop a fresh lick of paint or get some funky and relatively uncomfortable hipster chairs in there.

All these things are very welcome, of course; we want to keep our shops updated and nice looking, but I think there is also a strong argument to make that one can only enjoy that fresh lick of paint if one can actually get in the door. Certainly, when I took that perspective to the media on behalf of Dignity for Disability, I was contacted with supporting comments not only from people with disabilities but also from parents whose young children still use a pram and who said that they felt I was speaking directly for them and about their experience when we took that perspective.

I think that we do need to stop seeing this as something that is an 'us and them' issue. I am very frustrated when in 2015 I still hear disability talked about using the term 'special needs', because 20 per cent of the population currently has a disability, plus those who will acquire it through the ageing process or surviving accident or injury, plus parents with prams, and people with—

The Hon. S.G. Wade: Sports injuries.

The Hon. K.L. VINCENT: —sports injuries (thank you, Mr Wade), a variety of health conditions, temporary injuries and so on. It becomes less and less 'special' and more about all of us.

I would like to read a short quote from an article entitled 'Should business care about universal design?' which was written by Lee Wilson and published just today, I understand, on architecture, design and construction site, sourceable.net. The quote reads thus:

> The Australian Network on Disability (AND) identified the opportunity this emerging market presented. AND believes corporate social responsibility is an important contributor to the success of long-term business, and that it should be viewed in a strategic business sense rather than simply being a 'feel-good' factor.
>
> AND adds that people with disability 'show commitment and loyalty that is unsurpassed,' which surely is a market worth catering for. People with disability represent close to 20 per cent of the Australian population and one in three people either have a disability or are likely to be close to someone with a disability.
>
> In terms of the ageing population, 20 per cent of the population will be over 65 years of age by 2030. This proportion of society could have a significant impact on how successful a business is, both now and into the future. They spend like everyone else, and universal design (or how suitable, adaptable or usable a 'thing' is) will increasingly become a factor in a person's decision making process.
>
> So when we ask 'should businesses care about universal design?' I believe the answer is an unequivocal 'yes, they can't afford not to.'

Dignity for Disability would also argue that there is a strong cost saving to be made in building accessibility for all people into public spaces inherently, that is, during the planning process, rather than as an afterthought. To demonstrate this, I would like to quote from the federal government's. Accessibility Design Guide: Universal design principles for Australia's aid program. This is from section 3.6 of this document, Accessibility Design Guide, titled 'Cost of not incorporating universal design' and the quote reads thus:

> The cost of not incorporating universal design can be significant. Inaccessible environments limit economic education, health, social and other opportunities for people with disability, and make them more dependent on others.
>
> It is important to consider the following three components when working with universal design. Each component can affect the economic viability of family units and contribute to a cycle of poverty:
>
> - direct costs for people with disability, including access to services such as travel;
> - indirect costs to support persons and/or family members of people with disability; and
> - opportunity costs of forgone income for people with disability.

Again, universal design is not only about allowing us to get into businesses and to venues to spend money, but about enabling us to get into the workforce to actually get that money to spend. I believe,

certainly, that the inaccessibility of the workforce is a major barrier to people with disabilities entering it. We know that fewer people who are identified as having disabilities are employed in the public sector than there were 20 years ago, and Dignity for Disability certainly believes that the attitudinal barriers which lead to the material barriers are a significant contributor to this.

I am often, if not constantly, frustrated by what I have termed, perhaps not so endearingly, the cycle of inaccessibility where we do not make a business or a venue accessible, so people with those needs do not come. As a result of them not presenting at the venue, we do not see the need to change it, so we do not make it accessible and we go back to the first point in the cycle.

There is also an argument, of course, that building these things into the plan saves money because not only can retrofitting be expensive when access is an afterthought but also it does not necessarily deliver the best results. If members need any further proof of this, I suggest they hop onto Google and enter the search terms 'epic ramp fail' or 'epic accessibility fail', an 'epic fail' of course being the internet term for when someone fails spectacularly badly at something.

There used to be, or they may well still be, an entire blog called 'Epic ramp fail', but I have not been able to drag it up today. Anyway, if you enter those search terms 'epic ramp fail' or 'epic accessibility fail', you will certainly find some doozies. Looking at them, I am never sure whether to laugh or cry. I will just do my best to describe a couple of them. I am not very good at visual description, but bear with me, Hansard.

Just so you get an idea, the examples include, but are sadly not limited to, ramps with two steps leading up to them, or a ramp with three steps at the end of it, or an accessible car park which, while technically is the appropriate width for an accessible car park, has a pillar in the middle of it so that you could probably barely open your car door if you parked there, much less have enough space to get out a walker or a wheelchair.

A personal favourite of mine, which I have had the great misfortune of seeing several times in the flesh, so to speak, rather than just on Google, is a sign out the front of a building reading, quote, 'Wheelchair ramp available: inquire within'. Some members might not get that immediately, but just sit with it for a moment and let it sink in. I am sure the realisation will wash over you shortly.

This is exactly what happens when we do not consider accessibility as an imperative from both a social and economic perspective. As a society, as that earlier quote I read out said, we cannot afford not to do this. We have an ageing population. We have more people surviving accidents, thanks to advancements in medical technology, who are acquiring and living with disabilities long into the future as a result, so we need to get this right and we need to invest in South Australia's social and economic future now. Universal design is one way of doing that very strongly, and the Norwegian experience shows us that it can and must be done.

Moving on for a while, part 2 of the bill relates to its objects, planning principles and general responsibilities. One of the high-quality design principles states, inter alia, that the public realm should be designed to be accessible. Dignity for Disability certainly has no argument with that principle, but we would argue that it does not nearly go far enough, given those arguments I have just made about universal design.

In a bill of some 84,000 words, one mention of accessible public spaces—that is, accessible to all people, not just those who have those needs now but who will in the future—does not give significant weight to this principle and this need and the benefits of it. It is certainly not enough to change the mindset of planners, providers and assessors of our built environment, and this is why Dignity for Disability is working on a small handful of amendments, in comparison to the—are you up to 84, Mr Parnell?

The Hon. M.C. Parnell: I have lost count.

The Hon. K.L. VINCENT: The Hon. Mr Parnell says he has lost count, and to an extent you can't blame him. We have only a small handful of amendments in comparison to the 70 or 80 that we already have before us, but we think they are, nonetheless, very important in enshrining, in this bill, an opportunity for South Australia to play catch-up and then, hopefully, lead the way for the rest of the nation in the adoption of universal design. I understand that those amendments are still being

circulated. We are still reaching some compromise with the wording, so I apologise that we do not have them before members at this stage, but we will very shortly, and I thank them for their patience.

My experience tells me that the current reliance on the minimum requirements of the Disability Discrimination Act, now incorporated into the Building Code of Australia, is not enough to ensure that buildings and public spaces are genuinely and generally accessible to people of all abilities and needs. In conversations with people responsible for a particular building entry or bathroom that is not quite accessible for someone who uses a wheelchair, I and my staff often hear the response (as do many people in the disability community), 'But we have met the requirements of the code.'

In other words, designers and builders are being judged on whether certain parts of their building or infrastructure have certain dimensions rather than whether people with disabilities, older people or parents with strollers, for example, can actually enter and use the shop in an autonomous and dignified self-directed way. The design of accessible buildings, therefore, tends to be done to the lowest common denominator rather than aspiring to excellence.

As another example of this, I will quickly share this story. Many hotels I stay in have accessible rooms and they may well be accessible in terms of handrails and things like that, but there is nothing necessarily in the Building Code that says perhaps if this is a wheelchair-accessible room you should put the control panel for the air conditioner where someone in a seated position can actually reach it, or put the cups so that a person with a disability can get a glass of water without having to go down to the lobby and ask someone to come up to their room and get a glass down for them.

