LEGISLATIVE COUNCIL

Thursday 22 February 2007

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

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Police): 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 2.15 p.m.

Motion carried.

STATUTES AMENDMENT (AFFORDABLE HOUSING) BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Police): I move:

That this bill be now read a second time.

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

Leave granted.

The *Statutes Amendment (Affordable Housing) Bill 2006* is an important initiative of this Government to address the situation facing those South Australians who need assistance to find a home within our community.

The South Australian Housing Trust was formed in 1936 as the first state housing authority in Australia, one year before the Housing Commission of Victoria, and by 1940 had completed 512 houses in the metropolitan area and had started building houses in Whyalla.

The first Annual Report of the SA Housing Trust stated:

> "The provision of accommodation necessary for decent living at low rentals for persons coming within the lower income group is vital to the maintenance and expansion of the industrial life of this State. Further, the health, morals and general tone of the community are closely involved in the matter.

The next 70 years has seen the SA Housing Trust construct more than 100 000 houses, and has undergone a number of changes. The 1980s were a particular period of change for the Housing Trust and for SA, with the introduction of the Low Deposit Home Purchase Scheme, the Rental Purchase Scheme and a mortgage relief scheme and the establishment of the first housing co-operative.

The 1990s saw a restructure of the Housing Trust with the Emergency Housing Office becoming integrated into the Housing Trust allowing private rental services to be delivered from all Housing Trust offices, and the Development, Policy and Planning and Major Projects divisions formed. Other changes included the establishment of the Public Housing Appeals Unit, the formation of the South Australian Community Housing Authority (SACHA) to oversee community housing associations and co-operatives, and the proclamation of the Aboriginal Housing Authority (AHA).

The evolution of the SA Housing Trust has resulted in a diversity of programs to meet housing needs groups in the community, but with reduced Commonwealth funding this has resulted in the targeting of housing trust resources to the highest needs groups. This has meant housing the most vulnerable people in our community but has also resulted in the need to sell houses in order to survive, with approximately 45, 450 housing stock remaining. This has also meant those people who traditionally would have been housed by the Housing Trust, such as low income workers and their families, were unlikely to access public housing, which has left a considerable and growing gap in our society of people who cannot afford to access housing.

As a result in March 2005 the Labor Government released the Housing Plan for South Australia, which aims to return South Australia to the forefront of innovative housing policy and help improve the economic and social well being of individuals, families and communities. The Housing Plan contains five main objectives being, affordable housing and strong communities, high needs housing, housing and services for Aboriginal South Australians, strong management and service coordination and environmental sustainability.

In May 2005 the Government commissioned a review into the social housing system within South Australia to determine the capability of the housing system to deliver on the Housing Plan for South Australia. The review identified the need for reform to enable housing outcomes to be delivered at a systemic rather than agency level through the provision of a continuum of housing supply, assistance and support options. Accessible and affordable housing services and supply are regarded as key contributors to broader social inclusion outcomes for citizens.

As a result in May 2006, the Government announced its housing reform agenda to provide for a continuum of services, quality of service, stronger governance and best use of resources. This will include the creation of "one stop shops" so people needing more than one service can get all the help they need in one place. People needing services will get them from newly created Housing SA offices, a single entry point for all our Government housing services.

The important role of the SA Housing Trust will continue, with a renewed role as a high needs housing provider to continue to provide for those most vulnerable in our community. In addition to help meet the increasing gap of people who cannot afford their own home, a new South Australian Affordable Housing Trust has been created as a division of the SA Housing Trust to help deliver more affordable homes for South Australians who are locked out of the housing market.

The new Affordable Housing Trust will recapture the early ambition of the Housing Trust to meet the housing needs of low-income workers and families. We want to give the young people of today the same start that the Trust gave to their parents and grandparents. It will seek to meet the needs of those families who now apply but miss out on public housing because of tighter targeting. It will allow further targeting of tightly subsidised public housing to assist those in most need.

The Housing Trust and its new Division, the Affordable Housing Trust, will work in a complementary fashion to address the Government's target to reduce housing stress. Housing Trust assets will provide higher subsidy services to those in greatest need, including personal support needs, in the community. The Affordable Housing Trust will focus on partnerships with the not for profit and private sectors, with lower Government subsidy requirements to families in housing stress but requiring services which are less capital intensive than public housing.

The Affordable Housing Trust will focus on providing a wider set of solutions. It will be supported by a Board that will include South Australians with experience in the housing industry, the service sector, local government and planning who will provide ideas and networks to market responses. Importantly, the Affordable Housing Trust and its Board of Management will focus on addressing the growing affordability crisis which has seen the ratio and average annual household income to house price double from 3.5 to 6.5 over the past decade.

Nationally, affordable housing is an increasingly recognised issue. South Australia has played a leading role in promoting this issue. A National Action on Affordable Housing Framework was endorsed in August 2005, which is a 3-year plan to promote a national, strategic, integrated and long term vision for affordable housing through a comprehensive approach by all levels of government. In August 2006, joint Local Government and Planning Ministers approved a national approach to the adoption of affordable housing policies within planning systems.

The Affordable Housing Trust will work with local government and planning authorities to provide the legislative and policy framework to encourage developments that include affordable housing targets of 15% affordable housing including 5% high needs housing. A variety of home ownership supply schemes are being developed, that in conjunction with Homestart financing packages for people on low incomes, will enable people to purchase a home who otherwise would not have been able to enter into the housing market. This is providing a new market segment and we encourage developers to consider the opportunities presented by this growing market.

Various rental initiatives are also being developed. In September 2005, Expressions of Interest for affordable rental supply projects were sought and some 75 responses were received. These provide an opportunity to work with the not for profit and private sector to

examine ways to work together collaboratively to increase affordable housing outcomes for the community. We believe this and other programs can be further expanded beyond the restrictions contained in the current legislation in order to obtain the best use of assets to increase the supply of affordable and high needs housing. However these decisions must be made with transparency, probity and value for money to ensure the wisest use of taxpayers funds. It is through providing a clear leadership structure and vision and working together with industry, community groups and other government authorities in a transparent and open manner that we can work towards achieving housing affordability for all.

The Affordable Housing Bill is an integral part of the Labor Government's housing reform. The Affordable Housing Bill will provide the legislative support to the new governance structure and housing objectives including the Affordable Housing Trust and its role in working with industry and partners to deliver more affordable housing outcomes in the market.

The Affordable Housing Bill amends legislation to provide for a contemporary set of housing arrangements where responsibility for strategy, asset and housing services is established under clear Ministerial control and a greater emphasis is given to the delivery of affordable and high needs housing outcomes.

These governance structures that will provide for Ministerial and Chief Executive of the Department for Families and Communities accountability will be reflected in the amended *South Australian Housing Trust Act 1995* and the *South Australian Co-operative and Community Housing Act 1991*. The SA Housing Trust is retained in recognising its important role in the provision of housing for those most disadvantaged. The SA Affordable Housing Trust will be established as a division of the Housing Trust, and will focus on working with industry and community partners in finding innovative solutions to housing needs of low to moderate income earners, including the best use of assets to deliver housing outcomes. This includes the ability to provide grants to the not for profit and private sectors, where value for money, probity and transparency is demonstrated, signifying the government's commitment to work with these sectors in finding innovative solutions to affordability problems.

Offices for Community and Aboriginal Housing have been established within the Department for Families and Communities to provide for ongoing recognition of the importance of both community housing and the housing needs of Aboriginal people. These will replace the South Australian Community Housing Authority and the Aboriginal Housing Authority. In addition an Aboriginal Housing Association will be created to specifically focus on providing access to safe, affordable and culturally appropriate housing.

A number of administrative issues that support the new governance arrangements will also be reflected in the *Housing and Urban Development (Administrative Arrangements) Act 1995*, the *Residential Tenancies Act 1995* and the *Housing Improvement Act 1940*.

Importantly, these amendments have also recognised important issues, such as the need to protect equity shares currently held with the Community Housing Fund. Provisions are made for share equity investments to be held in an appropriate account.

Provisions have also been made in regards to appeal provisions under the *South Australian Housing Trust Act 1995* to provide consistency with the *South Australian Co-operative and Community Housing Act 1991*, which currently has legislated provisions for appeals. Last financial year some 392 applications were lodged and in recognising the important role of the Public and Community Housing Appeals Panel for citizens, an appeal process has been legislated.

To reinforce the importance of affordable housing and the need for a system response, amendments have been included in the *Development Act 1993*, to specify the need to consider affordable housing in strategic planning and local council development plans. This will enable councils to make local assessments of housing need and plan for affordable housing in the future. If we want to provide for a supply of houses that our children and grandchildren can afford to buy or rent, then we need to encourage our planners, developers and decision makers to work towards a diversity of housing types, sizes and prices people can afford.

To assist with this, the *Housing and Urban Development (Administrative Arrangements) Act 1995* will be amended to include the promotion of planning and development systems that support sustainable and affordable housing outcomes within the community, including by participating in the referral system established under section 37 of the *Development Act 1993*, which will enable the certification of developments that meet the 15% affordable housing targets.

It is essential that the planning system support housing affordability objectives in order to provide for systemic and larger scale responses to meet the growing affordability needs.

I commend the Bill to the House.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

This clause is formal.

2—Commencement

The measure will be brought into operation by proclamation.

3—Amendment provisions

This clause is formal.

Part 2—Amendment of *South Australian Housing Trust Act 1995*

4—Amendment of section 3—Interpretation

These amendments make consequential changes to the definitions under the Act, including by deleting definitions that will no longer be required. The definition of the ***Department*** is to be revised so that the Minister will be able to designate the appropriate administrative unit by notice in the Gazette. (This is particularly important as it will be the Chief Executive of this Department who will constitute SAHT.)

5—Substitution of heading

This is a consequential amendment.

6—Amendment of section 4—Constitution of SAHT

This amendment provides that SAHT will be constituted of the Chief Executive.

7—Amendment of section 5—Functions of SAHT

These amendments relate to the functions of SAHT. It is to be made clear that the functions of SAHT include assisting people to secure and maintain affordable and appropriate housing by supporting initiatives in various sectors to increase the supply of affordable housing within the community. This may include the provision of support so as to allow the private or not-for-profit sectors to meet housing needs within the community. New subsection (4) will state that in conducting its affairs, and after taking into account Government policy, SAHT should employ the most appropriate and effective mechanisms to meet its aims and objectives.

8—Amendment of section 7—Specific powers of SAHT

It is to be made clear that SAHT is able to provide financial and other assistance to secure housing outcomes in the private sector. This assistance may be provided in a variety of ways. The provision of financial assistance will be subject to obtaining the approval of the Treasurer.

9—Substitution of Part 2 Division 3

Part 2 Division 3 must be revised as there will no longer be a board of management of SAHT constituted under the Act. However, a number of the duties that currently apply under section 16 of the Act are to be retained (with some modification relating to providing transparency and value in managing available resources and meeting expectations as to probity and accountability) and applied to the Chief Executive in constituting SAHT.

10—Repeal of Part 2 Division 4

All staff are now employed within the Department and so Division 4 is no longer required for the purposes of determining the staffing arrangements for SAHT.

11—Amendment of section 18—Committees

SAHT will be required to establish a committee to promote initiatives to increase the supply of affordable housing within the State.

12—Amendment of section 19—Delegations

13—Amendment of section 21—Further specific powers of SAHT

These are consequential amendments.

14—Insertion of section 21A

New section 21A will enable SAHT, as a term of an agreement with another party that involves the provision of financial or other assistance, to require that an instrument of covenant be registered over specified land. The covenant will be able to include various provisions that support the terms or conditions of the agreement.

15—Amendment of section 23—Transfer of property, etc.

The requirement to give notice under subsection (3) is to be removed. It will be made clear that this section (and the mechanism established by it) is not intended to limit in any

way the operation of another provision of this or any other Act that allows for the transfer of any asset, right or liability of SAHT (including section 6 which vests in SAHT all the powers of a natural person).

16—Amendment of section 26—Dividends

This is a consequential amendment.

17—Amendment of section 27—Accounts and audit

This amendment will make it clear that the accounts of SAHT may include accounts (and related financial information) that relate to the operations of SAHT under any other Act.

18—Repeal of sections 30 and 31

The preparation of a code of practice and charter will no longer be required by statute. The annual report under the Act will now be prepared by the Minister under proposed new section 42A.

19—Insertion of Part 3A

The arrangements for the review of various decisions of SAHT by an independent body will now appear in the Act. The relevant appeal body is to be the *Housing Appeal Panel* constituted under this new Part. The scheme will retain the current arrangements under which a person who is dissatisfied with a reviewable decision commences the process by applying for an internal review of the decision. If the matter cannot be resolved by an internal review, the person will apply to the Appeal Panel under new section 32D. Section 32D reflects a number of the practices that apply under the current administrative processes, including that the Appeal Panel prepares a recommendation for consideration by the Minister. The Minister will then determine the matter. It will be made clear that the Minister is not required to conduct a hearing or to invite submissions, and the Bill will provide that the Minister should not depart from the terms of a recommendation except for cogent reasons.

20—Insertion of section 42A

The Minister will now be responsible for preparing an annual report that relates to the operation and administration of the Act. This report will incorporate the audited accounts and financial statements of SAHT. It will be possible to combine this report with an annual report of the Minister under another Act that is also administered by the Minister.

21—Insertion of section 43A

The Minister and the Treasurer are to be given powers of delegation for the purposes of the Act.

Part 3—Amendment of *South Australian Co-operative and Community Housing Act 1991*

22—Amendment of section 3—Interpretation

These amendments make consequential changes to the definitions under the Act.

23—Insertion of section 6A

The South Australian Community Housing Authority is to be dissolved. New section 6A will set out the functions that the Minister will specifically assume under the Act.

24—Amendment of section 7—Power of Minister to delegate

These amendments relate to the Minister's ability to delegate functions or powers under the Act. A key entity under the Act will now be SAHT. It is proposed to allow a function or power to be subdelegated, if the instrument of delegation so provides.

25—Repeal of Part 2 Division 2

The provisions relating to the constitution of the Authority are to be repealed.

26—Substitution of heading

Part 2 Division 3 will now set out the functions and powers of SAHT under the Act.

27—Amendment of section 16—Functions and powers of SAHT

These amendments reflect the role that SAHT is to assume under the Act, and the fact that the Minister is now to assume certain functions.

28—Amendment of section 17—Delegation

These are consequential amendments.

29—Repeal of section 18

All staff are now employed within the Department and so section 18 is no longer required for the purposes of determining staffing arrangements under the Act.

30—Amendment of section 18A—Transfer of property, etc.

31—Amendment of section 18B—Tax and other liabilities

32—Amendment of section 18C—Dividends

These are consequential amendments.

33—Substitution of sections 19 and 20

Section 19 of the Act is to be revised so that the accounts of SAHT under the Act may be included as part of the accounts of SAHT under the *South Australian Housing Trust Act 1995*. Under section 20, the Minister will now be responsible for preparing an annual report that relates to the operation and administration of the Act. The report will be able to include the combined accounts of SAHT under a combined report under the *South Australian Housing Trust Act 1995*.

34—Amendment of section 21—Registers and inspection

The Minister will now assume responsibility for the registers required under the Act.

35—Amendment of section 22—Registration

36—Amendment of section 25—Amalgamation

37—Amendment of section 27—Alteration of rules

38—Amendment of section 28—Powers of a registered housing co-operative

39—Amendment of section 31—Abolition of doctrine of constructive notice in relation to registered housing co-operatives

40—Amendment of section 32—Application for membership

41—Amendment of section 33—Voting rights of members

42—Amendment of section 36—Control of payments to members etc

43—Amendment of section 39—Qualification of a committee member and vacation of office

44—Amendment of section 47—Preparation of accounts and audit

45—Amendment of section 48—Accounts and reports to be laid before annual general meeting

46—Amendment of section 49—Returns and other information

47—Amendment of section 50—Right of inspection

The Minister will now assume responsibility for the registration of housing co-operatives and for the statutory functions and administrative arrangements surrounding the requirements associated with registration under the Act.

48—Amendment of section 51—Issue of investment shares

The Minister will give any approval associated with the issue of investment shares by a registered housing co-operative under the Act.

49—Amendment of section 52—Share capital account

If a subsidised housing co-operative issues investment shares, the amount received by the co-operative must be transferred from its share capital account to SAHT, to be held in an appropriate account.

50—Amendment of section 56—Loss or destruction of certificates

51—Amendment of section 57—Redemption of investment shares

52—Amendment of section 58—Cancellation of shares

53—Amendment of section 62—Interpretation

These are consequential amendments.

54—Repeal of Part 7 Division 2

The South Australian Community Housing Development Fund is to be dissolved and its capital, and related interests, are to be transferred to SAHT.

55—Amendment of section 64—Financial transactions

SAHT will now assume the role of being a party to any funding agreements with registered housing co-operatives.

56—Amendment of section 65—Creation of charge

57—Amendment of section 66—Enforcement of charge

58—Amendment of section 67—Creation of option

59—Amendment of section 68—Paying out the charge

SAHT will now be the relevant party for the purposes of a statutory charge under the Act.

60—Amendment of section 70—Powers of investigation

This is a consequential amendment.

61—Amendment of section 71—Grounds for intervention

62—Amendment of section 72—Appointment of administrator

63—Amendment of section 74—Winding up

64—Amendment of section 77—Distribution of assets on winding up

65—Amendment of section 78—Defunct co-operatives

The Minister will now assume responsibility for any investigation, intervention or winding up under the Act.

66—Amendment of section 79—Outstanding property of former co-operative

67—Amendment of section 80—Disposal of outstanding property

Outstanding property of a co-operative that is dissolved will vest in SAHT.

68—Amendment of section 82—Offences

This is a consequential amendment.

69—Amendment of section 83—Assistance to tenants

SAHT will now assume the role of assisting a tenant who may be affected by the winding up of a registered housing co-operative.

70—Amendment of section 84—Appeals

These amendments will provide for the Housing Appeal Panel to have statutory jurisdiction to hear appeals under Part 11 of the Act.

71—Amendment of section 88—Persons under disability

72—Amendment of section 92—Power to reject documents etc

73—Amendment of section 93—False or misleading statements

74—Amendment of section 94—General power to grant extensions and exemptions

75—Amendment of section 95—Ability of Minister to convene special meetings of co-operatives

76—Amendment of section 96—Evidentiary provision

77—Amendment of section 98—Failure to supply appropriate information

78—Amendment of section 102—Proceedings for offences

79—Amendment of section 103—Government guarantee

80—Amendment of section 104—Remissions from taxes etc

81—Amendment of section 105—Fees in respect of lodging documents

82—Amendment of section 106—Rule against perpetuities

83—Amendment of section 107—Regulations

84—Amendment of Schedule 1—Housing associations

85—Amendment of Schedule 2—Associated land owners

These are consequential amendments.

Part 4—Amendment of *Housing and Urban Development (Administrative Arrangements) Act 1995*

86—Amendment of section 3—Interpretation

These amendments make consequential changes to the definitions under the Act.

87—Amendment of section 5—Functions

The functions of the Minister under the Act are to include specific reference to the role of promoting planning and development systems that support sustainable and affordable housing outcomes within the community, and supporting the achievement of these outcomes by acting as a prescribed body under section 37 of the *Development Act 1993*.

88—Repeal of sections 12 and 13

89—Amendment of section 14—Validity of acts

These amendments relate to provisions that now appear in Part 2 of the *Public Sector Management Act 1995*.

90—Amendment of section 17—Staff

91—Amendment of section 21—Specific powers

92—Amendment of section 23—Transfer of property etc

These are consequential amendments.

Part 5—Amendment of *Residential Tenancies Act 1995*

93—Amendment of section 5—Application of Act

Proposed new section 5(1a) of the Act will allow certain classes of rental/purchase agreements that relate to land owned wholly or in part by the South Australian Housing Trust, or a subsidiary of the Trust, to be brought within the jurisdiction of the Residential Tenancies Tribunal (rather than excluded by virtue of the operation of section 5(1)(e)).

94—Amendment of section 24—Jurisdiction of Tribunal

The jurisdiction of the Tribunal should extend to cases involving a subsidiary of the South Australian Housing Trust.

Part 6—Amendment of *Housing Improvement Act 1940*

95—Insertion of section 6

It has been decided to include a power of delegation for a housing authority under the Act.

Part 7—Amendment of *Development Act 1993*

96—Amendment of section 3—Objects

The objects of the *Development Act 1993* are to include specific reference to promoting or supporting initiatives to improve housing choice and access to affordable housing within the community.

97—Amendment of section 23—Development Plans

A Development Plan may, in connection with promoting the provisions of the Planning Strategy, set out objectives or principles relating to the provision of affordable housing within the community.

98—Amendment of section 30—Strategic Directions Reports

99—Amendment of section 101A—Councils to establish strategic planning and development policy committees

These amendments relate to the provision of reports by councils that set out the council's priorities for implementing affordable housing policies set out in the Planning Strategy. These amendments assume the passage of the *Development (Development Plans) Amendment Bill 2006*.

Schedule 1—Transitional provisions

This schedule sets out transitional provisions associated with the implementation of this measure.

The Hon. R.I. LUCAS secured the adjournment of the debate.

STATE LOTTERIES (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. P. HOLLOWAY (Minister for Police): I move:

That this bill be now read a second time.

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

Leave granted.

This Bill is to give effect to a number of amendments to the *State Lotteries Act 1966*, most notable of those being the raising of the allowable age to play lottery games to 18 years, and providing SA Lotteries with the ability to promote and conduct special appeal lotteries to raise funds for particular causes.

Part 1 of the Bill deals with preliminary issues and contains the citation (Clause 1) and provides that it is to come into operation on a day to be fixed by proclamation (Clause 2). All amendments contained in the Bill apply only to the State Lotteries Act (Clause 3).

Part 2 contains the substantive amendments. Clause 4 amends the Interpretation clause by introducing, inter alia, the concept of a special appeal lottery, and defining an 'Australian lotteries body' and a 'foreign lotteries body'. There are two arms to these definitions. Firstly, SA Lotteries is currently able to promote and conduct a lottery with an authority constituted under the law of another State or Territory of Australia. This has facilitated the very successful arrangements whereby the individual Australian lottery operators can pool prize monies to create larger and more attractive prizes. Consumer demand exists for larger jackpots and increased prizes and the view is that this can only be generated through enhanced pooling and co-operative activities on an international perspective. For SA Lotteries to take advantage of such international pooling or co-operative opportunities, the Act must be broadened to include international authorities as well as retaining the current ability to conduct joint lotteries within Australia. This will bring the South Australian legislation into line with the other Australian lotteries jurisdictions.

Secondly, the Minister with responsibility for SA Lotteries will have the power to declare a body to be within the intended ambit of the definition. The intention of this provision is to allow SA Lotteries to enter into co-operative dealings of a commercial nature with either an Australian or international body, subject to the approval of the Minister. SA Lotteries is established as a body corporate and should, to the maximum extent permissible, be allowed to undertake a range of commercial activities that are appropriate for the administration and affairs of SA Lotteries and which align with the functions and objects of the State Lotteries Act. Clause 4(7) has been inserted into the legislation to clarify certain terms used in the Act when applied to a lottery conducted jointly by SA Lotteries with another appropriate body.

Clause 5 broadens the powers and functions of SA Lotteries to allow it to enter into any jackpot pooling or co-operative dealing that may present itself on the international stage, subject to the approval of the Minister.

Clause 6 introduces two new sections into the Act to ensure differentiation between special lotteries and special appeal lotteries. The legislation made previous provision for special lotteries, the net proceeds of which are paid to the Recreation and Sport Fund. The introduction of a provision for special appeal lotteries will allow SA Lotteries to promote and conduct lotteries with the specific purpose of raising funds for approved purposes within South Australia. In the past, SA Lotteries has been approached to promote and conduct fund raising type lotteries. Unfortunately, SA Lotteries has had to decline as the current legislation does not provide for lotteries of this nature. With these amendments, SA Lotteries will be in a position to offer its experience in the conduct of lotteries thereby providing assurance to the South Australian public that special appeal lotteries are transparent and credibly organised. Each proposal will be presented to the Minister on a case by case basis for approval. This amendment will also enable SA Lotteries to increase its commitment to community causes in addition to its current contributions to the provision, maintenance, development and improvement of public hospitals and equipment for public hospitals, and support and development of recreational and sporting facilities and services within South Australia.

