LEGISLATIVE COUNCIL

Thursday, 10 December 2015

The PRESIDENT (Hon. R.P. Wortley) took the chair at 10:15 and read prayers.

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (10:16): I move:

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

Motion carried.

Bills

FIREARMS BILL

Final Stages

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

The Hon. G.E. GAGO: I would like to make some very brief comments concerning the bill that has been returned from the House of Assembly. The government has supported the majority of the amendments made by the Legislative Council. While there are three that the House of Assembly did not agree to, the government sought a compromise to the amendment moved by the Hon. Terry Stephens concerning the general defence.

Minister Piccolo moved an amendment in the House of Assembly to remove 18 of the exclusions to the general defence which the government originally proposed. I am advised that there are now only five clauses the general defence is not applicable to, which are: clause 9, possession and use of firearms; clause 19, breach of condition; clause 22, trafficking in firearms; clause 37, manufacture of firearms, firearm parts or sound moderators; and clause 45, effective firearms prohibition order.

In addition, I would like to briefly clarify some points that arose during the committee stage of the bill in the House of Assembly. On 18 November and in response to a question from the member for Morialta about the junior shooter exemption at clause 8(2)(g), minister Piccolo advised that clause 8(2)(g) was not a new provision but one carried forward from existing regulation 24. For clarification, I am advised that clause 8(2)(g) encapsulates the intent of the provisions of existing regulation 24 upon which it is founded.

It does this by providing an exemption which encourages and enables genuine competitive junior shooters to participate in their chosen competitive sport without the requirement to be licensed in this state. Clause 8(2)(g) is intended to be limited to those unlicensed genuine competitive junior shooters who must be a member of a shooting club and who are shooting on the grounds of a shooting club whilst under the supervision of their licensed and recognised coach. An example might be a junior shooter who is genuinely competing in or practising for a competitive event.

I am advised that the exemptions at clause 8(2)(r) and (q) apply to any other unlicensed junior shooter, who can be supervised by his or her licensed parent or guardian or some other person approved by his or her parent or guardian. In these cases, it is intended the supervised shooting can occur at any appropriate location, including on the grounds of a shooting club, and it is not a requirement that the junior shooter be a member of a shooting club to utilise these exemptions, including when undertaking supervised shooting on the grounds of a shooting club.

I would also like to clarify some questions that have arisen concerning the quantity of class C firearms which an individual with an appropriate licence can acquire. I am advised that, under the

existing act, primary producers, professional shooters, clay target shooters and collectors can acquire class C firearms. Primary producers can acquire one self-loading rifle and either one self-loading shotgun or one pump-action shotgun. There is no mandated limit on the number of class C firearms professional shooters and clay target shooters can acquire. However, like primary producers, these licences must satisfy a genuine needs test for each class C firearm sought to be acquired.

Collectors also have no mandated limit; however, their acquisition of class C firearms is governed by some additional requirements that are set out in current regulation 31. Regulation 31 also provides that the Royal Zoological Society may acquire class C firearms for the operations of its zoos. I am advised that supporting regulations for the bill will be developed and drafted in the new year and will include the setting out of requirements for the acquisition of class C firearms. In conclusion, I would like to thank the goodwill of all parties and Independents in working together on this important bill.

The Hon. R.L. BROKENSHIRE: I am pleased that the minister on behalf of the government did clarify those particular points, and I just want to place a couple of things on the public record before indicating our support for the situation as it stands. As late as yesterday, many of us—I know the shadow minister's office and some of my crossbench colleagues and Family First—received an email. I just want to put this on the public record to tie it in and clarify it, because I think it is going to be really important for when the regulations come in. I still encourage all those involved in firearms to be very proactive and collaborate and be cooperative with each other in working through the round table with Rob Kerin when it comes to the regulations.

To help set the scene for that, and further to what the minister has just put on the public record, the email we received was to do with particularly junior shooters and those qualifications. The two key points they were seeking were to clarify with the government over the issues around an email that the minister received last Sunday noting concerns about the junior shooting situation. I am advised that on Tuesday the police minister's adviser, Mr Emmanuel Cusack, did ring these people to reassure them that it would be explained in our house this week, and the minister has just done that. That, to me, is the explanation that they were seeking, so it is on the public record. Therefore, I believe that that does set out the clarification points that were needed by these people regarding issues like categories B and H, younger shooters, sporting clubs and also the supervision issues.

I place that on the record, because it is important for the history that everyone can see that there has been a concerted effort by all parties to try to come up with a balanced outcome. Politics is really about the art of achievable compromise. There are people who are disaffected by virtue of this bill but there are people who are unhappy that this bill did not go further. I want to recognise the work that the police have done over a very long period of time to find the best possible outcomes in modernising the act. I recognise what the Combined Firearms Council and other peak bodies have done to represent their members as well, but I think it is also time to recognise that there was a lot of work done not only in both chambers on this but also behind the scenes. I want to note on the public record that there was a lot of cooperation between minister Piccolo's chief of staff (Mr Nick Lombardi) and his ministerial adviser (Mr Emmanuel Cusack), the opposition, crossbenchers and the government. There were quite a lot of meetings and a heck of a lot of discussion behind the scenes.

The outcome now is one that will not please everybody but I would ask them to look at the achievements they have made. After all my years of trying to negotiate through the delicacies and difficulties of firearms bills, I think there have been more achievements for those who are legitimate firearms owners than in previous parliamentary debates and, therefore, I would ask them to look proactively at what we have achieved. I am advised that, if we were to try to go any further, we could end up with a situation that would be less satisfactory than the outcomes we have now. With those words, I congratulate everybody involved in this delicate issue—this is a difficult bill. I think the outcome is fair and reasonable and Family First accepts the compromises.

The Hon. T.J. STEPHENS: I echo the words of the Hon. Robert Brokenshire. This has been a particularly difficult issue, especially coming from the eyes of someone who is always concerned that legitimate firearms owners are normally, almost, the target of any change to legislation when, in fact, the intention should always be to punish the bad guys and take firearms from those people who

always operate outside the law. I would like to thank Family First, the Hon. Rob Brokenshire and the Hon. John Darley for their support in the upper house.

Obviously, it was a pretty respectful discussion. I do not think I won the Hon. Tammy Franks and the Greens too often, but she put her case most eloquently, as always. We did not get everything we wanted for the legitimate firearms owners but there has been a very good spirit of compromise. My colleague in the other place, the shadow minister for police (the member for Morialta), I think has done an outstanding job on behalf of licensed firearms owners. I know my that party room is very grateful for the work he has put into this particular bill and we look forward now to its passage. Again, I thank everybody who has cooperated in a pretty respectful way on this particular piece of legislation.

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

That the council does not insist on amendments Nos. 1, 2 and 7; and does not insist on amendment No. 9 and agrees to the alternative amendment made in the House of Assembly.

Motion carried.

PLANNING, DEVELOPMENT AND INFRASTRUCTURE BILL

Committee Stage

In committee.

(Continued from 9 December 2015.)

Clause 33.

The Hon. D.W. RIDGWAY: This is a precursor to this final day of parliamentary sitting. I want some clarification on the record from the minister in relation to other government business that the government may choose to do. The minister has just adjourned items 1 to 9 until the next day of sitting which includes Surveillance Devices Bill about which I think the shadow attorney and Attorney-General are meeting at 1pm today.

I put on the record that the opposition and I am pretty certain the crossbenches were expecting to process that particular bit of government business today, as well as the Port Pirie Racecourse Site Amendment Bill, Youth Justice Administration Bill and the Government House Precinct Land Dedication Bill. I think from the opposition's point of view, and I cannot speak 100 per cent on behalf of the crossbenches, but I think it was the understanding that at some point this week we would deal with those bills.

I know that the chief of staff of the Minister for Veterans, Hon. Martin Hamilton-Smith, has been hassling our shadow minister about when we are going to process this bit of legislation. I really would like some clarification from the minister on what the intention is, because if the government has no intention of debating those today, that is the government's call, but I do not want the opposition or the crossbenches to be the target over the summer that we were not prepared to debate them.

The Hon. G.E. GAGO: I have provided ample clarification, starting with the priority letter that went out before we commenced sitting, and I made it very clear in that letter that our number one priority was planning. I have indicated every day since and sometimes on more than one occasion that we are here to do planning. We are here to complete planning. That is our government priority, and that is what we expect the opposition and the crossbenches to assist us with.

The Hon. D.W. RIDGWAY: I just want some clarification that the government has no intention of processing Orders of the Day Government Business Nos 6, 11, 12 and 14 today. Minister, you do not have to be Einstein or a rocket scientist: we are at clause 33, functions of the chief executive, in a bill that has 232 clauses. You do not have to be that smart to work out that it is highly unlikely that we are going finish it today; in fact, I am certain we will not finish it today. Your government is still negotiating with industry around some of the proposed amendments to do with the infrastructure levy, and we are yet to get a final position from industry.

Given that they are the circumstances we are faced with, I do not want my team, the crossbenchers—the rest of us, the other 21 members of this chamber—being accused of not wanting to debate government business that the government wishes to get through before Christmas,

particularly given that, under the Government House Precinct Land Dedication Bill, the bulldozers have moved in and the trees have been cut down, yet the legislation has not been through parliament.

Can the minister finally clarify that she has no intention of doing it? Given that the planning bill will not pass, it seems logical to us on this side of the chamber that you should allot some time to process bills that will take only a few minutes each to process so that at least they are completed before the end of the year.

The Hon. G.E. GAGO: I am not too sure which part of 'planning is our number one priority' that the Hon. David Ridgway does not get. I cannot be clearer. Our number one priority, the government's number one priority, is to complete planning. We are here to complete planning. The opposition has completely frustrated and blocked the government's reforms, completely frustrated our efforts to progress major reform; they have blocked and filibustered. Yesterday evening, in terms of private members' business, was an absolute classic example of spending hours on incredibly minor matters—most of them incredibly minor and insignificant matters—that will not make any difference to anybody anywhere—

The Hon. M.C. Parnell interjecting:

The Hon. G.E. GAGO: Most of them—I said most of them—and they will not make one bit of difference, not one skerrick of change. Before us we have major reforms to this state that will affect not only residential housing but the way business is planned, it will affect local government and affect almost every South Australian in some way throughout their life. It will have profound ongoing influence on South Australia and on South Australians lives. We consider that to be the number one priority.

Right from the outset, we said back in March that we wanted this bill completed before the break, and that has been our intention. So, right back in March we put them on notice that we wanted this bill completed by the break. I have indicated, in every piece of correspondence and every priority letter since, that planning is our number one priority: we are here to do that and, once that is completed, we can go on and do other business.

I have just been reminded that the reforms we are dealing with will result in $2.3 billion in economic benefits to this state, yet we had to be mistreated yesterday evening, to have most of the evening, up until 10pm, filibustered with most of it minor and insignificant matters, most of which will have no significance on anyone's life. I have been advised we have a $2.3 billion reform in terms of it is economic benefit to the state. Shame on you David Ridgway, shame on the opposition and shame on the crossbenches.

The Hon. D.W. RIDGWAY: One final question: if it is the number one priority, why were the police here yesterday morning for the Firearms Bill and a firearms message and again this morning if it is your number one priority?

The Hon. G.E. GAGO: We indicated we would take messages from the other house. We did take a message.

The Hon. R.I. LUCAS: Last night, as we closed debate on this, I highlighted concerns I had about potential areas for conflict for the CEO of the planning commission who is holding the dual role of the CEO of DPTI. I will not repeat or outline again those conflicts, but one being with the minister and the Premier and the other being with the independent planning commission.

The minister's response, on advice, was that this is not unusual. People like the CEO hold other positions like the Rail Commissioner or Commissioner of Highways. My point in response to that is that I think even the minister, in her quiet, reflective moments, would have to concede that the potential for conflict between a government wanting to get a contract or a project up and an independent planning commission is much higher than the potential issues in relation to a person holding the dual roles of CEO of DPTI and being the Rail Commissioner, for example, or the Commissioner of Highways.

As I said, I suspect even the minister, in her quiet, reflective moments, would have to concede that, but certainly, I think, and more importantly, most reasonable observers of the debate would accept that the potential for conflicting pressures on an individual in the circumstances we are talking about here are much more significant. Given that I think the Hon. Mr Ridgway has outlined

the quite different structure of the Western Australian Planning Commission in terms of its staffing, was the primary reason why the government chose to, in essence, have the one person fill both roles, a financial and a cost one—that is, it obviously saves money when you do not have to employ a separate chief executive—or is there a separate policy reason why the government actually believes this is a good structure?

The Hon. G.E. GAGO: I have been advised that indeed there are cost benefits of having the role of the DPTI CE include responsibilities for the planning commission. Also, we wanted to make a clear policy link between infrastructure and planning, and having the CE of DPTI structured in that way makes that structural link between the two.

The Hon. R.I. LUCAS: I am sure, given the minister's response, that the minister is not going to concede the point I am making; that is, that there is an inevitable conflict of interest in the way this has been structured. This is the government's decision, and she is, based on advice, going to defend that.

My question relates to what I might refer to as the Darley amendments, or the Darley clauses, in other bills. Is there anything in this bill which actually has an inbuilt mechanism to review this governance structure? The reason why I refer to them as the Darley amendments is that the Hon. Mr Darley is well known for introducing amendments to pieces of legislation which require, after a period of time, there to be a review to see how things have gone.

Given that some of us have a view that there is an inevitable conflict which is a recipe for potential major problems with this structure, and given the government is obviously rejecting that or is not prepared to agree to it, is there anything within the bill which requires, after a period of time, the government of the day to review at least this aspect to see whether or not the concerns we are raising and the government is rejecting were accurate, and to either confirm the adequacy of the government's arrangements, should they be successful here, or whether or not it has not worked and there have been these conflicts that some of us have raised, and whether it is maybe time to look at an alternative structure?

The Hon. G.E. GAGO: I am confident that the minister would be comfortable with considering the possibility of a review of that part of the structure or a review to assess the potential for the structure to result in conflict.

The Hon. R.I. LUCAS: Let me conclude my contribution on this clause at that stage and say that I acknowledge the minister's undertaking on behalf of minister Rau and the government on that. Given that we are going to come back in February, the minister and other members may well reflect on whether or not, when we resume debate in February, there might be a way of bringing that about.

The Hon. A.L. McLACHLAN: Building on some of the comments of the Hon. Rob Lucas, clause 33(1)(a) includes the words 'to work with', which you would normally expect to be 'to work for', the commission. Has the phrase 'to work with' been drafted in that way to allow the chief executive to have different lines of accountability? Is that the purpose of those words?