I had a recent experience in Canberra, probably a few months ago now. I tend to think of everything that was not yesterday as last week because the year is slipping away from us. I was presenting at a forum on access to the justice system for people with disabilities and talking about the work that Dignity for Disability and this parliament as a whole has done. Everything was good, and I got on the handrails and jumped in the shower, and then realised that I could not actually reach the tap from the shower bench because it was certainly beyond my arm length. I do not have the longest arms in the world but, certainly, I can imagine it would have been very difficult for anyone, particularly because you cannot necessarily just get up and walk over to the tap because, call me crazy, but I tend not to take my wheelchair into the shower.

The Hon. G.E. Gago: It's hard to ring room service from there, too.

The Hon. K.L. VINCENT: As the Hon. Ms Gago interjects, it is hard to order room service from there, too.

The Hon. G.E. Gago: From the shower.

The Hon. K.L. VINCENT: From the shower, yes. Fortunately, I did work out a solution, but the point I am making is we should be creating a society where these things are a matter of course. I do not want to hit members over the head with the point but I think that we need to look at this from a tourism perspective as well, and this is certainly something that Dignity for Disability is in conversation with the tourism minister in the other place about, in terms of the economic benefits of promoting South Australia as a tourist destination for all people, particularly people who may be older and travelling post retirement.

Again, it can be done and it does bring results. As I said, when I was travelling in Scandinavia, I visited a particular chain of hotels and chose those hotels because they had a specific disability liaison officer whom you could talk with if you had any concerns. You could certainly tell that that was leading to excellent results because not only was I able to get a glass of water, reach the microwave, get in and out of bed, get in and out of the shower and not have to order my room service from there because I got stuck but they also had things like vibrating alarm clocks for people who had either been deaf all their life or had lost hearing, particularly, I suppose through ageing. There are many examples of where this can be beneficial to many people, rather than those who are crudely and inaccurately termed as having special needs.

Perhaps this legislation offers a chance to introduce a public interest test for genuine accessibility that is integrated into good design of our buildings and the public realm. To this end,

accessibility should be given the same prominence in this bill as its existing objects and its planning principles under the headings of: long-term focus; urban renewal; high quality design; activation and liveability; sustainability; investment facilitation; and integrated delivery.

As another example of the need for high quality design and liveability of public spaces—and I did say that I would not hit members over the head, but unfortunately there are many examples I can give as to where South Australia is falling behind on the benefits of accessibility—members may recall that 19 November this year (as it is every year, I understand) was World Toilet Day. Generally, the United Nations uses this designated day to promote the fact that millions, if not billions, of people all over the world do not have adequate access to sanitation facilities, including toilets.

It was wrongly labelled in the media a couple of times as 'public toilet day', which is not accurate, because it is actually trying to promote the fact that many people in many countries do not even have access to a toilet, let alone a public one. But, anyway, on this occasion Dignity for Disability used World Toilet Day in the South Australian context to highlight in the media the needs of the 14,000 South Australian adults who require some form of assistance—be it assistance in a material way through the provision of a larger space, handrails and so on, or assistance from another person, or a mixture of the two—to use the bathroom.

Dignity for Disability promotes the provision of Changing Places, which are bathrooms equipped for adults who need such assistance, as well as younger people. To put it somewhat crudely just to help members to understand, Changing Places are basically a current accessible bathroom, with the handrails and so on, on steroids. So, it has all the same features, such as the extra space and the handrails, but it also has some additional features, including a hoist (so that if somebody needs a hoist to get on and off the toilet, they can use that) but also, I think most interestingly, an adult-sized change table.

I think many people either do not know or forget that there are people who are beyond the age and size of an infant who still require change tables to autonomously and in a dignified manner access the public realm. Currently, none of these Changing Places facilities exist in South Australia, while Victoria has several, and there is even one in Darwin.

As an illustrator of the effect of not having these facilities, Dignity for Disability is in regular contact with constituents who either feel extremely limited in the number of venues they are able to visit and spend their money at, or they are forced to change on the floor of a public toilet. I hope I do not have to explain to members why that is a concern.

I know that the Adelaide City Council in particular is keen to take up Dignity for Disability's proposals in getting a Changing Places—hopefully several—in South Australia, and I certainly thank them for that. But, I raise it again in this place because we still have a long way to go.

Universal design should also be given equal weight as the other considerations for the various planning instruments provided in this bill—in particular, the foreshadowed design quality policy, the planning and design code, and design standards. I note that, within the bill's provisions for the proposed planning and design code, local heritage and significant trees are each considered worthy of a clause. The planning minister and his staff have argued that the objective of universal design does not merit inclusion in this bill as it can be dealt with in one or more subsidiary planning instruments.

I respectfully submit that in promoting universal design—that is, the design of buildings and public spaces to be accessible to all our citizens as well as friends, family—there is evidence to suggest that the average person with a disability travels in a group of between two and eight people, so it is not only about us; it is about our friends, our family and the interstate and perhaps even international visitors we may and will bring with us. I respectfully submit that this group is at least as worthy of consideration as the conservation of our local heritage or the safeguarding of our significant trees.

Call me naive, and tell me I do not understand heritage, but from my perspective, to an extent, providing for greater accessibility is about respecting the heritage of existing venues in the state because it gives them a future and enables more and more people in the future to go into that place, be it a museum, be it Ayers House, or be it this very parliament, which has undergone significant changes in recent times. I like to think that that is a way of honouring this parliament

because it has given it a future. It has given it the opportunity to be more diverse and more reflective of South Australia as a result. Call me crazy, but I think that should be the job of this parliament and/or others now and long into the future.

That said, Dignity for Disability will support the second reading of this bill and looks forward to the committee stage of debate. As I indicated earlier, we have drafted some amendments which are still being negotiated upon. We are also currently carefully considering the many amendments we have before us and do hope, as was illustrated by the Hon. Mark Parnell, that this parliament will be given adequate time to give this important issue the consideration it deserves.

Debate adjourned on motion of Hon. G.A. Kandelaars.

SURVEILLANCE DEVICES BILL

Second Reading

Adjourned debate on second reading.

(Continued from 17 November 2015.)

The Hon. T.A. FRANKS (21:37): I rise on behalf of the Greens to speak on the Surveillance Devices Bill 2015. Of course, it is not the first time that we have seen a bill in this territory before, not only in the other place but in this council. That is no surprise when you read the rationale for the introduction of this Surveillance Devices Bill 2015. In the words of both the minister in this place and the Attorney-General in the other place:

> On 5 April, 2002, the Council of Australian Governments (COAG) held a special meeting on Terrorism and Multi-Jurisdictional Crime. One outcome of that meeting was that Leaders agreed:
>
> To legislate through model laws for all jurisdictions and mutual recognition for a national set of powers for cross-border investigations covering controlled operations and assumed identities legislation; electronic surveillance devices; and witness anonymity. Legislation to be settled within 12 months.
>
> The task of developing these model laws was then given to a task force known as the national Joint Working Group (JWG) established by then Ministerial Councils (the Standing Committee of Attorneys-General and the Australian Police Ministers Council) and consisting of representatives of both bodies. The JWG published a Discussion Paper in February 2003 that discussed and presented draft legislation on all four topics (controlled operations and assumed identities legislation, witness anonymity, and electronic surveillance devices) and received 19 submissions nationally. A Final Report was published in November 2003.

Over 10 years later, this government decided to actually bring legislation in this area to the parliament, but it was far broader than that recommendation from the 2002 COAG. Rather than simply addressing the police powers around surveillance devices, the legislation we have before us is the broadest in the country and goes much further than the recommendations did back in 2002.

We have been told time and time again by the Attorney-General, in the last three incarnations of the bill, that this is an urgent matter. I would suggest that if it was an urgent matter then perhaps it should have been done in 2003 or 2004. Apparently, for a decade we were just fine without this legislation, then suddenly it became an urgent matter. Not only that, we had to legislate not just for the recommendations around the police powers but in areas that have been described by the Law Society in its submission to the current bill as ag-gag laws that curtail the ability of the media to do its job.