Clause 7 amends the manner of application of moneys in The Lotteries Fund by making provision for the payment of the net proceeds arising from a special appeal lottery together with any unclaimed prizes that may arise in respect of those particular lotteries, to the beneficiaries as specified by the Minister. This will not mean a redirection of funds away from the current Hospitals Fund or the Recreation and Sport Fund, but rather the specific application of proceeds resulting from the introduction of special appeal lotteries.

Clause 8 amends the provision relating to unclaimed prizes. Whilst all current lotteries conducted by SA Lotteries allow for a 12 month claim period within which to collect a prize, it was considered appropriate that with the introduction of special appeal lotteries, a shorter claim period should be considered for this particular lottery. This is due to the fact that the proceeds of such lotteries will normally be distributed within a short time frame to provide immediate benefit to the approved cause.

A further amendment to this section will now allow the claim period to be met in the instance of a lottery prize being paid over an extended period in instalments, if at least the first instalment is collected or taken delivery of within the twelve month period.

Clause 9 amends the provision establishing the Unclaimed Prizes Reserve by excluding its application to prizes in special appeal lotteries. In that instance, unclaimed prizes will be paid to the beneficiary of the special appeal lottery.

Clause 10 amends the provision dealing with the value of prizes to be offered in a lottery. Unlike other Australian lottery jurisdictions, SA Lotteries has been unable to fund the payment of 'missed prizes' from the Prize Reserve Fund. The amendments will allow such a payment to be made so long as certain criteria as outlined in the amendments are satisfied. These criteria are consistent with those applied by other Australian lottery entities.

Amendments have also been made to ensure that there is no creation of a Prize Reserve Fund in relation to special appeal lotteries. It will be SA Lotteries' intention to return the maximum net proceeds of such lotteries to the beneficiaries.

Clause 11 gives effect to the Government's policy of increasing the age at which persons can play lottery games from 16 to 18 years. Community sentiment supports this increase, and brings the playing of lottery games into line with other forms of gambling within South Australia. The penalties for selling an SA Lotteries ticket to a minor, or purchasing a ticket on behalf of a minor or claiming or collecting a prize won on a ticket on behalf of a minor have been increased to act as a greater deterrent. The higher level of penalties is reflective of the wider South Australian situation.

Clause 12 amends the provision prescribing offences under the Act to ensure that there is consistency between the prescribed penalties throughout the legislation. Certain offences have been deleted as they are a duplication of provisions contained within the Criminal Law Consolidation Act. Furthermore, a higher level of penalty will provide a greater level of deterrence. As a result of third party promotions seeking to determine financial benefits by associating their products and marketing initiatives with SA Lotteries' games, a new penalty provision has been inserted into the legislation requiring that third parties are to obtain the written authority of SA Lotteries before giving away or offering to give away tickets in an SA Lotteries game for any advertising, promotional or commercial purpose.

Given the age and style of the Act, a complete review of the Act has been undertaken to correct obsolete references and modernise the language used. These amendments do not have a substantive effect on the Act, and are contained in Schedule 1—Statute Law Revision attached to the Bill.

I commend the Bill to Members.

EXPLANATION OF CLAUSES

Part 1—Preliminary

1—Short title

2—Commencement

3—Amendment provisions

These clauses are formal.

Part 2—Amendment of *State Lotteries Act 1966*

4—Amendment of section 3—Interpretation

This clause inserts or amends definitions used in the Act to reflect changes made by this measure. In particular, it amends the definitions related to a corresponding Authority to enable the Commission to jointly conduct lotteries with bodies declared by the Minister to be included in the ambit of the definitions of Australian lotteries body or foreign lotteries body.

5—Amendment of section 13—Powers and functions of the Commission

This clause makes a consequential amendment.

6—Insertion of sections 13AA and 13AB

This clause inserts new sections 13AA and 13AB into the Act. Section 13AA is former section 13(1a) that has been relocated. Section 13AB provides that the Minister may direct the Commission to conduct special appeal lotteries, that is, a lottery for the purpose of raising funds for an approved purpose, itself a term defined in the clause. The net proceeds of any such lottery must go to the body or bodies specified by the Minister as the beneficiary or beneficiaries of the lottery. The clause also sets out procedures relating to conducting such lotteries and payment of prizes etc.

7—Amendment of section 16—The Lotteries Fund

This clause consequentially amends section 16 to allow payments to bodies in relation to special appeal lotteries to be made from the Fund.

The clause also substitutes the Minister for the Treasurer in relation to administrative functions related to the fund.

8—Amendment of section 16B—Unclaimed prizes

This clause makes a consequential amendment to acknowledge the shorter period within which prizes in special appeal lotteries must be claimed provided for in new section 13AB, and provides that, in the case of prizes paid by instalment, the prize will be taken to have been collected or taken delivery of when the first instalment is paid.

9—Amendment of section 16C—Unclaimed Prizes Reserve

This clause makes a consequential amendment.

10—Amendment of section 17—Value of prizes to be offered

This clause provides for the payment of "missed prizes", that is prizes incorrectly omitted for the winning entries, from money held back by the Commission in certain lotteries for the purpose of paying missed prizes or paying additional or increased prizes in subsequent lotteries.

The clause also substitutes the Minister for the Treasurer in relation to the determination of prescribed percentages, and sets out that the prize required for a special appeal lottery will be as specified by the Minister.

11—Amendment of section 17B—Minors not to participate in lotteries

This clause increases the minimum age at which a person can be sold a ticket in a lottery to 18 years.

Current section 17(2) of the Act also provides a defence for a person charged with an offence of selling a ticket in a lottery to a minor if the person believed on reasonable grounds that the minor was at least 16 years old. This clause increases the age from 16 to 18 years old, in accordance with the increased minimum age limit.

The clause also increases penalties under that section from a maximum fine of $200 to one of $5 000.

12—Amendment of section 19—Offences

This clause increases the penalties for offences under the Act to maximum fines of $5 000, with the exception of current subsection (3a), which is increased to $20 000 or 4 years imprisonment.

The clause also revokes current subsections (1) to (3), which duplicate more appropriate offences in the *Criminal Law Consolidation Act 1935*, and introduces a new offence of giving away, or offering to give away, a ticket in a lottery of the Commission for any advertising, promotional or commercial purpose.

Schedule 1—Statute Law Revision

This Schedule makes amendments to the principal Act of a statute revision nature, amending obsolete references and styles.

The Hon. R.I. LUCAS secured the adjournment of the debate.

LOCAL GOVERNMENT (STORMWATER MANAGEMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 20 February. Page 1450.).

The Hon. D.W. RIDGWAY: I rise on behalf of the opposition to indicate the opposition's support for the bill, although we do have a number of concerns about the level of duplication it might create by adding another level of bureaucracy or a different bureaucracy. I will pose a number of questions to the minister later in my contribution, and I hope he will be able to clarify some of those in the committee stage.

We all know that a number of parts of Adelaide, particularly suburban Adelaide, have suffered some quite horrific floods in the past 10 to 15 years—particularly those floods that occurred across Adelaide in 2005 which caused significant problems for local government in the areas of Burnside, Mitcham and, of course, Gawler. There was tremendous property damage and loss of production in a number of farming areas. The market garden area in the flood plain was inundated by floods, and those people suffered a significant loss of production.

Of course, the flow-on impact from floods is that food and vegetable prices rise, which impacts on South Australian consumers as well. So, there is not just the impact of the flood on the business of the person who is directly affected; there are also flow-on effects for communities and consumers at large. There is a range of impacts within the community, including an impact on council rates; they are not isolated to the individual whose property is affected. I think this demonstrates that, over the years, there has been a lack of preparedness for stormwater, storm management and storm events. Unfortunately, we go through periods of climatic uncertainty where there are a few dry years and people tend to forget that certain parts of their property are flood prone.

I know this from my own experience in the South-East on the farm. The local Tatiara Creek ran through our property and, when I was a small boy, it would flood every couple of years, or so it seemed. Unfortunately, the last time it flooded or there was a decent flow was in 1996, and the last time it actually did any damage in a flood situation was in 1988. Whether that is just a reflection of some sort of climate change and some shift in the rainfall patterns, or whether it is just a dry period, we tend to forget and not prepare for the impact of flood.

People buy and sell properties and are not aware of the risk of flooding. So there has been a significant lack of preparedness. Then, of course, once we have a flood event, there is a significant handballing of the responsibility. It may be that somebody upstream has shifted their water on downstream. Again, I talk about my farming experience as a small boy, when the creek that ran through our property would take some days to come up and flood after a heavy rain, and then it would take some days for it to subside and drain off down the creek.

As farming practices changed there was a lot more cropping in our particular area and people had the desire to move the water on as quickly as possible so that now, when we have a flood event, it is only a matter of hours before the creek is in flood. Everybody has laser-levelled and managed their properties to take the water off as quickly as possible. The same thing happens in metropolitan Adelaide. If you can shift it on as quickly as possible, it becomes somebody else's problem. Of course, that is where we are at the moment with this lack of preparation; instead, people take the opportunity to shift the problem on to somebody else so that it is no longer their problem.

There has been a significant period of consultation following the number of flood events we have had, especially in the past few years, as property values have increased and, I suspect, some rain events have become a little heavier. The experts are saying that, with climate change, we may well get longer, drier periods; not longer wetter periods but more intense rainfall events which, certainly in metropolitan and urban areas, are going to cause more sudden impacts with the run-off from pavements and roofs, etc. If there is a particularly large thunderstorm, like some of the rains that went through the Mid North and northern South Australia where some country towns received 170 millimetres in 24 hours, imagine the sort of inundation we would get in Adelaide with that type of rainfall. Thankfully, we have not experienced rainfall events such as that, but I think we are likely to see higher peaks of rainfall as we experience the potential impact of more climate change or uncertainty in our weather patterns.

The opposition welcomes the fact that local government and the government have eventually signed an agreement to establish this stormwater authority, if you like, which will manage the funding to make sure the projects are delivered and coordinated across all local government areas. This bill gives statutory effect to the Memorandum of Agreement on Stormwater Management dated 14 March 2006 between the Local Government Association and the state government.

A key feature of the bill is the establishment of the authority as a statutory corporation under the Local Government Act. I note that the authority will support flood plain mapping and preparation of stormwater management plans and prioritise stormwater infrastructure on a catchment-wide basis, which makes a lot of sense. As I said earlier, in the past, decisions were made by landowners and property owners to shift it on to the next person without any real concern about the damage or the problems that might create downstream. Planning on a catchment-wide basis is the sensible way forward.

Something that has intrigued the opposition involves the natural resource management boards. Looking at metropolitan Adelaide especially, the footprint of the Adelaide Hills Mount Lofty Ranges Natural Resource Management Board is pretty similar—except that it runs down the Fleurieu Peninsula—to the area that we are talking about. We are talking about the management of floodwaters in Adelaide by a stormwater authority, and the NRM board footprint is almost the same.

I note that this stormwater authority will not just have effect in Adelaide; it will be a statewide authority. Of course, the biggest loss or damage to property is done in Adelaide as a result of flooding of residential properties where we have a bigger concentration of different local government areas. In a lot of rural areas, I suspect—and I have not looked at this in detail—that many of the catchments are in the same council area, although I note that the Upper South-East Dryland Salinity and Flood Management Scheme in the South-East covers a number of council areas. Again, that has a similar principle. What has been established with this authority and recognised by this bill is that, in that case, a catchment-wide approach was taken, although only to the South Australian border.

As I mentioned earlier, I had a property at Wolseley; we were levy payers in that area because we contributed to that drainage scheme and we contributed to some of the impact of the water problems downstream. It is interesting to note that, in the catchment area in Victoria across the border, prior to entering South Australia and our property—it would be hard to quantify it without looking at some maps—the creek probably goes 40 or 50 kilometres back into Victoria and eventually runs through our property, and they were not levied at all. While they certainly contributed to the water flow, they were not expected to contribute to any of the funding.

One of the questions I would like to ask the minister is about the areas in the lower South-East and the mid South-East where we have creeks that run from Victoria into South Australia. How can that type of stormwater management and any particular works that are likely to be done there work with the Victorian local government on the other side of the border? The LGA might well have some interstate relationships with other councils—I am not sure—but I can recall the Kaniva Shire council (it is now the Wimera Shire) after the 1988 flood, which did a lot of damage to property and inundated crops, decided that maybe one way of dealing with this problem was to put the water underground through drainage bores back into the aquifer.

So, the shire council dug a number of drainage bores. Then, at the next flood event they actually tested the water and found that it had a number of farm chemicals, which had just naturally accumulated, run-off and nutrient load in the water. They decided that it was too unpleasant to put it underground in Victoria, so they stopped people putting it into drainage bores and let it come across the border into South Australia. It is interesting that it then flows into a big swamp west of Bordertown, eventually seeps back into the aquifer, and right next to that are several bores that the town supplies for Bordertown. So, on one hand, you have water falling in Victoria that is not suitable to be put underground, but then in South Australia we suck it back out of the ground and drink it. I think there are some issues along the border fringe, and probably the South-East is the only area where you are likely to have water flowing across borders, and I am not sure whether or not that is the intention.

The Hon. P. Holloway interjecting:

The Hon. D.W. RIDGWAY: Yes; the Great Artesian Basin. But in the stormwater events in the north of the state there is not a lot of property. There is damage done to roads and railways, but when it comes to personal property most of the landowners in the north of the state are quite happy to be inundated for a few days. I would like to know what the relationship between the two states will be. It is interesting that, in terms of this authority, with the approval of the Treasurer we will be able to borrow money against future stormwater allocations so that funding can be brought forward to enable priority works to be delivered earlier than would have been possible otherwise. I am sure that this is particularly attractive to the Treasurer, because, of course, it will appear as the authority borrowing money, and it will not appear on the Treasurer's bottom line in the state budget; it will actually be a different authority borrowing money. I wonder how on earth they can borrow enough money.

We have recently seen published—and I think there was some discussion about this on radio this morning—that for the Brownhill Creek catchment area we are looking at plans for $105 million, not only for dams but for a whole range of flood mitigation and stormwater programs in that area, and it is in excess of $105 million. They are talking about doing some work in the parklands and, of course, I am not sure whether the Parklands Preservation Society and those who are passionate about the parklands are concerned about them being used for a water retention area. That is something that, I guess, the Stormwater Management Authority will need to work through. There are $105 million of plans for that catchment.

I saw recently that the City of Charles Sturt had independent consultants look at the backlog of maintenance and stormwater work to be done there. From memory, it is somewhere approaching $70 million. So, you have $105 million for the Brownhill Creek area, and you have $70 million in the west in the City of Charles Sturt. That is $175 million in total. That is a significant chunk of metropolitan Adelaide. There are still a number of areas for which we do not have the full cost, so I suspect that it will be quite a lot more than the $160 million that we have heard about.

The government's arrangements to settle the bill are aimed at getting both levels of government to work together. This authority has, if you like, coercive powers to require councils to take the work if the councils do not agree; that is in either the construction or maintenance of stormwater infrastructure. That will certainly, I am sure, overcome the problems where different councils have put different priorities. I am sure that there would not have been any deliberate intention for one council to make a deliberate decision to inundate another council. The establishment of priorities and an overall catchment plan is particularly well supported by the opposition.

It is interesting. In the discussion about this bill we have often heard that the state government's contribution will be $4 million a year, adjusted for CPI, for a period of 30 years, and it replaces a previous funding allocation of around $4 million in 2005-06 for the catchment management subsidy scheme. I question—and the opposition has questioned it in the other place—whether this is really enough money to achieve the level of work required. As I indicated, it will be significantly more than the $160 million that has been spoken of.

The government indicated that there has been consultation between the state government, local government and the federal government on funding, yet I note from reading the contributions in the House of Assembly that there was some dispute between the member for Waite and the minister on exactly what commitment is in place from the federal government. I believe there is no firm commitment from the federal government, even though we have certainly been told that it was a three-way split, if you like. Maybe it has been fudging the figures as it has done in relation to the three-way split for the desalination plant in the Upper Spencer Gulf. We

were told that funding would be available from the federal government. I think there is, but it is not a set amount every year. My understanding is that the stormwater authority will apply to the different funding programs that the federal government has available.

From a stormwater point of view, the only permanent funding model in place is the national water initiative and also disaster funding for events such as we had in the Gawler area when property is damaged and there is a trigger after a certain amount of damage is done. What amount of money does the state government believe the authority will be able to receive from the federal government on an ongoing basis and from which particular funding programs does it expect to get that money?

Some concerns have been raised about the management of the whole project and the level of consultation that has been undertaken. I know that at some meetings I attended prior to the last election government representatives were talking to some of the residents groups, and I refer particularly to the Residents for Effective Stormwater Solutions. I have attended its meetings on a number of occasions. It is a community group with representatives from across the metropolitan area, so the group is not necessarily located in one particular area.

It seems to be quite a clever piece of legislation in that this will now allow the government, if you like, to handball the responsibility. I wonder whether it might not have been better to have done this under the NRM structure. As I mentioned earlier, that is something the opposition looked at. We have NRM boards in place to look at catchment management plans, environmental outcomes, water quality and some flood management. I suspect that this is purely to be an authority to deal with flood mitigation. I am not quite sure how the two will work together.

Certainly in the briefing I received from government representatives, they seem to think that there would be some creative tension between the NRM boards and this stormwater management authority. It seems quite a clever strategy in that the state government is able to shift its responsibility, if you like, to the stormwater management authority and, if there is any problem—any damage or any property inundation—the Premier, the minister or the Treasurer can say, 'We have put this model in place and we are funding it with our $4 million a year, so it is their fault and their problem that they have not delivered the stormwater infrastructure to manage the problems'.

We often hear about one in 100-year floods. Mother nature, we know, eventually outdoes itself. We have been told constantly that this year we are in a one in at least 116-year drought (since records have been kept). Of course, the Premier is on record as saying that it is a one in 1 000-year drought. We could easily find that we could do all this work to prepare ourselves to cope with a one in 100-year flood and then have a one in 200-year flood or a one in 1 000-year flood and still have significant damage. I am intrigued. I think this does shift all the responsibility from the government to the stormwater management authority.

I am a little concerned, and one of the questions I ask is: if the state government is putting in $4 million a year and the local government councils are putting in roughly the same amount of money, exactly how does the government expect to fund the $160 million worth of work, which, according to its statements, needs to be done (and I suspect that it is closer to $200 million or maybe more) in a timely fashion so that in 25 years we are still not waiting for that work to be completed? I know that it has talked about borrowing against future allocations, but you do not have to be a rocket scientist to know that, if you have $10 million or $12 million a year, you can probably borrow $100 million to $150 million and pay it back over a period of years. However, I still think that there will be a shortfall. After lunch, I would like the government to touch on some of the mechanisms that it thinks it will be able to fund with this bill.

I will put a few questions on the record now and they can be dealt with at the committee stage. According to clause 5, the functions of the authority include:

(a) to liaise with relevant public authorities with a view to ensuring the proper functioning of the state's stormwater management system;
(b) to facilitate and coordinate stormwater management planning by councils;
(c) to formulate policies and provide information to councils in relation to stormwater;
(d) to undertake functions in accordance with division 3 in relation to stormwater management plans;
(e) to administer the fund in accordance with division 5;
(f) to ensure that relevant public authorities cooperate in an appropriate fashion in relation to stormwater management planning and the construction and maintenance of stormwater works;
(g) to undertake stormwater management works in circumstances provided for by this schedule; and
(h) to provide advice to the minister in relation to the state's stormwater management system.

In what form will the advice be given to the minister? Will it be a monthly, quarterly, or annual update?

I would like the government to explain why it did not look at the model (as we have mentioned previously) of empowering the Natural Resource Management boards to do this and, if you like, give the Natural Resource Management Council the authority to borrow the money and manage it so that we achieve a better environmental outcome from stormwater management? It appears that this bill is setting out, if you like, to manage the process of shifting it on to the next place more quickly. They are reducing the impact. Flood mitigation is the number one priority of this bill, but there appears not to be a large enough component on environmental outcomes on water quality and putting water back into the aquifer. So, I would like the minister to bring back advice on the government's reasoning for having a duplicate body, if you like, covering stormwater in the state.

I have mentioned aquifer storage and recovery. Aquifer storage and recovery has been practised quite a lot across the world, but in South Australia we certainly lead the nation and some fabulous work has been done in the north in the Salisbury area. I went recently to the opening of a project at the Grange Golf Club—a jointly funded program by the state government, the federal government and the local council, coordinated by the NRM board, which seems to me to be very similar to what this bill proposes to do.

I think it was the first project that this government has instigated and completed in relation to aquifer storage and recovery. It always claims we are leading the nation but it forgets to mention that most of the projects—in fact, all the existing ones—were established and promoted under Liberal governments and largely funded by the federal Liberal government. When I attended the opening of this project, there were no state government members of parliament there at all. I find this quite baffling. I wonder whether it is because a couple of days prior to that the Prime Minister announced his $10 billion plan for the River Murray and this was a snub by the state government.

The minister was represented by the head of the Department of Water, Land and Biodiversity Conservation, Mr Rob Freeman, who spoke on her behalf. He spoke very well, and certainly he represented the government, but I was quite intrigued that there were no state members of parliament present. I know there are a number of backbenchers in the Labor Party team who are never so busy that they cannot be out there flying the flag on the very first project that this government has delivered on aquifer storage and recovery.

The golf club was chuffed that it had achieved this, and the NRM board was really delighted. The federal government was represented by minister Turnbull, who opened the project as one of his first jobs as the new environment minister. It just seemed bizarre that the state government was not there, and certainly a number of comments were made to me and people were quite bemused that the government was not there. That is not a question in regard to this bill, but I certainly make the point that it seemed rather strange.

In regard to the make-up of the board, it will have one representative from the northern metropolitan councils, one representative from the southern metropolitan councils and a representative of a council other than a metropolitan council appointed on the nomination of the LGA. I understand we will have those three nominees, but I wonder—and this is possibly not a question for the government; it may be more a question for the LGA but the government may well be able to answer it—what comfort some of the other parts of the state will have that their views will be represented on the board of the authority?

Then I looked at the qualifications that are required. I am sure this is just my country boy's way of reading it and that there is not a problem with it, but it says that, 'A person nominated under the subclauses above must have appropriate qualifications or experience in public administration, water resources, stormwater management, environmental management or infrastructure development.' I assume the government is only looking for one, not all, of those qualifications, but it reads as though someone is needed who has public administration, water resources, stormwater management, environmental management or infrastructure development experience. I am sure it is not the intent of this provision that the government is looking for a broad range of qualifications.

We have noted how this government has a passion for blowing out the number of public servants. We have 8 000 more public servants than it budgeted for, and we bear the cost of those people. I looked at remuneration, and it says that a member of the board, other than a member who has been appointed as an officer or an employee of a public authority, is entitled to remuneration, allowances and expenses determined by the minister. I know there is a range of figures and I do not expect the minister to detail those exactly, but I think he should put on the record what sort of costs will be incurred. There is $4 million of state taxpayers' money going in, there is $4 million of ratepayers' money going in, and some federal money. What costs will be incurred by the board in relation to salaries, and what other costs does the government envisage that will be borne by this management authority that will not actually deliver works on the ground? I was looking yesterday at some programs that the government has instigated where, if you do not really keep an eye on it, you end up spending a lot of money on staff, consultants, reports and engineers' reports and, in the end, get very little actual money on the ground.

The opposition intends to move a couple of amendments later this afternoon. I will not touch on them now, but the most important one in the view of the opposition is the referral of these programs to the Public Works Committee. It seems that we have, again, as I said, $4 million of South Australian taxpayers' money, $4 million of local government money and however much federal money it can attract, and then the authority can go and borrow money which is underwritten by the Treasurer. So, if it happens to go pear-shaped, because the state government and the Treasurer have underwritten it, it will be our problem in the future if there are major problems. I bring that to the attention of members of the house today for consideration prior to the committee stage.