The Hon. G.E. GAGO: Probably a more accurate way of describing it is that it reflects reality.

The Hon. A.L. McLACHLAN: So, if we take on what the Hon. R. Lucas has said, that the chief executive will have a number of functions, why is appointment under this bill, if enacted, not an office of profit under the Crown?

The Hon. G.E. GAGO: Could you just repeat that question?

The Hon. A.L. McLACHLAN: If the chief executive has a number of appointments under various acts, normally there would be a provision specifically excluding it from being an office of profit under the Crown, that is, holding more than one appointment for profit. I am wondering why there is not a specific exclusion or if it may be somewhere else in the act. As the bill is drafted, it is to work with the commission, so there is more than one appointment. I am just wondering why there is not a specific exclusion clarifying that they are not holding a number of offices of profit.

The Hon. G.E. GAGO: I have received advice, and the view is that we believe that this issue does not arise. The CE is defined as the CE of DPTI, and that person is also deemed to be the

commissioner for highways or whatever. The view is that the issue does not arise, but we will double-check that and, if there is a problem or the answer is something other than that, we will make sure that we bring that back and bring it to your attention.

The Hon. A.L. McLACHLAN: I am just pausing for a moment to see if further advice is forthcoming.

The Hon. G.E. GAGO: No, there is nothing further on it.

The Hon. A.L. McLACHLAN: There is just one final matter. As the chief executive has a number of functions, as the Hon. R. Lucas has articulated, I take it that the chief executive has, under this provision, to take instruction from the commission in relation to those things for which the commission has responsibility; is that correct?

The Hon. G.E. GAGO: I am advised yes.

The Hon. R.I. LUCAS: The question I have now is in relation to performance management. The chief executive—the one person—is serving two streams of masters or mistresses, as I have referred to them. The chair of the planning commission or the planning commission, in essence, may be dissatisfied with the performance of the chief executive of the planning commission. Under subclause (2), they have assigned such other functions as they saw fit and they make a judgement that this person is incompetent, is hopeless, is not doing the job.

They may say, 'We no longer have any confidence in you. We're going to get rid of you.' However, this person holds the dual roles, and the Premier with whom he has signed the contract may say, 'Hey, you're doing a fabulous job. You're meeting all the KPIs, you're jamming through these projects before the March 2018 election. I'm delighted with what you're doing.'

On the one stream of governance, the Premier and the minister are delighted because he or she is jamming through the projects, but the planning commission says, 'We've given you functions. You're meant to be responsible to us for the planning commission work as an independent planning commission. We think you are hopeless at your job in terms of what we want. We no longer have confidence in you, even to the extent of passing a motion saying we no longer have confidence in the chief executive. We don't want you anymore.' Can the minister indicate how that issue is resolved when the person holds both positions?

The Hon. G.E. GAGO: I have been advised that what is likely to take place is that there will be a performance agreement between the chief executive and, if you like, the Premier, that will include a provision that will outline the services that the chief executive is required to provide to the planning commission. It is highly likely that there will be a set of KPIs associated with that, so that the expectations of that person's performance are clearly outlined in that agreement.

It is also possible that the Premier would discuss with the chair of the planning commission aspects that they might consider to be important to include in that performance statement and even key performance indicators, so that is likely to happen. If the chair believed that there were aspects of the chief executive's performance that were inconsistent with the performance agreement or below standard, it would be expected that the chair would take those matters to the Premier and the performance management would be dealt with that way.

The Hon. R.I. LUCAS: The minister seems to be suggesting that, in essence, the CEO of DPTI's performance agreement with the Premier would include in it a clause with words to the effect that, 'You need to operate to the satisfaction of the planning commission.' If the planning commission says, 'You're hopeless, we're not prepared to work with you,' is the minister indicating that those would be sufficient grounds for the Premier to terminate the contract of the chief executive of DPTI?

The Hon. G.E. GAGO: Fundamentally, yes. As I outlined, it is highly likely that that would be the case. It could also include, for instance, a service level agreement between the chief executive and the chair of the commission that might provide more detail to those service or performance expectations outlined in the performance agreement.

The Hon. R.I. LUCAS: I will not belabour the point, other than to say that in terms of both the questions and the answers we have had from the minister—and I make no criticism of the minister; she is giving her answers on the basis of advice provided—there is immense potential for

conflict and immense potential for irreconcilable differences in terms of how this would actually be resolved.

As I said, it may well be that the Premier of the state and the minister are just delighted with the performance of the chief executive of DPTI because the particular project is being driven to a political time frame to be ready for February 2018 and they might not be too much concerned about the independence of the commission, and the planning processes, and the concern that the planning commission might have. There is the potential (and one hopes we never get to this situation) for this not to be able to be resolved, given the governance structure that has been developed by the government.

I will not belabour the point because I do not think I will get any more information out of the minister on it. Ultimately, one hopes that this situation does not eventuate, but I think at least the government has been warned, through the debate we have had here, of the considerable potential for conflict, the considerable potential for a major difference of opinion between the planning commission and the government about the performance of the one person, where one is very happy—that is, the government—and the other, the independent commission, is very unhappy. Ultimately, how that is to be resolved I do not think it is clear, even after the minister's responses to these questions.

The Hon. G.E. GAGO: I think the honourable member is unnecessarily overly concerned. We manage these sorts of tensions—or that sort of dynamic rather than tension—every single day. As I said, most of our chief executives have a range of statutory responsibilities and, as well as that, we have many chief executives who are responsible to more than one minister. In fact, I think Mr Don Russell is responsible to about five ministers. Not only does he have to manage the expectation of each of those different ministers and their particular part of the agency, and each minister obviously considers themselves to be the most important—

The Hon. R.I. Lucas: But his contract is with the Premier, though, Gail.

The Hon. G.E. GAGO: Yes, but his performance and the expectations of his performance are spread across, as I said, a number of role functions, plus he also has to manage his statutory responsibilities, such as the Economic Development Board on which he also sits. We are very used to managing this sort of dynamic every single day without undue conflict or upset. I have heard what the honourable member has had to say, and I have indicated that the minister could possibly look at that in terms of some sort of review around conflict in the regulation, but I think the honourable member is unnecessarily overly concerned.

The Hon. M.C. PARNELL: I have not weighed into this clause yet, but I want to rise briefly to say that I think that the Hon. Rob Lucas is onto something. Whilst the government has made some attempt to separate some of the different functions of the commission, in terms of policy setting and in terms of development assessment consideration, it is far more difficult to separate functions in the person of a single officer, such as the chief executive.

There are three potentially inconsistent competing masters, if you like: the government's political imperative, the government's policy development imperative and the development assessment imperative, and they could be three very different outcomes.

Again, without labouring the point, I mentioned earlier in debate that in South Australia, and I think the first time that I entered the Environment, Resources and Development Court as an advocate, it was precisely this type of issue where the government had got it terribly wrong; where it had people whose job it was to promote an industry being the same people whose job it was to assess an industry.

I can still remember that the Crown Solicitor in that court case at the pre-trial conference said to the judge, 'We have managed this so badly, we have got this so wrong, that we're not even prepared to contest the case.' I thought that I was a pretty crash hot lawyer because I actually won four cases without having to go to trial because the Crown Law, on behalf of the government, realised that the process was just so corrupt—with a small 'c'—that it would not stand scrutiny.

I think the Hon. Rob Lucas is on to something and, again, this is an issue that deserves more detailed consideration and I expect that is exactly what we will do over the summer break.

The Hon. D.G.E. HOOD: My question on this clause is a slightly obscure one and follows from some of my questioning last night but I will put it in the simplest way I can. It follows on from the Hon. Mr McLachlan's questions, as well. It does not specifically rule out the possibility of the chief executive—because the wording is unusual, as the Hon. Mr McLachlan pointed out—being a member of the commission. I know that is not the normal practice. Has the government not included those words because there might be an exception where that would be the case or is it an oversight or is there another reason?

The Hon. G.E. GAGO: The chief executive is an ex officio member of the planning commission—clause 18(1).

The Hon. J.A. DARLEY: As a former chief executive, I think this is organisationally unsound and a complete nonsense.

Clause passed.

Clause 34.

The Hon. R.I. LUCAS: I want to clarify: a delegation from the chief executive can be made to a particular person or body. Is it the government's intention that it is not restricted to public servants or public officers—that is, it could be a private sector person, a consultant?

The Hon. G.E. GAGO: I am advised that it is a standard delegation clause.

The Hon. R.I. LUCAS: It might be a standard delegation clause but my question is: does this 'standard delegation clause', as that is the government's response, enable the chief executive to delegate a particular power to a consultant or non-public sector employee?

The Hon. G.E. GAGO: I am advised yes.

The Hon. R.I. LUCAS: Is there a particular set of circumstances that the minister would be aware of where that would either be possible or essential? I guess the normal delegations would go to the next most senior public servant working in the office, but are there particular circumstances in this area (and I am not an expert in the planning area) where the chief executive of the planning commission would delegate to a consultant a particular power that the chief executive had?

The Hon. G.E. GAGO: An example of where delegation might be made to a consultant is, for instance, where the chief executive is responsible for setting up the portal and associated database. It would be reasonable to delegate this to a consultant, obviously within very clear and limited parameters.

The Hon. M.C. PARNELL: The prospect of delegating to private consultants might seem innocuous in the type of example that the minister has given, something that is highly technical, developing the website. However, what fills me with some dread is to, well, pose the rhetorical question about whether the government has learnt anything from the Mount Barker debacle and the outsourcing of all the work that went into the government's 30-year plan. If members cast their minds back, the issue went to the Ombudsman, it went to the Independent Commissioner against Corruption, and it was to do with the propriety of having private planning consultants effectively doing strategic planning work on behalf of the government.

I recall that in all of the documents that, after a two-year legal battle, I managed to extract from the planning department in relation to Mount Barker, there was an email from a planning officer in the department. I am paraphrasing because I do not have it in front of me, but it went along the following lines. He said, 'Is anyone else surprised that these private planning consultants have presented the government with exactly the same proposal that they prepared when acting as lobbyists for the private development industry?' That was what Connor Holmes presented to the government, having been contracted to prepare this work investigating future options for the growth of Adelaide.

The planning officer was quite surprised, saying, 'On the public purse, these people have prepared a proposal for government which is identical to the proposal they prepared when acting as paid lobbyists for the developers, who owned or had interests in the land around Mount Barker.' To me that was at the heart of what went wrong with that situation.

The government will often say, 'Well, we didn't actually delegate; what we did was we contracted the work, but the final decision was made by other people, the final decision was made by the minister.' That does not give me a whole lot of comfort, because ministers act on advice, and it is my understanding that it would be quite rare, in a planning context, for the minister, having outsourced to a major consultancy, to then completely disregard the recommendations that were made.

When I produced a document some time ago—I think it was called 'Parnell's Dirty Dozen: 12 things wrong with the planning system and how to fix them'—one of the problems on the list was this problem of the government outsourcing strategic planning work that should have been done in-house by publicly employed and publicly accountable planners. My response to that problem was not necessarily a legislative one; the response was, 'Just don't do it.'

Minister Holloway was saying, 'Adelaide is such a small town, we don't have enough publicly employed planners, we have to outsource this work.' I do not accept that. Even if one did accept it, outsourcing public interest planning work to people who have a direct conflict of interest—because they are also beholden to the people who stand to gain financially from the outcome of that work—is just wrong at every level.

It does not give me a great deal of comfort that the minister has now acknowledged that the chief executive can delegate to a particular person or body, being a private sector body whose main allegiance or loyalty is to other than the people of South Australia, so I am very concerned with this clause. I do not have a particular fixup mechanism in mind, and I guess that is one of the advantages we will now have over the summer break, to work out whether this clause does need more work to make sure that we actually honour what John Rau said when he first became minister for planning, that there would be no more Mount Barkers on his watch.

The Hon. G.E. GAGO: The Hon. Mark Parnell is running down the wrong burrow. I think he has confused the role or functions of the chief executive in the planning commission, so I just remind honourable members that the chief executive of DPTI does not have the sorts of role, functions and responsibilities that the Hon. Mark Parnell is referring to in relation to planning; he just doesn't. He has very limited planning functions around things like the planning portal and infrastructure—very, very limited. The chief executive, in relation to planning, will only have minor administrative functions, not overarching policy functions.

The Hon. R.I. LUCAS: Just responding to that last point quickly, but I want to go back to the central issue, the minister cannot actually with accuracy say that because under clause 33(2), the functions of the chief executive can be added to, in any way, by the commission:

> The Chief Executive has such other functions assigned to the Chief Executive by the Commission…

So, there is the potential, which we do not know, as to the planning commission assigning other functions. Can I come back to this delegation issue: the minister responded to my question about the reasons why you would delegate and the example she gave was, in essence, the technical issue of someone being required to prepare the planning commission's website. With the greatest respect, I think the minister's advice is confusing delegations with contracting out services. If you are in a government department or an agency, you might not have the expertise to develop a website; you do not actually delegate your power in a particular way, you just contract an adviser to develop your website. You engage an outside consultant, they produce it ultimately, and you, as the departmental chief executive or manager, would make the decision.

What we are talking about in terms of a delegation is a power that the chief executive has got which, for whatever reason, he or she decides to give or delegate to another person to exercise. What the minister is saying is that the circumstances are that the chief executive has a power to do something and can delegate that to a consultant to make the decision—not to provide advice, with the greatest respect to the Hon. Mr Parnell's example. I think you are talking there about, ultimately, as I think he conceded, the final decision rested back with the agency, or the chief executive—whoever it happened to be. If Connor Holmes were providing advice it might have happened to be the same advice they provided, as he outlined.

The point I am making in regard to a delegation is that the chief executive has a power and, for whatever reason, they can decide to say, 'Okay, I'm not going to exercise; I delegate that power

to a private consultant to make the decision—not to provide me with advice, not to do technical stuff—but you go off and make that particular decision because I've delegated the power.'

So, with the greatest respect to this notion that you need to delegate the power to someone to construct a website, ultimately you can contract for that and say, 'Okay, develop a website for us,' and ultimately you approve it or you do not approve. The whole notion that you would actually let someone out there have the final decision on how you are portrayed as an agency would be most unusual. You would have the final look at it, or one of your officers would, and you would say, 'Okay, that's suitable for a government agency in terms of a website.'