I will go straight to the Law Society's submission on this particular bill. This was received by members, I believe, on 26 November 2015 (that is the date that mine was dated) and was addressed to the Hon. John Rau MP, Deputy Premier and Attorney-General. The Law Society submission on the Surveillance Devices Bill 2015 refers to the current bill, but notes the history of the bill and notes that it has previously made a submission to the Hon. Gail Gago on the previous version of the bill (the Surveillance Devices Bill 2014) on 4 July 2014 and attaches a copy for information.

The amendments that were made during the consideration of the 2014 bill by parliament, which addressed some of the Law Society's concerns, particularly to recognise that the use of a surveillance device in some circumstance can serve a legitimate and beneficial purpose, have been maintained in this bill. However, the society maintains its opposition to the issue of tracking and surveillance warrants by anybody except the Supreme Court and is particularly concerned at the

prospect of information obtained by police with respect to an unconfirmed surveillance device being used as evidence. The Law Society goes on to say:

> We see no proper reason why the Supreme Court should not continue to authorise the use of surveillance devices. It is a big jump for significant intrusions into privacy to go from being vested in the Supreme Court to the police. If, contrary to our submission, there is support for the Supreme Court to be divested of this function, we suggest that judicial oversight remain but be vested in the District Court or, at the very least, the Magistrates Court.

I note that in the previous incarnation of the bill we had a briefing from the police, as crossbenchers and opposition members, and I asked SAPOL whether or not it had asked for powers more broadly than those afforded to police in this legislation and its previous iterations. I was informed by the SAPOL officers who gave us that briefing that they had had no discussions with government calling for the broadening of the legislation beyond the police powers of this bill.

I note that the opposition has indicated support for the police powers of the bill and that in previous private members' bill debate on this matter and in previous government bill debate on this matter the police powers of the bill have not been found wanting for support, in fact they have been overwhelmingly supported, and certainly the numbers are there for those.

What I want to draw council members attention to tonight is the grave concerns that not just the Law Society holds, but indeed the Greens and other members of civil society hold about the broader powers within this bill. The Law Society goes on to say:

> The most significant difference in substance between the Bill and the 2014 version appears to be the RSPCA exemption from the general prohibition against knowingly using, communicating or publishing material obtained through the use of a surveillance device in the public interest without an order from a judge. The Society's submission will, therefore, concentrate on this issue and matters related to it.

The Law Society focuses on that matter of the government's intent to accord the RSPCA special powers in an effort, I believe, to address concerns rightly raised with the government that this was an ag-gag bill.

The RSPCA themselves were somewhat surprised to find that they were afforded these special powers in the bill, and I know that I spoke at a rally just days after the CEO of the RSPCA of South Australia discovered that the RSPCA of South Australia were afforded these special powers in this legislation, and he went to great lengths at that particular rally to distance himself from those special powers and to reject them.

That public speech that day has been followed up with correspondence to the Hon. John Rau, Deputy Premier and Attorney-General, and I draw members' attention to some words. The first of these communications I will refer to was dated 22 October 2015, and the letter from the CEO, Tim Vasudeva, to the Attorney-General reads:

> I note that we expressed serious concerns in relation to proposals contained within the 2014 Bill to change the prevailing public interest exemption which exists within the Listening and Surveillance Devices Act 1972.
>
> We maintained then (and maintain now) that the prevailing provisions of the Listening and Surveillance Devices Act 1972 as they relate to recording and publication of matters which are in the public interest are appropriate and we do not support the proposed amendments to the existing public interest exemption.

So, these are the people who have been afforded the special powers and privileges in this bill by the government, by the Attorney-General, without consultation, saying to the government, 'Hang on, we don't want these powers, and in fact we think your bill is erroneous.' The letter goes on to say:

> While we note the need to update the legislation to deal with advances in technology and devices capable of recording both audio and video, we do not believe this requires any associated change to the public interest test.
>
> In addition, I had advised in my 27 August 2014 correspondence that RSPCA South Australia did not consider it appropriate that we be allocated a legislated role which equated to that of an arbiter of what is or what is not in the public interest.

So that puts paid to the theory that perhaps the Attorney-General was under a misapprehension that the RSPCA might welcome this move. In fact, they had made it very clear to him in 2014 that they did not want these special powers that he has brought forward within this legislation, and he went ahead and did it despite the fact that they told him that they had opposed it.

I believe it was a convenient narrative to present that the RSPCA was being afforded these special provisions in this particular incarnation of the Surveillance Devices Bill to silence the voices of those who had expressed their concerns that this was an ag-gag bill. Those voices certainly have not been silenced, and I am sure that members are aware of some of the correspondence coming from various animal advocates, including Voiceless and many others, not just the RSPCA. The RSPCA goes on to say:

Despite this, we note that the current draft of the Bill effectively allocates just such a role to the RSPCA South Australia. We are unsure why no consultation has taken place with us prior to tabling the proposed amendments as contained in the 2015 Bill.

Currently, matters of genuine public interest may be published by any interested party. Under the proposed amendments, media organisations and RSPCA South Australia would be the only bodies who would not require a court order to publish material in the public interest. This will create serious issues on a number of fronts:

- Firstly, the courts system is already overcrowded and under-resourced.

I would think of all people in this state the Attorney-General would be mindful of this. The RSPCA letter goes on:

> The current public interest test has not created any significant volume of case load for the courts, however the new proposals will almost certainly do exactly that as people would be forced to pre-emptively seek the approval of the courts in order to alert the community to matters of public significance.

- Secondly, the proposals will create an unfair burden on poorly-resourced organisations or individuals who have access to material which is genuinely in the public interest but who cannot afford to pursue court approval. Matters of genuine public interest should not be adversely affected by the financial capacity of individuals or organisations endeavouring to do the right thing when it comes to these issues.
- Thirdly, a significant volume of material recorded by individuals and organisations which they believe to be in the public interest are likely to be forwarded to media organisations and/or RSPCA South Australia. It will then be incumbent upon media organisations and RSPCA South Australia to review this significant volume of material on a daily basis and determine what, if any, represents information which represents matters of public interest. It is not our role to review or publish such material.

While there may be a presumption that media organisations will invariably publish matters referred to them of significant public concern, the presumption here is that these organisations will be able to cope with the volume of material likely to be referred to them by people and organisations hoping their information will be published. We do not believe this will be the case, and the proposals increase the likelihood that matters of genuine public interest may be overlooked simply because the media organisation is overwhelmed by material, or matters in question may not be seen as fitting with the priorities of specific media organisations, as opposed to them being considered on the basis of benefit to the community at large.

In relation to the approach taken with this draft Bill and the apparent determination to weaken the existing public interest provisions, we would question the public policy imperative which actually requires the introduction of these amendments.

We are not aware of any significant issues with the existing public interest test. If it were failing in its intended purpose, no doubt there would be a significant volume of matters before the courts where recordings, or publication of recordings, were alleged not to have been in the public interest. We are not aware of such developments.

My first question to the government is: could it provide evidence where the public interest test as it currently stands has failed the South Australian community? And I do not want to hear one more time about the Duchess of Cambridge sunbaking topless in France. It is irrelevant to South Australia. Indeed, in that case, they sought an injunction, which was upheld. It does not apply here. I would like South Australian examples to be provided by this government to justify why it is so arbitrarily, it seems, broadening and changing these particular laws without consultation and without any obvious imperative. The RSPCA goes on to say:

Accordingly, as we are unaware of any genuine issues which exist in relation to the current application of the public interest test and in the absence of any compelling evidence being presented by the South Australian government which would demonstrate that the current public interest provisions are ineffective, we are not supportive of the proposed amendments in this area.

Public advocacy and publication of material genuinely in the public interest under the existing legislation has played an extremely important role in exposing the exploitation of vulnerable and at-risk members of our community, including:

- the elderly;

- children;
- members of the indigenous community;
- the financially disadvantaged;
- people experiencing mental health problems; and
- animals.

We believe that the proposed amendments will significantly weaken the public interest protections that currently exist to support these vulnerable groups, including the capacity for related matters of public interest to be brought to light and debated by the community.