We cannot believe that the government, and in particular the Treasurer, would be happy to have this authority borrowing money that is underwritten by the Treasurer and the government without some formal accountability. I know there will be a range of reports delivered to the Treasurer and there will be a whole range of checks and balances put in place, but parliamentary scrutiny is probably almost taking it a little far. I know the Hon. Mark Parnell has an amendment to which I am sure he will speak later, but it refers to one of the mechanisms for laying reports before both houses of parliament. I think that is a little cumbersome and that a whole range of issues will flow from that. The Public Works Committee has been set up to examine public works which involve money expended by the government of South Australia on behalf of the taxpayers, so it seems logical that this stormwater authority should go to the Public Works Committee for any works over the $4 million threshold. It just makes sense, and the opposition will be vigorously arguing for that this afternoon.

I refer to page 13, clause 21(1)(j), 'undertaking any testing, monitoring or evaluation'. This is regarding the special powers in relation to land, so it gives power to 'enter and occupy any land; and construct, maintain or remove any infrastructure; and excavate any land', and it goes on. The opposition is quite comfortable with what the government is proposing there, but I would have thought that, in terms of water quality, the EPA or the natural resource management boards would already be undertaking 'testing, monitoring or evaluation'. So we are a little concerned about whether this is shifting responsibilities and costs from some of the government bodies that are in place today onto this new authority, and not getting the $4 million (or however much they are borrowing) into programs that will deliver effective stormwater solutions for South Australia.

In relation to payments out of the fund, the bill refers to 'investigations, research, pilot programs and other projects relating to stormwater management'. Could the minister bring back this afternoon what the government sees as 'other projects relating to stormwater management'? I assume the government is talking about aquifer storage and recovery as well as projects in relation to water quality or pollution abatement. Again, I wonder what the natural resource management boards are doing in relation to that and whether there is any overlap.

Finally, I would like to ask a question about aquifer storage and recovery. As an example, the Grange Golf Club is actually paying, if you like, for the water to go underground. The golf club itself is managing the monitoring of the quality of the water and the pumping of the water back underground as well as the treatment it receives (the little bit of chlorination, etc.) before it goes back underground. They then pump it out and use it on the golf course. If there is an aquifer storage and recovery opportunity in a catchment area,

I would like to know who actually puts the water back underground, who monitors it, and who has access to the water when it comes back out of the ground.

There has been a significant increase in the number of bores being dug in metropolitan Adelaide as a result of the dry year we are having. If the authority puts water back underground does the authority then control the water that is taken out? Does it actually sell the water to the local council? What about landowners who benefit from the fact that the aquifer has been recharged a kilometre away or across the road? Is it likely that the government will force landowners to pay some sort of a licence fee or a fee to access the underground aquifer that the management authority is recharging?

I think the ownership of the water is a particularly important subject. We know how passionate the debate is on the River Murray at the moment and, from my experience in the South-East, I know that water is one commodity that is sure to get people passionate and fired up. This is an important issue, one that I would like the government to address this afternoon in terms of the actual ownership of the water, who will pay for it to go underground and who will pay for it to come back. It might be a stormwater management process to get it underground, but at the end of the day we need big wetlands and reed-beds to process it. While they might be stormwater retention areas, if you like, they cannot cope with huge volumes of water having to go back underground in a short period of time; that is done in a much slower fashion. We can see some interesting problems that might raise their head, and I look forward to the committee stage of the bill. Again, I indicate that the opposition supports the bill.

The Hon. M. PARNELL: The Greens support the second reading of this bill which, at first glance, appears to be a fairly routine piece of administrative legislation focused on administrative structures and functions and funding arrangements. However, at the heart of this bill are some of the most important issues facing South Australia and, in particular, Adelaide—that is, the way in which we treat the rainwater resource that falls on our towns and cities and whether we treat it as either a threat or an opportunity.

It seems to me that until now the focus has always been on the threat that is posed by stormwater run-off. We are all well aware of the damage and disruption caused by flooding, and the prevailing wisdom for many generations has been that stormwater is a threat to be managed and disposed of as quickly and as efficiently as possible. As a result we have seen stormwater drains directed straight out to sea, carrying with them their load of rubbish and nutrients as well as a range of other contaminants. We are slowly turning around those attitudes and starting to appreciate that stormwater—or rainfall, if you would like to call it that—is a resource, an opportunity on which we can capitalise.

When I looked at this bill I was looking for some indication of the priorities the bill poses to those two distinct ways of looking at stormwater. Does the bill mostly regard stormwater as a threat or does it regard it as an opportunity? I think the answer is that it is fairly silent. This can be looked at in a number of ways. You could say that it is both or it is neither. I note that the Hon. Sandra Kanck has some amendments filed that seek to emphasise the opportunity that stormwater presents, the opportunity for us to capture that resource. I look forward to the committee debate on those amendments because I think that it is most important that we do not devalue the opportunity that comes from reusing stormwater.

I would take it one step further and refer to something to which I alluded yesterday and about which I will have more to say later—that is, the absolute necessity for Adelaide to wean itself off the River Murray. It is not good enough for us to say, 'Well, we are happy to be 90 per cent in dry weather in summer, dependent on a resource that is now so unpredictable and so unreliable as the River Murray has become.' I understand that recent figures (issued yesterday or today) confirm the record low inflows coming into South Australia down the River Murray. I think that, if this government is serious about water security and Water Proofing Adelaide, an essential part of that strategy must be weaning Adelaide off the River Murray. The Greens say that a plan should be put in place now to achieve that objective within 10 years.

One of the most important parts of such a plan must be to use more wisely the resources available to us. In the context of Adelaide, that means stormwater and urban run-off. We have to do much more to capture and use that resource, rather than its just flowing out to sea in a polluted manner. The Hon. David Ridgway talked about aquifer recharge and reuse. I, too, have attended the Salisbury wetlands, taken the tour conducted by Mr Bob Giles and looked at some of the good work done there. That work has not been taken up by other local councils, and various excuses are given for that. It seems to me that one of the reasons that other councils have not done so is that sufficient pressure has not been put on them to treat stormwater as a resource.

The legislation before us in its administrative arrangements has, at its heart, the concept of management planning. The amendments I have filed relate to these stormwater management plans and the way they are to be prepared. It seems to me that much of the legislation we have in this state and deal with in this parliament that relates to the management of natural resources has fairly consistent planning regimes. There is a management planning regime under the Development Act and various plans under the Local Government Act. Yesterday, we spent some time talking about management plans under the Fisheries Act, and we have aquaculture plans and plans under the National Parks and Wildlife Act. One thing that most of these statutory planning processes have in common is that they have opportunities for people to engage in the process.

I believe that the key questions we need to ask ourselves when determining who should be able to influence these plans are these. First, does the plan actually or potentially affect the rights of citizens, the rights of property owners or the rights of other citizens? Secondly, do these plans guide or direct works that are to be undertaken, in particular works that impact on the environment as well as individual rights? Thirdly, do these plans guide expenditure? The answer to all these questions in relation to stormwater management plans is yes. These are important documents that impact on rights, direct work that affects the environment and direct where large sums of public moneys are to be invested. To me, that says that there must be a role for the community to have input into those plans.

As the legislation stands, I think it is deficient in that it does not provide those direct opportunities for input. Certainly, there are some indirect opportunities. For example, proposed section 13 refers to stormwater management plans having to be prepared in accordance with any other procedure or requirement prescribed by the regulations. So, it would be possible for the government to prescribe public consultation

regulations. However, I think that these plans are too important to leave it up to the regulation making power. I believe that the rights of the public to have input into these plans need to be enshrined in legislation.

Those rights are fairly straightforward. The first right people should have is to know that a draft plan has been prepared, and the second is the right to look at it, to be able to go to a council office, inspect a plan and purchase a copy so that you can take it home and study it. The third right of public participation should be the right to have your say, to comment on the plan and to put in a submission. I think that an important part of that process (as we see with, say, rezoning exercises under the Development Act) is that it is also important for people to have their say in a public setting. So, the idea of a public meeting being called to discuss a stormwater management plan I think is appropriate.

Finally, it is important to require our administrative decision makers (in this case, local councils) to have regard to the submissions that are made. You cannot legislate to say that they must follow the submissions that are made, because, obviously, you can get conflicting submissions. However, I think that the flipside of the right to comment is an obligation on the decision maker to have regard to the comments made. So, I have put forward a number of amendments which, basically, remove the need for the government to pass special regulations to mandate public consultation. I say that we should put that into the act.

If people are in any doubt as to whether or not the plans are important enough and really warrant the level of public consultation I am calling for, members should look at division 6 in the bill, 'Special powers in relation to land', and at some of the fairly extensive powers that exist, which refer back to the stormwater management plans and which I say should be the subject of consultation. What clause 21 refers to is a great long list of powers and actions that are consistent with the provision of an approved stormwater management plan.

These plans are important; they are going to guide how public funds are expended and determine how private property, for example, will be acquired; and they are certainly powers that impact on the environment. However, there is one further element of ability or scrutiny that should be incorporated, and that is to require these stormwater management plans to be tabled in state parliament and for either house of parliament to have the power to disallow the plans. It is not a radical concept; it is the business of this council almost every day that we sit, where ministers table a large number of plans and documents prepared under legislation. It is important, given that these stormwater management plans have such wide ramifications, that members of parliament be entitled to look at them and, if they feel that the plans are completely unreasonable, be able to disallow them. That is how the regulation disallowance power works; it is the same with many of the other statutory management plans under other legislation.

Finally, I acknowledge the people who have contacted me in relation to this bill. I have certainly had communications from the Local Government Association, whose advice was that it supported the bill in its current form. I hope the LGA would also appreciate that the more direct role for the community that is inherent in my amendments is also worthy of support. I appreciate the efforts that government officers went to to explain the procedures set out in the bill and the thinking behind it, and I also acknowledge the input of those residents who have actively campaigned for more sensible stormwater solutions for some time. I am talking about the Residents for Effective Stormwater Solutions Incorporated with whom I have spoken a number of times and who I know are keen not to stand in the way of sensible administrative arrangements. Their call is a reasonable one: that the public should be able to have direct input into stormwater management plans. With that, I am happy to support the second reading of this bill.

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to speak briefly to the legislation. As the Hon. David Ridgway has indicated, the Liberal Party is supporting the legislation, albeit that we will be moving amendments in committee. Given that the Hon. Mr Ridgway has put some questions on notice to give the government and its officers time to respond this afternoon, I thought it best, rather than ask questions in committee, to do the same. My questions to the minister and advisers relate to three or four specific issues. The first one is in relation to the government's arrangements with the stormwater management authority which under clause 4 of the bill will be a body corporate.

I would like from the government an explanation as to whether in the government's budget papers and budget structure the intention is that the stormwater management authority will be a public non-financial corporation (PNFC) similar to the South Australian Infrastructure Corporation and, therefore, the debt that accrues to the stormwater management authority for example will not be incorporated as part of the general government sector, which, to the lay person, is the budget sector included in the budget papers. I would like to know in particular whether its debt is therefore not included as part of the net debt of the general government sector.

In aggregate terms the general government debt in the state at the moment is about zero, and it is forecast to increase to a bit over $800 million over the next four years. I am advised that the state sector debt, which incorporates the general government sector debt, is about $1.7 billion at the moment, increasing to $2.8 billion over the next four years. So, it is an increase of $1.1 billion in the state sector debt. The state sector includes the public non-financial corporations (PNFCs) as well as the general government sector agencies, and therefore in South Australia it currently incorporates agencies such as SA Water, the Housing Trust, TransAdelaide and other bodies like that.

My question is whether this authority is to be treated in a budget sense as a PNFC and therefore all of its accounting will be outside the general government sector. Allied with that is whether there is any impact from the government's viewpoint in relation to the general government sector accounting arrangements when it comes to payments out of the authority for particular projects. So, my questions relate to the impact on public sector net debt, whether it be the state sector debt or the general government net debt and also, in terms of other budget aggregates, whether there is any impact on the operating position or the operating results of the general government sector as reported by the Treasurer on an annual basis.

I also ask whether or not the projected increase in state sector debt going from approximately $1.7 billion to $2.8 billion over the next four years in the budget papers includes the estimated debt of the stormwater management authority over the next four years, or are we to assume that any debt taken on by the stormwater management authority

will see a further blowing out of the state's net debt figure for the state sector debt over this four year period?

Another issue in relation to structure and governance is to clarify with the government whether the stormwater management authority is to be a public corporation under the provisions of the Public Corporations Act. Clearly, the stormwater management authority will be a body corporate and therefore a statutory corporation under the definitions of the Public Corporations Act; section 5 of that act indicates that a statutory corporation is a public corporation for the purposes of the act if it is declared to apply by the Associations Incorporation Act (that does not appear to be the case, although I stand to be corrected) or by regulations. Therefore, there could be a regulation under this legislation to indicate that it is a public corporation for the purposes of the Public Corporations Act.

I think it is important that parliament knows what those government arrangements will be. Without boring everyone witless, the Public Corporations Act has very significant powers, in particular, under section 6 in relation to ministerial control; that is, if it is a public corporation subject to the control and direction of its minister and the various other powers and requirements under that act. For example, the minister must cause any copy of a direction given to the public corporation to be presented to the Economic and Finance Committee of the lower house within 14 days after the direction is given. As I have said, there are many other requirements in the Public Corporations Act if this particular authority is going to be, or is intended to be, a public corporation.

Clause 8 relates to remuneration for members of the board. I have referred to this issue on other occasions. I understand from press reports, or government announcements, that former senator Nick Bolkus is to be the chairperson of this board. Again, I refer to the fact that Mr Bolkus, with all his undoubted skills in many areas, is also the Labor Party's bagman at the moment. He is head of the fundraising arm of the Australian—

The Hon. J. Gazzola interjecting:

The Hon. R.I. LUCAS: He's not? The Hon. Mr Gazzola says, 'That's pathetic.'

The Hon. J. Gazzola interjecting:

The Hon. R.I. LUCAS: Senator Nick Bolkus is pathetic?

The Hon. J. Gazzola: No; I said you're pathetic.

The Hon. R.I. LUCAS: I'm pathetic. Okay.

The PRESIDENT: I'm saying that you are both out of order.

The Hon. R.I. LUCAS: Well, I think the interjector is out of order, Mr President.

The PRESIDENT: Your responding to the interjections is out of order, too.

The Hon. R.I. LUCAS: Mr President, I was just seeking to clarify what the question was. For the benefit of the Hon. Mr Gazzola, Mr Bolkus is the convenor, president or chief guru of the arm of the—

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. This has absolutely nothing to do with the bill, and I ask you to direct the Leader of the Opposition to get back to the stormwater management bill.

The PRESIDENT: The Leader of the Opposition will direct his comments to the bill.

The Hon. R.I. LUCAS: Indeed, I will, Mr President, as I have. There is a very great degree of sensitivity from the Leader of the Government in relation to Mr Bolkus' position. As I understand it, Mr Bolkus is to be the chairperson of this authority, which is part of the legislation, and, under clause 8 of the legislation, the chairman of the authority is to be paid. Whilst I can understand the sensitivity of the Hon. Mr Holloway and the Hon. Mr Gazzola on this issue, it is a part of the legislation. As I have said, people need to know the background of Mr Bolkus in relation to this issue. My question to the Leader of the Government is: how much is former senator Bolkus, who is, as I have said as part of the public record, the bagman for the Labor Party in terms of fundraising, to be paid for this position? Whilst I understand the sensitivity of the Leader of the Government, he, on behalf of the government, needs to be held accountable in terms of how much taxpayers' money is to be channelled to the chairman of this authority.

The Hon. P. Holloway: Well, why not ask that question? Why don't you just ask: how much will the chairman be paid?

The Hon. R.I. LUCAS: I have just done that. However, people also need to know who is being appointed to these positions, because we know how this government operates. As I have said before, whilst I can understand the expertise of Mr Bolkus in a number of areas, stormwater management, if I can offer a comment, has never been one of them. If one goes through his contributions in the Senate and, indeed, in public and community affairs, stormwater management has not been a particular area of expertise or, indeed, interest of Mr Bolkus.

In responding to that, could the minister also advise the government's intentions in relation to the payments to other members of the stormwater management authority? I also ask: has the government any other arrangement with Mr Bolkus, as it relates to the stormwater management authority (I am sure there are other arrangements) by way of payments to Mr Bolkus in the period prior to the passage of the legislation as it relates to stormwater management issues?

The other area I want to put a question on notice is in relation to clause 17, which relates to the stormwater management fund. The fund consists of a number of proposed sources, moneys appropriated by parliament, and moneys contributed by regional NRM boards. Paragraph (c) refers to the Local Government Disaster Fund. I want clarification from the government what the relationship between this fund and the Local Government Disaster Fund is intended to be and also what the process of transfer is intended to be. I am assuming that all the money from the Local Government Disaster Fund is not being transferred into the stormwater management fund because, clearly, there are other local government-related disasters that do not relate to stormwater. So, I am assuming that there is to be some process where some proportion of the Local Government Disaster Fund will be allocated to the stormwater management fund. I seek clarification of that and also of what that process is intended to be: that is, who will make the decision as to how much money out of the Local Government Disaster Fund will be applied to the stormwater management fund?

Secondly, what is the budget impact of transfers of funding out of the Local Government Disaster Fund and into the stormwater management fund? For example, Treasury advice to the former government was that expenditures out of the Local Government Disaster Fund had an impact on the general government sector operating position. I am not sure whether that is still Treasury's advice to the current government, but certainly that was the advice to the former government.

I seek clarification from the government as to the budget treatment regarding allocations out of the Local Government Disaster Fund into the stormwater management fund as it relates to the operating position of the general government sector. The next stage of that process is that that money is expended by the stormwater management authority, so what is the impact on the general government operating position from that particular transaction as well?

My colleague the Hon. Mr Ridgway has raised issues in relation to the Public Works Committee so I will not repeat those. There are one or two other minor items that I might raise in committee. The final point I want to make is that, whilst this legislation is about currently establishing a new structure and a borrowing arrangement for the future, it certainly was our position as a party (prior to the election) that government and local government allocations to stormwater management were insufficient—that is, $4 million from the state and $4 million from local government—and that they needed to be increased. It was our policy at the last election to increase the state government's commitment to be matched by a local government commitment on an annual budgeted basis, rather than relying solely on borrowings, as this particular proposal intends.

As I said, that was the position we took to the last election. Whilst the party has not reconsidered that in terms of our position for the future, personally I thought that was a sensible position and it is one that I still support: that is, there does need to be a greater ongoing annual commitment from the state budget and the local government sector annual state budget to the task at hand, together with modest increases in borrowings to try and achieve the laudable purposes of the legislation. The impact on either general government net debt or state sector net debt was the subject of an earlier question and, subject to the answers the government provides, that might be an issue that I will also pursue in committee.

The Hon. D.G.E. HOOD: I rise to indicate Family First's support for the second reading of this bill. The bill seeks to amend the Local Government Act to create a new body, the stormwater management authority. The authority will receive state government funding of some $4 million annually over 30 years, which is designated to increase with indexation, so there will be a minimum of $120 million for catchment-wide stormwater strategies, which will be a welcome injection.

It is fair to say that the scope of authority will be almost exclusively for metropolitan catchment projects, as the reason this bill exists is due to situations where: first, a great number of urban residences in the flood plain of a creek or river are fed, at least in part, by stormwater; and, secondly, in most cases these catchments traverse several council areas and, thus far, councils have failed, in the government's view (and, indeed, in the view of Family First) to cooperate effectively to implement catchment-wide stormwater mitigation projects.

I think the Local Government Association has accepted the shortcomings of its constituent members in failing to come up with timely catchment-wide solutions to stormwater management and, therefore, it is no surprise that they have contacted our office and other members' offices to indicate their support for this bill without amendment. They are to be commended for that.

I might briefly defend some councils from perhaps something that is open to misinterpretation from the contribution of the Hon. Ms Sandra Kanck. I recall her saying that councils were foolish to let people build on flood plains. I assume she is talking about metropolitan councils and metropolitan-related water catchments but, even then, I am not so sure she is right. If you ask anyone who wants to build on land controlled by local council with governance over part of the River Murray, you will have very little chance of getting building approval in those council areas that are specifically zoned as a flood plain.

Indeed, the 1956 River Murray flood taught everyone a lesson about building close to a major waterway. Development plans in those areas are quite strict about redevelopment on a flood plain. I regret to say that my office has not had time to pursue metropolitan development plans to see if areas have been designated as flood plains, but there is perhaps an argument that there should be such designations. I suppose, though, that if stormwater management is done properly—which, of course, is the key concern of this bill—there might naturally once have been a flood plain but it might not now be a flood plain unless you have one of those elusively defined one-in-100-year unnatural events, or an act of God, as they can sometimes be called.

I would be grateful if the minister could address in his reply the extent to which metropolitan development plans zone flood plains and prevent development in those areas and whether it is envisaged that the stormwater management authority will advise or compel councils to vary such flood plain zones in development plans. This is very important: will they advise them or compel them?

I would like to raise another issue which is relevant to this bill and that relates to the proposed amendments. I agree with other members in the chamber that the amendments to this bill have been presented fairly late in the process. The bill was presented in the other place, I believe, in November. Some of the amendments were presented only in the past day or two. It is very difficult for us, certainly for Family First, to assess the value, if you like, of those amendments at such short notice. We would like to make it known to other members that we would appreciate it if the maximum time possible was given. Indeed, Family First's default position in the event of late amendments would be to oppose rather than support them. That does not mean that we will oppose them all, of course, but it does mean that we need time to consider the implications of what may be significant amendments in some cases. I would like to make that known to other members. Again, that does not mean that we will oppose them all—we certainly will not—but we believe the safer position is to take that approach. The implications of some of the amendments can be quite far-reaching and can change the nature of an act, indeed; therefore, we believe that adequate time needs to be provided to fully consider the implications of proposed amendments.

Other honourable members who contributed to the debate on Tuesday summed up very well the important issues concerning this bill, so I will not bother to go over the implications and all the details that have already been mentioned. However, I take note of the second reading debate on this bill which was held in the other place. I also have had the benefit of a briefing from the government for which I am grateful to the minister's representatives. I think Family First well understands the arguments for and against the various amendments that have been placed in this particular case because of the cooperation provided to us, so we thank them for that.

I would like to add that we would like to seek comment from the minister in his summing-up about the fact that Family First would like to see this new authority have environmental and sustainability issues as two of its key

focuses. The Hon. Mr Xenophon spoke compellingly of the need to consider the environment and the reuse of stormwater. We already do good work, we believe, in this regard, but it is something that we can always aim to do better, and Family First would certainly support that position. In today's economic climate it may well be that we can commercialise and export to other countries our world leading technology and expertise in natural resource management and conservation. I ask for some assurance from the minister of the government and local government priorities for environmental and sustainability concerns.

The only other observation I make concerning amendments at this stage is that the Hon. Mark Parnell proposes a scenario whereby stormwater management plans must come before this chamber and the other place for consideration before they are approved. Indeed, the Hon. Mr Ridgway mentioned this in his speech moments ago. Frankly, Family First does not like the sound of that at all. It is reminiscent of his proposal that he put forward in relation to a previous government bill amending the Development Act that amendments to development plans must come before this parliament, or something to that effect. In short, we see that as cumbersome and unnecessary. Whilst the spirit behind the amendment is admirable—it seeks to add a further level of scrutiny to the process and we certainly can understand and appreciate that—we believe that the cost, if you like, outweighs the benefit.

The implication of such scrutiny is that delays would be significant and unnecessary in our view. Heaven help us if the authority is not ready for a major flood event as a result of parliament further scrutinising a decision that had already been made in the past. As you can no doubt infer from this, Mr Acting President, Family First is not entirely enthused about the amendments that the Greens have put forward at this stage. The other amendment from the Greens, of course, pertains to ensuring that there is sufficient public consultation, but, again, I am inclined to agree with the government—and, I believe, the opposition on this particular issue—and we will not support that amendment at this stage. In summary, Family First supports the second reading of this bill and its general thrust.

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

CRIMINAL LAW (FORENSIC PROCEDURES) BILL

Adjourned debate on second reading.

(Continued from 20 February. Page 1441.)