Again, I will not belabour this point other than to say that I do not believe the minister's response actually answers the question. Between now and February it would be useful to get a better indication as to why the government believes this power is required in the planning area. There might be a reason and, as I said, I am not the planning expert. The closest we have got to it is the Hon. Mr Parnell, but I am not a planning expert.

Between now and February, the government might be able to say, 'Hey, we do require this, because in certain circumstances we do delegate a decision to a private consultant to make, and we are quite happy to live or die by whatever decision the private consultant makes on a particular issue.' I cannot envisage what those circumstances are, but it has obviously been drafted for that reason; the minister has obviously approved it for that reason, so he must have something in mind as to why he wants this particular power to, in essence, delegate a decision-making power to a private consultant in this particular area.

The Hon. G.E. GAGO: I think the creative minds are racing. This is a standard clause. It is a standard delegation clause that is currently in the existing act. It applies in section 20, for instance. The same delegation provisions apply currently to DAC, DPAC, council and a whole range of other authorities, and the minister. There is nothing new or unusual about this. This sort of standard clause has been around for many years and currently applies to a whole range of authorities without concern. It is a standard delegation clause, and I remind honourable members that the chief executive is also subject to a range of other controls, such as ICAC and the Treasurer's Instructions. There is a range of other controls, and they also apply to his delegates, I have been reminded.

The role and function of the chief executive is largely administrative and project responsibilities, not policy responsibilities. We have no intention of any change to that. As I said, this is a standard delegation clause that already applies; it is already existing without any problems or concerns from members, or for that matter, I do not believe anyone else.

The Hon. D.G.E. HOOD: Mine is a pretty simple question, a very quick one, I think, for the minister to answer. I thank her for her clarification earlier, but I just want to further clarify: as the chief executive is an ex-officio member, I understand they cannot vote, but does that also mean that they would not therefore be counted as a member of a quorum, for example, for the commission?

The Hon. G.E. GAGO: I am advised that they can vote and they can be considered part of a quorum.

Clause passed.

Clause 35.

The Hon. D.W. RIDGWAY: I refer to clause 35, subdivision 1—Planning agreements. I will just quickly read point (1):

> Subject to this section, the Minister may, after seeking or receiving the advice of the Commission, enter into an agreement (a planning agreement), relating to a specified area of the State, with any of the following entities:
>
> (a) any council that has its area, or part of its area, within the specified area of the State;
>
> (b) any other Minister who has requested to be a party to the agreement;
>
> (c) if the Minister thinks fit, any other entity (whether or not an agency or instrumentality of the Crown) that has requested or agreed to be a party to the agreement.

The first question is: would the advice that the minister has received be published at all, or would that be kept confidential? Can the minister explain: is it a private landowner when it talks about in point (c) 'any other entity (whether or not an agency or instrumentality of the Crown)'?

The Hon. G.E. GAGO: In answer to the question about the advice being made public, the advice I have received is that there is no requirement, but there is no reason not to; it is highly likely that it would.

The Hon. D.W. RIDGWAY: The second part of the question was, at subclause (c) it states:

If the Minister thinks fit, any other entity—

That is, enter into a planning agreement—

(whether or not an agency or instrumentality of the Crown) that has requested or agreed to be a party to the agreement.

I am just wondering, who are the other entities that envisaged? I assume it is private landowners.

The Hon. G.E. GAGO: The example I have been given is in unincorporated parts of South Australia. It might be, for instance, outback communities or an Aboriginal community.

The Hon. D.W. RIDGWAY: So, it is not privately owned land, it is outside the council area then?

The Hon. G.E. GAGO: It was designed particularly having those sorts of communities in mind.

The Hon. M.C. PARNELL: I guess on the same vein, I am looking at the Local Government Association's concerns about who the parties to a planning agreement might be. They say there is strong concern that, as drafted, the bill would allow the minister and any other entity to enter a planning agreement but does not include a council. It is understood that this was not the government's intention and this point needs to be clarified. The minister has just clarified that there are some areas that are out of council areas, for example, where it might not be appropriate for a council to be a party, but the LGA wanted clause 35(1) to be amended to clarify that a planning agreement must be between the minister and at least one council. They say that it is appropriate for other parties to be added but only on the agreement of the minister and the councils.

I know we are about to deal with the minister's amendment to insert a new subclause (1a), which basically says that if the proposed planning agreement is in an area that is covered by a council and if the agreement does not already include the council as a party, then the council has to be invited to join the agreement, but the Local Government Association, I think, having seen that amendment, is still uncertain about it and poses the following question: if the proposed planning agreement has not been initiated by the council and the council is not a party to the proposed agreement, who is the proposed agreement with?

The LGA understood that an agreement between the minister and the council could include another party, but an agreement would not be directly initiated between the minister and a third party. I guess to cut to the chase: are the only circumstances where a council would not be a party, the situations the minister describes, such as outback communities or an out-of-council area situation?

The Hon. K.J. MAHER: I am advised that the short answer is yes, but there may be other cases, and we will come to that. I think it is government amendment No. 14 that will specifically address that, yes.

The Hon. D.W. RIDGWAY: I have a question in relation to planning boards, or joint planning boards. Subclause (2) talks about setting up joint planning boards, and subclause (2)(d) states:

(d) the staffing and other support issues associated with the operations of the joint planning board; and

(e) financial resource issues associated with the operations of the joint planning board, including—

(i) the formulation and implementation of budgets;

And it goes on over the page. Does the government at this point have any idea of how many joint planning boards there are likely to be? What are the likely levels of support that are required? I

assume again that we will get an answer that it will be done out of existing resources; but what is the sort of thinking around the number of joint planning boards?

The Hon. K.J. MAHER: In relation to the question about the joint planning boards, given that they are voluntary arrangements to form joint boards, we do not have an estimate of how many might be formed. We know that places in the South-East, with SELGA, are very interested in doing that; that would be seven councils with a joint planning board. In terms of resourcing, that would come from those joint planning boards; they would be doing it themselves. I hope it answers the question.

The Hon. D.W. RIDGWAY: The government is envisaging that regions will come together to form these joint planning boards.

The Hon. K.J. MAHER: If it might help, yes, you are right: it is regionally based, with the very good example of SELGA, which would be one of the first likely to want to do this. If regionally based joint planning boards were established, we could delegate certain powers that we would otherwise have to those joint planning boards, which creates a good reason for areas to do that.

The Hon. D.W. RIDGWAY: Subclause (2) provides:

> A planning agreement must include provisions that outline the purpose of the agreement and the outcomes that the agreement is intended to achieve and may provide for…

In terms of staffing and other support issues and financial resources, subclause (2)(e)(ii) provides:

> the proportions in which the parties to the agreement will be responsible for the cost and other liabilities associated with the activities of that board…

I am assuming—and I will use SELGA as an example; you have got all of your local government regional councils there (seven of them)—that they would apportion the costs of running that joint planning board on the size of their council or their rate base rather than the activity generated from each council.

The Hon. K.J. MAHER: Yes, you are exactly right; it would be those. Using the SELGA example, councils that came together for a joint planning board would resource it themselves. With the economies of scale there may well be savings to individual councils that are part of that which would be putting their resources into that joint planning board.

The Hon. M.C. PARNELL: On the same subject of joint planning boards, the Local Government Association has raised the concern, or the fear, I think, that elected members of council will be precluded from sitting on joint planning boards. Is that the case?

The Hon. K.J. MAHER: I am advised, no, that is not the case. It would be a matter for how they structure their joint planning board.

The Hon. M.C. PARNELL: So, just to be clear, there is no ineligibility for elected councillors to be on the board? Just to clarify a bit further, the Local Government Association in their advice to me suggested that subclause (3) should be deleted, and subclause (3) says:

> The criteria for membership of a joint planning board must be consistent with any requirement of the Minister that is intended to ensure that the members of the joint planning board collectively have qualifications, knowledge, expertise and experience necessary to enable the board to carry out its functions effectively.

So whilst it does not say 'and must not include elected members', the Local Government Association I think fears that that might be a result of the application of subclause (3). Is their fear unfounded?

The Hon. K.J. MAHER: It is an unfounded fear, and as you correctly point out, it does not necessarily preclude elected councils becoming a member of those boards. It is certainly something that the minister is happy to discuss further, however those fears have arisen from local government. But no, it certainly does not preclude necessarily members, but it does require a mix of experience on those joint planning boards.

The Hon. D.W. RIDGWAY: Just quickly on that point, minister, if it does not preclude it, but it says on appointment to the board membership 'must be consistent with any requirement of the minister.' So, if the minister has a requirement that there not be an elected local government member, then under this clause I assume they will be ineligible to be appointed. I am just wondering whether

the requirements of the minister should be published—that this is the expertise and we do not want local government people or yes, they can be local government people—on the website or that criteria is made clear so that people are aware what the minister's intention is.

The Hon. K.J. MAHER: It is a matter that the minister will certainly discuss with the LGA. There is no intention to preclude elected members as a consequence of the operation of this clause.

The Hon. D.W. RIDGWAY: Is it possible, and obviously you cannot speak on behalf of the Minister for Planning, to actually prescribe or publish a list of criteria for these joint planning board members so that there is some clear guidance as to who is eligible and who is not?

The Hon. K.J. MAHER: Yes, that will be an implementation task to do that.

The Hon. D.G.E. HOOD: I have only one question perhaps to follow on from the Hon. Mr Ridgway's. I see these joint planning arrangements and the boards that come out of them as a potential area for difficulty. We would like to think that everyone will get along on these things and that the councils will all have the same view, but very often councils can have different views depending on the impact on their particular patch. There is probably nothing wrong with that; that is entirely reasonable. My question is: has the government given any thought as to what happens in the event of one of these boards dividing along council lines?

The Hon. K.J. MAHER: In the event that people do not get along or there is a divergence of views or priorities from a joint planning board, certainly those parties that have made the agreement to form a joint planning board can make an agreement to no longer be a joint planning board. It also has provision for the minister to consider if there has been a failure of that joint planning board to also act in that respect.

The Hon. D.G.E. HOOD: Following up from one of the points made by one of my colleagues earlier, in terms of the composition of the board, is it likely that it will be local government employees with their various expertise comprising the board members?

The Hon. K.J. MAHER: It is possible, but it is deliberately left flexible so you can have different arrangements to suit different joint planning boards.

The Hon. M.C. PARNELL: In relation to the composition of joint planning boards, I accept the minister's answer and I note, reading ahead a little way, that in clause 37, which is about disclosure of financial interests, it refers to the requirement to disclose for members of joint planning boards who are not members of councils. I think the assumption in there is some of them may well be, so I accept the minister's point.

The Local Government Association also raised the issue of the level of protection that will be afforded to members of joint planning boards in the event that something goes wrong. The standard provision that applies for people who are serving on decision-making bodies is that, if something goes wrong and they have applied themselves diligently to the task, they are not personally liable. The Local Government Association refers to section 56A(10) of the existing Development Act, which is one of those standard clauses relating to council development assessment panels. It says:

> A member of a council development assessment panel incurs no liability for an honest act done in the exercise or performance, or purported exercise or performance, of powers or functions under this Part.

The Local Government Association makes the point that that sort of standard protection measure in the case I have just cited (that is, for members of panels under the existing act) ought also apply to the new bodies that are created under this new act. They pose the question whether a liability exemption clause ought be inserted into division 3, joint planning arrangements, because I think it is quite reasonable that we would expect that people who are doing their job to the best of their ability, and honestly, ought not be personally liable to be sued if something goes wrong. The Local Government Association goes on to say:

> The liability of the joint planning board can arguably default to the state government. However, it is likely that liability provisions will be drafted into planning agreements. There is potential for the minister to require that all liability will be the responsibility of the members of the joint planning board, which may or may not include the minister who will be a party to the agreement.

They also note schedule 2 clause 17, which provides that liabilities incurred by a subsidiary of a joint planning board are guaranteed by the joint planning board. There is quite a mix of issues in there but the bottom line is that the Local Government Association wants to know that people who serve on these joint planning boards will get the level of protection that is currently afforded to people who do this type of work under the current act.

The Hon. G.E. GAGO: I have been advised that, in relation to existing 56A, assessment panels are not body corporates and, therefore, an individual assessment panel member could be subject to personal liability. The joint planning boards are body corporates and, therefore, normal rules around liability apply. In their corporate governance arrangements, they would set up their indemnity insurance arrangements just like any other body corporate would, so we do not anticipate there will be any problems but we are happy to look at it further.

The Hon. R.I. LUCAS: Just to clarify the earlier point that has been raised so that I can understand it, my understanding is that the government's position is that a member of a council can sit on the joint planning board but when the joint planning board under 78 comes to establish an assessment panel, it is the assessment panel upon which the government says the local government member cannot sit.

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

The Hon. R.I. LUCAS: The other point I make is that the minister indicated on behalf of the minister and the government the willingness to look at subclause (3) which was raised earlier to allay what the government believes are unfounded concerns of the LGA. One of the options, I guess, would be either legislative amendment to subclause (3) to allay the concerns but the other option—and both involve legislative amendment—would be if the minister is going to stipulate requirements, as the Hon. Mr Ridgway outlined, it could end up being done by regulation and be a disallowable instrument. That is, in that way, if the minister was to go down the path to say, 'My requirements are that you cannot be a member of a council,' that could be disallowable. I guess there are a couple of options if the minister wanted to allay the concerns of the LGA in relation to subclause (3) that he might be willing to explore between now and February.

The Hon. G.E. GAGO: The advice is that there is not much point us looking further at this because the agreement covers who gets on the board, so even if you took out subclause (3), the minister would still be able to simply not agree and not sign the agreement. This just expands on that position. I move:

Amendment No 14 [EmpHESkills–1]—

Page 39, after line 12—Insert:

(1a) If a proposed planning agreement will include any part of the area of a council, the Minister must (unless the proposal has been initiated by the council) ensure that the council is specifically invited to be a party to the agreement (on reasonable terms and conditions) under subsection (1)(a).

This amendment addresses matters raised by the LGA and opposition members in the other place. The concern raised by the local government was that the clause as drafted has the potential to allow for a planning agreement to be entered into over a council's area without the council being party to the agreement.

This was not the government's intent; rather, we envisaged the flexibility to allow for additional parties to be joined to such agreements in council areas and also to deal with the out of council areas. The proposed new subclause will address any concerns by making it clear that, where a planning agreement is proposed to cover any part of a council area, the council must be invited to become party to the agreement.

The Hon. D.W. RIDGWAY: I indicate that the opposition is very happy to support the government amendment. It does fix up this anomaly, error or omission, so we are very happy to support the government.