Kind regards,

Tim Vasudeva, CEO, RSPCA South Australia

This is the organisation which is included specifically in the government bill. This organisation rejects these powers and also raises concerns about curtailing the ability to publish or broadcast material in the public interest, not just for themselves but across the broader media and citizen journalist community.

I note that the RSPCA has been in conversation with Free TV on this matter. Free TV would be known to members as being quite strongly opposed to previous incarnations of this bill. Indeed, I would say that they are quite strongly opposed to this incarnation of the bill. Certainly Free TV have made their views known to myself and, I believe, to other members of this place. In their correspondence to the Hon. John Rau, Deputy Premier and Attorney-General, on 16 October 2015, they made that quite clear. They say in that correspondence:

Whilst some of our concerns previously raised in relation to the 2014 Bill have been addressed, we have very serious concerns about the Bill and its impact on the media in South Australia, and significant amendment is required.

Our view remains that there is no need to amend the current legislation. There is no evidence of policy failure under the Surveillance Devices Act 1974.

My question to the government again is: where is the evidence of policy failure under the current legislation? The Free TV correspondence goes on to request that members of parliament, who have also been circulated this letter that was sent to the Attorney-General, consider deletions or significant amendments to ensure that public interest is served for South Australians and that the very important work that the media does as the fourth estate, and online media as the fifth estate does as part of civil society, continues to flourish.

Interestingly, the definition of 'media organisation' that the government has employed does not draw on relevant federal acts. Of concern, I believe, Free TV Australia points out that the bill contains a definition for media organisation, which this government has put forward in legislation knowing it would be controversial, which is limited to:

…licensed or authorised broadcasters/datacasters, a constituent body of the Australian Press Council or a body which is authorised under Commonwealth law to engage in publishing.

This definition does not encompass all facets of the media, particularly the ever-growing and legitimate online social media forms of media and freelance journalists. Free TV points out that this legislation would not recognise as a media organisation Yahoo7—hardly a fringe dweller.

My next question to the government is: does the government have a particular problem with Yahoo7 and why does their definition not encompass them? In glancing at the Australian Press Council constituency, I noticed that InDaily is not contained within that, and I cannot see how InDaily complies with the government's definition of media organisation. My further question to the government is: can they explain how InDaily will be treated by this bill and whether or not they will be recognised as a media organisation?

Free TV has also advocated that, for example, The Guardian Australia will not be recognised under this bill as a media organisation as it is not a constituent body of the Australian Press Council. Also, *The West Australian* newspaper is not a member of the Australian Press Council, but it is a member of the Independent Media Council, which has a similar function. My further question to the government is: why did they not include references to the Independent Media Council? How did they come to draft the definition of 'media organisation' that they put forward in this legislation?

I ask also why they are discriminating against the *Labor Herald*, given they are a Labor government? I would have thought they would want to support their own media outlet but, if they could clarify whether or not the *Labor Herald* falls within their definition, that would be of use. If the government could in fact provide a list of all the media organisations that do comply with their legislation, that would be helpful.

I am happy, if required, to provide them with a copy of the Australian Press Council constituency, which is easily accessible on the web, and they can cross-reference there to see which of them is particularly South Australian—but of course the media does not know borders in this day and age, and South Australia may indeed expose illegality, corruption or cruelty online well beyond South Australian borders. Can the government give some explanation as to how they came to draft the particular description that they did and why they have chosen to exclude those media outlets that I have raised so far? Free TV goes on to state:

> If the definition were to remain as it is, many well-established and entirely genuine providers of news and current affairs would be unable to utilise the exceptions in the Bill, despite the fact that they may have legitimate interest in relying on such exceptions, particularly the public interest exceptions. The dissemination of important news stories and information would thus be inappropriately restricted.

The Free TV submission goes on to say:

> No changes have been made to the definitions of 'optical surveillance device' and 'listening devices' as they appeared on the 2014 Bill—the definitions still focus on the capacity as opposed to the use of such devices. Consequently, all cameras, filming equipment and recording devices, which most people carry around in the form of their smartphones or tablets, are caught by these definitions.

Free TV goes on to say:

> The definition of 'premises' is the same as in the 2014 Bill: the definition does not limit the offence provisions in this bill.
>
> New to the Bill is the definition of 'private activity'. While we accept that given the broad range of activities to which the definition will need to apply, the reasonableness test is too uncertain in that there is no yardstick to discern what is a private activity vis-a-vis a public activity.
>
> The definition leaves open the possibility that activities which take place in public places may nevertheless be private activities; when that is coupled with the requirement to obtain a person's consent (as described below) and the broad definition of 'optical surveillance device', an onerous burden is placed, not just on the media, but on any person using such devices to obtain the consent of persons recorded, including inadvertently. For example, it would be absurd for a person using a recording device to record a friend or family member in a public place, such as Rundle Mall, to inquire with every person who is incidentally captured in that recording whether that person consents to being recorded. Requiring the consent of every person captured in the recording in circumstances where that is not feasible means the provision has no utility.
>
> Another issue is whether the fact that an activity occurs on private land is enough to render an activity private for the purposes of the definition. In the absence of the owner of private land, a person would be left to determine whether any activity occurring on that land is private by reference to inanimate objects such as the height of a fence, the transparency of a fence, signs, whether doors on sheds or other buildings are open or closed and whether the activities appear to be occurring behind buildings or other objects so as to obscure them from passers-by. The application of the definition in such circumstances would simply produce too uncertain a result for any person attempting to comply with the legislation.
>
> The parameters of private activity should be confined and made clearer. An exemption for inadvertent or incidental surveillance (as appears elsewhere) should also be included in the bill.

The submission goes on to cover optical surveillance devices and notes that:

> Subclause 5(1) of the 2014 Bill prohibited the use or installation of optical surveillance devices which involved unlawful entry or unlawful interference with land, a vehicle or any other thing to record a person's activity. Subclause 5(2) of the bill limits that prohibition to the recording or observation of a 'private activity' and includes a further requirement to obtain the consent of the parties to the private activity.
>
> Subclause 5(2) of the 2014 Bill prohibited the use of optical surveillance devices on a person's premises, a vehicle or any other thing to record an activity, except in two circumstances: where the activity was carried out predominantly on/within:
>
> (a) the person's own premises or vehicle; or
>
> (b) a public place.

Subclause 5(1) of the Bill has removed those two exceptions such that that prohibition applies regardless of the location of the activity and whether that person has lawful possession or control of the premises, vehicle or thing.

At first glance, the 'private activity' criterion appears to narrow the ambit of the prohibitions against the use of optical surveillance devices in subclauses 5(1) and (2); however, the requirement that the person using the device obtain the consent of persons captured by that recording (i.e. parties to the private activity), coupled with the uncertainty of what constitutes a 'private activity', counteracts any limiting effect the criteria may have.

The inclusion of this criterion inhibits the capacity of the media to publish material in the public interest (i.e. material which uncovers illegal, unscrupulous, unethical or antisocial behaviour) which can result, and often has resulted, in changes to laws, criminal convictions, public warnings and disciplining of public officers.

Free TV then goes on to address the public interest exception with regard to the media and states, as did the RSPCA:

There is no evidence, nor is there any suggestion, that the media is not acting in the public interest when, on occasion, surveillance devices are used during the course of reporting the news or presenting current affairs programmes. Further, there are legal avenues already available to persons aggrieved or affected by the use of surveillance devices. We believe that the current regime in the *Listening and Surveillance Devices Act 1972* (SA) is adequate to deal with the use of surveillance devices and that no legislative changes are required.

Bearing that in mind, the public interest exception contained in clause 6 of the Bill is too narrow—it applies only to the use of a listening or optical surveillance device *by a party* to the private conversation/private activity.