The Hon. R.I. LUCAS (Leader of the Opposition): I rise to support the second reading of the legislation. My colleague the Hon. Robert Lawson I think earlier this week comprehensively outlined the Liberal Party's position on the legislation. I do not intend to go over all that detail, but I want to make some general comments at the outset. As I think the Hon. Mr Lawson alluded to, when this legislation was first introduced it was relatively controversial. There were strong views in the community at that particular time both for and against. I think it is fair to say that, with the passage of time, in practice, some of the concerns that people held about the legislation have not been shown to be correct, and that public understanding and, I suppose, public support for the use of DNA in policing and law enforcement is much better understood and much stronger now than it was when this legislation was introduced.

I was obviously in the parliament when it was introduced and when the newly elected Labor government (in about 2002) made changes. On reflection, when one looks back on the original legislation there is no doubt that the lawyers and legal people advising the then government tried to ensure that every 'i' was dotted and 't' was crossed to ensure that there would be absolute safety and that all precautions would be taken to protect the civil liberties of persons who were to have their DNA taken. On reflection, I think that was the flavour of the lead-up to the legislation and its implementation in the early stages.

I can remember the debate, for example, in relation to the introduction of random breath testing in South Australia. Again, at that time, there were all sorts of concerns about the interference with civil liberties and the infringement on people's rights that the introduction of random breath testing would entail. Here we are, some 20 plus years later, and it is a fact of life. The world has changed; attitudes have changed. Some of the concerns about random breath testing have not proved to be accurate and public support for the change, although controversial at the time, is now much stronger. I think that the DNA legislation is similar in terms of, as I said, growing support and understanding from the community. I think some speakers in another place alluded to this; that is, the fact that some of the more popular television programs these days and various versions of CSI and the name of the program have been, I suspect, part of that.

First, they are very popular; and, secondly, it has meant some modest increase in the understanding of the community for the power of DNA and other procedures in terms of fighting crime and assisting in the law and order fight. Therefore, it is natural that we are now going through this process. As my colleague the Hon. Robert Lawson very eloquently put it, this call for a more rational piece of legislation did not, as the government and the Leader of the Government indicate, begin after the last election. The Police Commissioner had been crying out, as had senior police, for some time prior to the election in relation to the need for government—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I don't know. I cannot recall any public call from the Commissioner for that and, if the minister has evidence of that, I would be pleased to see it, but I guess it is largely a moot point. Certainly in terms of public discussion, the Hon. Robert Lawson referred to interviews on talkback radio with the Police Commissioner. For the Police Commissioner to be saying it publicly that, in essence, it was—and I forget the exact words—the most unworkable piece of legislation from a police viewpoint that they had to deal with is a fair indication of the frustration. Whatever one might say about Commissioner Hyde, I think he is generally measured in his public statements and anything which might be deemed to be a marginal criticism of the parliament or the government of the day, or ministers, or whatever (even past ministers and past governments) is generally measured in terms of his public pronouncements.

As the Hon. Mr Lawson highlighted, he was on public radio well before the 2006 election saying to the Rann government—the Attorney-General in particular and those who advise him, the police minister at the time and the current police minister—in essence, 'Hey, we the police of South Australia need some help, we need some assistance. You have to introduce changes to the legislation'—albeit that

it is almost two years later than the first public announcements.

I think the Minister for Police has indicated that internal to the government the calls from the Commissioner were going on even prior to that. I think it is useful to have that on the public record now; that is, it is not just the public announcements, because the Police Commissioner and senior police have been calling on this police minister and previous police ministers to introduce changes to this legislation to assist police.

My position and the general position of the Liberal Party is, as I said, support for the legislation. We have been well briefed by Assistant Commissioner Harrison and other government advisers in relation to the current dilemmas in policing under the current legislation. Again the Hon. Mr Lawson outlined a number of those and I will not repeat them, but there were many other examples that the police have provided to the opposition in terms of dilemmas and difficulties in utilising the current legislation. Certainly from my view point, speaking as a member of the opposition and as the shadow police minister, I am convinced by the arguments of South Australian Police and essentially have supported the position and will support the position of expanding our DNA database. We saw an expansion in 2002. I think this government, because it happened to be in government at the time, pats itself on the back on various occasions saying that it was the government that was there and it is now doing this.

Certainly, should there have been a Liberal government, we, too, would have been proposing to the parliament (because ultimately it is for the parliament to decide) that the legislation be amended to take into account wider groups of people. Again the Hon. Mr Lawson outlined the Liberal Party position over recent years in terms of proposing and supporting further extension of DNA testing. The Attorney-General is playing games, as he occasionally likes to do. As I think most members know, he likes to refer to some interjection from one member of the Liberal Party on one occasion as an indication of the Liberal Party's considered policy position. That is not the case. Whenever we have discussed this, whenever we have put a policy position, we have endorsed and supported the extension of DNA testing, and we are supporting it on this occasion as well.

My final point is to seek clarification from the Minister for Police as to what the current position is in relation to the sharing of DNA with the other states and territories. What on earth will he be doing as minister to try to resolve some of the dilemmas and problems about which we have been advised in relation to the slow progress in what I would deem the proper sharing of information between states and territories to ensure that we in South Australia, from a policing viewpoint, can more adequately use national information and national databases? In the minister's response to the second reading, if not in the committee stage, I intend to pursue with the minister an explanation of what the current arrangements and problems are in moving to where we are meant to be, what the timelines are going to be and, in particular, what he as minister will do to ensure that the delays we are seeing do not continue to be experienced.

One of our criticisms has been delays from the minister, in particular, and the government in relation to critical law enforcement legislation. The Hon. Mr Lawson and Mrs Isobel Redmond have highlighted the problems in relation to bail changes; the Hon. Mr Lawson has highlighted problems in relation to this forensic procedures legislation; and I have highlighted problems in relation to the powers of police to utilise highly trained drug sniffer dogs to do the task for which they have been trained and which requires changes to legislation. Right across the board there seems to be either inertia or indifference, or both, from the Attorney-General, the Minister for Police and the Rann government in regard to having parliament debate some of these critical pieces of legislation. Sadly, that appears also to be the case in relation to the sharing of critical information between the states and territories in relation to DNA. With those few words, I indicate support for the legislation and endorse wholeheartedly the analysis of the legislation given by my colleague the Hon. Mr Lawson.

The Hon. M. PARNELL: The Greens support the second reading of this bill. I also appreciate the assistance given to us by Assistant Commissioner Tony Harrison and his staff in coming to grips with what is probably one of the most complex pieces of legislation that we have had to deal with so far, or at least in my time here. The good aspects of this bill are that it simplifies current complex legislation and it simplifies the procedures that the police must follow, and that is generally a good thing. It is important for the safety of the community that the South Australian police have legislation that supports rather than hinders their work in identifying and catching criminals and, certainly, the innovations in DNA analysis are something that we should be encouraging rather than discouraging. But, having said that, there is always the need to balance the powers that we give the police to enable them to do their job with the civil liberties and rights of law-abiding citizens and victims of crime, and it is important that those groups of people are able to have the relevant information and that their privacy is safeguarded and protected.

One concern that I have, and I ask the minister to consider this before we go into the committee stage, is whether or not there is a risk that some victims of crime might be deterred from reporting crimes against them, and especially rape cases spring to mind, because of some potential cross-checking with unrelated issues where they might not want to report and have DNA taken because they believe it might implicate them in other areas. Also, I would be interested in the minister's response to the question as to why this legislation does not allow the right of innocent people, or people against whom charges have not been followed through, to have their DNA profile removed from the database. It seems that the current arrangement is about, in a nutshell, 'Once we have the information, we are putting it on our database and it is not coming off', and it may well be that that tips the balance too far against civil liberties.

I think one of the most positive changes in this bill is the requirement for a mandatory annual audit of the DNA database, and I think that audits are always appropriate. To do it annually I think is probably appropriate, given the pace at which our understanding of this technology is proceeding.

I want to talk briefly about the procedure for the collecting of DNA samples from volunteers. The arrangement in the bill is that volunteers are required to agree to their DNA sample being taken, which distinguishes them from suspects (people who are suspected of committing crimes). If you are a volunteer, you are entitled to request in writing that relevant forensic material that has been obtained from you is destroyed, and the Commissioner of Police has 21 days to do this after receiving the request from the relevant person who gave consent to the original procedure. As I understand it, for the Commissioner of Police to comply with this section only

requires the Commissioner to ensure that it is not possible to identify the person from whom the material is obtained or to whom the material relates.

My question would be whether or not there is some risk that you could remove from the database some identifying material—a name would be an obvious piece of identifying material to remove—but, if other records held in other locations are not also removed, then it would be possible to determine to whom that sample relates. For example, unless the date and the place of the collection of the material was also removed, it would not be very hard, I would imagine, for someone to go to Holden Hill Police Station, for example, and say, 'Who did we take samples from at 2 o'clock on Tuesday 14 May?' I might have misunderstood the intent, but it seems it is not just a question of removing the names of volunteers who desire their records removed: it might be that the entire record needs to be removed. So I will just put that question on notice about whether that is a legitimate concern.

However, even if a person who has voluntarily offered up their sample (they are not a suspect) does ask for that to be removed from the database, it is still possible for a senior police officer to order that the forensic material be retained. There are circumstances in which that is the case—in particular, where the forensic material from a volunteer relates to a protected person. In such cases, if the person who gives consent requests destruction of the material but the police are satisfied that the person who gave consent, or a person related to or associated with them, is suspected of a serious offence and they suspect that the forensic material could be of probative value to the investigation, then the material does not need to be removed. It seems to me that you could have a situation with a child victim where the person authorising consent may have some connections with people who may be suspected of offences, and all of a sudden we find that the information about the child is being retained. Again, I put on notice the question of whether that is a legitimate concern or whether I have misunderstood the meaning of those provisions.

It is also possible for a senior police officer to order that the forensic material taken from a volunteer procedure be treated as if it were forensic material obtained as a result of a suspect's procedure if the police officer is satisfied that there are reasonable grounds to suspect that the person has committed a serious offence. In those cases the DNA profile can be transferred to the suspects and offenders index on the DNA database.

Again, it seems to me that that might be a disincentive to victims of crime voluntarily offering DNA samples if they have, for example, some criminal history of their own. While they may have been the victim of a crime in that particular instance, they may also have a bit of a record and may not report the current crime because they know that the police will be cross-checking and they fear being caught for something else. It would be unfortunate if that discouraged genuine victims of crime from reporting those crimes to police. Generally, volunteers' profiles cannot be stored on the database without the consent of the relevant person, who can refuse their consent or limit the relevant period. The interrelationship between all these provisions causes me some concern, but the bottom line is that I would like to know that this legislation is not going to discourage genuine victims of crime from participating in DNA collection procedures.

Apart from people who fall into that volunteer category, there are really no other options for people to have their DNA profile removed from the database. The overwhelming purpose of the bill seems to be that once it has been collected it is on there forever. People may wonder, 'Well, what is the problem?' The problem, from my perspective, is that some of those from whom samples are to be collected may, for example, be people who are engaged in environmental protests. If this legislation was in place in Tasmania in the early 1980s, for example, when (I think) 1 300 people were arrested down at the Franklin River, they would all have had their DNA taken and kept on a database forever. Are these people a menace to society? Are they people who pose a risk to the order of the state for as long as they live? I hardly think so—especially when you consider that some people (including members of my family, I might say) were arrested but subsequently not charged, because the Tasmanian government had incompetently not declared public roads to be off limits to people.

So, you might have had people who were charged, who spent time in the watch house, but who ultimately had no charges proceeded with against them, and many other people had their charges dismissed by magistrates. If such a system had been in place in South Australia those people would have had no rights. Innocent people, people who had never been found guilty of an offence, would have had no right to have their sample removed from the database. It seems to me that that is a serious omission from this bill.

We can contrast this with the legislation in Western Australia, which provides that you can request the destruction of a DNA profile if, as a suspect, you are not charged within two years after the sample was taken. If you are charged and the charge is finalised but there is no finding of guilt, you can ask for it to be removed; or if you are an involved person, such as a victim or a witness, and no person is charged within two years, then you can have the identifying information destroyed.

My question of the government is: why can we not have a system in our legislation where innocent people do not have their DNA forever recorded on the South Australian database? The checks and balances of a system such as the one in Western Australia are that, if there is a dispute about whether or not material should be kept or destroyed, then the Supreme Court has the power to order that the identifying information can be kept if there is a good reason.

Finally, I have looked at some of the Hon. Nick Xenophon's amendments, which recognise the particular position of victims as people from whom samples are taken. As I understand it, these restore some of the decision-making back to the judiciary rather than having it all in the hands of the police. I look forward to hearing from the Hon. Nick Xenophon what his amendments are designed to achieve, but on face value they look worthy of support. The Greens are happy to support the second reading of this bill.

The Hon. D.G.E. HOOD: I indicate Family First's support for the second reading of this bill. I am sure it comes as no surprise to members in this chamber that Family First will be strong supporters of this legislation—in principle, any way. The bill gives police extended powers with respect to collecting and using DNA samples; Family First has been a supporter of this method of fighting crime for some time and we actually believe that this bill is somewhat overdue.

The bill addresses deficiencies in the current complicated and lacking system, problems highlighted by the Kapunda Road Royal Commission and the decision of Her Honour Judge Shaw in R v Dean. I will go through some of the facts of the case because, frankly, I think that members of the

public were quite right to be outraged at the decision, and, certainly, Family First was. This is not a reflection on Judge Shaw as such but, rather, a reflection on our poor forensic laws. The accused (Dean, in this case) had a DNA profile on the police database as a result of an arrest on 28 December 2003 on charges of assaulting a family member. On 22 April 2004, the charges were discontinued. Technically, at that stage the DNA profile should have been removed from the database and the DNA samples destroyed. I point out that charges of assaulting family members are regularly discontinued. Under the protection of parliamentary privilege, I can say openly that many of the people who have had these charges against them discontinued may well be guilty.

Section 44C of the Criminal Law (Forensic Procedures) Act 1998 directs the Commissioner of Police to destroy forensic material, including the results of any analysis, as soon as practicable after the discontinuance of the charge. The forensic material from the accused was not destroyed in this case and his DNA profile was not removed from the database until December 2005. In this case, the defendant was arrested in July 2006 after his DNA profile matched with an offensive aggravated robbery allegedly committed at a Bi-Lo supermarket on 15 March 2004. The lawyer for the accused applied for exclusion of the evidence of his client's DNA profile given that, at the time of his arrest, the profile should have been destroyed. His arrest was apparently unlawful because the police had contravened sections 44C(1) and 46C of the act.

On 9 March 2006, Judge Shaw agreed with the argument and held that the arrest and charges were invalid because the DNA profile of the accused should have been destroyed and removed from the database as soon as practicable after 22 April 2004; hence, the need for this legislation. This case was seen as an outrage by many members of the public, and Family First certainly shares that view in relation to the outcome of that case. As a result, our laws must be changed.

Here we have a case where we know that the defendant was at the Bi-Lo supermarket. I will not say that he is guilty because that is a matter for the courts, but the evidence against him appears to be significant. We can be sure that he would have faced a long term of imprisonment, except for this technicality—and it is nothing more than a legal technicality that saw this individual escape prison. I will put it this way: if the police had matched up the DNA samples before the assault charges were dropped, the defendant probably would be in prison right now. If he had not convinced his partner to drop the assault charges against him, again he would probably be in prison. Had he been found guilty on fingerprint evidence, rather than DNA evidence (this is a crucial point), he would probably be in prison now because there is no clear obligation to destroy fingerprint samples if a defendant is later found to be not guilty. Yet, currently, as we know, there is an obligation to destroy DNA evidence.

Another issue, which has been raised by the Hon. Mark Parnell and which deserves discussion and consideration in reaching a conclusion on the way one should vote on this bill is that of civil liberties, which are challenged under this bill. The so-called 'destruction' model is the norm across Australia. Only Western Australia and the Northern Territory have the retention models that this bill seeks to introduce. A valid question, and one that has just been highlighted by the Hon Mark Parnell, is: why should the DNA sample of someone who is found not guilty (incorrectly charged, say, due to a case of mistaken identity) not be destroyed at a later date? Family First has certainly considered this and has had discussions at length about the implications of this aspect of the bill. On balance, we believe that some civil liberties need to be surrendered at some level, at least, to ensure public safety. For that reason, we will not be opposing the bill or its most controversial aspect, namely, the one I have just outlined.

I am told that there are also practical problems with the current retention model, and this also persuades Family First to support the bill. Indeed, we are informed that a current staff of some 15 full-time officers patrol the justice system to locate cases where charges are dropped or people receive non-custodial sentences (or even suspended prison sentences) to ensure that any samples on their file are destroyed. This is a gross waste of resources and, under this bill, such waste would cease immediately.

A couple of other aspects of this bill are worthy of mention. The first is that DNA testing, except for intrusive testing, no longer needs to be videotaped under this bill. Police are currently storing some 36 000 videotapes of forensic procedures, and this bill will help solve their storage problems. I am convinced that there is little need to tape these procedures, given that tests can be repeated if the validity of the charges is challenged. Hence, this bill improves that rather cumbersome and onerous situation the police are currently faced with.

Secondly, the list of offenders who can be swabbed is vastly broadened. Now all offenders who are reasonably suspected of minor indictable offences or an offence that carries a term of imprisonment can be tested. There is now even a list of driving offences which will result in a DNA swab being taken. Driving whilst disqualified carries with it a possible term of imprisonment, as does driving whilst under the influence, per section 47 of the Road Traffic Act. I am sure these drivers will be somewhat shocked to discover that they have to give a DNA sample but, again, Family First believes that nonetheless the pendulum in this case falls in favour of protecting public safety.

Thirdly, the current system of interim orders being ordered by a magistrate is overhauled and becomes much simpler. Police inspectors now have increased powers to authorise testing and, again, Family First supports this move. Overall, Family First is strongly supportive of new DNA technology. Our police are opening and solving old files all the time. Criminals, including sexual offenders, are regularly being caught and convicted on the strength of DNA evidence and hence the need to support this important legislation. I ought to mention the bill which was introduced some years ago by my colleague the Hon. Andrew Evans and which became law. It removed the statute of limitations on sexual offences and, as a result of that, many old unsolved sexual crimes can now be solved by broadened DNA forensic laws. Family First certainly welcomes that as well.

During the consultation period for this bill Family First had the opportunity to consult with Police Commissioner Mal Hyde some months ago. During that meeting he actually asked me to support these laws as they were then proposed in order to fix what he saw as a very burdensome and cumbersome system for police so that, in his words, the police could get on with their job. I committed to him that Family First would certainly support that principle at this stage, and I am happy to say, as I have said, that we will do so with this bill. I should also mention with thanks the briefing which was provided by Assistant Commissioner Tony Harrison and which was one of the best and most informative briefings my office has had to date.

The main aspect of this bill that compels Family First to support it in the end is that, if we did not pass it or if we watered it down to the point where it became largely ineffectual, the implications of one rapist or one serious offender—whatever the offence may be—getting away on another technicality would be too high a price to pay for not enacting this legislation. So, Family First wholeheartedly supports this bill.

The Hon. A.M. BRESSINGTON: I rise also to lend my support to the second reading of this bill. I also attended the briefing that most other people in here attended with Mr Harrison. I guess sometimes when I am in here I wish I was a lawyer—I only wish—and then I hear some of the arguments put up today and I am really glad I am not. You do the crime, you do the time. If this DNA testing is going to assist in apprehending people who perpetrated crimes 10 years ago—the time the DNA was collected—why not? As the Hon. Mr Hood said, sometimes civil liberties have to give way to public safety, and we must also assist the police in whatever way we can to do their job as well and as accurately as possible.

I must say that through the briefings I had with the police I learnt quite a bit. I had no idea that we did not retain DNA in this state, so there you go. I believe that this could be an even more effective tool than fingerprinting has been in the past. If it was up to me, I would even consider taking a baby's DNA when it is born. I know that would raise a whole lot of issues, but it is something to think about.

If you have not done anything wrong and your DNA is collected, what is the harm? Who will know whether you are a law abiding citizen and that you have this security mechanism in place? Who knows, it may even be a deterrent for crime; I do not know. I am not going to rave on for too long, but I want the government to know that I am pleased that this bill has gone ahead. It was a recommendation from the Commissioner himself, and the police are certainly supportive of it. I am sure criminals do not think it is such a good idea but, then again, that is the way it goes.

The Hon. P. HOLLOWAY (Minister for Police): I thank all honourable members for their contribution to the debate, and I particularly thank them for their support for the bill. I have been asked a number of questions, which I am happy to address after the lunch break. So, perhaps this is an appropriate stage for me to seek leave to conclude my remarks later.

Leave granted; debate adjourned.

[Sitting suspended from 12.56 to 2.15 p.m.]

LAKE BONNEY

A petition signed by 112 residents of South Australia, concerning plans to drain Lake Bonney and build a weir at Wellington and praying that the council will do all in its power to support measures to obtain water for urban and agricultural purposes that do not disrupt the natural operations of the River Murray system, was presented by the Hon. Sandra Kanck.

Petition received.

PETERBOROUGH, BUILT RAILWAY HERITAGE

A petition signed by 174 residents of South Australia concerning Peterborough's built railway heritage and praying that the council will consider and support their request that the current state heritage listing of railway buildings of significance in Peterborough be revised and amended to include all the remaining built railway heritage in the town, was presented by the Hon. M. Parnell.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the President—

Reports, 2004-2005—
District Council of Robe.

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

Gene Technology Act 2001—Statutory Review, January 2007.

Natural Resources Management Boards: Levy Proposals—Response by the Minister for Environment and Conservation to the Natural Resources Committee Report.

QUESTION TIME

MENTAL HEALTH BEDS

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Minister for the Environment and Conservation a question about mental health bed numbers.

Leave granted.

The Hon. R.I. LUCAS: The issue of mental health bed numbers has been significant, obviously in relation to the debate in the past few days about what is known as the Cappo report, and the government's response to the Cappo report. I refer the minister to an estimate provided for the year 2002-03, and included in the 9th National Mental Health Report 2005 (page 74, table 17), which refers to indicators for mental health service provision in South Australia under the heading 'Total hospital beds.' That national report estimated that in 2002-03 there were at least 655 adult mental health beds here in South Australia.

Even if one accepts—and some of us are perhaps a bit cynical—the promises of this government, that it would increase by 76 in net terms the number of adult mental health beds from 430 to 506, it is an increase of 76 if that occurs but it is, of course, 149 fewer than the total number of beds estimated by the National Mental Health Report for 2002-03. My question is: whilst the government is claiming to increase by 76 the total number of adult mental health beds to 506, does the minister accept the 9th National Mental Health Report (which indicates that there are at least 655 such beds in 2002-03), because that means that, even with this supposed promised increase, the Rann government will have actually seen a reduction of almost 150 mental health beds here in South Australia?

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I am pleased to have the opportunity to answer this important question, because it allows me the opportunity to again promote very clearly the important work that the Social Inclusion Board has done with this and the release of its Stepping Up report and, of course, its 41 recommendations, 33 of which the South Australian government has given overall in-principle agreement. Not only that, we have made good our commitment by allocating $43.6 million

pre-budget to allow us to build 90 new intermediate care beds and 73 additional 24-hour supported accommodation places.

The report identified a clear gap in our services. Not only that, the report clearly indicated that the current level of services is inadequate. The board identified a gap between our acute hospital beds and the community setting as well as clearly inadequate intermediate services. So, our $43.6 million clearly addresses that. I am very pleased to announce that.

Members interjecting:

The PRESIDENT: Order! I am struggling to hear the minister.

The Hon. G.E. GAGO: The opposition, given its lazy ways, this is the third question time—

Members interjecting:

The Hon. G.E. GAGO: You will get your answer. You will just have to listen to the full answer. So, sit back and relax and you will get your answer. It is most important that the answer be given in context, and that is what I am outlining now: the context of the answer to this question. It was clearly identified that there was a gap in services. The opposition is weak and lazy. This is the third question time since the report was officially released. I am not talking about the unofficial release of the report. There have been three question times since the report was officially released. I remind people that this is the second question that we have had about this really important reform agenda. It is pathetic. We had no questions on mental health at all yesterday—not one.