Amendment carried; clause as amended passed.

Clause 36.

The Hon. M.C. PARNELL: On clause 36, the Local Government Association poses the question as to whether a joint planning board could be empowered to use the rating powers under the Local Government Act. That is a specific question, and they ask a more general question: what is the process by which a joint planning board would have additional statutory powers conferred on it? Clause 36(2)(d) states:

> 2. A joint planning board—
>
> (d) has the functions and powers assigned to it under this or any other Act or conferred under the terms of the relevant planning agreement;

That is the general point, but the specific point the council is interested in is whether, for example, the rating power under the Local Government Act could be given to a joint planning board.

The Hon. G.E. GAGO: I am advised no in relation to rating powers. I am advised that, in relation to powers under any other act, those powers would have to be able to be conferred by the express provision in another act. An example of that might be delegation powers.

Clause passed.

Clause 37.

The Hon. D.W. RIDGWAY: This clause relates to the disclosure of financial interests and states:

> A member of a joint planning board who is not a member of a council must disclose his or her financial interests…

I assume that that is because under the LGA Act council members have to disclose?

The Hon. G.E. GAGO: That is correct.

The Hon. M.C. PARNELL: Just quickly further on that, is the degree or extent of disclosure under the Local Government Act the same or substantially the same as under this bill?

The Hon. G.E. GAGO: I am advised that we believe it is actually more involved.

Clause passed.

Clauses 38 to 40 passed.

Clause 41.

The Hon. M.C. PARNELL: Clause 41 refers to the situation where things go pear-shaped and the minister appoints an administrator of a joint planning board. It is one of those provisions that we hope does not get used. The Local Government Association I think had some nervousness around subclause (4), which provides:

> The remuneration of the administrator will be fixed by the Minister and is payable from the joint planning board's funds.

I think their nervousness is because there is no obligation to consult with the councils involved before setting that level of remuneration. The minister in another place, I think, agreed to have a look at that. My question is: has the minister had a look at it, and what guarantee could the minister give that before remuneration was set the local councils involved would be consulted?

The Hon. G.E. GAGO: Firstly, subclause (2) makes it very clear that councils must be consulted in relation to the appointment of an administrator. Secondly, it would indeed be most unusual, given the dire straits that the council would obviously be in, given that they are about to have an administrator appointed, to be consulting about the remuneration rate. Thirdly, this provision has been based upon the NRM Act, for their board, so again this is not unusual practice.

The Hon. D.W. RIDGWAY: I have a couple of questions on clause 41 around how the minister becomes aware that the board is not operating effectively. Does the minister take advice from the planning commission, the local member of parliament or read the newspaper? It talks about all the steps:

> (a) the Minister considers that the board is not operating effectively…

(b) the Minister has determined that the relevant planning agreement should be terminated…

(c) the Minister considers that taking action under this section is appropriate on any other reasonable ground.

The Hon. Mark Parnell talks about things going pear-shaped, but under whose interpretation of the shape of the pear? What is the trigger point for the minister to actually take this action? This spells out 'the Minister considers that the board is not operating effectively', but how does the minister get to that point?

The Hon. G.E. GAGO: There are numerous ways, I am advised. He could be informed, for instance, by the commission, local council or media. There is a range of ways by which he could get information.

The Hon. D.W. RIDGWAY: Subclause (5) provides:

The members of the joint planning board are suspended from office while an administrator holds office under this section.

Minister, while you were out of the chamber, minister Maher used the example of SELGA (South-East Local Government Association), where seven councils come together to put together a joint planning board. They have a joint planning board and share the cost.

I assume that with those joint planning boards there would be some administrative cost and some sitting fees or out-of-pocket expenses, etc. for the members. Would those members, even if they were suspended from office, still be paid any sort of retainer or, if there were a fee for being a member of a joint planning board, would they still be paid while the administrator is in place, effectively having a double cost?

The Hon. G.E. GAGO: I am advised that it would depend on the employment conditions, but probably not, and obviously we will be looking to make sure that any potential for double dipping is addressed and—

The Hon. D.W. RIDGWAY: It is also a double cost to the members.

The Hon. G.E. GAGO: —a double cost is avoided.

Clause passed.

Clause 42.

The Hon. M.C. PARNELL: There is a concern I have had for some time, and I have discussed or debated it at some length in this chamber, including a disallowance motion some six or seven years ago. Under this new regime, I am not sure whether my concern is in relation to a practice direction under clause 42 or a practice guideline under clause 43, but the minister will know the answer.

The concern I have had, and which I fear may be replicated in this existing bill, is a document that came out called 'Code of conduct for members of development assessment panels'. Minister Holloway was then in charge, and I think the code of conduct was drafted for very good reasons and it was well intentioned, but my concerns were that it went too far.

My expectation might be that a similar document, a code of conduct for the members of development assessment panels, will be either incorporated as a practice direction under clause 42 or a practice guideline under clause 43. Very briefly, the reason I objected to it was that it sought to prevent members of development assessment panels from informing themselves independently in relation to any aspect of a decision. In fact, they were told that if they dared to inform themselves privately about an issue they would be removed from the panel. It was quite a draconian provision.

The sort of example I used was one of the local ward councillors where I live who was a member of a development assessment panel. Her practice was, having received the agenda for the next meeting, that she would actually drive around the municipality and look at all the developments that were on their agenda. She would have a look at them. She would have a look at the house where the swimming pool was going or where the new garage was going or the second-storey addition was going. She actually tried to inform herself by visiting and, on occasion, would talk to the applicant for development approval or perhaps the neighbour. If, on this trip, the neighbour was in

the front yard, my local councillor could say, 'What do you think about the two-storey addition going up next door?'

Under the current guidelines, the local councillor sitting on the development assessment panel could be removed for having had an unauthorised communication. You can see why there is actually merit in a provision like that because, whilst I have posed a fairly innocent scenario, an alternative scenario might be the developer taking the panel member to lunch or to the golf; inviting the panel member to the corporate box at the football; putting them up in a hotel for the Australian Open; a box at the Grand Prix.

It was a measure that was designed to prevent undue influence, where parties to developments could not effectively bribe the decision-makers. So I absolutely get why a code of conduct was necessary but, the reason I say it was overreach is as I stated in the submission that I put to this place, which was ultimately rejected, but I will put it again now, namely, that, whilst we can have some rules against bribery and offering of inducements—as we should because that is corrupt and we can put rules against that—rather than having a rule against communication with other parties, the rule should be disclosure.

In other words, if a person was on a decision-making body that was deciding whether or not a development should be approved and they had had a conversation with the proponent or the objector—whether it was someone they met in the supermarket or whether they had knocked on the door of the house next door—it seems to me that a reasonable regime would be one of disclosure.

Before that item on the agenda was considered, the chair of the meeting would say, 'Has anyone had any contact with any of the people involved? Has anyone been given any documents that we might not all have.' That would be the time when someone would say, 'Yes, I did actually have a quick chat to the proponent,' and you get that out in the open. You disclose it.

It struck me that if you have a blanket ban on being able to talk to people involved, then the decision-makers are limited to only what is presented to them in the meeting and they may well not have everything presented to them in the meeting. They especially will not have everything presented to them if it is a form of development that has not gone out for any public consultation and no-one has been invited to make a decision: the decision-maker will only have one side of the story before them. I think that can lead to bad outcomes.

I know it is a long-winded way around saying it, but my direct question for the minister is: will a document such as the current code of conduct be incorporated into this new regime as either a practice direction under clause 42 or a practice guideline under clause 43?

The Hon. G.E. GAGO: I am advised no, that the codes of conduct are dealt with in schedule 3. We are happy to look at some of the issues that you have raised during the implementation phase, and we might look at regs or whatever might be appropriate.

The Hon. M.C. PARNELL: I thank the minister for that—

The Hon. G.E. Gago: I hope you don't want to repeat it all at schedule 3.

The Hon. M.C. PARNELL: No.

The Hon. G.E. Gago: Excellent.

The Hon. M.C. PARNELL: No, I will not. I have had my say. Although, of course, by the time we get to February and schedule 3, the minister will have forgotten my words and I may—

The Hon. G.E. Gago: Never! I hang on every word.

The Hon. M.C. PARNELL: I thank the minister for her consideration with that. I have another issue in relation to clause 42 raised by the Local Government Association. They wanted confirmation of whether councils would be bound by practice directions. I think the source of their question is clause 42(5)(a) which provides that: 'A practice direction does not give rise to any liability of, or other claim against, the commission...' They were suggesting that the words 'or another relevant authority' might be added to it. They wanted to bring themselves within the protection of that paragraph, so that no liability would arise. Could the minister just address that concern of the Local Government Association?

The Hon. G.E. GAGO: The short answer is yes, they are bound. We do not believe, however, there is a need to make any further changes because they cannot be liable for something that they are bound by. The provision ensures that no-one can sue the commission for exercising its regulatory function by making a practice direction—so they are, in fact, protected.

The Hon. D.W. RIDGWAY: I am interested in how the practice directions are promulgated. Who does the commission consult with to put these practice directions together; because some stakeholders have been concerned that the planning commission is not required to consult, so I want some clarity around exactly how they are formed.

The Hon. G.E. GAGO: Generally a practice direction deals with quite minor administrative issues, for instance, the type of form that you might fill out under a particular set of circumstances. It does not require prescriptive consultation. There are certain provisions of the bill that require consultation and approval by the minister. I am advised that currently, for instance, if a fairly standard form needs to be changed, we have to change regulations, so it is cumbersome and silly and it slows down the business of government and its statutory bodies. This would help streamline things and allow those administrative changes to be made in a timely way.

The Hon. D.W. RIDGWAY: Just for clarification: so there will not be any consultation on the practice directions.

The Hon. G.E. GAGO: There could be. That is a matter for the commission to decide; however, as I have outlined, it is something that we would not anticipate would necessarily be regularly required given the nature of the matters that practice directives go to.

Clause passed.

Clause 43 passed.

Clause 44.

The Hon. M.C. PARNELL: This is one of the key issues for the Greens in this bill—the Community Engagement Charter. It is probably the issue on which I have had most correspondence, especially from local community groups. It is up there with the urban growth boundary and the infrastructure arrangements when it comes to top issues in this bill.

I want to address in general terms, before I move my amendment, some observations on this community engagement charter and, in particular, on the philosophical underpinning of the charter, especially in relation to the so-called up-front consultation with the community at the expense of the so-called downstream consultation. The minister said in her second reading conclusion:

> It has been suggested by the Hon. Mark Parnell that an approach that favours up-front engagement sounds nice in principle, but in practice is unrealistic and unachievable and because of this, so the argument goes, rights of consultation which apply downstream in the system should be maintained alongside the charter. With respect, this is a criticism founded in outdated thinking and not supported by the expert panel's recommendation. If we accept this argument the promise of this reform will be negated.

In response, the first thing I would say is that I have never said that you should not consult up-front—of course you should. What I say is that you should not use up-front consultation as an excuse to deny community participation rights later in the process at the pointy end.

In terms of whether my thinking is outdated, I refer the minister to what the experts in this area say. One of the groups that the government has been very keen to partner with is the International Association for Public Participation which has an Australasian chapter. If we look at that organisation's core values number one states that:

> Public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process.

Its core value No. 4 states:

> Public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision.

You just have to look at those words—they are quite broad and they do not say public participation should only be confined to the setting of policy and that citizens should be disempowered when it comes to making decisions about actual projects. The minister went on to say:

> Indeed, the most important function for the new charter will be giving the community the opportunity to literally shape the new planning rulebook and, in doing so, help create something that is clear, simple, easy to understand yet sophisticated and innovative. It is precisely because of this that there is less need for bureaucracy in prescriptive consultation on individual development proposals. When the rules are clear about what is allowed people are far less likely to need to get a second bite at the cherry...

Of course, the judgement about whether people need a so-called second bite of the cherry is the government's view of the world but it is not the community sector's view. I have been working in the space of community engagement and planning and environmental decision-making for the last 25 years and I think the government has got this quite wrong.

I also think that at one level it is also dishonest because it is pitching this bill and this provision as an improvement on what I agree are inadequate mechanisms for community engagement. However, the bill provides less rights for citizens in relation to the decisions that affect them most, and no amount of spin will get around that fact. The community has long said that it wants to participate at all levels of decision-making; from writing the rules, that is up front, to the application of those rules and to individual development applications, which is the downstream end.

I think the minister really gave the game away when she said, 'and then there are those who are unlikely to ever accept the umpire's decision.' I think that goes to the hub of this. Mr Rau has got it into his head that community consultation is all pain and no gain. He thinks that people need to be led by the nose, kicking and screaming, to a bright and shiny future because, if left to their own devices, they will just oppose everything. I think that is a cynical view of the world, and it is not my experience.

Most of the groups I have worked with are open to change, provided it is good change. They want liveable communities with a diversity of opportunities. I think most people also realise that change is inevitable and that much of that change can also be desirable, but they hate the way that, in a democracy, they have no say over the things that matter to them most. It does not play well communities to tell them to shut up because they had their chance, perhaps five years ago when the policies were being written, and if they did not take their chance to debate policy then, they forfeited their chance to engage in debate when the bulldozers were ready to start rolling.

Of course, when faced with change most people do start by querying what is proposed, and they need convincing that the change will improve their life. Most people's starting position is that the devil you know might be better than the devil you do not know, but that is the job of government, to work with communities and to get good outcomes. The supposed legion of people who oppose everything haunts the imagination of minister Rau, but it does not haunt the streets of Adelaide or of South Australia.

What has to be remembered is that often the reason people oppose developments is because they are bad developments and they deserve to be opposed. In those rare situations where neighbours or other so-called third parties do manage to get a hearing in front of the umpire—and the umpire, in my use of the word, is the Environment, Resources and Development Court—their success rate is higher, in fact, than those for development applicants who appeal. That is especially the case for matters that go to trial. Usually the third parties have a much higher success rate because they are right, because the developments are inappropriate.

I do not pretend that I was the greatest of courtroom advocates, but at one stage my record in challenging the decisions of the Development Assessment Commission was 10-zip. Mind you, Mr Brian Hayes QC told me to enjoy the moment while it lasted because, as an experienced advocate, he knew it would not. However, at one point it was 10-nil against the Development Assessment Commission. The importance of those cases is that they were the catalyst for change. They changed administrative structures; for goodness' sake, they lead to a whole new act of parliament being introduced, the Aquaculture Act.