The scope of that exception means that it cannot be utilised by the media unless the person representing the media in a given scenario is a participant in/to the private conversation/activity. In the case of a news reporter, to fit within the exception, the reporter would need to be participating in whatever activity they are recording. Such an act may not accord with the practice of many journalists, as many journalists may simply *observe* an activity as opposed to actually *participating in* the activity. This demonstrates the exception does not contemplate or take into account how the media operates.

If it is intended that a person recording an activity will be considered to be a party to that activity simply because of their act of recording the activity, that should be made clear.

More specifically, for the purposes of subclause 6(2)(a) it is unclear whether a person recording an activity not involving a person (eg animals or machinery) is a party to that activity simply because of their act of recording the activity. If the answer to that proposition is no, then the person wanting to record the scene would need to determine whether the absent person may reasonably be taken to have indicated that they do not wish such activities to be observed. In such circumstances, an assessment would need to be made by reference to non-human factors such as the state of the premises (eg the height of the fence or the use of signs) which may not conclusively determine whether the activity is private or not and which, once again, would produce too uncertain a result for any person attempting to comply with the legislation.

Such issues highlight the impracticalities which persons wishing to make use of the public interest exemption in clause 6 may face.

I note on this that there have been cases where we could look into the crystal ball of the Rau world of how the public interest test will be observed, and that is where injunctions have been taken out on media organisations who have attempted to expose behaviours in the public interest. The example I will draw members' attention to is that of Conroy's abattoirs. In 2001, Channel 7 was contacted by a whistleblower who was employed at the Port Pirie abattoir. He had attempted to raise concerns of illegal use of marijuana in the workplace, breaches of health and safety laws and quarantine requirements by fellow workers but had been rebuffed. He offered to take a hidden camera into the quarantine area to prove his allegations.

He did so on three occasions and each time the workers were smoking marijuana, and drinking and eating in an area where signs indicated such conduct was prohibited. On one occasion, a supervisor entered to warn the workers to avoid this behaviour on a particular day where there was a scheduled AQIS inspection. The footage also showed that workers who had been smoking marijuana were not complying with health requirements on the abattoir floor. Channel 7 contacted the abattoir owners who refused to comment. The promotion for the investigative report showed some of the covert footage and raised concerns about public health dangers. After the promotion aired, an injunction was sought by Conroy's on the basis that the material was defamatory of the owners and would affect the viability of the company, particularly as an exporter.

The District Court initially granted an injunction because of the possible commercial impact the broadcast would have and as they considered that they did not have enough evidence before

them to say that the activities were a danger to public health. The only way to defeat the injunction was to go to trial. This took four years and resulted in an 11-week trial which ran over nine months.

Save for one issue—that is where the owners had turned a blind eye to the unsafe practice—the trial judge found in favour of Channel 7 and overturned the injunction. He found that the meatworkers smoking marijuana was a safety risk to the workers, as well as putting the health of South Australian members of the public at risk. However, the entire process cost Channel 7 many hundreds of thousands of dollars and delayed the broadcast of the important investigative report for several years.

The trial took four years and cost many hundreds of thousands of dollars. This is serving the public interest in Rau world. I do not want to live in Rau world. I would like to live in the world that we currently live in where the public interest is currently served, does not clog up our courts, and works perfectly well. It is not broken; I am not sure why, in Rau world, we need to fix it.

In the meantime, of course, Conroy's had several listeria outbreaks, and one man died from eating infected Conroy's products. Conroy's were then also fined on a number of occasions for breaches of food safety codes. This is an example of how this legislation will affect the work of media serving the public interest in our state. In that case, many hundreds of thousands of dollars were expended, many years were taken and, not to put too fine a point on it, lives were lost.

The legislation that we have before us certainly has been controversial in the past. In previous presentations to this council on this bill, I have raised the concerns of the union movement and those who represent workers in this state. Grave concerns have previously been expressed by Voices of Industrial Death, by the Maritime Union of Australia and by the CFMEU of South Australia about this legislation and the impact it will have on the ability to expose illegality, cruelty, corruption and things that are not serving workers. I ask the government: has it consulted with those groups that I previously raised in this debate as having concerns with the previous incarnations of the bill? They have put it on the public record that previously they did not support the direction that the government had taken.

The Law Society bells the cat on this bill. It was introduced as somehow the souped-up new model that would fix the problems that had thwarted its passage through this place in previous years, with the government proudly boasting that it was not an ag-gag bill. The Law Society, for one, states in its submission that it does not support ag-gag laws and notes that ag-gag is a term that originated in America and is used to describe legislation that attempts to stifle public awareness and discourse in respect of animal welfare and environmental protection in agribusiness.

The Law Society, in its submission to the Attorney—and circulated to all of us as members of parliament—stated that it is of the view that section 10 of the bill, if passed, has the potential to have a harmful effect on animal welfare in Australia. It goes on to state that:

> It is the view of the Society that section 10 of the Bill is in actuality an ag-gag law. Whilst the Bill was meant to address, inter alia, changes in technology and cross-border recognition of warrants, section 10 is about targeting undercover investigations into animal cruelty. Our view is somewhat supported by the various comments made by the members of Parliament including the Attorney-General during the debate of this Bill.

The Law Society submission continues:

> We note the Attorney-General's statement in the House of Assembly on 15 October 2015 that there is no protection for farmers from animal activists. That is untrue. There are a myriad of laws that protect citizens from intruders such as laws that address trespass. Similarly, defamation laws provide a remedy to those who are of the view that their reputation is being tarnished as a consequence of unfair reporting of their practices.

The Law Society goes on also to say:

> We have been unable to find any laws in any of the States or Territories in Australia that reflect the types of laws proposed by [section 10 of] the Bill. Similarly, we have been unable to find any laws like those proposed by the Bill in New Zealand, Canada or the United Kingdom.

So my final question to the government, because I will have many questions when we get to the committee stage of this bill, is: on what model has the government based this bill outside of the police powers part of the bill? Where is the proposed reversing of the public interest test, put forward by this bill and seeking to be legislated, working?

In what jurisdiction can we look at this model and ensure that, unlike that case in South Australia where Conroy's took out an injunction, this will not see media organisations and other legitimate bodies having to go through the courts in incredibly lengthy proceedings and expensive costs to themselves both in terms of their capacity and, of course, their finances and indeed putting lives at risk in the long term? How does this bill work in any other jurisdiction, or is it just a fiction of Rau world? I would like an answer to those questions before we proceed beyond clause 1.

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (22:16): I believe that that finalises the second reading contributions. I will just briefly outline that I intend to do a second reading response and put some of the answers to questions and comments that the Hon. Andrew McLachlan made in his second reading contribution on the record now. I understand that the Hon. Tammy Franks has raised some questions in her second reading contribution. I have indicated that at clause 1 of the committee stage, which I will make an order for the next day of sitting, we will deal with those issues. I intend to adjourn until the next day of sitting after I have completed this second reading contribution summary.

I thank honourable members for their second reading contributions. The Surveillance Devices Bill 2015 is an important measure to overhaul and bring up to date with modern technologies the law dealing with electronic surveillance. There is a need to amend the current Listening Devices Act 1972, as, amongst other things, it provides no regulation of protection against the use of optical surveillance devices or data tracking devices.

The bill is a result of extensive consultation that has taken place over a number of years. The government has listened to the debate and concerns that have been expressed about the various iterations of the bill in the past years. The government has responded to the resistance expressed to the proposed amendments in previous years, with concessions in the 2015 bill to appropriately address the concerns of the opposition and other parties to the legislation.

I thank the opposition at this point in time for their constructive approach and support. It is clear that the bill strikes a balance between the competing interests of an individual's right to privacy with broader public interest concerns. The bill also reviews and expands the powers of law enforcement agencies in relation to surveillance. I am pleased that the proposed amendments made by the bill for law enforcement purposes appear to be without contention.

The Hon. Andrew McLachlan has raised in debate concerns expressed about the bill by Free TV and the RSPCA, and I think the Hon. Tammy Franks also raised concerns around those issues. Free TV has queried the scope of public interest exception contained in the bill. The bill provides that it is an offence to use, communicate or publish information or material derived from the use of the surveillance device in circumstances where the device was used in the public interest, except in accordance with the order of a judge.