An honourable member interjecting:

The Hon. G.E. GAGO: What? No-one else in the opposition is concerned about mental health? Just because one member is away, there is no other member of the opposition who cares about mental health, who has bothered to read the report, or who shows any interest at all in this area? No; of course the opposition has not. It is very clear that the Hon. Mr Lucas has not read the report either, because if he had read the report he would know the answer to this.

The modelling done in this report clearly shows that South Australia currently has above the national average in terms of our acute mental health beds and inadequate numbers of other beds. The report clearly shows that our public hospital system is choked and congested with inadequate services at the other end. We have supplied $43.6 million, and that money has delivered 90 intermediate care level beds and 73 extra 24-hour supported accommodation places.

It has provided a stepped level of care and it has filled in the gap that the Social Inclusion Board clearly identified. The Social Inclusion Board identified that we needed a balanced system; that we did not need that high number of acute beds. We needed beds and a level of service to help keep people out of the acute system. We needed the sorts of services and facilities that enabled people to recover much earlier; services that intervene at a much earlier stage of a person's mental illness cycle.

We developed an interventionist model so that people would be caught earlier in their illness and therefore reduce the pressure and congestion on our public hospital bed system. It also clearly means that, in catching people in their illness cycle and ensuring that there is less of this resolving door aspect to the mental health system, there is—

Members interjecting:

The PRESIDENT: Order! The opposition might want to listen to the answer.

The Hon. G.E. GAGO: —less congestion on our acute beds, less pressure on our psychiatrists and certainly less pressure in terms of the bottleneck in our emergency departments. The Social Inclusion Board proposes a balanced model of reform and that is what we are committed to—$43.6 million as an initial response to this balanced reform agenda. We have clearly announced—and it is in our media release and our publications—that we intend to convert approximately 48 of our acute care beds into 90 intermediate care beds. We also intend to convert 129 extended care beds into 163 beds to cover our other range of services, which includes a minimum of 30 secure beds, 73 new 24-hour supported accommodation beds and 60 community rehabilitation care beds. This is a balanced approach. This is consistent with the detailed and comprehensive modelling that the Social Inclusion Board has done.

The opposition is living in the past. It is sitting back in that old bog, that old mental health bog that it created, and it is still wallowing in it. The Hon. Robert Lucas is wallowing away in that bog: it is time to move on. Of course, we know what the model of moving on involves and it is outlined in our reform agenda. It is time that they crawled out of the bog and moved on. This is a new age, a new reform agenda. This government has committed an initial response of $43.6 million. We are prepared to put our money where our mouth is. Not only have we done that but this reform has been accepted and broadly welcomed by a wide range of different stakeholders and industry groups.

I take this opportunity to refer to some of the media releases which have recently been put out in response to the government's announcement. The Royal Australian and New Zealand College of Psychiatrists put out a media release welcoming our response. The media release states that the South Australian Chair, Dr James Hundertmark 'strongly supports a strengthening of intermediate community care and the provision of supported accommodation for consumers.' The Chairman of Beyond Blue, Hon. Jeff Kennett, also welcomes our commitment to implementing the Social Inclusion Board's recommendation. I refer to his media release in which he states:

> It's encouraging to see the South Australian government stepping up to the plate.

This is Jeff Kennett:

> . . . the South Australian government stepping up to the plate.

He goes on to say:

> More mental health staff, better access to emergency care, programs targeting the mental health needs of young people, older people and indigenous communities is an outstanding step in the right direction.

SACOSS in its media release has also welcomed the $43.6 million investment, with the Executive Director Karen Grogan saying:

> The focus on restoring the balance of services from acute care to prevention, early intervention and recovery based levels of care is a great step.

SACOSS is saying that. I will repeat that, because it goes to the very nub of the question of the Hon. Rob Lucas. Ms Grogan said:

> The focus on restoring the balance of services from acute care to prevention, early intervention and recovery based levels of care is a great step.

I can go on. We were inundated with messages of congratulations. Dr Jonathan Phillips, the former director of SA Mental Health, stated:

I'm really pleased to look at this report. It's been done outside the normal health pathway through the Social Inclusion Unit, which I think is a great advantage. It's a good report. It has the building blocks for a sensible mental health system.

Professor Sandy McFarlane of Adelaide University on *ABC News* the other night said:

The intention is to take the pressure off the acute beds and create a step down or intermediate support for people in the community, and that's very sorely needed.

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

The PRESIDENT: Order! The Hon. Miss Lensink will take her punishment quietly.

The Hon. G.E. GAGO: I go on. Geoff Harris, Executive Officer of the Mental Health Coalition, said:

Part of the big problem in the South Australian system is over the last 15 years at least we've really under-invested in that part of the system and so people spend a lot more time in acute care than they should. So we're really looking for a strong commitment through the budget process.

We were absolutely inundated. I will summarise. We have a reform agenda: we have moved on from the past. Clearly, the opposition is still wallowing in that big bog of a past. It is weak and lazy and has not read the materials. I look forward to taking responsibility for implementing this wonderful new reform agenda that will improve mental health services for those in need in South Australia.

MENTAL HEALTH FUNDING

The Hon. J.M.A. LENSINK: I seek leave to make a brief explanation before asking the Minister for Mental Health and Substance Abuse a question about mental health funding.

Leave granted.

The Hon. J.M.A. LENSINK: We know well in this state that South Australia has achieved the wooden spoon award for NGO funding in mental health at 2 per cent of expenditure, which is one-third of the national average. Much song and dance was made at the announcement of $25 million one-off funding provided in the 2005 budget (which is getting close to two years ago) to, as the government put it in numerous press releases, 'meet increasing levels of demand for community mental health services'. This funding has been provided to a number of non-government organisations (NGOs) and, in particular, to a program which is known as Strategy 6, which provides intensive support packages.

The non-government sector has managed to build capacity very quickly, and that has been recognised, and it is putting on appropriate staff to meet demand, but many NGOs have run out of funding to provide additional services to clients, particularly those with medium and low level needs. The sector has anticipated a follow up on the one-off funding, first in the 2006-07 budget (which was delivered an unprecedented four months late) and then some response in the Cappo report. It appears that it will now have to have wait until the 2007-08 budget, to be delivered on 7 June this year. Some service providers will run out of funds on 30 June so, in effect, they will have two to three weeks to work out whether they will be continuing. My questions are:

1. Why has the government not given any commitment in the past 18 months to support non-government service providers?

2. What strategies does the government have if any of these services fall over before it can be bothered telling us what it is doing about its funding?

Members interjecting:

The PRESIDENT: Order! The honourable minister has the call.

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): I am pleased to have an opportunity to answer this important question, and I think it is quite a joke because the opposition has no plan for mental health and never did. The opposition sat on its hands for eight years and allowed our mental health system to basically fall down around its ears; it did nothing then and it has no plan now. This government has here a reform agenda, with money attached to it, that will create an extra 76 beds in the system and that will improve mental health services for those people who need them the most—yet the opposition wallows in the bog of the past, and it is of its own making. As I said, the opposition is weak and lazy. It has failed to read the report and the government's response to that—

Members interjecting:

The PRESIDENT: Order!

The Hon. G.E. GAGO: If opposition members had bothered to read the report, they would see that it clearly commits to the important work that the NGO sector provides to mental health services. There is a clear commitment in that report and, as I have said, the South Australian government has also committed to the overall direction of all 41 recommendations passed down by the Social Inclusion Board.

In terms of NGO funding, there are NGO and a number of other elements within the plan that will require further funding modelling, and we have given a clear commitment to address any other funding issues within the normal government budgetary processes over the next five years. This government also gave a very generous $25 million one-off funding, which has provided a range of very valuable services. Many of those programs have been rolled out over a two to three year period, and I understand that a number of them will not be completed until the end of this financial year. The government is monitoring this very carefully and has given a commitment to address other funding considerations within the normal bilateral budgetary processes. In terms of the interesting figures that the Hon. Rob Lucas mentioned, I am pleased to advise that I have been given information that shows that—

Members interjecting:

The PRESIDENT: Order! Both sides of the council will come to order.

The Hon. G.E. GAGO: I am advised that the figure of 655 in the 2002-03 NMHR report includes 369 adult general and acute beds, 234 aged beds, 12 children's beds, and 40 forensic beds. This is a total of 655 beds. Clearly, he has not read the report because, if he had, he would see that forensic, children's and aged beds are not included, so we need to add in those. As I said, the opposition is weak and lazy and has not bothered to read the report or do its figures, and I think that is a real shame. This is a real opportunity to offer bipartisan support to implement a reform agenda that will provide a pivot for our services for decades to come. Of course, at the centre, if they had bothered to look at the report, they would see that the community mental health centres are the driver of that reform.

The Hon. J.M.A. LENSINK: I have a supplementary question arising from some part of that answer. Can the minister advise what 'clear commitment', as she called it, is in this report? All I can find are weasel words.

The Hon. G.E. GAGO: Truly, as I said, weak and lazy. We have made it very clear that further funding issues will

be dealt with in the normal government budgetary process. It is a very clear process; it is the usual and normal process that governments go through. It is the same process the opposition used when it was in government.

The Hon. J.M.A. LENSINK: I have a further supplementary question. Can the minister advise that NGOs, therefore, will have 23 days' notice of whether or not they have to shut their doors?

The Hon. G.E. GAGO: I have given my answer to those questions. I do not believe that I need to take any more time to answer them.

WAITE CONSERVATION RESERVE

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the—

Members interjecting:

The Hon. D.W. RIDGWAY: Chuck them out, Mr President—Minister for Environment and Conservation—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Ridgway has the call.

The Hon. D.W. RIDGWAY: Thank you, Mr President—a question about the Waite Conservation Reserve.

Leave granted.

The Hon. D.W. RIDGWAY: The minister would be aware that a management plan has recently been released for the Anstey Hill Recreation Park. A press release of 12 February 2007 about the plan states that, unfortunately, over recent years uncontrolled mountain bike riding has been a problem in the park, damaging vegetation and causing soil erosion. The opposition is aware that a similar problem with uncontrolled mountain bike riding is evident in the Waite Conservation Reserve.

For the information of the council, the reserve, which is above the Waite campus at Urrbrae, was purchased by Peter Waite and bequeathed to the university in 1914. The reserve now comprises 147 hectares, of which 131 are under a heritage agreement. It remains the best surviving example of grey box grassy woodland and is home to hundreds of native species of plants, as well as kangaroos, koalas and echidnas. It is a valuable asset to the university and the people of South Australia.

The opposition has become aware of and is concerned about the increased number of mountain bikes in the reserve, which are impossible to police—the department is not policing them. Despite signs on every gate, it has been particularly evident since the installation of the Yurrebilla trail. Concerns are also expressed that the opening of the Eagle Mountain Bike Park and its proximity to the reserve will mean more bikes in the reserve. The effect of this is that walking trails in the reserves as well as the Yurrebilla Trail are being damaged as well as vegetation damage and soil erosion occurring. My questions are:

1. Will the minister confirm that the Yurrebilla Trail is a walking trail only and that mountain bikes are not allowed on the trail?

2. Is the minister aware of concerns over the use of mountain bikes in the Waite Conservation Reserve as well as along any other part of the Yurrebilla Trail?

3. Will the minister commit to policing these important trails properly?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I am pleased to have an opportunity to answer these questions. The use of our parks, reserves and nature trails is a very complex issue. They are open to the public and, of course, different members of the public have different views about how those reserves, parks and trails should be used. There is a wide range of different interests, and the government tries to ensure that there are multipurpose arrangements and areas set aside for the wide range of different interests such as bike riding, horse riding and other activities. It is complex to try to meet the interests of the broad cross-section of the community. We have a system of establishing management plans for our parks and reserves where we attempt to engage the community in making decisions about the best use of those parks and reserves and attempt to accommodate as many interests as possible. Not everyone is necessarily satisfied with the outcome of that.

These plans are usually not a consensus matter, even though we consult broadly so, unfortunately, not everyone accepts or necessarily approves of those final decisions. Unfortunately, some members of the public go out and flout the decisions that are made regarding those areas in parks and reserves where certain activities are prohibited. Right up front I have to say that it is quite impossible for the government to police every single part of every single reserve and trail, covering hundreds and thousands of hectares. I am open and honest about that; we are not able to police every inch of those and, unfortunately, there are times when members of the public use parts of those reserves, parks and trails in an improper way. We continue to do the best we can, and I think that overall our rangers and other officers do an extremely good job in upholding and helping to maintain the management plans. We remain ever vigilant. The government has been very clear about its priorities for our hospitals and education system, and we cannot possibly police every single inch of those parks and reserves.

GLOSSY BLACK COCKATOO

The Hon. I.K. HUNTER: I direct to the Minister for Environment and Conservation a question about the glossy black cockatoo. Will the minister please provide an update on the glossy black cockatoo in South Australia and any news she might have on their recovery program?

The Hon. G.E. GAGO (Minister for Environment and Conservation): I am very pleased to have the opportunity to answer this important question, and I thank the honourable member for his ongoing interest in conservation matters. This question goes to the importance of preserving our biodiversity and remaining native wildlife. It is important to the government and, indeed, it is a key election commitment and one of the key targets in the State Strategic Plan.

I am pleased to inform the council that a recovery program initiated by the Department for Environment and Heritage is helping bring a South Australian native back from the verge of extinction. I am referring to the magnificent glossy black cockatoos. This remarkable native bird is a South Australian subspecies that disappeared—

Members interjecting:

The Hon. G.E. GAGO: The opposition obviously does not care at all about this important bird. This subspecies disappeared from the mainland during the 1900s as a result of habitat clearance. Luckily, these birds did survive on Kangaroo Island but, unfortunately, as the island became more heavily settled, it appeared they were heading in the same direction as the mainland population. Surveys in the 1980s indicated that the population on Kangaroo Island was

likely to be in decline, probably due to the threat of possums and the shortage of suitable nest hollows as vegetation was cleared from the island.

In 1995, the Department for Environment and Heritage established the Glossy Black Cockatoo Recovery Program on KI, which included the replanting of feeding habitat, the ongoing protection of nest trees from possums (which feed on the birds' eggs), feral bees and corellas, as well as the construction of more than 80 artificial nest hollows. I am pleased to advise that the program is having quite an effect, and the numbers we are now seeing are very encouraging. The birds are now thought to number around 320, up from fewer than 200 when the program first began.

This species is by no means out of the woods, but I think members would agree that the population growth is a sign that the recovery program is working. Of course, there is still a lot of work to be done in the ongoing recovery process. The success of the recovery program is an important example of the work being done by the Department for Environment and Heritage to protect our native species. The recovery program is set to continue throughout 2007-08, with funding provided by the Kangaroo Island Natural Resources Management Board. I want to thank the 50 volunteers who have provided great assistance to the program by searching the island for the glossy black cockatoos or signs of their presence. It has been an extremely exacting task, and we very much appreciate their efforts.

PENOLA PULP MILL

The Hon. M. PARNELL: I seek leave to make a brief explanation before asking the Minister for Urban Development and Planning a question about the Penola Pulp Mill.

Leave granted.

The Hon. M. PARNELL: Today, media reports suggest that 130 landowners will lodge a judicial review application in the State Supreme Court over the approval for the Penola Pulp Mill. According to these reports, two of the major concerns of the landowners appear to be: first, that no environmental impact study was conducted before the project was approved; and, secondly, the undue haste in changing the zoning, which denied the public a right of appeal. At the heart of these two concerns is that the Penola Pulp Mill was never declared by the minister to be a major project.

I have a copy of a letter dated 11 September 2006, which is on the Hon. Paul Holloway's letterhead but which is signed by Michael O'Brien MP, Parliamentary Secretary. The letter is addressed to Melissa Ballantyne, Solicitor for the Environmental Defenders Office, and it states as follows:

> Thank you for your email of 29 June 2006 to the Hon. Paul Holloway requesting advice on whether the proposed Penola Pulp Mill has been considered for a major development declaration pursuant to section 46 of the Development Act 1993. I am responding on behalf of Minister Holloway.
>
> I can confirm that the minister has not been requested to declare the pulp mill to be a major development by either the Wattle Range Council or the proponent.

My question is: is the statement contained in this letter concerning the absence of a request for major development status correct?

The Hon. P. HOLLOWAY (Minister for Urban Development and Planning): It is a long time since the Penola Pulp Mill issue was addressed. The original development application for the pulp mill was lodged with the Wattle Range council back on 19 May 2006. The council proceeded to undertake category 2, or neighbour notification of the application, and referred the application to the relevant government agencies, as required by the Development Act and regulations. I understand that 25 representations were received by the council in response to the public notice.

On 14 August 2006 the council wrote to me, requesting that I declare the Development Assessment Commission to be the relevant authority, pursuant to section 34(1)(b)(iii) of the act. The council's request was based on a potential conflict of interesting following an offer from the proponent to fund local road upgrades. On 15 August I declared the Development Assessment Commission to be the relevant authority and, pursuant to regulation 38(2)(a)(ii), the commission picked up and continued the assessment process commenced by the council, which heard representations at Millicent on 7 September 2006. On 12 September 2006, the commission granted provisional development plan consent, or planning approval for the proposal, subject to 38 conditions.

That, to my understanding, is the history of this project and that is the only request that has come to me in relation to this matter. I am sure there are many people who have written in an individual capacity, but I am certainly not aware of the proponent or the council making any formal request along those lines.

The Hon. M. PARNELL: I have a supplementary question. How did Michael O'Brien, Parliamentary Secretary, confer with you before he replied on your behalf? In other words, did Michael O'Brien ever directly discuss this matter with you?

The Hon. P. HOLLOWAY: I have lots of discussions with Michael O'Brien all the time and, undoubtedly, on some of those occasions the Penola Pulp Mill would have been discussed. I imagine, when he signed that letter on my behalf (presumably during my absence), that it would have been done with the advice of the department. As I said, I have discussed it with him on numerous occasions.

EYRE PENINSULA BUSHFIRES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Emergency Services a question about the Eyre Peninsula bushfires.

Leave granted.

The Hon. J.S.L. DAWKINS: Members would be aware that Dr Bob Smith conducted an inquiry for the government into the tragically devastating fires on Lower Eyre Peninsula in January 2005. In his report Dr Smith made more than 25 recommendations to improve the state's firefighting capabilities. My question is: will the minister outline which recommendations from Dr Smith's report into the Wangary fires have been specifically implemented?

The Hon. CARMEL ZOLLO (Minister for Emergency Services): I thank the honourable member for his question. If memory serves me correctly, Dr Bob Smith made about 35 recommendations in his report. Of those, 16 have been completed; some have been substantially completed and some have been partially completed. As the honourable member has just mentioned, they were numerous and, first and foremost, of course, we have seen the legislative review of bushfire mitigation and prevention, which Mr Vince Monterola is now chairing, and he will report back to me by June.

I have already placed on record in this chamber the reference that the group has, and it will be taking evidence

throughout the state. That was obviously a very important recommendation. Another one related to incident management but also, obviously, consulting with the community. I can provide the honourable member with a complete list if he wishes but, in the main, they were in terms of incident management, just as Project Phoenix was before it. Project Phoenix came from the CFS and was about lessons learnt. Very many of those recommendations and that of Dr Bob Smith were obviously very similar.

At the moment the CFS is undertaking to, if you like, bring them altogether so that we do not see any duplication. The government has also responded post-Wangary with increased resources and training. We have seen an increased aerial firefighting capacity—some $4.5 million over the past two or three years—in aerial firefighting. In the main, I think that Dr Smith's recommendations were essentially those that we have already identified, including bushfire warnings—a consistent warning. They have now also been put in place. As I said, in terms of bushfire prevention and mitigation, the recommendations involve the whole community and the whole community needing to take ownership, that bushfires are everybody's responsibility, and that we cannot just expect the CFS to be at our doorstep.

The community education that we have seen involves some $1.5 million over the past couple of years. I am certain that honourable members would have seen the advertisements that have been aired about the bushfire myths. Those advertisements are really very important in engaging the community. There is a whole raft of recommendations and, as I said, most of them have already been implemented.

The Hon. J.S.L. DAWKINS: Before asking a supplementary question, I indicate that I appreciate the minister's offer to provide me with the details of those recommendations that have been taken up. My supplementary question is: have any of Dr Smith's recommendations not been taken up by the government; if not, why not?

The Hon. CARMEL ZOLLO: As I said, we have noted them all, and they have either already been taken up or we are in the process of doing so. We are auditing them.

The Hon. J.S.L. Dawkins: None have been rejected?

The Hon. CARMEL ZOLLO: No; we are not rejecting them. There is no need. As I said, some of them were already well in-train and in-place even before his report was presented to us.

The Hon. NICK XENOPHON: To what extent and what steps have been taken by the government to consider global positioning systems for fire trucks linked to the radio network such as that provided by the local company WARPS, which provides such services to other firefighting entities in Australia, as a measure that will assist in firefighting and protect firefighters from harm?

The Hon. CARMEL ZOLLO: From memory, the WARPS system was presented to the CFS several years ago.

The Hon. Nick Xenophon interjecting:

The Hon. CARMEL ZOLLO: Yes; it is technology. The South Australian emergency services agencies are all working together on a whole of justice communication system called SACAD. I think on probably more than one occasion we have responded to the proprietor of WARPS to explain that anything to do with communication has to all link together. At that time, we were not able to take the communication system into consideration, because it did not quite fit the criteria that we wanted.

The Hon. NICK XENOPHON: I have a further supplementary question. Can the minister advise—and I appreciate that it may have to be taken on notice—when that was and whether there has been any follow-up to determine whether it is compatible with the radio network?

The Hon. CARMEL ZOLLO: As I said, it was not entirely compatible at the time but, certainly, we are still working with the South Australian Computer Aid and Dispatch system. As I said, it is a whole of justice system. I am always very happy to look at any new technology that is presented to us through the agency but, regrettably, at the time, I had to advise the proprietor that it did not quite suit our requirements.

MUSLIM COMMUNITY

The Hon. R.P. WORTLEY: My question is to the Minister Assisting the Minister for Multicultural Affairs. Can the minister please inform the council of how the government's efforts to assist the Muslim community in South Australia are progressing?

The Hon. CARMEL ZOLLO (Minister Assisting the Minister for Multicultural Affairs): I thank the honourable member for his question. I am delighted to report on two recent activities with the Muslim community in South Australia. On 9 February this year, I attended a breakfast meeting held by the Institute of Public Administration Australia titled 'What's an Aussie Mossie—An introduction to Islam and working with Muslim communities'. The event was designed to assist government and non-government service providers to develop a better understanding of Muslim communities.

It is interesting to note that at the last census in 2001, 36 per cent of Muslims living in Australia were in fact born in Australia. I am delighted to say that a young South Australian Muslim woman, Yasmine Ahmed, gave a stunning presentation on the way in which being a Muslim impacts on her life in South Australia. This was proceeded by a presentation by Irfan Yusuf, a Canberra based workplace relations lawyer and media commentator on Muslim issues—and I think he was a Liberal candidate as well. Last Sunday (18 February), I also had the pleasure of representing the Premier and the Minister for Multicultural Affairs at a meeting with the Ahmadiyya Muslim Association, a group of Muslims who have just purchased a block of land at Aldinga for their association's sporting and recreational activities. It was a delightful afternoon during which I was able to meet and talk with a section of the Muslim community of South Australia.

In November 2004, the government established the South Australian Government Muslim Reference Group and asked that group to provide a suggested list of actions that would enhance the life of Muslims in South Australia. I am delighted to report that some of those actions have been implemented and I am advised that most of them will be implemented by the end of this financial year. Amongst the actions implemented, one of great significance to the Muslim community was the launch of the media guide 'Islam and Muslims in Australia'. As I previously advised members, this launch took place in the Balcony Room at Parliament House on Tuesday 31 October and was attended by members of media outlets in South Australia. I am not certain why members opposite are laughing: I would have thought that this is quite important.

The guide intends to balance the way in which Australian journalists cover issues about Muslims. This was a concern of the members of the Muslim reference group. I believe that it is now timely to reconvene the group and ask it to consider further actions and activities. It is my intention to write to members of the reference group, inviting them to meet in April. This meeting will provide an opportunity to comment on the actions implemented thus far and suggest any future actions they believe the government could implement.