That act would not have been introduced if the Conservation Council had not had the right to challenge developments in court. They challenged aquaculture developments on two occasions—

four developments on one and six on the other—and they were successful on both occasions, and it resulted in law reform. It resulted in a far more rigorous assessment process. That is why downstream opportunities to engage are important. Under the government's Brave New World such cases would not be allowed. They would not happen, and bad decisions and bad processes would be locked in. That would be to the detriment of communities and our environment. In her second reading summing up the minister also said:

> The key point here is that we should not, as the Hon. Mark Parnell suggests, simply write legislation that describes human nature as it is. If we did that, after all, we would not have laws against discrimination, violence or theft. We should instead seek to design a system that will bring out the best in people. Our system cannot afford to simply default to old habits that we know push up the costs for everyone.

The minister's speechwriter, in that case, makes an interesting but ultimately irrelevant point, but at least does us the courtesy of cutting to the chase, especially in the final sentence. First of all, I do not think I am devaluing the contribution that citizens can make to the planning process the way the government is. I think that the words the minister has used are similar to those of a benevolent dictator. The government says it wants to design a system that brings out the best in people, well so do I.

The government and I differ in that their path to enlightenment is to cut communities out of the process, limit their rights to participate and protect them against themselves. According to the government, we would all be out there discriminating, beating each other up and stealing if we dared to acknowledge the reality of the way people actually engage in society. The money shot is in the final sentence of the paragraph that I quoted. The minister said:

> Our system cannot afford to simply default to old habits that we know push up the costs for everyone.

So, that is it: citizens have to get out of the habit of expecting to have rights, or to have their say, or to be involved in matters that directly concern them, because this dirty little habit of democracy is costing someone money. That is what this is all about, it is about money, and it is not hard to understand why.

If you are a property developer, the thing that you value most of all, aside from getting your final development approved, is that you want to keep costs down and you want certainty, and we hear that word all the time. What it means from a developer's perspective, understandably, is that they do not want any surprises; they want to deal with as few agencies as possible; they want the rules to be clear and flexible in their own interests; and they particularly do not want to have to run the gamut of public consultation or, heaven forbid, third-party appeal rights against their projects. Of course, developers demand the right to go to the umpire—the court—whenever they think the decision-maker has got it wrong, but they do not want anyone else to have that same right.

We are, of course, ahead of ourselves, and I will address the issue of third-party rights when we get to those clauses. But I just make the point now: that a developer unhappy with a decision almost always has the right to go to an umpire. Neighbours, community groups and others who have problems with development approvals rarely have the right to go to the umpire.

I will finish with this point about whether public participation in development assessment does 'push up the costs' for everyone, as the minister said. Well, it does push up costs, but not just in the way the minister has described, because when bad decisions are made, with no right of comment or no right of appeal, the costs may well be borne by the poor neighbours who have to live with the consequences.

When inappropriate developments might put in peril the fate of an endangered species, or where a subdivision application threatens a precious ecosystem, then yes, the cost is borne by the environment. But what the minister is getting at here is that the public participation does not necessarily come cheap and of course, done properly, it can cost money and it can take time, because all thorough processes do. What is really driving this push is that the developer's natural desire for certainty means that they are not willing to accept the possibility of opposition or delay to their projects, but I put it to the committee that an alternative view of the world is that part of the cost of doing business is that citizens also have the right to have their say. It need not make the process longer, but it is part of the cost of doing business. It is the so-called social licence to operate. Community engagement is not red tape, it is our right in a democracy.

Having had that spray, the charter could be a very useful tool or it could be a load of rubbish. We will not know the answer to that because we have not seen it. The government has not seen fit to share a draft with us; to be honest, I do not think there is even a draft in existence, so we do not know what they are thinking about. The best we can do—and this is to foreshadow a series of amendments I have to clause 44—is to get the drafting instructions right. This clause contains the drafting instructions for the charter. If we get the drafting instructions right, we have a much better chance of getting the final product right. I am happy to move straight on to the amendment unless other people need to respond to what I have said.

The Hon. G.E. GAGO: There are several amendments which have been raised both in relation to the character, but also further on in the bill in relation to the e-planning system, the rights of notification, consultation and appeal association with different categories of development. It is important to reinforce the government's general approach here, noting that they inform our position in relation to amendments moved by the Hon. Mark Parnell here and further on in the bill. In particular, the government considers the Hon. Mr Parnell's amendment No. 18 to be the test clause on the proposition that consultation should, as far as possible, be weighted towards up-front discussions on policies and plans and commensurately limited during the assessment of individual development applications that lie within the envelope of expected development contemplated by the planning rule. We believe that amendment No. 18 is a good place for a test clause.

The Hon. M.C. Parnell: For everything?

The Hon. G.E. GAGO: No, in relation to the consultation, that consultation should, as far as possible, be weighted towards the up-front discussions on policies and plans and commensurately limited during the assessment of individual development applications that lie within the envelope of expected development contemplated by planning rules.

The Hon. M.C. Parnell: Sorry, 18, you said?

The Hon. G.E. GAGO: Eighteen; alright. I am talking to No. 18. The government opposes this amendment and regards it as a test, as I have said, because I think the subsequent amendments seek to restore consultation and notification rights for certain types of development, of which there are several. The community engagement charter is designed to be performance and outcome based and seeks to move away from the highly formulaic and prescriptive community engagement regimes which tend, for example, to require that a person is sent a letter and provided with 28 days to respond in writing, etc.

The form approach is one where consultation consists of ticking boxes, and often when people later come to fully understand the implications of a proposal and then express concerns, they are told, 'But you were sent a letter.' We can and must do better than this. We want public consultation that is meaningful and effective. The charter will deliver this and give effect to the comments clearly made by the Expert Panel on Planning Reform, that people want greater, more meaningful and earlier involvement in the planning system.

The charter will deliver this by providing legislative requirements that will set clear benchmarks for meaningful and genuine engagement with communities, particularly in the early stages when planning policies are being formed and tested. It should not be about just ticking boxes. The Hon. Mark Parnell wants to remove this principle. He just does not accept that the principle of weighting engagement forward must be matched with more limited opportunities downstream. Some of his later amendments bear that out.

This was a fundamental recommendation of the expert panel. As I said in my second reading summation, we will not resile from this position. Yes, we accept that it will be hard to make the change in culture and practice; we know that will be challenging. We need to move beyond the one size fits all approach to the engagement up-front and yes, we need to get better at using online tools to improve the reach of engagement and empower citizens to get involved in conversations about the future of their communities.

That is what this charter will deliver, but it can only deliver if the parliament agrees with the fundamental underpinnings on which it is based. Well done, up-front engagement trumps the need for downstream consultation on settled policy rules. The government agrees that this means

engagement will need to be well delivered and mindful of the need of each audience. The government agrees engagement should be sustained and delivered, ideally at the local level.

As both the Hon. Mark Parnell and the Hon. David Ridgway suggested in their second reading debate, there are many examples, both interstate and around the world, of good engagement strategies and practices that we can learn from and adapt in developing our charter. We have drafted this provision, and indeed the whole bill, to be weighted towards people and communities being engaged at an early stage and scaled back when dealing with settled or advanced policy. The Hon. Mark Parnell does not agree with this approach. He thinks we should still allow for extensive downstream consultation as well because, as he put it, we should be writing consultation requirements to reflect human nature.

Of course, we agree that our current system fails to inform most people about the basic zoning requirements for the area they live in, which many find out for the first time when someone wants to erect something next door to them that they hate and they say, 'By the way, why didn't someone tell me that could be built there?' That is precisely why we are moving to rewrite the planning rules in simpler, easy to understand language and get them online for everyone to see. That is why we agreed to some of the other amendments the Hon. Mark Parnell proposes with respect to both the charter and the planning portal.

The message we are sending to those who are required by this bill to consult is: get in early, engage early, speak to communities early and do not leave it until the last minute. The message the Hon. Mark Parnell's amendment sends is: if you do not get what you want in round 1 then come back and have another bite at the cherry. With respect, this slants the whole process in favour of busybodies and those who will never accept their neighbour's right to enjoy and develop their own land.

This is not just about developers, it is also about the thousands of mums and dads who have waited for an extraordinarily long time, because of their neighbour's objection, to erect or make some minor change that, quite simply, constitutes a basic home renovation. The bulk of matters that go into the system and that are in the system are matters relating to verandahs, sheds and other simple home renovations. These are the things that clog up our system, clog up the lives and cause enormous anxiety and neighbourhood conflict for, as I said, thousands of ordinary mums and dads.

So, if we get the rules right up front, the need for this type of bureaucracy evaporates. We will, therefore, be opposing the Hon. Mark Parnell's subsequent amendments that seek to reintroduce notification and consultation rates on an expansive basis. I would also like to allay some concerns that have been expressed that the charter will supersede the role of local government in consulting the community around planning matters. The government acknowledges the skills and expertise of local government in engaging with the community and recognises their efforts in developing effective tools and mechanisms to do this. We believe the charter will support and enhance their engagement and consultations with the community and deliver consistent engagement across the state.

The Hon. D.G.E. HOOD: I think, with all respect, the Hon. Mr Parnell's passion on this issue has been consistent, if nothing else, for a long time and he has put forward a point of view. I would like to tell a quick anecdote about my experience with the planning system in recent times, which gives me a very different view of the planning system. Earlier this year, my wife and I were seeking to put an ensuite on the side of our property. This will be a quick two-minute story, if I can beg the indulgence of the chamber. So, it would have been on the boundary of the property, built to come off the side of our house. It was approximately 4.7 metres long by 1.5 metres wide. I will cut to the end of the story and say that the good news is it will be finished this weekend. But—

An honourable member interjecting:

The Hon. D.G.E. HOOD: Piece of cake, that's right. But the fact is that to get approval for this ensuite was tortuous, to say the least. In fact, because of the nature of exactly where our property is situated—we have quite large properties either side. We are also on quite a reasonable size piece of land, about 750 square metres. The property that is next to us on one side, which is quite a large block (1,000 square metres, or thereabouts), was subdivided many years ago and there are, I think, three townhouses at the rear of that property, behind what is a very large house at the front of the property.

Because of the absolute stupidity of our current system and the over-consultation required, everyone of the people in that townhouse had to be sent a letter by the council advising them on what we wanted to do and asking if they had any objections, despite the fact that the furthest townhouse from where we were proposing it and have since built this ensuite would be in the order of 80 to 100 metres away, and they would never see it. It is completely invisible from their property, completely invisible from all of the townhouses.

Furthermore, the property behind us was sent a letter advising that we were doing it as well. Our ensuite would be 200 metres from where they live, or 150 at the very least. There is a tennis court behind us leading onto their property—ridiculous. In fact, we know the people behind us quite well. He came around and knocked on my door and said, 'You're building an ensuite?' I said, 'Yes, we are.' He said, 'Why do I give a stuff?' They were his words. I think he is right: we over-consult. I think that just goes to show why I think the government has got this right. We need to wind that back. It has gone way too far for way too long.

The other comment that I would like to make is that, when we talk in terms of development, we often hear the words 'good development' and 'bad development'. We hear these terms used all the time. The very word 'good' or the very word 'bad' necessitates an element of subjectivity. What I may regard as a so-called good development someone else may see as a bad development, and vice versa. I think some people assume that there is a general agreement on what is a good development. That is just simply not the case. There may be in some limited cases, but I think overwhelmingly it comes down to people's individual personal opinions.

It means that, when you do consult, you get an individual's personal opinion even when they are not directly affected, as I said, as can often be the case. I am sure the Hon. Mr Parnell will be sorry to hear this, but because of the reasons I have just outlined, the example I have given—and I can give many, many more; I do not want to detain the chamber—that is the essence of why we will not be supporting the amendment.

The Hon. D.W. RIDGWAY: I just have a couple of questions. Before I ask them I will certainly indicate that this is one of the reforms that the opposition is very supportive of. In my time as shadow minister, similar complaints have come to me, as the Hon. Mark Parnell and others, and certainly the Hon. Dennis Hood, have spoken about. To bring the community on early is very important, because people are not informed early in the process. It is often only when, as the minister said, something actually happens that they realise that it is part of the development plan.

I think it is really important, and the opposition supports this community engagement charter, and the earlier you engage the better. It is a shame perhaps that the minister did not do that with the bill itself. I know he would say that he engaged early, but he is still delivering amendments. I know the industry have yet to give any formal feedback on their final position around infrastructure levies. We have four or five hours left of the parliamentary year, so I think it would have been better if the minister had practised what he preached.

This part of the bill is, in the opposition's view, way more important than the urban growth boundary. That is why we are happy to remove the urban growth boundary. It is keeping the community informed and engaged about exactly what is going to happen. I know the minister referred to the thing that happened in Western Australia, called Dialogue with the City, where the city was involved in very broad consultation. It was probably quite expensive, but it took the community with them, and in all of these things there is some negotiation and some give-and-take.

In the end, they arrived at the metropolitan planning scheme, I think it is called, in Perth, where the community had some certainty about what was going to go on, a rough time frame, and the government had an idea of what was required for the provision of infrastructure; so everybody was on the same page, and the city could develop into the future. I also make the point that when I was a boy at school Adelaide was a bigger city than Perth, now we see it as something very different.

I have a couple of questions before we move to the Hon. Mark Parnell's amendments. The Dialogue with the City in Perth was quite expensive. It was about $1 million. Who will pay for the community engagement charter? I assume it will be the government. I am just interested in what it will cost. What is the process the government will go through to give effect to this community engagement charter?

The Hon. G.E. GAGO: Before I go on and answer those two questions, I just want to put on the record that the comments of the Hon. David Ridgway are incorrect. He has said a couple of times now that we are still in negotiation and industry has not received a final position from the government, and that is just not so. The negotiations are over. The government has indicated its final position to industry. I believe that was done yesterday. The government will not be considering any further amendments or putting any amendments forward in this place. It may after it leaves this house. There will obviously be work to be done in between houses and when it goes back to the lower house, but our position in relation to the debate in this place has been finalised.

In relation to the matters raised about the charter, the commission will develop the charter and then, as councils and agencies go about their work that may be touched by the charter, they will need to put in place those elements to make sure they comply with the charter. There might be change that happens in a progressive sort of way. It is believed that the savings councils will derive from the proposed changes to the development assessments will and can be reallocated to assist them to cover the costs of the charter engagement.

The Hon. D.W. RIDGWAY: So it is envisaged that local councils will be paying rather than the Planning Commission?

The Hon. G.E. GAGO: The short answer is yes.

The ACTING CHAIR (Hon. J.S.L. Dawkins): Is this finishing your line?