In response to the concerns raised about the public interest exception in the 2014 bill, the 2015 bill provides an exception to the general rule requiring an order of the judge for media organisations and the RSPCA. Free TV argues that the bill should include a general public interest exemption for the use, communication or publication of material derived in the public interest. It claims the exemption from an order of a judge should be at large and not limited to media organisations or the RSPCA.

It is their view that the media organisations and the RSPCA are not the only bodies with an interest in disseminating material in the public interest. The requirement of a judicial order where material is sought to be used, communicated or published in the public interest provides a safeguard against the dissemination of material that can cause irrevocable harm or damage to an individual or organisation where there is not a legitimate public interest in the material being placed in the public arena.

The exemption provided to media organisations and the RSPCA is one of the concessions made by the government when introducing the 2015 bill. It acknowledges that certain outlets and organisations have ethical and professional obligations to use the published materials in a responsible and appropriate fashion and removes the precondition of a judicial imprimatur for those

organisations. It balances the competing interests of an individual's right to privacy and larger conflicts of public interest.

Free TV asserts that the definition of 'media organisation' in the bill is too narrow. In response, there must be some regulation of who can avail themselves of an exemption from a judicial order. The exemption is not intended to apply to any individual with a website or blog who claims to be a media organisation. The definition of a media organisation in the bill was designed carefully to strike an appropriate balance between individual rights and public interest.

The government has listened to concerns expressed and is willing to compromise. It will propose an amendment to allow genuine media organisations to apply to the government to be listed in regulations. This will ensure that legitimate media organisations that are not covered by the scope of the bill, including *The Guardian Australia*, Yahoo7 and *The West Australian* newspaper, will be able to apply to be included as an exempt organisation.

The requirement of a judicial order is not an onerous one, particularly when weighed against the damage that can flow from the irresponsible and careless use of surveillance material and the legal consequences that can follow. It is a requirement that is enacted in the Western Australian legislation, seemingly without issue, and while Free TV claims that there should be a public interest exemption at large, such a claim appears to have little regard to the terms of the provision that provides an exemption for judicial order not only for media organisations but for information or material that is used, communicated or published to such media organisations from another party.

There is no intention to hinder or stymie the free flow of information in the public arena; rather, the bill safeguards how that information can be used and disseminated. Free TV is of the view that there are organisations other than the RSPCA that have a legitimate interest in being able to use material that is captured by surveillance devices in the public interest. The RSPCA has indicated that it does not wish to be allocated a legislative role in being exempt from the requirement of a judicial order to publish material captured in the public interest.

The RSPCA argues that the public interest exemption contained in the current legislation is sufficient and requires no amendment. As a result of consultations with the RSPCA, the government will propose an amendment to delete the specific statutory exemption. Free TV states that the installation, use or maintenance of a listening or optical surveillance device in the public interest should extend beyond those who are party to private activity. Such an argument fails to recognise that the exemption is directed towards the surveillance of private activities that are not intended to be observed beyond those who are party to the activity. Where third parties become involved, the notion of an activity being a private one becomes questionable.

Similarly, Free TV argues against the reasonableness test being imported into the definition of private activity, claiming it is too uncertain to test to permit compliance with legislation. The definition of private activity in the bill is consistent with other jurisdictions. However, the reasonableness test is one that is commonly used throughout statute and common law and will allow for the development of a test that reflects community standards.

What amounts to a private activity will necessarily be a matter of fact to be determined in the circumstances of a particular case. Like many aspects of the law, a common-sense approach is required but, again, the government is willing to compromise in the interests of moving the business on in a sensible and defensible way.

The amendments in this area proposed by the Hon. Andrew McLachlan accord with the principle and will be supported. Free TV is also of the view that there should be a public interest exemption to material derived from the use of surveillance devices by law enforcement authorities prior to such material reaching the public domain, for example, prior to material being tendered as evidence in court proceedings. Plainly, the public interest in protecting the covert activities and investigations of law enforcement agencies should be paramount and weigh against such exemptions for surveillance material captured and used for law enforcement purposes.

I can advise that the government has paid careful attention to the concerns that have been agitated in previous years to the reforms proposed by the bill. The bill addresses these concerns in significant ways. Together with the amendments proposed by the Hon. Andrew McLachlan and the

government, the bill will occupy a sensible middle ground, and long sought and overdue reform in many areas, we hope, will be advanced. I therefore commend the bill to the house and look forward to its swift passage.

The ACTING PRESIDENT (Hon. T.T. Ngo): The question is that the bill be read a second time. The ayes have it.

An honourable member: Divide!

The ACTING PRESIDENT (Hon. T.T. Ngo): There is only one voice for the noes, so you cannot divide.

Bill read a second time.

TATTOOING INDUSTRY CONTROL BILL

Second Reading

Adjourned debate on second reading.

(Continued from 19 November 2015.)

The Hon. A.L. McLACHLAN (22:28): The Liberal Party will be supporting the second reading of this bill. The Liberal Party has decided to support the passage of this bill through the parliament and not seek amendment unless there are substantive matters that come to the attention of the members during the debate and the committee stage.

The Liberal Party's approach to this bill is to take on good faith the assertions of the police executive, and in turn the government, that it is necessary to enact this bill. The police have advised the Liberal Party that they requested that the government enact this legislation. It is the police executive that has access to the criminal intelligence that underpins the rationale for this bill.

The police executive are asking the parliament to take away the rights of our citizens based on the secrets that they alone keep. It is my view—and I have informed the chamber of this before—that it is an unsatisfactory state of affairs and that significant legislative reform is required regarding the use of criminal intelligence in the criminal justice system and the enhancement of the capabilities of the Crime and Public Integrity Policy Committee of the parliament.

What is disappointing to me is the disregard shown to the parliament prior to the bill coming to this chamber. This bill or proposed options for the regulation of tattoo parlours or even the need for regulation was not advised or put before the Crime and Public Integrity Policy Committee. Only a passing reference to tattoo parlours was made to the committee by the Commissioner of Police.

I am critical of the minister and the police executive for not paying appropriate regard to the role of the committee in the life of this parliament. This failure, at the earliest opportunity, to identify regulatory intent or even the need for potential regulatory schemes, unfortunately, shakes the faith of many in the opposition in the relationship the police executive has with many members of this parliament.

Nevertheless, the Liberal Party will once again take the protestations and advancements of the police executive in good faith. In criticising the police executive, I do not intend in any way to criticise or reflect adversely on the hardworking men and women of our police force; I admire them greatly.

The Hon. R.L. Brokenshire: And the executive.

The Hon. A.L. McLACHLAN: I hold out the hand of friendship to the police executive. I offer, if they wish it, my willingness to present to them on the importance of the rule of law to the working of a functioning democracy and the need for institutions like the police force to hold themselves to account. I want the South Australia Police to be seen as a bastion of integrity and best practice in the Asia-Pacific region, not a political player constantly furthering its own administrative agenda.

This bill will pass with the assistance of the Liberal Party; however, the acquiescence of the Liberal Party will not transpire without renewed obligations and expectations of the police executive. The Liberal Party will expect that there will be independently audited statistics regarding the operation

and effectiveness of the legislation in fighting organised crime. If this does not transpire, then not only will the police's position in respect of this bill be re-examined, but further legislative reform will beckon.

This is an oppressive piece of legislation. It is my personal view that the case has not been clearly made out for the bill's enactment. Indeed, there are relatively few tattoo parlours that come under suspicion and, in my view, there are already adequate laws in operation that allow the police to deal with any associated criminal activity.

I now wish to comment on some of the substantive clauses in the bill. The bill creates a negative licensing regime. This regulatory approach is in part justified by limiting the compliance obligation of the owners of tattoo parlours, yet there will still be an increase in obligations imposed by this bill, which of itself undermines the justification for the regulatory approach adopted in this bill.