DRUG PARAPHERNALIA

The Hon. D.G.E. HOOD: I seek leave to make a brief explanation before asking the Minister for Health and Substance Abuse a question about the availability of drug paraphernalia in South Australia.

Leave granted.

The Hon. D.G.E. HOOD: Drug paraphernalia such as pipes, bongs and water pipes are readily available at a number of stores throughout South Australia. Given that these implements are commonly used to consume the illicit drugs cannabis and methamphetamine, suggestions have been made to ban their sale—indeed, by a member of this chamber. Banning these implements has worked successfully in Queensland, I note. An argument that the state government has used against this type of ban is that the items in question are also utilised for the consumption of legal substances such as tobacco. My questions are:

1. In the government's estimation, what percentage of pipes, bongs and water pipes are used to smoke legal substances such as tobacco?

The Hon. A.M. Bressington: None.

The Hon. D.G.E. HOOD: I continue:

2. What specific data, if any, does the minister have to support the argument that these devices are commonly used for legal purposes?

The Hon. A.M. Bressington: None.

The Hon. D.G.E. HOOD: My final question is:

3. If the state government does not have any such data, will it support measures to ban drug paraphernalia?

The Hon. A.M. Bressington: No.

The PRESIDENT: Order! I do not know whether the honourable member would like to accept the Hon. Ms Bressington's answers but we will ask the minister to respond.

The Hon. G.E. GAGO (Minister for Mental Health and Substance Abuse): In relation to the legislation around drug paraphernalia, these matters are mainly under the purview of the Attorney-General, and I am happy to refer those matters to him and bring back a response. In relation to the specific data that the honourable member has requested, I do not know whether that information is available but, if it is, I will attempt to find it and bring it back to this chamber.

The Hon. D.G.E. HOOD: I have a supplementary question. Does the minister believe that such drug paraphernalia is primarily used for legal or illegal purposes?

The Hon. G.E. GAGO: I have made it quite clear that I do not have data in terms of the usage rates. I think it is most important, as politicians and members of parliament, that our advice and opinions be based on informed views. I have said that I am happy to bring back the information if it is available. I do understand that at least some of the paraphernalia is used for legal purposes but, in terms of what percentage, as I have stated, I clearly do not have those figures.

The Hon. A.M. BRESSINGTON: I have a supplementary question, Mr President. Can the minister explain why, if she believes that all the decisions must be based on evidence, there is such a lack of evidence and why there are no statistics collected or studies done on these sorts of issues?

The PRESIDENT: The honourable minister has indicated she will not speculate and she will rely on expert information.

CAVAN PRE-RELEASE CENTRE

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about the Cavan pre-release centre.

Leave granted.

The Hon. R.D. LAWSON: Last year, the government announced that a $27 million 80 bed pre-release centre to house 60 men and 20 women would be built at Cavan. My questions to the minister are:

1. Have any building plans and specifications for this facility been prepared?

2. Have any consultants been engaged for the preparation of such plans?

3. Have any applications been made for approvals or any necessary approvals obtained in relation to this project?

4. What is the proposed opening date of this facility?

5. How does the minister explain the absence of any funding for this project in the forward estimates?

The Hon. CARMEL ZOLLO (Minister for Correctional Services): What an extraordinary question! Why does the member not go back to the media release that was released in relation to the new prison complex? The pre-release centre is part of the PPP: that is why the member has not seen anything in the forward estimates. I assume he knows how a PPP works. It is part of the half a billion dollar new investment in this state, and, yes, the numbers the member quoted are correct. As I said, it is part of the PPP project, so we will see the same timeline as the rest of the prison complex project.

The Hon. R.D. LAWSON: I have a supplementary question. Have the same groups been applied to for PPP proposals in relation to this project as were applied to in relation to the PPP for the Adelaide Women's Prison, which was announced in 2002 but which has not yet commenced?

The Hon. CARMEL ZOLLO: We had the member for Bragg—Henny Penny, as we sometimes call her—

An honourable member: I beg your pardon?

The Hon. CARMEL ZOLLO: Absolutely—being so disgraceful during the estimates committee in trying to suggest there was no interest in a PPP, an investment of over half a billion dollars in this state; and now we have the Hon. Rob Lawson in this chamber again trying to downplay and suggest there is no interest in a PPP in this state—over half a billion dollars of investment with the youth training centre. These people try to play down the economy of the state. They are trying to play down the importance of a new prison project in this state. They really are disgraceful.

As a matter of fact, Mr President, I should place this on the record. The questions were of such a low standard in the estimates committee that I offered the shadow minister in this place a briefing, and the Under Treasurer came to this place to offer a briefing. Of course, the shadow treasurer did not turn up. If he had turned up—

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

The Hon. CARMEL ZOLLO: Well, why don't you pass the information on to your colleagues? The standard of questions was so poor that I was concerned that they knew nothing about this prison project.

The Hon. J.M.A. LENSINK: I have a supplementary question. What confidence can the people of South Australia have in this government's ability to deliver capital works for correctional services—

The PRESIDENT: Order! That is not a supplementary question.

POLICE, RECRUITMENT

The Hon. B.V. FINNIGAN: I seek leave to make a brief explanation before asking the Minister for Police a question—

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

The PRESIDENT: Order! The Hon. Ms Lensink will suffer in silence.

The Hon. B.V. FINNIGAN: —about police recruiting initiatives.

Leave granted.

The Hon. B.V. FINNIGAN: The latest employment figures show that there is in excess of 15 000—

The Hon. D.W. Ridgway interjecting:

The Hon. B.V. FINNIGAN: The Hon. Mr Ridgway is interjecting; I think he had better get down to Greenhill Road for another message from Mr Moriarty, the Liberal Party's Pheippides. Latest employment figures show that there is in excess of 15 000 more South Australians in work than at the same time last year.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Ridgway will come to order. I am starting to believe what I am reading in *The Advertiser*.

The Hon. B.V. FINNIGAN: I repeat: the latest employment figures show that there is in excess of 15 000 more South Australians in work than at the same time last year. Furthermore, Access Economics expects South Australia to outperform the nation during 2006-07 with jobs growth of 2.5 per cent. South Australia's low unemployment and competitive labour market means that South Australia Police is now competing with other public and private sector organisations to attract the best recruits from a diminishing availability pool. Can the minister inform the council what South Australia Police is doing to attract the best recruits?

The Hon. P. HOLLOWAY (Minister for Police): I thank the honourable member for his question. As he has correctly pointed out, with our historically low unemployment rate and the competitive employment market, SAPOL faces some challenges in recruiting suitable candidates over the next 3½ years.

An honourable member interjecting:

The Hon. P. HOLLOWAY: I would love to tell the truth about the 15 000 extra jobs that this state has had over the past year; we could go back to 2002 if the honourable member wants, and compare the result over four years. However, even over the past 12 months it is a very good figure.

With those figures SAPOL does face some challenges in recruiting suitable candidates over the next 3½ years, and it is estimated that it will need to recruit an extra 1 000 officers to cover attrition and the extra 400 officers (that is the net increase in the number of police officers) promised by the government at the last election. However, it is not only the South Australian police force that is facing these challenges; these challenges face all our police forces around Australia and even our defence forces. It has been reported that Defence Recruiting has not met its targets for the past six years, and we also know that the Australian Federal Police has set increased targets for recruiting. So, it is a very competitive environment—particularly when we have had such significant employment growth in this state.

I am confident that SAPOL will meet its targets, as it did last financial year when 299 individuals were recruited and attrition remained stable with 153 persons separating from SAPOL. This resulted in a net increase of 146 officers for 2005-06. So, I think the fact that we achieved that increase, a net 146 police officers in this state over 2005-06, augurs well for our target of having a net increase of 100 officers a year for the next four years.

SAPOL has put in place a number of recruiting initiatives to entice people to join the South Australia Police, including a youth recruitment development program. This is an Australian-first mentoring program where young applicants between 18 and 21 years of age who are initially unsuccessful in their application but who demonstrate potential are provided with support and guidance as they endeavour to improve their suitability to be recruited as a police officer. Since this program commenced in November 2005, over 120 young applicants have been referred to the program. Without this program, it is likely that a large percentage of applicants falling into this category would not have reapplied to join the police force. So, participants are now starting to reapply for consideration to become a police recruit.

Officers from SAPOL's recruiting section, local service areas and specialist sections attend careers fairs and employment expos, and they also conduct talks at schools. In the past 12 months, South Australia Police has been represented at national careers and employment expos in Adelaide, Melbourne and Sydney. Careers stands exhibit at events across the state, including the Riverland and Yorke Peninsula field days. It is important that we recruit officers from regional areas as they are obviously more likely to wish to take positions in the areas they come from. Recruiting section staff and youth recruitment development officers have attended in excess of 50 careers fairs, expos and school talks last year.

Defence Force recruiting targets Defence Force members as they consider leaving their defence service. Advertisements are placed in *Defence Life and Careers*, a national publication, and recruiting section staff attend the Defence Force careers fairs held at Mawson Lakes specifically for those Defence Force members who are about to exit the service. In an initiative launched in July 2006, SAPOL now targets university students as applicants. As a means of directing recruiting at mature applicants with appropriate academic credentials, SAPOL held a series of information sessions at the University of Adelaide, Flinders University and the University of South Australia. The sessions have been complemented by attendance at careers fairs and editorial information in the local press. The forging of partnerships with careers advisers at the universities is seen as an important step in more direct marketing to university students.

SAPOL has also been targeting serving police officers interstate and, of course, as discussed in question time yesterday, in the United Kingdom. Serving police officers who join SAPOL directly from an interstate or UK police service are now able to apply for recognition of prior service.

Officers granted such recognition may be entitled to a reduced probationary period and may commence their permanent appointment on an elevated constable increment calculated on the basis of the number of years of prior service.

As I indicated yesterday, of the 217 UK officers recruited by SAPOL so far, 22 have terminated their service, including five who decided to leave while still training at the Fort Largs Police Academy. SAPOL has also engaged marketing research expertise to undertake research to direct its marketing strategy for the life of the Recruit 400 initiative. Key areas to be addressed in this research include targeted personality profiling, attracting applicants with culturally and linguistically diverse and indigenous backgrounds, attracting young applicants, presentation at careers as events, internet marketing, use of marketing materials, and recruiting from universities and TAFE colleges. The result of this research will be used to underpin the development of a new marketing strategy.

SAPOL is also using a broad spectrum of media for recruit marketing. This includes television, radio and newspapers in metropolitan and country areas, bus shelters, magazines (such as Defence Force and university magazines), specialist student guides, and the internet, including CareerOne industry sponsorship being used extensively in targeted marketing strategies. Recruitment packages have also been made available on SAPOL's internet site, as well as being posted to applicants who contact the recruiting section.

Being a member of South Australia Police is not, of course, an average nine to five job. It takes a special type of person to help make our community safer. Policing is an exciting, motivating and rewarding role and, while not all applicants will be successful, SAPOL provides all unsuccessful applicants with the opportunity to receive individual feedback on their application, allowing them to consider avenues for further development that may enhance their suitability. SAPOL's recruiting section continually reviews and improves upon its recruiting processes.

These processes are continually streamlined so as to reduce the time it takes to select a successful applicant. The recruiting section is managed by an inspector, and trained sworn police officers are present at the front counter to provide assistance to potential applicants. At the last election the Rann government committed to recruiting an additional 400 police officers—that is a net increase—creating more opportunities than ever to be part of this diverse and rewarding profession. I am confident that the SA Police will meet the target of 400 extra police, given the above recruiting initiatives and programs which I am sure will be further developed if required.

AUSLINK NETWORK

The Hon. P. HOLLOWAY (Minister for Police): I lay on the table a ministerial statement relating to transport issues made earlier today in another place by my colleague the Minister for Transport.

CRIMINAL LAW (FORENSIC PROCEDURES) BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1520.)

The Hon. P. HOLLOWAY (Minister for Police): I was just beginning my summing up of the second reading just before the luncheon adjournment. I thank honourable members for their support for this bill, because I think it was indicated that the debate on forensic procedures and the public awareness of forensic procedures have certainly changed dramatically over the decade since this bill was first introduced. I would trust that with the passage of this bill South Australia will be at the forefront of measures to take full advantage of forensic procedures. Members asked a number of questions, and I will seek to answer those before we go into committee.

The Hon. Mr Lawson queried the application of the act to offences with terms of imprisonment outside the Summary Offences Act and the Criminal Law Consolidation Act. The simple response is that, if the offence is one which parliament has determined should be punishable by imprisonment, a forensic procedure can be authorised. The honourable member sought specific clarification as to whether traffic offences and regulatory offences, in particular, environmental offences, could become subject to forensic procedures if they carried penalties of imprisonment. The answer is yes. If a term of imprisonment attaches to an offence it will come within the definition of serious offence irrespective of the technical legal category of offences into which it falls.

It should be clear that the categories of imprisonable offences that the Hon. Mr Lawson mentioned—traffic and environmental offences—are not trifling. With respect to which traffic offences will now be within the definition of serious offence, they involve behaviours which endanger road safety or involve dishonest conduct. For example, reckless driving and the offence of driving in a manner or at a speed which is dangerous both carry penalties of two years imprisonment under the Road Traffic Act. These offences will now be captured by the extended definition of serious offence. Second or subsequent charges of unlicensed driving will also come within the definition. Likewise, dishonest acts such as making a false statement under the Road Traffic Act or using false vehicle identification plates will now be included.

In the so-called regulatory area of environmental protection there are already offences which attract the application of the Criminal Law (Forensic Procedures) Act 1988. Under the new definition of serious offence, only one additional Environmental Protection Act 1993 offence will be captured, that is, the offence of causing material harm by intentionally or recklessly polluting the environment with the knowledge that environmental harm would or might result. That offence requires a level of criminal intent or reckless behaviour which is associated with traditional criminal offending. Parliament has assessed such behaviour as deserving of imprisonment for up to two years. Thus, the proposed definition of serious offence targets behaviours which parliament has seen fit to penalise with imprisonment.

The focus is on the seriousness of behaviour as assessed by parliament, not on a technical or legalistic label. I therefore commend the proposed definition of 'serious offence' as it will capture deserving behaviours. Furthermore, the proposed definition of 'serious offence' provides the

simplicity recommended by the Kapunda Road Royal Commission. The royal commission recommended that the complexities of the current act, such as the current definition of 'serious offences', be simplified to provide front-line police officers with the certainty they require to confidently undertake their job. The threshold of imprisonment will provide officers with that certainty.

The Hon. Mr Lawson and the Hon. Mr Xenophon both referred to the comments made by Michael Dawson, the Chief Executive of the Victim Support Service in his letter to members. Mr Dawson first provided his comments to the government shortly before the bill was debated in the other place. Many of his comments reflect concerns that have already been raised with the government by the Commissioner for Victims' Rights in a submission made on his own behalf and submissions by the Director of the Rape and Sexual Assault Service and others. At the time, the Attorney-General indicated that the matters raised by the Commissioner would be looked at with a view to amendments in this place. The second reading explanation also referred to the government's intention to move amendments in committee.

I can assure honourable members that the matters raised by Mr Dawson and the Commissioner for Victims' Rights have all been considered by the government. As will be seen, the government has already been active on some of these matters, and honourable members would be aware that amendments are now on file. Nevertheless, in response to the questions put by the Hon. Mr Lawson and the Hon Mr Xenophon, I will deal with each of the matters raised in Mr Dawson's letter. Mr Dawson has raised issue with the timing and level of consultation on the bill. The bill was introduced on 7 December last year, and consultation letters were sent out, including to the VSS, in mid-December 2006. The bill was not debated in the other place until 6 February; therefore, it had been in the public arena for two months before debate commenced. It is an important bill and we are keen to progress it.

Mr Dawson is concerned that the bill does not provide a separate category of victim. The VSS thinks it would be better to have separate sections within the legislation identifying and specifying the processes and rights of victims. Currently, the legislation provides for two categories of forensic procedures with the subject's consent. DNA profiles obtained from category 1 (consent) procedures are not stored on the database, whereas profiles derived from category 2 (volunteer) procedures can be stored on the database. It is true that the bill does not have a separate victim category, but that does not mean that the DNA profiles of victims will be stored on the database just because a victim consents to a forensic procedure.

The Commissioner of Police has argued strongly that there is a need to simplify the consent categories and to remove the confusion that is created by the different ages applying to the consent and volunteer procedures. The bill is drafted in such a way that there is a two-step process for the storage of volunteer DNA profiles on the database. As is the case now, a victim can consent to a forensic procedure and not have the DNA profile stored on the database. The only way in which a victim's DNA can be stored on a database is if they give informed consent under clause 42 or if they are assimilated as a suspect for an imprisonable offence. Nevertheless, because of the concerns expressed, the Attorney-General has asked the Commissioner for Victims' Rights to monitor this aspect of the legislation and, if there is clear evidence that the victims are being treated differently from what occurs now or are being pressured to consent to storage of a profile on the database, the government would look to revisit this matter.

In relation to DNA, the VSS suggests that, as it stands at the moment in the bill, victim DNA that has been volunteered will be able to be kept on file indefinitely. Mr Dawson is concerned that this could be a deterrent to victims offering their DNA and therefore would effectively reduce the quality of evidence able to be gathered, risk the case being proceeded with, and reduce reporting once victims are advised that their DNA could or would be retained. This is wrong. Clause 42 makes it clear that specific consent is required for storage of a DNA profile on the volunteers index.

Further, clause 38 provides for the destruction of forensic material obtained by carrying out a volunteer procedure. The Commissioner of Police must ensure that relevant forensic material obtained from a person by carrying out a volunteer procedure is destroyed within 21 days of receiving a request for destruction of the material from the relevant person who gave consent to the procedure. In addition, clause 45 states that the Commissioner of Police must ensure that a DNA profile derived from forensic material obtained under the act is not retained on the database beyond the time the destruction of the material is required under the act. Therefore, there is a mechanism in the act to ensure that a volunteer's forensic material is destroyed. This will be explained to victims in a brochure which will be prepared by the Commissioner for Victims' Rights and SAPOL.

In relation to police powers, Victim Support Services is also concerned about the decision-making and control of processes and decisions maintained by police in the bill. It thinks that it is vital that there be an external arbiter for 16 to 18-year-olds and for those who are not competent to give consent. As members will be aware, the government has filed an amendment to reduce the age at which consent can be given to a volunteer procedure to 16 years. Therefore, 16 to 18-year-olds will not fall within the definition of a protected person for the purposes of the voluntary procedure.

The Commissioner for Victims' Rights also expressed concern about the need for transparency in the process, particularly where the authorisation of a senior police officer is required, as under clause 9. The police have agreed to work with the Commissioner for Victims' Rights to produce an information brochure to ensure that victims and other volunteers are clear about the processes that will apply and what it will mean for them. Arrangements are already in place to begin work on that brochure. Mr Dawson does not think this goes far enough.

It is also worth noting that, by virtue of clause 56 of the legislation, the Police Complaints Authority must conduct an annual audit to monitor compliance with the act. If need be, a victim can also go to the Commissioner for Victims' Rights who will help them make a complaint. Information on making a complaint is in the *Information for Victims of Crime* booklet that the police usually give victims when they report a crime.

Mr Dawson raises some matters relating to the processes to be undertaken by medical practitioners. He suggested that some requirements are beyond the bounds of normal medical practice. I am not sure what this refers to, but I refer all honourable members to clause 22 of the bill which specifically states that a forensic procedure must be carried out in a way that is consistent with appropriate medical standards or other relevant professional standards.

Mr Dawson also raises questions about consent and the possibility of police shopping around until they find a next of kin who consents to a procedure. This matter was also

raised by the Commissioner for Victims' Rights and the director of the Rape and Sexual Assault Service. As a result of these representations the note included under clause 2 of the bill was amended administratively by parliamentary counsel before the bill was introduced in this place.

The note is intended to clarify the definition of 'closest next of kin'. The original note was drawn in the same terms as note 3 to section 3 of the current act. Because of the concerns expressed by some medical and social work staff, parliamentary counsel changed the note by adding after the words 'any one of the closest available next of kin' the words 'being persons who are equal in the order of priority specified in the definition of that term'.

So, if the closest available next of kin are the parents, the police will approach the two parents for consent. If the parents do not give consent, the police could not then contact brothers and sisters, etc. until they find someone who will give consent. The revised wording of the note should remove any ambiguity that may currently exist.

The Victim Support Service is concerned about the impact of the proposal to make an audiovisual record of some aspects of a forensic procedure. It is concerned that victims may be asked to have a forensic medical procedure videotaped. I refer honourable members to clause 25 of the bill that deals with the audiovisual recording of intrusive procedures.

Clause 25 states that an audiovisual recording of an intrusive procedure must be made if the procedure is a suspect's procedure or if the procedure is a volunteer's procedure and the person on whom the procedure is to be carried out requests an audiovisual record. Therefore, a forensic medical procedure on a victim would not be videotaped except in the unlikely event that the victim requests that such a record be made.

In relation to age of consent, the Victim Support Service opposes the raising of the age of consent from 16 to 18 years. As indicated in the second reading report, the government also received representations on this matter from the Commissioner for Victims' Rights and Yarrow Place and, as a result, the government flagged its intention to move an amendment to reduce the age of consent to a volunteer procedure to 16 years. I have an amendment on file to this effect.

The Hon. Mr Lucas raised the issue of sharing of DNA information between states and territories. The Criminal Law (Forensic Procedures) Act 1998 permits the sharing of information from the South Australian DNA database with policing agencies and other jurisdictions. The act intends that this can be done in two ways: first, through discreet bilateral arrangements with each of the other jurisdictions; and, secondly, through the National Criminal Investigation DNA database. The exchange of DNA under the discreet bilateral arrangements is currently occurring. The honourable member is correct, however, when he states that there have been delays in achieving successful exchange of DNA information through the national database. However, South Australia Police and the South Australian Attorney-General's Department have been working through the Australian Police Ministers Council and the Standing Committee of Attorneys-General (SCAG) to ensure that sharing can be facilitated.

The actions require the commonwealth to legislate changes to its empowering legislation, and those changes were passed at the end of last year. I am advised that matters have been progressing well through SCAG, as I know they are through the APMC, and that South Australia's difficulties in participating in the national database should be removed by the passage of this legislation. A draft ministerial arrangement is already in circulation.

The Hon. Mr Parnell raised a number of issues for clarification. First, he sought confirmation that the new legislative scheme will not inhibit victims of crime from reporting offences to police for fear that their profile could be checked against unrelated issues implicating them in an offence. The fact is that this legislation will connect the uploading of victim's DNA profile onto the DNA database only with their consent. The only manner in which a victim's DNA profile could be loaded onto the DNA database without a victim's consent is under an assimilation order. The assimilation provisions replicate those currently found in the legislation in respect of the updating of a volunteer's DNA profile. To date, these provisions have not been used as it is much simpler for police to obtain a DNA profile by conducting a suspect procedure than to obtain an assimilation order.

There is no suggestion from the Commissioner for Victims' Rights that victims would be discouraged by the existence of the assimilation order regime. The same can be said to apply to retention orders. However, as indicated earlier, the Attorney-General has asked the Commissioner for Victims' Rights to monitor this aspect of the legislation, and if there is clear evidence that victims are being treated differently to now, or being pressured to consent to storage of a profile on the database, the government would look to revisit this matter.

The second issue that the Hon. Mr Parnell raised is why the current bill does not permit the destruction of innocent persons' DNA profiles and the removal of their profiles from the database. The government has struck the balance of this policy decision in favour of public safety and crime detection through the retention of DNA profiles. That is what this bill is really all about. The final issue that the honourable member raised relates to the definition of destruction under clause 38. This is the same definition that is currently in operation.

Forensic Science South Australia has extensive policies in place dealing with the de-identification of its records to ensure that compliance with this clause is met. It is not possible for Forensic Science South Australia to identify a person who has had their material destroyed and profile removed by any means. I trust that that answers most of the questions. I again thank members for their indications of support and for their contributions to this very important bill.

Bill read a second time.

In committee.

Clause 1.