The Hon. D.W. RIDGWAY: I just want to respond to something the minister said, that the statement I made was incorrect that industry had not agreed. It is a wonder of modern technology: we have live streaming and I have received text messages to say that that statement is incorrect. I think what the minister is trying to say is minister Rau has written to industry saying he is finished with his negotiations; they actually have not agreed. So, I think it is a difference between yes, they have agreed, and no, they have not. An agreement has not been reached, and I am aware that a letter has been sent to industry groups. Can the minister also confirm that that letter was sent to maybe not all of media but certain aspects of the media this morning as well?

The Hon. G.E. GAGO: The Hon. David Ridgway is incorrect again, and *Hansard* will confirm this. I never said that the industry had agreed. What I said was that the Hon. David Ridgway had stated, more than once, that the government was still negotiating with industry, and that is what I refuted. I put on the record that we are not: we are no longer negotiating. He indicated that industry had not seen our final position. They have: our final position has been outlined. There was no letter, I understand, but rather an email that went to key industry groups.

The Hon. D.W. RIDGWAY: Was that email (and I guess that is a modern letter and I am not fortunate enough to have possession of it but I have seen a copy and it looks like a letter to me but in email form) also sent to certain members of the media as well? I make the point that we talk about talking in good faith and early engagement but, clearly, it is now the strategy of the government to say, 'This is our position and, here, media, you have it so that you can help put pressure on industry for us.'

The Hon. G.E. GAGO: Again, let me just clarify what I have put on the record, and that is that the government is not negotiating about further amendments in this place. That is what I have been trying to clarify in terms of the Hon. David Ridgway's comments. In relation to whether the email was sent to media outlets, I do not know. I do not have that information.

The Hon. D.W. RIDGWAY: I have one final comment about the modern technology, and often the minister during question time refers to her mobile phone. I put this on the record from one of the industry groups:

> We have been advised that negotiations around infrastructure have been deferred until the new year.

It is not that negotiations are over, as the minister said.

The Hon. G.E. GAGO: I put on the record that 'the government's position is'.

The Hon. J.A. DARLEY: I indicate that I will not be supporting the Hon. Mark Parnell's amendment.

The Hon. D.G.E. HOOD: I neglected to say in my contribution earlier a couple of key things which are quite significant to the overall tale that I told and that is that, despite the fact that the original application for the en suite I mentioned was put in in late January, as I recall—it might have been very early February but, roughly, late January—the actual en suite building itself will only be completed this weekend. Of that entire time, the construction phase has been about 30 to 40 days—35 days, roughly. The rest of it was compliance, forms, planning, planning, planning.

I think the significant thing is that there was actually no objection at all from any of the people despite the fact that I think 12 different groups had to receive letters informing them exactly what we were going to do. There was actually no objection from anyone at all, including the people whose property we share that boundary with, that the border of the en suite was going to be on. In fact, they said to me, 'We would like to fill out the form in a way that says that we agree with it. As the only neighbour really affected in any way, we agree with it and would like to support it.' But the forms they were presented with did not have an option to support it. The only options on the form were, essentially, what do you not like about it? I think there really is big scope for change in this area, and that is our position.

The Hon. G.E. GAGO: I will just help out the Hon. David Ridgway by quoting one of the paragraphs of the email:

> Although the minister is prepared to consider and respond to your remaining outstanding issues, any potential amendments to the infrastructure scheme provisions will not be dealt with until the bill is returned to the House of Assembly where the status of the entire bill is clear.

The Hon. M.C. PARNELL: I thank the minister for her response. She is absolutely correct: we disagree, which is no surprise to anyone. I did take some comfort from the words she said, so I have actually proposed a few minor wording changes to the drafting instructions to the citizen's charter, which I feel the government may be in a position to support: I will know very shortly. I now move:

Amendment No 16 [Parnell–1]—

> Page 44, line 26—After 'reasonable,' insert 'timely,'

This amendment is to include the word 'timely'. It is a pretty simple and self-evident change and it is actually entirely consistent with what the government has said it wants to achieve, and that is to make sure that people are consulted as early as possible so as to have the greatest opportunity to influence the outcome. The addition of the word 'timely' makes it clear that that is what is to happen. I certainly will not repeat the Mayfield story, the one where the citizen participation was two weeks after the decision had been made; that is not timely. If we put the word 'timely' in, then I think it will make it very clear that the upfront consultation will be right upfront before decisions are made rather than after.

The Hon. G.E. GAGO: The government rises to support this amendment.

The Hon. D.W. RIDGWAY: I indicate that the opposition will also support the amendment.

Amendment carried.

The Hon. M.C. PARNELL: I move:

Amendment No 17 [Parnell–1]—

> Page 44, line 27—After 'opportunities' insert:
>
> to gain access to information about proposals to introduce or change planning policies and

Flushed with success, I rise to move the next one. Again, I might be pushing it but we will see. Basically this is a wording change which is designed to write in, if you like, to the drafting instructions for the citizens' charter the notion that it is important for people to access information about proposals to introduce or change planning policies.

The concept of access to information is important. I have mentioned before the European convention on public participation in environmental decision-making which has as its three pillars access to information, public participation and access to justice. So it is the access to information that is important. I accept the government's intention to improve access to information. I think the

planning portal, if it fulfils all that we hope, will be an excellent initiative and I am hoping that the government will see fit to support my amendment No. 17 as well.

The Hon. G.E. GAGO: The government is thrilled to rise to support this amendment.

The Hon. D.W. RIDGWAY: I indicate the opposition will be very happy to support this amendment.

Amendment carried.

The Hon. M.C. PARNELL: I move:

Amendment No 18 [Parnell–1]—

Page 44, lines 28 and 29—Delete paragraph (b)

At this point I rise with a heavier heart because we have agitated this point at some length and I see where the numbers are on this one, that it is not going to be supported. I want to put on the record the fact that I have had a communication from the Hon. Kelly Vincent, who is not here today but I have heard she might be in for the afternoon session, we will see how it goes, and I have it from her that she is supportive of this amendment. Also I put on the record that the Local Government Association is supporting this amendment.

The Hon. R.I. Lucas: The Hon. Tammy Franks?

The Hon. M.C. PARNELL: My colleague the Hon. Tammy Franks is delighted to be supporting this amendment. The other supporters are certainly the Community Alliance, the Environmental Defenders Office, the Conservation Council, National Trust. The community groups that I have been working with on this bill for the last several months are supportive of the amendment but I can see that I do not have the numbers to carry it today and, therefore, I will not be dividing on it because everyone has put their position on the record or I have done it for them, so I do not need to divide on this clause.

The Hon. D.W. RIDGWAY: I indicate that the opposition will not be supporting the amendment. I think I have outlined before that we see the failings of the system and, if I use Mount Barker as an example, there was a lot of work done early but the community was not brought along with that. Whether it was a good or a bad development, the community did not really know about it until the end of the journey. So, we have certainly supported early engagement at the upfront end of policy development, so we are certainly supportive of the government's position and will not support the Hon. Mark Parnell.

The Hon. G.E. GAGO: The government, for the reasons I have already outlined, will not be supporting this amendment.

Amendment negatived.

The Hon. D.W. RIDGWAY: At the top of page 45, which is where I think the Hon. Mark Parnell's next amendment is, it states in paragraph (f):

> insofar as is reasonable, communities should be provided with reasons for decisions associated with the development of planning policy (including how community views have been taken into account).

With the definition of 'reasonable', who actually defines what is reasonable? It is a very open-ended statement.

The Hon. G.E. GAGO: The government cannot support this amendment.

The Hon. D.W. Ridgway: It wasn't an amendment, it was a question.

The Hon. G.E. GAGO: I beg your pardon—you haven't moved it? The word 'reasonable' is really only a principle and we do not think a lot rests on it, but we actually do not believe this is the right place to address it—it should be in the portal provisions.

The Hon. D.W. RIDGWAY: You do not believe it is the right place to address what, and what should be in the portal?

The Hon. G.E. GAGO: The issue of 'reasonable'. I am talking mainly to amendment 19 of Mr Parnell.

The Hon. D.W. RIDGWAY: I am just asking a question about your bill. Paragraph (f) says:

> insofar as is reasonable, communities should be provided with reasons for decisions associated with the development of planning policy...

Who defines what is reasonable? I am asking the question before he moves his amendment.

The Hon. G.E. GAGO: It has been described to me as being like drafting instructions. In terms of who, it is basically principles that the commissioner and also the minister put in place when developing the charter, and, of course, the charter is also subject to parliamentary scrutiny.

The Hon. D.G.E. HOOD: I will ask an obvious question for clarification: is the charter binding?

The Hon. G.E. GAGO: I am advised that the short answer is yes.

The Hon. M.C. PARNELL: I move:

Amendment No 19 [Parnell–1]—

Page 45, after line 3—Insert:

(g) insofar as is reasonable, members of the community should have access to the same information that is available to relevant authorities in relation to the assessment of applications for planning consent;

(h) insofar as is reasonable and relevant, information should be routinely published on the SA planning portal rather than requiring specific applications to be made in order to gain access to information that is relevant to planning or development in the State;

(i) insofar as is reasonable, information should be provided to members of the community free of charge.

I will move this amendment, but the minister said earlier (and I think she is correct) that the previous amendment is somewhat of a test for provisions such as this, which basically assume that the charter will retain the right of people to participate downstream, as it were. It does technically still stand on its own, so I will move it, but I am not going to divide on it.

The Hon. Dennis Hood has asked whether the charter is binding, and the minister answered that, yes, it is, but with no consequences for breach. In other words, if the charter says you must consult the community in a certain way, and for whatever reason it does not happen, no-one can do anything about it. For me, the definition of 'binding' usually means 'enforceable'. So it is not enforceable. Whilst I have moved this amendment, I appreciate that it does not have the support of the committee.

The Hon. G.E. GAGO: I will talk to our position on the amendment in just a minute, but I need to set the record straight: there are consequences. The charter is binding, and there are consequences. The commission can order certain things to occur. For instance, it can order a council to do certain things and, if they do not do it, the commission can go ahead and have those matters addressed, and send the bill to the council, so there are consequences. Sure, they cannot be sent to court, but there are other ways that the commission can enforce its decisions.

It is not for that reason, but we are not going to support the amendment either—not as it is currently drafted. We are happy to engage with the Hon. Mark Parnell to help find a suitable alternative, if that is possible, in terms of words, and we could look at having that addressed in the second bill.

The Hon. D.W. RIDGWAY: I am pleased the government has come to that position because we will probably take a slightly different position. It is one of those that we think has some merit so, in order to keep the amendment or the issue alive, we are sort of inclined to support it, but with the caveat that it is one of those amendments that, given we will be back here in February, we would like to perhaps work with the government and the Hon. Mark Parnell on and perhaps recommit it just to fine-tune the wording. We are a little concerned about any unintended consequences, but I think the

intent is sensible. I indicate that we will be supporting this amendment, but with the caveat that we will seek to recommit it next year.

The Hon. D.G.E. HOOD: I am a little bit confused. I had understood this was consequential.

The Hon. M.C. Parnell: Some parts of it are—

The Hon. D.G.E. HOOD: Right.

The Hon. M.C. Parnell: —but it does stand alone.

The Hon. D.G.E. HOOD: Okay. Can I suggest to the minister that maybe it would be a good time to break. I need to have a close look at this, that being the case.

The Hon. G.E. Gago: We can do that.

Progress reported; committee to sit again.

Sitting suspended from 13:02 to 14:15.

Parliamentary Procedure

PAPERS

The following papers were laid on the table:

By the President—

Reports, 2014-15—
- Corporations—
  - Tea Tree Gully
- District Councils—
  - Karoonda East Murray
  - Mount Gambier
  - Naracoorte Lucindale
  - Streaky Bay
  - Whyalla

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

Regulations under the following Acts—
- Mutual Recognition (South Australia) Act 1993—Controlled Substances—
  - Temporary Exemption—MDMB—CHMICA
- Trans-Tasman Mutual Recognition (South Australia) Act 1999—
  - Temporary Exemption—MDMB—CHMICA

By the Minister for Employment, Higher Education and Skills, on behalf of the Minister for Sustainability, Environment and Conservation (Hon. I.K. Hunter)—

Regulations under the following Acts—
- Controlled Substances Act 1984—Controlled Drugs, Precursors and Plants

South Australian Forestry Corporation Charter

Ministerial Statement

PINERY BUSHFIRES

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:17): I table a copy of a ministerial statement relating to the Pinery fire response made by the Hon. Susan Close.

SCHOOL TRANSPORT POLICY

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for

Business Services and Consumers) (14:17): I table a copy of a ministerial statement relating to the review of school transport policy made by the Hon. Susan Close.

Question Time

DROUGHT RESPONSE

The Hon. D.W. RIDGWAY (Leader of the Opposition) (14:19): I seek leave to make—

Members interjecting:

The PRESIDENT: Order!

The Hon. D.W. RIDGWAY: Mr President, they're yapping at me from every direction today.

The PRESIDENT: The Hon. Mr Ridgway.

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking—I'm not sure which minister, because the minister responsible—

Members interjecting:

The Hon. D.W. RIDGWAY: It is a referred question to the minister representing the Minister for Agriculture; however, he is away so I'm not sure which one I'm directing it to.

An honourable member interjecting:

The Hon. D.W. RIDGWAY: He is from Mount Gambier and it is about the South-East, and Leon was from somewhere down there.

Members interjecting:

The PRESIDENT: Order! You can ask the Leader of the Government.

Leave granted.

The Hon. D.W. RIDGWAY: There was a—

The Hon. K.J. Maher: Go Ridgie!

The PRESIDENT: Order, order!

The Hon. D.W. RIDGWAY: Did you have lunch with Brokey and you've got a bit of carryover from last night, have you? What's going on? Mr President, there was a country cabinet meeting on Sunday, Monday and Tuesday: 22, 23 and 24 November, and minister Bignell was in Naracoorte, and I quote from an ABC Rural summary of a news article:

> South Australian Agriculture Minister Leon Bignell says his government will announce drought relief measures for South Australian farmers in the coming weeks.