Under the proposed negative licensing scheme, certain categories of persons will be disqualified from providing tattoo services. Disqualification can occur in one of two ways. Firstly, a person is automatically and permanently disqualified from providing tattoo services if he or she is a member of a prescribed organisation, a close associate of a person who is a member of a prescribed organisation, is subject to a control order under the Serious and Organised Crime (Control) Act 2008, is disqualified from providing tattoo services under the law of the commonwealth or another state or territory, or is a person or a person of a class of persons prescribed by the regulations.

Secondly, the Commissioner for Consumer Affairs will also have the power to disqualify a person from providing tattooing services if certain criteria are satisfied. These criteria include:

- if a person was, within the preceding five years, a member of a prescribed organisation;
- if a person was, within the preceding five years, a close associate of a member of a prescribed organisation;
- if a person is found guilty or has, within the preceding ten years, been found guilty of an offence prescribed by the regulations;
- where the Commissioner for Consumer Affairs reasonably believes that such an action is appropriate for the purpose of averting, eliminating or minimising a risk to the safety of members of the public; or
- the commissioner reasonably believes that to allow a person to provide tattooing services would not be in the public interest.

This second type of disqualification—that is, made by the commissioner—takes effect from the date specified in the notice and continues in force either indefinitely or for a period specified in the notice or until the notice is revoked.

A 'close associate' is defined in the bill to include a spouse, a domestic partner, a parent, a brother, a sister or a child. Other categories of close associates include: members of the same household, persons who are in partnership, related bodies corporate, persons who have the right to participate in income or profits derived from a business conducted by the other, or where one person is in a position to exercise control or significant influence over the conduct of the other.

If the Commissioner for Consumer Affairs makes a disqualification and the decision is based on information that is classified by the police commissioner as criminal intelligence, the Commissioner for Consumer Affairs is not required to provide any grounds or reason for the decision other than it would be contrary to the public interest if the person were to provide tattooing services. I mention at this juncture the irony of this, which would be beautiful in any other context, that is, that the Commissioner for Consumer Affairs will have greater access to criminal intelligence than the elected members of the Crime and Public Integrity Policy Committee.

'Criminal intelligence' is defined in the act as:

> …information relating to actual or suspected criminal activity (whether in this State or elsewhere) the disclosure of which could reasonably be expected to prejudice criminal investigations, enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or endanger a person's life or physical safety.

In essence, certain individuals would be unable to operate a parlour. Alternatively, the Commissioner for Community Affairs can disqualify someone. Where the provisions of this bill are particularly offensive is that in the definition of a close associate of a person who is a member of a prescribed organisation. The only prescribed organisations in this state at present are certain motorcycle clubs. The immediate effect is that the family members are going to be punished for the actions of one person. They do not even need to have any dealings with the tattoo parlour business. They will be guilty by association.

It has been a long time since I have read Russian history, in particular, the revolution and its aftermath. This bill reminds me of darker times. It adopts the same logic or philosophical approach as that which was adopted by Stalin—no trial, no findings of guilt, families punished, wives and children arrested and close families tarred because of the suspicion of a state concerning the actions of a single relative.

I remind the chamber that, in this bill, no connection to the tattooing business needs to be established as a prerequisite to disqualification. In my view, we are losing our way in the manner in which we choose to keep our community safe. We are taking the wide path, the easy road, not the road where we can properly and carefully balance the rights of the individual with the safety of the community.

It has been suggested to me by many in the community that we in this place seem to be constantly seduced by a police bureaucracy that has more interest in its own advancement than concern for the community which it serves. The Liberal Party is strongly committed to fighting organised crime but, if we continue along this legislative path, it will expect greater assurances from the government and the police that such measures are necessary.

A curious provision that can be found in this bill is one where the Commissioner for Consumer Affairs does not need to provide reasons for his decision to ban someone from operating a parlour. One of the fundamental principles of our western legal tradition is that one has the right to confront one's accusers. In other words, the accused must be allowed to hear the case against them and the supporting evidence. This right has existed for over 2,000 years. In The Bible, Acts chapter 25 verse 16 records Roman governor Festus as declaring:

> It is not the manner of the Romans to deliver any man to die, before that which he is accused have the accusers face to face, and have licence to answer for himself concerning the crime laid against him.

The government has seen as fit to seek to remove this basic right. There are appeal provisions that may mitigate the effect of this clause and I will ask a question of the government in this respect at the conclusion of my second reading contribution. Even on appeal, the accused will not have access to criminal intelligence that forms the basis of the complaint against them. It is my view that this provision, removing the need to provide reasons and supporting evidence, will ultimately lead to the undermining of the public confidence in the process. Justice must not only be done but also be seen to be done.

The provisions of this bill are not consistent with how a liberal democracy should operate. A better regulatory approach would have been a licensing regime as adopted in some other states. It would have been better to keep safe the rights of our citizens at the cost of a potential increased regulatory burden.

The great unanswered question in this debate is: what is next? Delicatessens, beauty parlours, law firms, accountancy practices? When I asked this question of the police, they responded that they would deal with each problem as it presents itself. In other words, there is no strategy, there is no endpoint envisaged. This bill may well be seen in the future as an admission of failure by the police executive to effectively deal with organised crime—a tombstone for the failed approach by the police executive of this decade.

The Liberal Party wants real outcomes from the fight against organised crime, not window dressing for marginal electorates. The Liberal Party is prepared to support the police in its reasonable endeavours in tackling all forms of criminality, but not a government enacting provisions for political expediency. Nevertheless, we take the assertions of the police executive on good faith that these measures are necessary one more time.

In passing, I note the powers of the authorised officers under the bill. Authorised officers include police officers. The provision has caused some in my party to reflect on the continued need for the police to have the general search warrant—unique to this state. This is because increasingly they are given specific powers in various pieces of legislation. That debate is for another day; however, calls to review the general search warrants grow.

My vision of justice is one with a proper balance between the protections of the civil liberties, presumed innocence, and procedural rights of persons against the needs of the state to apprehend, punish and rehabilitate perpetrators of crime. It is my personal view that this bill does not find an appropriate balance between these competing ideals.

I now have some questions that I would like responses to in the summing up of the second reading debate, if possible. I seek similar answers to the questions raised by the Hon. Tammy Franks. The answers to those questions are also of particular interest to the Liberal Party. Given that the rationale for this bill is predicated on criminal intelligence, I ask, as I have asked previously in this chamber, whether the provisions of section 74A—Special provisions relating to criminal intelligence, in the Police Act 1998, have now been complied with.

Provisions of section 74A require the Attorney to appoint a retired judge to review the effectiveness of the police commissioner's guidelines in relation to criminal intelligence and its use. I ask whether someone has been appointed for the preceding 12 months—I understand it goes in a financial year basis—and in the previous years since the enactment of that clause. Without that assurance of an independent review of criminal intelligence, it makes a mockery of the rationale that the parliament should rely on the assertion that there is sufficient intelligence to warrant the introduction of this legislation.

I also ask the government to advise the chamber on what its implementation plan is for this legislation. Clearly, this will impact families who run businesses and that have an association (not of their choosing) with someone that may be in a declared organisation. These individuals may carry debt or other financial obligations in relation to their business. So I ask the government to set out its implementation plan in relation to this bill in the event that it is enacted. The passing of the bill, however, I fear will greatly diminish the value of the assets because potential buyers will know that the sale must take place in certain circumstances.

I also ask the government to set out how it envisages the appeal process to work. There are provisions in clause 17, I think it is, which relate to the provision of reasons. It appears that you are not given reasons by the Commissioner for Consumer Affairs upon making an order, but you do receive some reasons when you appeal, and I would like greater clarity on how the government envisages the appeal process to work. On that basis, I will complete my remarks for this second reading stage and I look forward to the committee stage.