The Hon. NICK XENOPHON: I am grateful to the minister for his concluding remarks in relation to this bill. In relation to the DNA database, the minister referred to clause 42 under which specific consent is required for the storage of a DNA profile in the volunteers' index and that a volunteer or a victim can request the destruction of their DNA. As I understand it, that is something that occurred both in the previous act and in this current bill. Can the minister clarify, if not now but at some stage, what the position is in relation to victims or volunteers being aware that they have the right to have their DNA destroyed? As I understand that the right exists, but there is not any specific statutory obligation to advise victims in particular of that right.

The Hon. P. HOLLOWAY: I did cover that in my response. I said that there is a mechanism in the act to ensure that a volunteer's forensic material is destroyed. This will be explained to victims in a brochure that will be prepared by the Commissioner for Victims Rights and SAPOL. I also

indicated during my second reading response that arrangements are already in place to begin work on the brochure that will be provided to victims.

The Hon. NICK XENOPHON: Is it contemplated that the brochure will be provided to victims or volunteers at the time; and what will the effect be if, for whatever reason, the brochure is not provided?

The Hon. P. HOLLOWAY: My advice is that it will be provided to all victims and, as it is a policy, it I will be reviewable by the Police Complaints Authority. In other words, if there is no compliance, it would be a breach of policy and therefore reviewable by the PCA.

The Hon. R.D. LAWSON: I thank the minister for his explanation and his response to various questions raised but, in the course of that explanation and in the course of responding to the Hon. Nick Xenophon, on a couple of occasions he has referred to the commissioner for victims rights. Is it not the case that there is no commissioner for victims rights at the moment and that any legislation establishing that position has not yet been introduced into the parliament?

The Hon. P. HOLLOWAY: I am advised that there is no statutory authority at present. However, the role has been filled in anticipation of that statutory authorisation being introduced.

Clause passed.

Clause 2.

The Hon. R.D. LAWSON: When is it proposed that this act will come into operation; and is it envisaged that it will come into operation before or at the same time as legislation formally establishing the position of commissioner for victims rights comes into operation?

The Hon. P. HOLLOWAY: From my perspective as Minister for Police, I hope this legislation comes in as soon as possible because DNA records are being destroyed everyday and I think it is important that the police have the tools to do their work. Certainly, from my perspective, I am keen to see this legislation come into effect absolutely as soon as possible.

Of course, it is the Attorney's bill, and I will see what information we can get from the Attorney's office. The advice I have is that, obviously, regulations will have to be drawn up under this bill, which will presumably prescribe forms, and that sort of thing, to ensure that the act is effective. My advice is that it is not necessary for this bill to wait for the Commissioner of Victims' Rights legislation and, given the time in the program, as I said, I indicate that personally I hope the provisions of this bill can come into effect as soon as possible. As for the timing of the Commissioner of Victims' Rights bill, that is really a matter for the Attorney. Obviously, the government wishes to progress that legislation as well, but I know the Attorney has a significant amount of legislation which he is currently working on.

The Hon. R.D. LAWSON: On the subject of records currently being destroyed—and, speaking for the Liberal opposition, we certainly wish to see this new legislation introduced as soon as possible and are concerned at reports about DNA samples being regularly destroyed—can the minister confirm that it is the case that at the present time police will destroy the DNA taken from a person who is charged with a particular offence but is found guilty of a lesser offence—in other words, not the offence with which the person was charged and in respect of which the DNA sample was taken—even if they are convicted of a lesser offence that is treated as an event which warrants the destruction of the DNA?

The Hon. P. HOLLOWAY: As I understand it, and from the advice I have from the police, that is the case if, of course, the offence the person was ultimately convicted of was not of itself of the required severity to justify the retention. I believe that the police had legal advice to that effect when these issues came up, and obviously the Dean case, and others, have highlighted some of these issues.

The Hon. R.D. LAWSON: Could the minister confirm our understanding that, if the person from whom the DNA is taken is convicted of any lesser offence than that originally charged, DNA will be destroyed, even if the offence for which they are found guilty was one which, in the first place, could have warranted the taking of a DNA sample by reason of the penalty involved?

The Hon. P. HOLLOWAY: My advice is that the police had legal advice that they can retain the DNA providing the offence that the person is ultimately convicted of is serious enough to warrant, under the terms of the act, the retention of the sample. That, as I understand it, is the practice that would be applied by the police. Of course, if a person is charged with a serious offence but convicted of a lesser offence, if that lesser offence does not cross the threshold in terms of the requirements for the retention of DNA then I am advised that, under the current legislation, the DNA would have to be destroyed.

The Hon. R.D. LAWSON: On this topic, can the minister advise whether our understanding is correct that the practice of police acting on advice is that now, if an offender does not have a conviction recorded by the court but is still sentenced to some penalty—perhaps a bond—that is regarded as an event which does not allow the retention of the DNA—that is, no conviction is recorded even though some penalty is imposed?

The Hon. P. HOLLOWAY: That is my understanding of the situation and my advice on the matter.

The Hon. R.D. LAWSON: Is it also the case that the DNA cannot be retained if the person has a sentence of imprisonment imposed but that sentence is suspended?

The Hon. P. HOLLOWAY: My advice is that, even if they are convicted, if there is no conviction ordered and the sentence is suspended then DNA can be destroyed; however, I am advised that the DNA could be retained if the conviction is entered.

Clause passed.

Clause 3.

The Hon. P. HOLLOWAY: I would just like to make clear that in that latter comment I was referring to current legislation, not the bill. It is important that that go on the record. I move:

Page 4, line 7—After 'Act' insert:
, unless the contrary intention appears

Perhaps we should use this amendment as a test amendment, because it is consequential to my amendment No. 5, which will introduce a new definition of 'protected person' for the purposes of Part 2, Division 1. The new definition provides that, for the purpose of Division 1, a protected person is:

(a) a child under the age of 16 years; or
(b) a person physically or mentally incapable of understanding the nature and consequences of a forensic procedure;

The definition of 'protected person' contained in clause 3 will apply to the rest of the legislation. I will not elaborate further because I think I indicated the reasons for this during my response to the second reading. It obviously comes out of the discussions with the Victim Support Service.

The Hon. R.D. LAWSON: The Liberal opposition will be supporting the government's proposed amended definition of 'protected person' to include a child under the age of 16 years rather than 18 years (as the bill currently stands). Accordingly, we will be supporting this amendment, which is consequential upon that change.

The Hon. NICK XENOPHON: I would like to put on the record my reservations based on the submission of the Victim Support Service that reducing it to 16 years from the current 18 years is a concern. For instance, parents may not be informed—

The Hon. P. Holloway: This is what the VSS requested.

The Hon. NICK XENOPHON: On that basis I withdraw my remarks.

The Hon. R.D. LAWSON: I should have added that it is clearly our understanding that the government's amendments in this regard do answer substantially the issues raised in this connection by the Victim Support Service.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 4, line 18—After 'spouse' insert: or domestic partner

This amendment and the next two amendments are consequential on the passage of the domestic partners legislation. The amendments will have the effect of extending the definition of 'closest next of kin' to include domestic partners. The current act and the bill as introduced refer only to the term 'spouse of the person' in paragraph (b)(i) of the definition. Since the bill was settled for introduction, parliament has enacted the Statutes Amendment (Domestic Partners) Act 2006 to recognise domestic partners and amend the Family Relationships Act 1975 to give legal recognition to same-sex and domestic co-dependent relationships.

The amendment to this bill, therefore, recognises domestic partners, as that term will be defined in the Family Relationships Act 1975. In general terms, it will mean that two adults who live together as a couple on a genuine domestic basis, whether or not they are related, for a period of at least three years will be taken to be in the same order of priority as a spouse for the purposes of the definition of 'closest available next of kin'. This definition is relevant to those who can consent to a forensic procedure on a protected person.

The Hon. R.D. LAWSON: I indicate that the Liberal opposition will be supporting this amendment and the two following amendments.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 5, after line 5—Insert:

domestic partner means a person who is a domestic partner within the meaning of the Family Relationships Act 1975, whether declared as such under that act or not;

The amendment is consequential to the previous amendment. It defines the term 'domestic partner' to mean a person who is a domestic partner under the Family Relationships Act.

The Hon. R.D. LAWSON: I indicate support for the amendment.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 6, after line 20—Insert:

spouse—a person is the spouse of another if they are legally married;

This amendment is also consequential to the previous amendment. It limits the term 'spouse' to those legally married.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 6, line 25—After 'volunteers' insert: or victims

This is a test amendment, and my amendments Nos 1 to 3, 8 to 14, and 18 to 21 all relate to the same issue. This amendment provides for the term 'victim' to be used throughout the bill and addresses the concerns of the Victim Support Service that there is a lack of acknowledgment of victims in these situations. I believe that, if we are to change the culture so that victims are acknowledged and respected, let us at least acknowledge victims in this legislation, rather than simply lumping them in with volunteers. In a sense, I find that insulting to victims, although I am sure that it is not intentional on the part of the government. I think it is important that victims are acknowledged.

The previous bill provided a separate set of circumstances when DNA samples were taken from victims. I understand that the government changed these categories in response to comments made by the Commissioner of Police and the commissioner in the Kapunda Road inquiry regarding the need to simplify the act. I acknowledge and welcome that, and I welcome this bill. Whilst this amendment does not seek to have victims treated differently, it at least acknowledges them in the legislation. The comments that Michael Dawson from the Victim Support Service circulated to members about a climate of moving towards strengthening victims' rights and acknowledging their integral role in our justice system are what these amendments are all about, and I urge all members to support them.

The Hon. P. HOLLOWAY: This amends the interpretation clause to refer to a 'volunteers or victims procedure' rather than a 'volunteers procedure', and it is the first in a series of amendments that would rename the volunteers procedure in this way. The amendment moved by the Hon. Nick Xenophon is said to be in response to the correspondence from Mr Dawson of the Victim Support Service. I have already indicated the government's response to the issues raised by Mr Dawson. However, it must be said that Mr Dawson was not arguing for a cosmetic change as in this amendment: he argued for a separate category of procedure to apply to victims, and the government has already explained its position on this matter. The Commissioner of Police has argued strongly that there is a need to simplify the consent categories and to remove the confusion that is created by the different ages applying to the consent and volunteer procedures. The proposed amendment does not create a new category: it is purely a cosmetic change that does not have any substantive effect, and for that reason the government opposes the amendment.

The Hon. R.D. LAWSON: I ask the mover, first, why he proposes 'volunteers or victims' rather than using the conjunctive 'and'. It seems to me that to describe these as volunteers or victims procedures disjunctively creates a false impression. I will ask the minister to confirm this: currently the situation is that victims would be encompassed within the definition of volunteers, and for that reason the government is saying it is unnecessary, because they are within that category to be described in this way.

The Hon. NICK XENOPHON: That is a very pertinent question from the Hon. Mr Lawson. I direct him to clause 10(1) of the bill, which provides for a relevant person giving consent to the carrying out of a 'volunteers procedure'. The amendment would read 'volunteers or victims procedure'. If it were a volunteers and victims procedure there might be an interpretation that you are a volunteer and

a victim, whereas from a drafting point of view, as I understand it, using the terms disjunctively might be a more appropriate way to deal with it. The Hon. Mr Lawson has the letters QC after his name; I do not and never will have—or SC or whatever letters after the name the government is proposing. That was the basis of it. It is a drafting issue, but I am happy to listen to honourable members in relation to that.

The Hon. R.D. LAWSON: I certainly understand and appreciate the honourable member's comments in relation to clause 10, although I still would have thought that the descriptive headings, which are what we are all about to deal with, would perhaps better be described as volunteers and victims procedures. Before indicating a position, I repeat the question I asked the minister: is it the view of the government (and I gather that it is) that the victims would be encompassed within the existing volunteers procedures and that all victims for these purposes would actually be encompassed within the definition of volunteers?

The Hon. NICK XENOPHON: I think I can fairly sum up parliamentary counsel's advice in relation to the descriptive parts of this amendment (in other words, the headings) in one word, and that would be, 'Whatever.'

An honourable member interjecting:

The Hon. NICK XENOPHON: No; I am just saying that I am summing up the advice of parliamentary counsel succinctly. I am relaxed about that being conjunctive, rather than disjunctive, in terms of the description. I will be guided by you, Mr Acting Chairman, or perhaps the Hon. Mr Lawson will correct it by moving to amend the amendment. I do not mind.

The Hon. P. HOLLOWAY: To answer the question asked by the Hon. Robert Lawson about whether all victims are encompassed by the volunteers category, the answer is yes. We really see no virtue in what is purely a cosmetic amendment.

The Hon. R.D. LAWSON: I indicate that we are sympathetic to the Hon. Nick Xenophon's proposal. We cannot see how confusion can be created by the inclusion of a reference to victims. It is certainly true that many would regard the volunteer procedures as those applying to police officers, law enforcement officers, etc., and people who volunteer to give their DNA evidence as part of the investigation of a crime—and we have seen where a number of male populations in a town agree as volunteers to provide a DNA sample for the purpose of excluding themselves from suspicion. Accordingly, we think it is appropriate, given that the volunteers category is so well understood. We also indicate in the bill that that includes victims. So, we do not agree with the government's characterisation of this change being merely cosmetic.

As to whether it should be 'volunteers and victims' or 'volunteers or victims', I raised the point because it seemed to me that, in certain places, the conjunctive would be more appropriate. The matter has been considered by parliamentary counsel, according to the mover, and parliamentary counsel adopted what is incorporated in the Hon. Nick Xenophon's amendment. Given that we support the principle of victim's recognition, I indicate we support the amendment proposed by the Hon. Nick Xenophon in this case. Similarly, we will support the same amendment that is made on a number of the honourable member's amendments, that is, on 10 or so occasions. I will not rise on each occasion to indicate support for it.

The Hon. SANDRA KANCK: I indicate Democrat support for the Hon. Mr Xenophon's amendment.

The Hon. NICK XENOPHON: Given the comments made by the Hon. Mr Lawson, and having discussed this matter with parliamentary counsel, I propose at this stage, at least for amendments Nos 1, 2 and 3 standing in my name, to substitute the word 'or' for 'and' so that it reads 'and victims'. With your leave, Mr Acting Chairman, I will move amendment No. 1 standing in my name in an amended form. I move:

Page 6, line 25—After 'volunteers' insert 'and victims'

The Hon. P. HOLLOWAY: My advice is that, if the committee is going to change the title, which I assume the opposition is supporting and the numbers appear to be there, to 'volunteers and victims', then my advice is that to be consistent it would also need to change it in the text of the bill the whole way through. The government does not believe the change is necessary. We oppose it but, if it is going to be changed, let us do it properly all the way through.

The Hon. NICK XENOPHON: I acknowledge the government's opposition, but I also acknowledge its remarks about some consistency if this amendment has the numbers. Perhaps, in the meantime, I will speak to parliamentary counsel so that, if I have the numbers, there may be a recommittal to make sure that it can all be dealt with as smoothly as possible.

Amendment carried; clause as amended passed.

Clauses 4 and 5 passed.

Part 2 (Division 1).

The Hon. NICK XENOPHON: I move:

Page 7, line 26—After 'volunteers' insert 'and victims.'

The Hon. P. HOLLOWAY: Given that the other amendment was successful and appears to have support, obviously we need to be consistent all the way through, so we will not oppose the subsequent consequential amendments.

Amendment carried.

Clause 6.

The Hon. P. HOLLOWAY: I move:

Page 7, after line 28—Insert:

'protected person' means—

(a) a child under the age of 16 years; or

(b) a person physically or mentally incapable of understanding the nature and consequences of a forensic procedure;

This amendment is moved in response to submissions received from the Commissioner for Victims' Rights and groups representing victims. It will change the definition of 'protected person' for the purposes of part 2 division 1 to mean a child under 16 years or a person physically or mentally incapable of understanding the nature and consequences of a forensic procedure. The government has received representations about the amalgamation of the category 1 (consent) procedure and category 2 (volunteer) procedure, into the one category of volunteers.

The change has been made by the government in response to comments by the Commissioner of Police and the Kapunda Road Royal Commissioner about the need to simplify the current act. The bill currently defines a protected person as a child or a person physically or mentally incapable of understanding the nature and consequences of a forensic procedure.

A relevant person for the purposes of consenting to a volunteer forensic procedure depends on whether a person is a protected person or not. The result is that a person under

18 years would not be able to consent to a forensic procedure. The Commissioner for Victims' Rights and victim groups argue that the age should be set at 16 years, which is the age that applies to consent to a category 1 procedure under the current act.

The argument for maintaining the age is based on the age at which a person can consent to medical treatment. They argue that 16 to 17 year old rape victims who seek help in confidence and agree to a forensic medical examination should have their privacy respected, as would happen if they only consented to a medical examination. The government has received representations that the law for victims should be the same as now and not place medical practitioners in the precarious situation of having to give advice to victims that could be conflicting, especially as these victims are likely to be distraught.

The government has reconsidered this matter and has decided to move an amendment to reduce the age of consent to a volunteer procedure to 16 years. This amendment only amends the definition of protected person for the purposes of this division, as there are other provisions in the bill that come into play, such as retention and assimilation orders and consent to store DNA profiles on the volunteers index of the database. The new definition of protected person will not apply to these provisions. This would mean that the relevant age for those purposes and the age at which a person could consent to the storage of a profile on the database would remain at 18 years.

In this way the bill will maintain the correlation between the age of consent to a volunteer forensic procedure and the age of consent to medical treatment but retain the age of 18 years for matters that could relate to criminal investigation purposes, such as storage of a profile on the database. This is similar to the system that exists under the current act, but the complexity of the two categories is removed by making one category of volunteers but splitting the consent to the forensic procedure from the consent required to put a profile on the database. It is also, of course, consequential to an amendment we previously passed.

The Hon. R.D. LAWSON: I indicate opposition support for this amendment which I note answers one of the issues raised by the Victim Support Service.

The Hon. NICK XENOPHON: I apologise because earlier I indicated that this was not what the Victim Support Service wanted but, in fact, it is. I want to clarify that I do have reservations about this to the extent that parents of a 16 or 17 year old child would not necessarily be informed where that child is a victim. I understand there is a concern in terms of a victim of sexual assault about parents not knowing. I think it is a difficult issue. I just want to indicate my reservations about this. I think it is important, unless there is good reason not to, that parents should be informed about their child. If you have good loving parents, if they are not the perpetrators or anything like that, I think there is a broader debate about what their knowledge should be. I want to record my reservations in relation to that. I note and respect the comments of the Victim Support Service, but I just wanted those reservations to be put on the record.

Amendment carried; clause as amended passed.

Clause 7.

The Hon. NICK XENOPHON: I move:

Page 8, line 2—After 'volunteers' insert 'and victims'.

We have had this debate before.

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 8, line 9—Delete 'senior police officer' and substitute 'magistrate'.

This deals with decisions involving protected persons under the age of 16 and those physically and mentally incapable of understanding the nature and consequence of forensic procedure. If a protected person is unable to make a decision for themselves this needs to be determined by a magistrate and not by a senior police officer. This addresses the Victim Support Service's concern that they may be in a difficult situation where they have to balance the need to give a sample with the needs of a protected person or victim.

Taking it out of police hands makes the process more transparent and gives the police better protection by having an independent and external person make the decision. It reflects, as I said, the concerns of the Victim Support Service. This is not about complicating the bill. There are mechanisms to allow it to be done by telephone with a magistrate in certain circumstances. I urge honourable members to consider and support this amendment.

The Hon. P. HOLLOWAY: The government does not support the amendment. This amendment is part of a package of amendments that would replace the role of 'senior police officer' in clause 9 with a magistrate. The Hon. Nick Xenophon seeks to have magistrates replace senior police officers as the decision maker for a very narrow class of authorisations that can occur under the volunteer procedure. This appears to be in response to Mr Dawson's concern that there should be an external arbiter under this division of the bill in respect of decisions involving 16 to 18 year olds. Mr Dawson's concerns, it must be emphasised, were limited to decisions being made in relation to 16 to 18 year olds. The government has just passed amendments making the age of consent for volunteer procedures 16 years. The government's amendment as to the age of consent directly addresses Mr Dawson's concerns.

It should be noted that the move to have senior police officers act in decision-making processes throughout this bill is one of the government's fundamental changes to the current process. The proposed use of senior police officers (officers of the police holding the rank of inspector and above) is necessary to simplify the convoluted processes of the current legislation. The need for such simplification of the forensic procedures regime was the primary recommendation of the Kapunda Road Royal Commission.

It should be noted that these highly trained and ranked officers will be making the determinations under clause 9 against the strict legislative criteria that magistrates currently exercise. Thus, there will be no lessening of the standards and tests that will have to be met for an authorisation under clause 9. To reintroduce the magistracy into this single aspect of the bill when the Victim Support Service's concerns have already been addressed adds an additional layer of complexity, which is contrary to the Kapunda Road Royal Commissioner's recommendations. For those reasons we oppose the amendment.

The Hon. R.D. LAWSON: I indicate that the Liberal opposition is not convinced by the Hon. Nick Xenophon's proposal to introduce magistrates' consent in this particular case. We accept that the current system, which does involve some measure of judicial oversight at this stage of criminal investigation, is being abandoned in favour of a system whereby senior police officers will be given the authority to authorise forensic procedures. These are procedures undertak-

en in the course of the investigation of offences, and we believe that it is appropriate that senior police officers have these powers. We have not seen or experienced any incidents where the exercise by police of the powers they have is inappropriate.

We think the requirement to go to a magistrate in this particular case would be an unnecessary complication. We see it simply as creating further hoops that police have to jump through before an investigation can proceed, and the more hoops there are the more likelihood that there will be some inadvertent failure to comply with regulation—and it is regulation for its own sake. Given the fact that the age of consent has been reduced to 16, we are unconvinced that it is necessary to introduce the magistracy into this limited aspect of the whole scheme. We think it is an unnecessary complication, and we will not support it.

The Hon. NICK XENOPHON: I have already said that this amendment flows from concerns from the Victim Support Service. The Hon. Mr Lawson and the government say that it adds an extra layer of complexity or difficulty. That is certainly not the intention. I know that the amendment will be lost. I do not seek to divide on it, but I think it was important to raise the flag for victims in relation to this. I draw the attention of members to my amendment No. 7; that is, magistrates will not be bound by the rules of evidence. They can deal with matters of urgency by telephone and give the authorisation by telephone or fax. It was not about creating more hoops. It created an exemption, if you like, for protected persons, but it intended that there be a relatively easy way of dealing with them. However, I understand the position of the government and the opposition and that the argument has been lost, but I still think that it was an important argument to have.

Amendment negatived; clause passed.

Clause 8 passed.

Clause 9.

The Hon. NICK XENOPHON: Given what has recently transpired, I will not be proceeding with amendments Nos 5, 6 and 7.

Clause passed.

Clause 10.

The Hon. NICK XENOPHON: I advise that I will be moving amendments Nos 8 to 14 in an amended form. I move:

Page 8, line 27—After 'volunteers' insert:
and victims

Amendment carried.

The Hon. NICK XENOPHON: I move:

Page 8—
Line 30—After 'volunteers' insert: and victims
Line 34—After 'volunteers' insert: and victims
Line 38—After 'volunteers' insert: and victims

Amendments carried; clause as amended passed.

Clause 11.

The Hon. NICK XENOPHON: I move:

Page 9—
Line 3—After 'volunteers' insert': and victims
Line, 6—After 'volunteers' insert: and victims
Line 11—After 'volunteers' insert: and victims

Amendments carried; clause as amended passed.

New clause 11A.

The Hon. NICK XENOPHON: I move:

Page 9, after clause 11—Insert:
11A—Provision of information

If forensic material is obtained from a person by carrying out a volunteers and victims procedure, the person who carries out the procedure must give the relevant person a written statement, in a form approved by the Attorney-General, explaining the right to request destruction of the material under section 38

I raised this issue during the discussion on clause 1 and I note the minister's response. This amendment provides for a statutory obligation to ensure that victims and volunteers are aware of that right of destruction. It does not change the substantive provisions with respect to destruction, consent and the like. However, what it does is to enshrine in legislation the information that is imparted to volunteers and victims, and I believe that it is important that that be done. It is one of the concerns of the Victims Support Service. I urge members, and the Hon. Mr Lawson in particular, to consider this amendment. It does not take away from the simplified legislative regime that is anticipated in this bill. However, it does clarify what is required of those who take forensic material and give people that basic bit of information that they have the right to request the destruction of the material under section 38.