It goes on to say:

> Mr Bignell held a drought meeting in Naracoorte yesterday, attended by more than 50 farmers—

And I've made it clear in this place that they have been suffering from significant rainfall deprivation over the last two years and, particularly, probably one of the worst seasons in living memory. It went on to say:

> Mr Bignell said further discussion with cabinet was necessary to consider how much money would be dedicated to drought response and what form it would come.
>
> 'We've got to look at what is needed here and then we will tailor the response around that,' Mr Bignell said.
>
> 'Sometimes it'll be money, sometimes it'll be changes to regulations.
>
> 'Today's about being out here and listening to what it is that people would like.
>
> 'Then we'll go back and work on some possible fixes for some of the problems that people are having out here.'
>
> Mr Bignell said more project and extension officers were on the cards.
>
> 'We'll definitely be taking a look at that and seeing if we can put more resources into those sorts of things.'

When asked where the money would come from, Mr Bignell said:

> …consultation with cabinet was necessary to clarify whether new state resources would be allocated to drought, or if existing resources would be reshuffled.

He said:

> There might be a two-pronged approach to this. You can't just walk out of a forum without any consultation with your department…What we want to do is have a well thought out response, where we deliver the very best projects and programs that we possibly can, for the people affected by drought.

My questions to the minister are:

1. Did he make the announcement that the government will announce drought relief measures in South Australia for farmers in coming weeks before consulting cabinet or PIRSA and his department?

2. Will a response just be a number of extra public servants?

3. When will the well thought out response be provided to the people of the South-East who are very keen to have some support from this state Labor government?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:22): I thank the honourable member for his important questions, and we will refer them to the relevant minister in another place and bring back a response, because I believe probably a couple of ministers might want to have input into those responses.

The Hon. D.W. Ridgway: The people of South Australia just want to know when they are going to get some response.

GOODS AND SERVICES TAX

The Hon. R.I. LUCAS (14:22): This is what might be my final question to the minister, the Leader of the Government, and it is a simple one.

An honourable member: Are you going?

Members interjecting:

The PRESIDENT: Where are you going, Mr Lucas? Are you going to give a farewell speech?

The Hon. R.I. LUCAS: It's a simple one.

The PRESIDENT: We will have to set time apart for it. The Hon. Mr Lucas.

The Hon. R.I. LUCAS: It is a simple one: is it state government policy to support an increase in the GST from 10 per cent to 15 per cent?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:22): The Premier has made it very clear—very clear—that this state government does support an increase in the GST. He has looked at a range, he is happy to consider a range of measures. What we understand is that, clearly, there is inadequate commonwealth funding available for our health system and our education system.

We're being shortcut; cuts are being made to our budgets every single year. We see in the last budget huge, savage cuts made to South Australia from the federal government in terms of education and training—I've talked about the massive federal cuts to our training budgets. So, we know that, particularly, our health system is exponentially demanding more money.

South Australia understands that the federal government needs to consider ways of being able to fund healthcare services and the like into the future, and that's why we've indicated our support to look at new sources of revenue, and one of those is looking at an increase in the GST. Other options, of course, are an increased Medicare levy, and there are a range of other tax levers available to the federal government.

I believe that we have indicated that we are prepared to look at a range of different options, but at the moment the Premier has made it very clear that he believes that at this point in time an increase in the GST is probably going to be the fairest. He has outlined significant caveats to that in relation to protecting our most disadvantaged Australians and obviously details around making sure we do protect those who can ill afford any increase, not only in GST, so that any form of taxation or fees or levies are compensated for.

GOODS AND SERVICES TAX

The Hon. R.I. LUCAS (14:25): I have a supplementary question arising from the minister's answer. Does the minister or does the government believe that an increase in the GST from 10 per cent to 15 per cent to help fund the health issues the minister has identified will create jobs or ensure there are jobs lost in the South Australian community?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:25): I thank the honourable member for his most important question. Indeed, jobs are a priority for this government, an absolute priority. We have outlined a wide range of initiatives to stimulate job growth, but we also appreciate that the healthcare needs of South Australians and Australians are also paramount and these also must be met. Therefore, South Australia is working with the federal government—the Turnbull Liberal government—and also with other governments, other jurisdictions around Australia, to help ensure that we get the fairest and best outcome for Australians, including South Australians.

Indeed, our commitment to employment can be seen in today's figures, where our headline unemployment figure fell from the revised 7.6 per cent to 7.3 per cent. We see that there are almost 6,000 more people employed in South Australia than at the start of the year—6,000. The level of unemployment has declined for four consecutive months—four consecutive months—

The Hon. R.L. Brokenshire: What about the trend? The trend is not good.

The Hon. G.E. GAGO: Four consecutive months. The Hon. Robert Brokenshire asks what about trend. The trend for the last four consecutive months has been a decline. That is a pretty firm trend. It is very reassuring to also see that growth in full-time and part-time jobs occurred this month. We are very pleased to see that. Indeed, I believe it is the highest level of employment in almost 2½ years, so we are very pleased to see some of the many strategies that we put in place helping to finally provide some relief in terms of improving employment.

Our participation rate has always been problematic for us, given the high number of aged members of our population. You can see that our rate is actually higher than that that recorded for the start of the year. The youth data is not particularly reliable because of the level of volatility in it, but nevertheless we are also very pleased that the unemployment rate for young people also decreased this month. Of course, South Australia is also very proud of the fact that over 90 per cent of youth aged 15 to 24 years are either working or employed in full-time study, and that is higher than the national average, which is 89.9 per cent. So 90 per cent of our young people are either working or studying.

In terms of our priorities for addressing employment, very importantly our Mid-Year Budget Review provided a number of further measures to those of the previous budget and ones before that to attract investment and support jobs growth and industry thriving in this state. We have brought forward the nation-leading tax cuts for businesses, making South Australia the lowest taxing state in the country for stamp duty on non-residential property. It formed part of $518 million in economic initiatives to accelerate South Australia's economic plans, supporting, I am told, more than 1,600 new jobs. That includes the $208 million to build 1,000 Housing Trust homes in 1,000 days. They are just a couple of the measures that we have put in place to help accelerate jobs here in South Australia.

GOODS AND SERVICES TAX

The Hon. R.I. LUCAS (14:30): Supplementary question arising out of the answer: is the reason the minister did not answer the question as to whether the increase in the GST would create jobs or not because the minister and the government are concerned that an increase in the GST will actually cost jobs in South Australia?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:30): No, Mr President, is the short answer.

APY EXECUTIVE

The Hon. T.J. STEPHENS (14:30): I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs questions about the APY Executive.

Leave granted.

The Hon. T.J. STEPHENS: The previous minister, approximately 12 months ago, sought and gained support to give him extraordinary powers over the APY Executive. Subsequently, our new minister (Hon. Kyam Maher) has not exercised these powers that were rushed through this place with some urgency. My questions are:

1. How is the new CEO of the APY Executive performing?

2. Is the APY Executive meeting all its statutory requirements?

3. Are all reports of the APY Executive being made available in a timely manner?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (14:31): I thank the honourable member for his question and his interest in these matters, and his regular visits to the APY Lands and his involvement in the Aboriginal Lands Parliamentary Standing Committee.

As I think I said very soon after I became minister, I was not averse to using the powers that had been granted the minister by the change of legislation; however, that was not my preference. I was not opposed to appointing an administrator, but that certainly was not my preference. We have seen, this year, the resignation of the former chair of the APY Executive and we have also subsequently seen the election of the new APY Executive. I am pleased with the progress that has occurred during the course of this year.

The new APY Executive is chaired by Milika Paddy. Mrs Paddy is the first woman to chair the APY Executive, and the reports that I am getting are certainly positive about how the APY Executive and its management are going forward. There have been significant improvements in terms of financial controls, processes and transparency. Certainly, the release of the third and fourth quarter of funding to APY from this financial year—and I think also the second quarter from last year—was made contingent on much improved financial controls and transparency.

Some of the significant improvements have been: implementation of longer and more involved executive meetings; workshops to plan law and cultural events; complete and final sign-off for insurance; and I am advised that minutes from the May, June, July, August, September and October APY Executive board meetings are up online. In fact, I understand that there are now sections on the APY website devoted to the act, the election, annual reports, code of conduct and the constitution. Certainly, some of those were requirements for the release of further funding this year, in that a whole lot of things that previously were not necessarily easy to find were to be put up on the APY website.

I have been advised recently that a program manager for the land management position has been filled. The APY Executive have supported the NPY Women's Council AGM, and the 35th anniversary of the council's events in September this year. The NT Chamber of Commerce has completed their first stages of work, which involved assessing some of the practices, particularly award coverage of staff, for APY Executive.

I will not go through the whole list, but I will certainly provide some of the recent developments to the honourable member and to the Aboriginal Lands Parliamentary Standing Committee. I am pleased with the progress that has been made. I think there have been significant reforms that have improved financial controls and transparencies. Certainly, I think the management of APY and the executive is improving, and I look forward to continuing to work with the executive to continue to improve financial controls and transparency. Certainly, if these improvements aren't continued and kept up, I am not opposed to an administrator being appointed but, certainly at this stage, I see no need for that to happen.

APY EXECUTIVE

The Hon. T.J. STEPHENS (14:35): A supplementary question, Mr President. Thanks for the answer, minister. It sounds like things are progressing well. Is there any area of concern that you would like some focus on to improve? When you say they are constantly improving, what is your priority to see them further improve?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (14:35): In a broad range of areas. I think, while there have been significant improvements and reforms in terms of financial controls and accountability, there is still work to be done. This is a continuing process to improve these. I think Ernst & Young are currently doing a body of work with APY to put some further procedures in place. I know APY are very keen to look at how they relate to communities and job creation. Certainly, outside the direct role of APY and the management and executive, a focus over the next couple of years will be looking at sustainable jobs on the APY lands.

CONSUMER PROTECTION

The Hon. P. MALINAUSKAS (14:36): I seek leave to make a brief explanation before asking the Minister for Business Services and Consumers a question about making the right choices when selecting gifts this Christmas.

Leave granted.

The Hon. P. MALINAUSKAS: There are many choices when it comes to selecting gifts for loved ones this Christmas, and it is important for consumers to know what they are buying and also what rights are afforded to them if the intended gift is not suitable. Can the minister inform the chamber of the most important things for consumers to be aware of when purchasing gifts this Christmas?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:36): I thank the honourable member for his most important question. Not that many of us in this place have had time to go out and start our Christmas shopping; nevertheless, with Christmas in mind, and with so many new products on the market and simply endless choices for Christmas gifts, it is a great delight to see the reaction of loved ones—friends and family—opening their Christmas pressies. However, it's important to ensure that the gift selection is age appropriate, that it's safe and that people are aware of their refund rights under Australian Consumer Law so that they don't end up disappointed.

The safety of consumer goods is provided for in the Australian Consumer Law (ACL), and is enforced by the ACCC nationally and by each state and territory's fair trading agencies. In South Australia, it's the CBS. Consumer and Business Services is currently conducting its annual monitoring of product safety issues in the lead-up to Christmas, and I am pleased to report that I have been advised that, to date, product safety officers have performed 55 inspections and looked at 504 products throughout South Australia in October and November.

Products inspected include aquatic toys—toys particularly for children—flotation aids, portable pools, cosmetics, yo-yo water balls and particularly projectile toys. CBS have purchased 38 products which are marked as play items for children up to 36 months of age for more extensive testing. Examples of products purchased are things like rattles, stacking toys and pool toys—wooden and plastic.

The products are being tested to ensure that they pass the drop test component of the mandatory safety standard for toys suitable for children up to 36 months of age. Products are dropped from a specific height, depending on the age range that they are intended for, and any parts that dislodge are then tested to determine whether they might constitute a choking hazard. CBS aims to have all current testing completed this week and will continue monitoring products throughout December.

Prior to consumers selecting their gifts of choice, it is also important for them to be aware of refund rights. Before purchasing a product, consumers should check the retailer's own return policies,

as they often vary from retail outlet to outlet, and it is ultimately what determines whether a customer can receive a refund or exchange, except for the statutory exchange responsibility, of course.

Obviously, all services and products have to be suitable for the purpose for which they were intended and, if they are not, people are entitled to a refund or exchange or to return. For example, over the Christmas period many retail stores voluntarily extend their time frame for returns. However, if a store does not provide rights above the ACL, the store does not have to offer an exchange for a change of mind. So, generally, it is a matter for retail outlets to determine whether they are prepared to refund because a person simply changes their mind, rather than there being perhaps a fault with the product.

If there is a major failure, a consumer is entitled to either a repair, a replacement or a refund. A major failure with goods is when the goods are unsafe or are substantially unfit for their intended purpose, or the goods are significantly different from the description, sample or demonstration model shown to the consumer. If the failure of goods is not major and can be repaired within a reasonable time frame, you might not get a refund but might end up with a replacement. When a replacement item is received, the guarantee applied to the original goods also applies to the replacement, so don't forget that. A consumer cannot reject goods if the goods have been thrown away, destroyed, damaged or misused, or if too much time has passed.

Perhaps the most important point to remember is that, in order to return any item, you must have some form of proof of purchase, even if you received the item as a gift. If you happen to be the recipient of a gift card or voucher, take note of when it expires, as businesses are not obliged to honour the card after this time. Some are pretty cheeky, and they have very short redemption times, so do pay attention to that detail. I hope that this information emphasises the importance of choosing wisely at Christmas time to avoid disappointment, and to ensure that the festive season is enjoyed by everybody.

NUCLEAR WASTE DUMP

The Hon. M.C. PARNELL (14:42): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Minister for Agriculture, Food and Fisheries, a question about nuclear waste dumps.

Leave granted.

The Hon. M.C. PARNELL: I received last week a letter from Grain Producers SA, addressed to the Hon. Josh Frydenberg, MP, Minister for Resources, Energy and Northern Australia, concerning the possibility of a radioactive waste dump in grain growing areas of South Australia. The letter commences by setting out the multi-billion dollar nature of the grains industry, and the huge contribution it makes to our economy and to employment. The letter says:

> Climate change and global population growth make it even more vital to protect our premium food producing areas. There are 98.4 million hectares of land within South Australia. Of this, 4.2 million hectares is used for growing agriculture. Why would a radioactive waste dump need to be placed in the middle of prime grain growing areas?
>
> The potential threat of the development of this facility within South Australia and in particular at Kimba has created a lot of angst and tension within the local community. While an individual farm may benefit will that outweigh the potential losses to the rest of Eyre Peninsula? The EP prides itself on its clean, green image. The major industry on the EP is agriculture. Food produced from the EP is marketed to the world as food coming from a pristine, rugged frontier environment...What will the impact be on these markets when consumers realise that this 'so-called' premium clean food is being produced next to a radioactive waste dump? What will happen to the frontier image that industry has worked so hard to develop in its premium markets? How can a radioactive waste dump and this clean, green image co-exist?