The Hon. J.A. DARLEY (22:44): I rise to provide my contribution to this bill. The bill mirrors much of the Second-hand Dealers and Pawnbrokers Act and provides a negative licensing system for those who provide tattooing services. Essentially, the bill provides that anyone is able to provide tattooing services unless you are a prohibited person. A person is deemed to be prohibited if they are a member of or are a close associate of a member of a prescribed organisation, are subject to a control order under the Serious and Organised Crime (Control) Act 2008, or are disqualified from providing tattoo services under either commonwealth legislation or a law from another jurisdiction in Australia.

There are also requirements for those who are or will be providing tattoo services to notify the Commissioner for Consumer Affairs that they will be providing tattoo services and for those within the industry to keep certain records which are to be provided to the commissioner. These requirements also extend to employees. I understand this bill was introduced at the request of SAPOL, as they have found a large number of those within or closely associated to the tattoo industry to be associated with crime gangs and criminal activities.

It is part of the government's election promise to be tough on crime and crack down on criminal organisations. However, like all industries, there are the good that come with the bad, and there have been concerns for the operations of legitimate and law-abiding businesses and individuals in the industry. Whilst I understand the negative licensing system is designed to have a minimal

impact on legitimate businesses whilst also having the desired effect of eradicating criminal elements, legitimate businesses and individuals will still be required under the bill to notify the commissioner of undertaking tattoo services, keep and maintain records for a period of two years, and provide information requested by the commissioner.

As tattoos grow in popularity, the number of tattoo artists who are not affiliated with organised crime gangs also grows. Any impact these requirements have on business owners should be minimal and not have a negative effect on employment. It is only once the bill has become operational that we will see the full effect these changes have on the industry and the legitimate businesses within it. The government has been quick to move on this bill, and if any issues are identified, I hope they will be equally quick to move amendments to assist legitimate tattoo artists. With that, I support the second reading of the bill.

Debate adjourned on motion of Hon. T.T. Ngo.

HEALTH CARE (MISCELLANEOUS) AMENDMENT BILL

Introduction and First Reading

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

GOVERNMENT HOUSE PRECINCT LAND DEDICATION BILL

Introduction and First Reading

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

Second Reading

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (22:51): 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.

Plans for a suitable commemoration of the Centenary of Anzac date back to 2009 when the Veterans' Advisory Council, chaired by the Hon Sir Eric Neal AC CVO, was first asked to consider the matter. On the recommendation of the Council, the State Government announced a proposal to establish a Memorial Walk in January 2014 as a fitting tribute to the service and sacrifice of all those who have served or been affected by the impact of war.

The Memorial Walk is a unique opportunity to create a commemorative space in the heart of Adelaide and its memorial precinct. It represents a once in a century project in complete harmony with the City of Adelaide and its surrounding memorials, the River Torrens, parks and gardens. It will rank as a flagship project that will benefit every South Australian and honour the Anzacs and all other servicemen and women.

The Memorial Walk seeks to physically and symbolically link the State's principal site of remembrance, the South Australian National War Memorial on North Terrace, with Torrens Parade Ground and the Pathway of Honour. Designed as a memorial for all, the Memorial Walk does not seek to discriminate between conflict or theatre of war. Nor does it seek to highlight any individual's service. The Memorial Walk will be reflective of South Australia's involvement in conflict since federation.

A $10 million project to advance design and construction of the Memorial Walk was announced in April 2015.

Funding for the project has been provided from three sources; $5 million from the Anzac Public Fund, underwritten by the Commonwealth Government, $3 million from the State Government, and $2 million in funds and works from the Adelaide City Council.

The agreed design for the Memorial Walk requires a change to the boundaries of Government House along its Kintore Avenue perimeter, bringing it in 10 metres.

The boundary is defined in legislation dating back to 1927. In 1949 the National Soldiers Memorial Act amended that boundary to allow for the construction of the South Australian National War Memorial on the corner of North Terrace and Kintore Avenue.

The Bill before the House proposes to change the eastern boundary and redefine the exact boundary dedicated to the current National War Memorial.

It dedicates the excised area on the eastern boundary for the purposes of the Anzac Memorial Garden Walk and vests its care, control and management in The Corporation of the City of Adelaide.

I commend the Bill to Members.

Explanation of Clauses

1—Short title

2—Commencement

These clauses are formal.

3—Interpretation

This clause defines the *ANZAC Centenary Memorial Garden Walk land* and the *Government House Domain land* by reference to the map set out in Schedule 1.

4—Dedication of ANZAC Centenary Memorial Garden Walk land

This clause provides for the dedication of the ANZAC Centenary Memorial Garden Walk land.

5—Control of ANZAC Centenary Memorial Garden Walk land

This clause provides that the Adelaide City Council has care, control and management of the ANZAC Centenary Memorial Garden Walk land.

6—Continuation of dedication of Government House Domain land

This clause continues the dedication of the Government House Domain land (the land is currently dedicated under section 2 of the *Government House Domain Dedication Act 1927*, which is repealed by the Bill).

Schedule 1—Government House Precinct—Plan

The Plan shows the land within the Government House Precinct. It sets out the ANZAC Centenary Memorial Garden Walk land and the Government House Domain land for the purposes of the definitions in the Bill. It also shows the site for the National Soldiers Memorial.

Schedule 2—Related amendments and repeal

Part 1—Preliminary

1—Amendment provisions

This clause is formal.

Part 2—Amendment of *National Soldiers Memorial Act 1949*

2—Repeal of Preamble

The repeal of the Preamble is related to the repeal of the *Government House Domain Dedication Act 1927*.

3—Amendment of section 2—Control of National Soldiers Memorial

This amendment is related to the repeal of the *Government House Domain Dedication Act 1927*.

Part 3—Repeal of Government *House Domain Dedication Act 1927*

The *Government House Domain Dedication Act 1927* is repealed.

Debate adjourned on motion of Hon. J.S.L. Dawkins.

At 22:52 the council adjourned until Wednesday 2 December 2015 at 10:15.

Answers to Questions

PUBLIC SERVICE EMPLOYEES

43 The Hon. R.I. LUCAS (3 December 2014). (First Session)

Since 1 January 2014, will the Minister for Transport and Infrastructure list:

Job title and total employment cost of each position with a total estimated cost of $100,000, or more, which has been abolished; and

Each new position with a total cost of $100,000, or more, which has been created?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation):

The total estimated cost has been adjusted to $141,500 to ensure consistency with reporting across government Agencies.

Between 1 January 2014 and 31 December 2014, job titles and total employment costs of positions within the Department of Planning, Transport and Infrastructure with a total estimated cost of $141,500 or more:

(a) Abolished

Department/Agency	Position Title	TEC
Department of Planning, Transport and Infrastructure	Deputy Chief Executive, Public Transport Services	$ 224,854
Department of Planning, Transport and Infrastructure	Chief Engineer	$ 162,395
Department of Planning, Transport and Infrastructure	Deputy Chief Executive/Executive Director, Transport Services	$ 224,854
Department of Planning, Transport and Infrastructure	Government Architect/Executive Director, Office for Design and Architecture SA	$ 162,395
Department of Planning, Transport and Infrastructure	Director, Accommodation and Property Services	$ 162,395
Department of Planning, Transport and Infrastructure	Director, Contracting and Procurement	$ 162,395
Department of Planning, Transport and Infrastructure	Director, Communications and Community Relations	$ 162,395
Department of Planning, Transport and Infrastructure	Director, Strategic and Business Services	$ 162,395
Department of Planning, Transport and Infrastructure	Project Director	$ 162,395
Department of Planning, Transport and Infrastructure	Executive Director, Business Services	$ 224,854

(b) Created

Department/Agency	Position Title	TEC
Department of Planning, Transport and Infrastructure	Chief Corporate Officer	$ 224,854
Department of Planning, Transport and Infrastructure	Chief Development Officer	$ 224,854
Department of Planning, Transport and Infrastructure	Director, Outback Communities Authority	$ 162,395
Department of Planning, Transport and Infrastructure	General Manager, Information and Strategy	$ 224,854
Department of Planning, Transport and Infrastructure	Chief Operating Officer	$ 224,854