The Hon. P. HOLLOWAY: This amendment requires a person who carries out a volunteers or victim procedure to provide the relevant person with a written statement in the form approved by the Attorney-General explaining the right to request destruction of the material. The government opposes this amendment. The government has already indicated that the Commissioner for Victims' Rights is working with SAPOL to produce a brochure to be made available to victims and other volunteers. The brochure will include information about the destruction provision in the legislation, as well as other information that will assist volunteers to understand the process. It will not be limited to one aspect of the legislation as it would with this amendment.

The Hon. R.D. LAWSON: We are inclined to support this amendment but, again, I ask the minister to confirm that, in any event, it is proposed that the government will prepare a brochure which explains to volunteers—and now victims—their rights in relation to this legislation, as that is our understanding of what the minister was saying earlier in the committee stage. If it be the case that the government is going to provide this material as a matter of practice or policy, we can see no reason why it ought not be a specific requirement in the legislation.

The Hon. P. HOLLOWAY: I have already indicated that the Commissioner for Victims' Rights is working with SAPOL to produce a brochure to be made available to victims and other volunteers, and that brochure will include information about the destruction provisions in the legislation but it will also include other information that will assist volunteers to understand the process. It will not be limited to one aspect of the legislation, as it would be under the Hon. Nick Xenophon's proposal. I know we are doing it, but we would be going further than what would be required under this clause. So, the government opposes this amendment.

We have seen the situation with the current act and we know from the police that part of the difficulty they have faced in dealing with this legislation in their day-to-day work has been some of the complexities and requirements, and there has been a lot of unnecessary requirements that, fortunately, as a result of this review, have been removed. They are unnecessary procedures which have involved a number of police officers and a significant amount of police resources in doing things that really have no purpose. If we are going to provide this information, anyway, and in a fuller

form, I suggest that we do not want to go down the track we have just come from and start putting more provisions in the way requiring police officers to do things that they would be doing, anyway.

The Hon. NICK XENOPHON: If I understand the minister correctly, they are proposing to give more information, in any event, but I do not see that this amendment is mutually exclusive to what the government is doing. You can provide whatever information you want to give to volunteers and victims in relation to the destruction of material and other related matters, but this amendment does not work against that. It simply enshrines a basic fundamental requirement that this information be provided. It is not mutually exclusive, whatever other information the Attorney-General is proposing in such matters. So, for those reasons, I urge honourable members to support this.

The Hon. P. HOLLOWAY: If you put these requirements in but, for some technical reason, someone does not get a brochure—one could think of a number of scenarios where, despite the best endeavours of police and victim support services, someone might be rushed off to hospital (you can think of a number of scenarios) and not get it—do we really want to open up a loophole under which someone might challenge these procedures? The whole point of the legislation was to try to move away from those sorts of circumstances. But, I can assure everyone that the police, and others, will make their best endeavours—and why wouldn't they—to inform victims of their rights, as I am sure will the victims of crime service. But let us not put requirements in the act which, if there is some accidental or technical breach, will provide someone with the opportunity to challenge this situation in the courts. Think back to the Dean case.

The committee divided on the new clause:

AYES (11)

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

NOES (8)

Evans, A. L.	Finnigan, B. V.
Gago, G. E.	Gazzola, J. M.
Hood, D.	Holloway, P. (teller)
Wortley, R.	Zollo, C.

PAIR

Schaefer, C. V.	Hunter, I.

Majority of 3 for the ayes.

New clause thus inserted.

Progress reported; committee to sit again.

LOCAL GOVERNMENT (STORMWATER MANAGEMENT) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1516.)

The Hon. P. HOLLOWAY (Minister for Police): Before I begin summing up the second reading I would like to put something on the record. On 6 February 2007, during the committee stage in the House of Assembly, reference was made to the membership of the Interim Stormwater Management Committee. The Minister for Infrastructure, the Hon. Patrick Conlon MP, stated that this membership included, amongst others, the chief executive or the executive officer of the Office for Local Government. The Minister for Infrastructure has advised that the correct title is General Manager, Adelaide and Mount Lofty Ranges Natural Resources Management Board, and I would like to ensure that that correction goes on the record.

I thank honourable members for their contribution to the bill. A number of issues were raised which I will seek to address. The stormwater management agreement between the Local Government Association and the state government provides for the on-property or downstream reuse of stormwater to be explored to help reduce reticulated water demand where feasible. When undertaking stormwater management planning, councils must take into account any plans, policies, strategies or guidelines issued by the Natural Resources Management Council or regional Natural Resources Management Boards so as to recognise opportunities and arrangements for cooperative research, innovation and commercialisation relating to stormwater harvesting and reuse.

At its inaugural meeting in September 2006, the Interim Stormwater Management Committee resolved that projects must demonstrate a significant flood mitigation component as well as addressing, wherever practical, value-adding opportunities such as stormwater reuse and water quality enhancements in order to be eligible for funding from the Stormwater Management Fund. The bill provides that stormwater management plans prepared by councils must comply with guidelines that have been approved by the Natural Resources Management Council. Once formally endorsed by the authority, the guidelines must be gazetted. These are multi-objective guidelines.

Identification of risk issues and opportunities for outcomes of public and environmental benefit associated with stormwater management in the catchment is to be undertaken based on analysis using accepted hydrological, hydraulic, water quality and yield modelling techniques. The risks and opportunities to be assessed include:

- the potential for flooding in the catchment;
- the nature and impact of flooding on properties, and the potential for economic loss and environmental impact;
- the positive and negative impacts of future development on flooding;
- stormwater quality issues within streams and receiving waters, both within and downstream of the catchment;
- opportunities for better managing flood risk where such risk is identified;
- opportunities for stormwater reuse, including aquifer storage; and
- opportunities for environmental enhancement in association with construction of stormwater infrastructure, including managing stormwater to enhance water-dependent ecosystems, where feasible.

Catchment specific objectives for the management of stormwater are to be set, including:

- an acceptable level of protection of the community and both public and private assets from flooding;
- management of the quality of run-off and effect on receiving waters;
- the extent of beneficial use of stormwater run-off;
- desirable and state values for watercourses and riparian ecosystems;
- desirable planning outcomes associated with new development;
- open space, recreation and amenity; and
- sustainable management of stormwater infrastructure, including maintenance.

With respect to the operation and management of aquifer recharge projects, the proponent council or other party is responsible for obtaining any necessary approvals and licences for the recharge and reuse activity. The bill does not negate the need for a council to comply with or obtain approvals or licences under any other act or regulation.

It is noted that the Hon. Mr Ridgway recently attended the opening of the Grange Golf Club wetland and stormwater reuse scheme. There was also a contribution to that project from the Stormwater Management Fund administered by the Interim Stormwater Management Committee. The Stormwater Management Authority has been carefully constituted as a major local government-controlled entity to prioritise stormwater works and set up the opportunity for funding to be brought forward in a responsible manner to facilitate delivery of priority projects. Importantly, it is a single entity for stormwater management throughout South Australia.

Regional councils are eligible for funding under these arrangements, and the Interim Stormwater Management Committee has already approved funding for a number of stormwater projects in regional areas. The interests of the various regional NRM boards are taken into account by the requirement in the legislation that the NRM boards are to be involved in the process for preparation and adoption of stormwater management plans. There is no conflict or duplication between the two bodies. In fact, one of the government-nominated members is the general manager of the Adelaide and Mount Lofty Ranges NRM Board.

With respect to councils in the Lower South-East dealing with counterparts over the border, no known problems are currently being encountered. With respect to the authority or a council undertaking any testing, monitoring or evaluation under clause 21(1), this will only involve things necessary for the purpose of taking action under an approved stormwater management plan. It will not duplicate or shift responsibility or costs from any other body. I commend the bill to members. There are a number of other issues that we can perhaps deal with during the committee stage.

Bill read a second time.

In committee.

Clause 1.

The Hon. D.W. RIDGWAY: On a point of clarification, in his summing up of the debate the minister talked about the NRM boards endorsing flood management plans. I do not see that in the actual bill. Reading the bill, it appears that they have only to seek advice, which advice they could ignore if they choose. It does not appear to have to be endorsed by the NRM boards.

The Hon. P. HOLLOWAY: The point is that those flood management plans have to be developed in consultation with the NRM board; therefore, it inevitably follows that they will reflect the wishes of the board.

The Hon. D.W. RIDGWAY: Effectively, the stormwater management board will have a veto over anything an NRM board may propose if there is a conflict.

The Hon. P. HOLLOWAY: No; that will not be the case, and that is the safeguard.

The Hon. D.W. RIDGWAY: How will it be resolved if there is a conflict between the two groups?

The Hon. P. HOLLOWAY: My advice is that the way this is likely to operate is that, if the NRM board were unhappy or thought that a council plan were inadequate, it would be referred back to the council for council authority.

The Hon. S.G. WADE: Is that just wishful thinking, minister? There is nothing in the processes for that. The stormwater authority merely needs to seek advice, and it cannot approve a plan without having received the advice. If there is conflict, there is no provision for conciliation or one entity having ultimate responsibility for water catchment management. This highlights one of the big issues I see in the bill. In establishing the NRM council framework, the government told us that we would get integrated natural resource management, yet a mere two or three years later the government is shunting a whole area of water management into a different authority. It is nice for the minister to think that there might be amiable negotiations, but in the end the stormwater authority has no responsibility to accede to the requests of the NRM, which no longer has a capacity to enforce total catchment water management in South Australia.

The Hon. P. HOLLOWAY: The point is that they are all working from the same guidelines which cover stormwater management and which have been approved by the NRM council and issued by the stormwater authority. So, what is being done here is that we are applying the same guidelines which, as I say, have been approved by the NRM council and issued by the stormwater authority.

The Hon. S.G. WADE: As to the point the minister just raised, it may be helpful for him to expand on what those guidelines might contain. I hear 'guidelines' to mean the elements you would expect to see in a plan. I certainly do not expect that the NRM would have the capacity to enforce its strategy for water catchment management within a region through the guidelines of another body. That does not seem to me to be the way that the NRM could ensure integrated water catchment management. For example, new section 13(2)(a) provides that it must set up the objectives. I would think that a set of guidelines, which sought to go beyond objectives to enforce an NRM's view of integrated catchment management, even if that could be done in a detailed way prospectively, would not be appropriate or legal under this bill.

The Hon. P. HOLLOWAY: It is a pity that members of the opposition do not listen. I read out the guidelines, but I will do it again. I read them earlier. It is a pity that members do not pay attention. I will repeat what I said just five minutes ago. These are multi-objective guidelines. Identification of risk issues and opportunities for outcomes of public and environmental benefit associated with stormwater management in the catchment is to be undertaken based on analysis using accepted hydrological hydraulic water quality and yield modelling techniques. The risks and opportunities to be assessed include:

- the potential for flooding in the catchment;
- the nature and impact of flooding on properties and the potential for economic loss and environmental impact;
- the positive and negative impacts of future development on flooding;
- stormwater quality issues within streams and receiving waters, both within and downstream of the catchment;
- opportunities for better managing flood risk where such risk is identified;
- opportunities for stormwater reuse including aquifer storage; and
- opportunities for environmental enhancement in association with the construction of stormwater infrastructure, including managing stormwater to enhance water dependent ecosystems where feasible.

Catchment specific objectives for the management of stormwater are to be set, including:

- an acceptable level of protection of the community in both public and private assets from flooding;
- management of the quality of run-off and effect on receding waters;
- the extent of beneficial use of stormwater run-off;
- desirable end state values for watercourses and riparian ecosystems;
- desirable planning outcomes associated with new development of open space recreation amenity;
- sustainable management of stormwater infrastructure including maintenance.

The full document which is entitled 'The guideline framework for uniform catchment-based stormwater management planning by local government councils' is available. It is approved by the National Resource Management Council for use by local government councils. It is a document of some 20 pages.

The Hon. S.G. WADE: That does not seem to be a recipe for integrated water catchment management. Why does the government not think it appropriate that the stormwater management plans be explicitly approved by the relevant natural resource management body?

The Hon. P. HOLLOWAY: I hope all members would concede the need. We want something to happen in some of the catchments where there are problems—heaven knows that most of Adelaide was built on a flood plain. The western suburbs and much of the eastern suburbs, and others, are on a flood plain. There must be one approving authority. If we want things to happen, there must be one approving authority. The government's proposal is that the stormwater management authority be that body.

Clause passed.

Clauses 2 and 3 passed.

Clause 4.

The Hon. SANDRA KANCK: I move:

Page 4, lines 22 to 29—
Delete subclause (2) and substitute:
(2) The objects of this schedule are as follows:
(a) to ensure the proper operation of the stormwater management agreement—
(i) by the creation of the stormwater management authority referred to in the agreement; and
(ii) by putting in place administrative and funding arrangements, and conferring powers, necessary for the proper discharge of state and local government responsibilities relating to stormwater management as stated in the agreement;
(b) to ensure that environmental objectives and issues of sustainability are given due consideration in the discharge of state and local government responsibilities relating to stormwater management as stated in the agreement.

I stress that this is about the environmental aspects of stormwater. In my second reading speech, I talked about stormwater being more than merely a nuisance that needs to be controlled and that significant benefits can be gained as a consequence of harvesting that water. It is not merely about preventing flooding. Clause 1 was passed without my having an opportunity to speak in response to something the Hon. Mr Hood said this morning.

When I spoke during the second reading debate, I said that local government had been irresponsible and that it had approved development too close to creek lines. I certainly did not talk about local government approving developments on flood plains, because that would be most of metropolitan Adelaide. It was specifically about the creek lines and how close building has been able to encroach. Again, I was not able to contribute to clause 1; a very interesting philosophical argument was going on about the extent to which the NRM boards have a say in this process. If I had designed this bill, I would not have given control to local government; I do not think local government has been a knight in shining armour in this issue.

Again, in my second reading speech, I referred to the plan amendment report which the previous Labor government introduced but backed away from in the end as a consequence of public reaction. The reason for the government's plan amendment report was because a number of local councils had failed to take appropriate action over the years, and they had failed to work as a constructive entity, which I think is the point the Hon. Mr Wade was making. I am straying a little from my amendment, but it is important to put that on the record.

With this amendment, what I have done is to add a paragraph (b), which provides:

to ensure that environmental objectives and issues of sustainability are given due consideration in the discharge of state and local government responsibilities relating to stormwater management as stated in the agreement.

It just reinforces what I said in my speech, that is, that we need to consider stormwater as a benefit and not just a problem. If we look at it from the perspective of its having an environmental objective, I believe we can gain much more out of it than simply saying, 'Okay, we're going to control it and do what we can to stop the flooding.'

The CHAIRMAN: The Hon. Ms Kanck has mentioned that she did not have an opportunity to speak to clause 1. I advise the honourable member that there was plenty of opportunity for her to speak to clause 1; she was not denied an opportunity.

The Hon. SANDRA KANCK: I am sorry, Mr Chairman. I was not suggesting that you denied me an opportunity. It was the rate at which the clause was suddenly put; I did not have the opportunity to stand up. I tried to stand up a couple of times, but at that point I missed the opportunity to butt in.

The Hon. P. HOLLOWAY: The government opposes the amendment on the basis that the considerations are contained in the stormwater agreement and guidelines for the preparation of stormwater management plans. They do not need to be legislated; they are already there. What does the Hon. Sandra Kanck think this government is doing? What does she think happened back in the 1990s when we first drew attention to this thing? Sandra Kanck comes up with these motherhood statements about how water can be valuable. Well, heavens above, don't we all know that? Haven't we known that for years? Aren't we putting that into effect? The fact is that there are some pluses, and the honourable member quite correctly referred to what is happening in Unley and some of the opposition out there, the fact that in those areas that have been built up there are real issues where significant investment needs to be made. The honourable member is quite correct; some appalling decisions were made. My department has just spent, from the funds that I control, $1.5 million on buying back a petrol station built on the flood plain at South Verdun on the banks of the Onkaparinga River. If there is a flood there, the petrol would be washed into the Mount Bold Reservoir, just a few kilometres downstream.

Some insane planning decisions have been made, and we have had to spend a lot of taxpayers' money just to deal with that one small problem. If one looked across the whole area, one would see that that is enormous. Of course, water is a resource, and we must deal with it. However, we also have severe potential flooding problems. No-one is saying that we

should not be looking at the environmental issues. What is Waterproofing Adelaide all about? It is all about—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: The Hon. David Ridgway knows what it is about. He referred to it in his press release, and he has been using half of it to come up with his private member's bills and suggestions.

An honourable member interjecting:

The Hon. P. HOLLOWAY: He has. It is all there—mining water, reusing sewage. It is all there in the Waterproofing Adelaide strategy. So, no-one should have any doubt whatsoever—

The Hon. D.W. Ridgway interjecting:

The Hon. P. HOLLOWAY: Of course we would oppose it, because the member has put it in an impossible form. We are already doing it. Waterproofing Adelaide has the strategy set out for valuing stormwater in this committee—

The Hon. D.W. Ridgway: I can't believe you said that.

The Hon. P. HOLLOWAY: The member's press release shows that he just borrowed it. He obviously went through it and thought, 'These are pretty good suggestions. What I will do is jump the gun and come in with an amendment. I will put it in such a form that we know the government must oppose it, because it is all out of sequence. But that way I will get a bit of publicity. It will make it look as though the opposition and I have some ideas.' Clearly, they have been borrowed straight out of Waterproofing Adelaide. As I said, a lot of this work was done back in the late 1980s and early 1990s.

No-one is suggesting that stormwater is not an asset. However, no-one should deny that we have very serious potential flooding problems in built-up areas, where that is the key issue. Obviously, there will be different issues in different catchments in different areas. It is all very well for the honourable member to say that local government should be removed from it. Given that it made all the decisions, why should state taxpayers have to take money out of all the other important areas that we have to spend money on to fund some of these works? Why should we have to do that? That is really the issue.

I do not disagree with the Hon. Sandra Kanck that, in many cases, poor planning decisions, such as the one at South Verdun and others, have cost this state dearly. However, getting out of them will be very expensive. The management authority will have to look at priorities. We can debate the theory of the value of water but, at the end of the day, the public out there—the people living in these flood-prone areas—want a response. Similarly, the government is also expected—properly—to provide a response to issues covered by the Waterproofing Adelaide issue, where we have to ensure that the 200 gigalitres or so of rainwater that falls on Adelaide (which is about our consumption) is protected and does not all go off and kill seagrasses in the marine environment. We all know that. We all know that we have to find solutions to it. However, we also have a backlog of engineering works which have been undertaken, which create risks. The bottom line is that the considerations of the objectives are contained in the stormwater agreement and in the guidelines, and they do not need to be legislated. That is the basis of the government's position.

The Hon. SANDRA KANCK: The minister is arguing my case. The example that he has given of the service station at Verdun is proof of the need for the insertion of something like that. I remind the minister that it states as follows: 'to ensure that environmental objectives and issues of sustainability are given due consideration'. Why would the minister not want something like that in legislation? Guidelines, agreements, and so on, are fine. However, they do not have the power of legislation. Why would the minister not want reference to an environmental objective included in legislation?

The Hon. P. HOLLOWAY: It is in the guidelines. The Stormwater Management Authority is not the approving authority for service stations in flood plains.

The Hon. M. PARNELL: I am going to support this amendment. One of the reasons that I think it is an important amendment is that what we are talking about here are new arrangements for managing stormwater, and beneath that is a new way of thinking about stormwater. I understand and I accept what the minister is saying. I have read the guideline framework for uniform catchment-based stormwater management planning by local government councils. I have had a look at the environmental objectives that are contained in that guideline framework and I can see that there are, for example, opportunities for stormwater use, including aquifer storage, but the overwhelming sense from this document is that we are still primarily talking about flood control and protection of property from damage—and that is important. I agree with the minister that it is important.

But if we are about changing attitudes amongst those with responsibility for managing water, then we are going to have to send some very clear and loud signals to our local councils and to other authorities that the resource potential for stormwater is now up there on a level footing with property protection and flood control when it comes to the main objectives of management. The reason I agree with this amendment is that the best way to achieve that change in thinking is to have the environmental objectives in the highest level document that we possibly can have. That means, even though it might be buried amongst various other subsidiary documents, that we need to put these environmental objectives in the legislation itself. It does not detract from any of the administrative or financial arrangements that are put in place.

I would be interested to know if there are any figures on the proportion of stormwater that is currently regarded as a resource and currently collected—whether it is in rainwater tanks or in aquifer recharge—compared to the stormwater that is regarded as waste. My back-of-envelope figure is that it would be 95 per cent waste and maybe 5 per cent used, other than stormwater that falls in catchment areas feeding reservoirs. The vast majority of stormwater is regarded as a waste problem; it is regarded as a flood problem. We are serious about not just waterproofing Adelaide, as the minister said, but I am more interested in weaning Adelaide off the River Murray, and that means we are going to have to really seriously look at recovering much more of the stormwater than we are currently doing. I do not see that the Hon. Sandra Kanck's amendment undermines or interferes with the objectives of this legislation—which are primarily administrative and financial—but I think it sends exactly the right message to our decision-makers that the environmental considerations need to be at the forefront.

The Hon. D.W. RIDGWAY: I indicate that the opposition will be supporting the Hon. Sandra Kanck's amendment. I will not prolong the debate, because I think the Hon. Sandra Kanck and the Hon. Mark Parnell have highlighted all the reasons why the opposition would support them. I also note that we have had discussions with the Local Government Association, which seems to think that the whole Stormwater

Management Authority and this amendment bill are all very workable, and so it is certainly relaxed about it. I indicate support for the amendment.

The committee divided on the amendment:

AYES (11)

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

NOES (7)

Finnigan, B. V.	Gago, G. E.
Gazzola, J. M.	Holloway, P. (teller)
Hood, D.	Hunter, I.
Wortley, R.	

PAIR

Schaefer, C. V.	Zollo, C.

Majority of 4 for the ayes.

Amendment thus carried.

Progress reported; committee to sit again.

SITTINGS AND BUSINESS

The Hon. P. HOLLOWAY (Minister for Police): I move:

That the council at its rising adjourn until Wednesday 14 March 2007.

The Hon. R.I. LUCAS (Leader of the Opposition): The opposition has not been advised by the government of anything other than that we were sitting on Tuesday 13 March.

The Hon. G.E. Gago interjecting:

The Hon. R.I. LUCAS: I am just asking. We are ready to work, and this government is obviously trying to stop the parliament from sitting, at 5.30 on a Thursday afternoon.

The Hon. P. Holloway: You obviously have the numbers; just move.

The Hon. R.I. LUCAS: All I am saying is that, as the Leader of the Government, have the courtesy to talk to people in this place about when you want this place to sit. Behave like somebody who is meant to be a leader rather than a puerile, juvenile—

Members interjecting:

The PRESIDENT: Order! You will come to order.

The Hon. R.I. LUCAS (Leader of the Opposition): I move:

To delete the words 'Wednesday 14 March' and insert 'Tuesday 13 March', as scheduled.

The council divided on the amendment:

AYES (13)

Bressington, A.	Dawkins, J. S. L.
Evans, A. L.	Hood, D.
Kanck, S. M.	Lawson, R. D.
Lensink, J. M. A.	Lucas, R. I. (teller)
Parnell, M.	Ridgway, D. W.
Stephens, T. J.	Wade, S. G.
Xenophon, N.	

NOES (6)

Finnigan, B. V.	Gago, G. E.
Gazzola, J. M.	Holloway, P. (teller)
Hunter, I.	Wortley, R.

PAIR

Schaefer, C. V.	Zollo, C.

Majority of 7 for the ayes.

Amendment thus carried; motion as amended carried.

FISHERIES MANAGEMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

NATURAL RESOURCES MANAGEMENT (EXTENSION OF TERMS OF OFFICE) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

ADJOURNMENT

At 5.38 p.m. the council adjourned until Tuesday 13 March at 2.15 p.m.