The letter goes on:

> By endorsing such land-use conflicts, the state is not only creating a division within communities it is also doing irreparable damage to one of the State's Seven Strategic Priorities—Premium Food and Wine from our Clean Environment.

The letter is signed by Garry Hansen, Chairman of Grain Producers SA Limited, and he poses the question, after having set out the previous history of this government in opposing nuclear waste dumps in South Australia:

> Why is this same government not going in to fight against having such a dump here now?

Mr President, that is my first question to the Minister for Agriculture, Food and Fisheries or, to put it another way: will the minister stand up for South Australian grain growers and tell the federal government that a nuclear waste dump in farming land is completely inappropriate?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:45): I thank the honourable member for his questions and will be happy to refer those to the Minister for Agriculture, Food and Fisheries in the other place and bring back a response. But I just remind honourable members that here on North Terrace we are sitting around considerable waste. I know that people in this chamber and family and friends have very much benefitted from nuclear medicine, particularly in the way that isotopes and radioactive dyes are used for imaging. Many lives have been saved and much suffering overcome. Of course, all of that technology results in nuclear waste that has to be stored somewhere. Obviously, looking for long term, safe solutions to that is a difficult issue but one that we must wrestle with, as that sort of technology is used more and more, particularly in medicine.

MICRO FINANCE FUND

The Hon. A.L. McLACHLAN (14:46): I seek leave to make a brief explanation before asking the Minister for Manufacturing and Innovation a question regarding the South Australian Micro Finance Fund.

Leave granted.

The Hon. A.L. McLACHLAN: In a written response to one of my questions the minister advised that the Department of State Development does not publicly name the external industry experts to protect their independence and prevent any lobbying or undue influence by applicants. The minister also advised the chamber yesterday that he was not aware of who these secret advisers were. Can the minister advise the chamber who in the Department of State Development knows of the identity of these secret advisers, and as they are volunteers are they subject to the jurisdiction of ICAC, given that the department itself is deeply concerned to protect their independence and prevent any lobbying?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (14:47): I thank the honourable member for his further hard-hitting and exploratory questions. He certainly keeps me very honest with his deep and abiding interest in the South Australian Micro Finance Fund.

Members interjecting:

The Hon. K.J. MAHER: It's a very easy task keeping me honest. In terms of the South Australian Micro Finance Fund, I can inform the honourable member that some of the regular members of the assessment panel include Dr Andrew Dunbar of the Office of Science, Technology and Research, Mr Geoff Thomas, Principal, Axant Corporate Advisory and Andrew Rasch, Senior Policy Officer, Entrepreneurship and Digital Technologies, Department of State Development. I am sure that the pool of people they can call on for external advice is well known to them.

MICRO FINANCE FUND

The Hon. A.L. McLACHLAN (14:48): Supplementary: can the minister confirm that part of my original question of whether these industry experts are subject to the jurisdiction of ICAC, given that the department is very concerned about their independence and them being lobbied? Are they public officers, in effect?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (14:48): I can take that question on notice and bring back a reply to the member to see the intersection between the legislation governing ICAC and people who the department may call upon to give them advice about applications to the Micro Finance Fund.

MICRO FINANCE FUND

The Hon. A.L. McLACHLAN (14:49): Can the minister confirm whether these secret advisers are bound by confidentiality agreements not to reveal their own identity?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (14:49): He's got me on the ropes with his hard-hitting, punchy questions on the SA Micro Finance Fund and he has found me wanting again. I don't know what secret arrangements or what bat caves people have been into to sort these things out, but I certainly will find out and answer these exceptionally important questions and bring back an answer as soon as possible, or maybe talk to him about it over dinner and a nice bottle of wine at some stage.

COUNTRY CABINET

The Hon. J.M. GAZZOLA (14:49): My question is to the Minister for Aboriginal Affairs and Reconciliation. Minister, will you inform the chamber about the recent country cabinet meeting in the South-East and his ministerial visit?

The Hon. K.J. MAHER (Minister for Manufacturing and Innovation, Minister for Automotive Transformation, Minister for Aboriginal Affairs and Reconciliation) (14:49): I think the honourable member for his question and his deep interest in country areas, particularly those tidal coastal waters of our country areas around South Australia.

As many members would be aware, and as the Hon. David Ridgway pointed out earlier, the Premier took the cabinet to the South-East recently, holding one of the regular country cabinet meetings, the formal cabinet meeting being in Naracoorte. The cabinet also held a series of community forums, one in particular on a Sunday night, a barbecue, at Mount Gambier High School, where questions were received from the community on a variety of topics, ranging from health services to heritage matters.

It was great to be back in Mount Gambier, and it was great to have the cabinet in town hearing concerns and having ministers respond to often tough but always respectful questions at the forums. Whilst in Mount Gambier, I took the opportunity to visit a number of businesses and community organisations.

The Hon. D.W. Ridgway: Stay with your mum and dad?

The Hon. K.J. MAHER: In response, yes, I did stay with my mum and dad. So, if you are FOI-ing my travel accommodation, and see just my adviser pop up with a room and then not see me with a room anywhere, it was because I didn't have a room: I stayed with my mum and dad. While my mum and dad are still in Mount Gambier, I don't think I will get to stay in accommodation. I think there is an expectation that I stay at home in the same bedroom I had as a 13 year old when I visit Mount Gambier.

The Hon. M.C. Parnell: Is the room as you left it?

The Hon. K.J. MAHER: It's changed a bit.

The Hon. G.E. Gago interjecting:

The Hon. K.J. MAHER: I am getting reflections on my personal hygiene, I think, Mr President. Whilst in Mount Gambier, I visited Pangula Mannamurna, the Aboriginal health service located in Mount Gambier that provides services not only to Mount Gambier but also to the wider region, including places like Kingston, Naracoorte and Bordertown.

Focusing on chronic disease, social and emotional wellbeing and family health, the centre runs a number of programs, including youth services, smoking control programs, women's groups, the Nunga Playgroup and the Stronger Fathers Stronger Families program. Pangula is doing a great job of developing its facilities, in particular the outside areas where the once unused spaces are being turned into healing circles, with outstanding artwork from members of the local community. It is a great space that I have seen with interest over the last few years being developed, and it has even more potential.

The centre provides a great service to the Aboriginal community throughout the Limestone Coast, and it was good to meet the new CEO, David Copley, whom I have met a number of times before in previous roles in Adelaide, but this was the first time I have met him since he has taken over the role. It was good to go through Pangula. Usually when I visit Pangula I am known as my mum's son. She spent quite a bit of her working life at Pangula. I think it is a transition for the staff there, that I am now there as the Minister for Aboriginal Affairs and not going there as a kid of one of the workers at Pangula.

I also had the opportunity to visit McDonnell's sawmill, which is a major employer in Mount Gambier. McDonnell's will celebrate its 70th birthday next year, and it has been a key employer in the region and has expanded and is looking to further expand its business, creating new jobs. It is business stories like this that are becoming more common in the Mount Gambier region.

The forestry sector is important to the South-East. It is estimated that one in 10 homes in Mount Gambier has a person employed in the industry. Direct employment in the South Australian forestry industry has increased by 20 per cent over the last four years. This is counter to some of the prophets of doom who made claims following the sale of forward rotations of the forests.

It is estimated that a total of 1,200 new jobs have been created throughout regional South Australia, many of these in the South-East. This includes growth in forestry and logging, wood product manufacturing, and forestry support sectors of the industry. Pulp and paper product manufacturing and timber wholesaling have also grown since 2011.

There have been many factors for this jobs boost, with the realisation of several blue gum harvests, a recovery in the domestic timber market, and log export markets returning to profit. It is estimated that there are around 15,000 indirect jobs created by the forestry sector; again, a large number of those in the South-East of our state.

Finally, I was pleased that the Premier and I had the opportunity to meet with the current owners of 'Larry the Lobster'. The state government is contributing up to $10,000 towards the refurbishment of 'Larry the Lobster' and I understand that other contributions are slowly boiling away. I am pleased that we have been able to claw money out of the Treasurer's pockets. 'Larry' is an iconic tourist attraction in the Kingston area and Mount Gambier, and a unique reason to take a break in the South-East. It is crucial that he be saved from the pot. To save 'Larry' we all need to 'pinch' in and be a little less 'shellfish'.

PUBLIC SECTOR EXECUTIVE SALARIES

The Hon. J.A. DARLEY (14:55): I seek leave to make a brief explanation before asking the Leader of the Government questions with regard to the salary of government chief executive officers.

Leave granted.

The Hon. J.A. DARLEY: The salary increases for a number of chief executive officers of government departments were reported in yesterday's *Advertiser*, including some who seemingly received a pay rise of over 10 per cent. My questions are:

1. What were the actual KPIs for the CEOs who received a pay rise?

2. Were there any CEOs who did not receive a pay rise because they did not achieve their KPIs, and who were they?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:56): I thank the honourable member for his important questions and will refer them to the Premier and bring back a response.

TAFE SA

The Hon. S.G. WADE (14:56): I seek leave to make an explanation before asking a question of the Minister for Employment, Higher Education and Skills relating to TAFE.

Leave granted.

The Hon. S.G. WADE: In addition to the 150 per cent higher subsidy paid to TAFE SA under Skills for All, over the last three years TAFE has also received structural adjustment moneys in order to become more competitive. However, analysis of TAFE accounts show that TAFE has not achieved any productivity or commercial improvements since Skills for All began in 2012.

In fact, despite this funding and having paid out almost $60 million in separation packages, overall costs have increased and staff numbers have basically remained the same. Under the new WorkReady funding arrangements, TAFE will get 90 per cent of all new training subsidies, again to help make them more competitive.

Has the minister required TAFE to provide her with its strategy to achieve competitiveness in the next three years, given that they have not achieved it in the last three years; if not, how can the minister guarantee the successful transition of TAFE to equal competitiveness and full contestability in three or four years' time if no progress has been made in the last three years?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (14:57): I thank the honourable member for his most important question. I have spoken in this place on several occasions about the higher rate of subsidisation for TAFE in the past and currently, and our plan to ensure that reforms are put in place to bring about an outcome that involves TAFE being on a dollar-for-dollar parity with relation to subsidisation rates by 2018—that is for its commercial training activity.

Again, I have spoken at length in this place about the need for TAFE to make the changes necessary for it to become increasingly more efficient and competitive. However, the honourable member is incorrect when he says that there have been no efficiencies or improvements in productivity—that is just not so; we have seen an enormous amount of really hard work that has been done by TAFE in the past. We have seen it go from three separate corporate structures to one.

We have seen its workforce considerably contract, particularly in relation to administrative functions, because we have seen that, rather than it being three IT departments, three HR departments and suchlike, these have all been streamlined into one corporate entity. Those administrative functions are shared across the whole corporation, so there have been, as I said, considerable changes that have taken place.

I was just trying to see the figures here, but I can't put my finger on them. I was just looking for the number of TAFE-subsidised places; the training outcomes that they've agreed to produce for this financial year compared to next year. I can't put my finger on the figure, but I can assure honourable members that they have committed to a significantly higher number of training places for this year than last year, which is a very good outcome.

As I have put on the record in this place before, for TAFE to be able to deliver dollar-for-dollar parity with the private sector in relation to their commercial training outcomes or activities by 2018, TAFE indicated that they needed a level of activity, particularly this financial year and next, which is the reason why they were given the lion's share of the subsidised training places.

The Hon. R.L. Brokenshire interjecting:

The Hon. G.E. GAGO: Yes, compared with the private sector, that's right, and I've made that very clear in this place. I was very pleased, I think it was yesterday, that we were able to announce an increase of just under an additional $8 million worth of training funding that will go into providing subsidised training, and all of those funds will be directed to the private sector. That increases the training activity that they can be subsidised for and further competitive rounds for accessing those additional funds will be made shortly.

That does help provide some relief for the private RTOs, and I indicated in this place before that I would work extremely hard to assist them, and that when and if additional funds were available they would be directed wholly to the privates to assist them, acknowledging that particularly this financial year and next will be fairly challenging. So, I was fairly pleased that this additional almost $8 million will go to assist in subsidised training for the private RTOs.

TAFE SA

The Hon. S.G. WADE (15:02): Can I take it from the minister's response that, whilst she has provided TAFE with targets, she hasn't required of them a briefing as to their strategy to achieve competitiveness?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:03): Yes, I have outlined that in this place before at length. They have outlined an extensive reform agenda that will assist them to grow the efficiencies that they need to be able to bring about a far more competitive and efficient outcome, and I have welcomed their commitment to that reform.

The reforms are certainly consistent with our WorkReady policy to help them to transition to more innovative and flexible training delivery models, and to become more sustainable and competitive in the training market. I have indicated TAFE are looking at blended training pathways, they are looking at improving the use of information technology so that they can, in fact, improve training access, particularly to country people and people who live in remote areas. They have also undergone extensive consultation which has been completed, and I understand a report pulling all that together is being compiled now and the outcome and, no doubt, recommendations from that I am expecting to receive within the foreseeable future.

TAFE SA

The Hon. S.G. WADE (15:04): I have a supplementary question. In the minister's original answers, she suggested that there had been a reduction in staff in TAFE in recent years. Could she quantify that?

The Hon. G.E. Gago interjecting:

The Hon. S.G. WADE: The information I have—

The Hon. G.E. Gago: It is on the record.

The Hon. S.G. WADE: The information I have is that in 2012-13 there were 2,298 TAFE staff, in 2014-15 there were 2,300. It is, I appreciate, a miniscule increase, but it is an increase, not a decrease. The minister asserts a decrease. Could she give us the facts to justify that?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:05): Your colleague Mr Pisoni has been carting this figure out. It is a couple of hundred. I do not know whether my trusty advisers can find this, because it is so long ago that this was out there in the public arena.

Again, I am just trying to put my finger on it. I will put my finger on these figures. I just can't put my finger on the actual figure, but it is a couple of hundred or so that have declined just in the last 12 months or so. The honourable member is completely ill informed and there have been significant reductions.

That has been trending over the last number of years for the reasons I have outlined, because of those structural changes to TAFE and its corporate entity and the way it has been able to streamline, particularly its administrative functions, to improve efficiencies. Unfortunately, that has resulted in a significant drop in FTEs employed by TAFE.

PREMIER'S COUNCIL FOR WOMEN

The Hon. T.T. NGO (15:07): I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about increasing the number of women in senior positions in businesses.

Leave granted.

The Hon. T.T. NGO: According to the Workplace Gender Equality Agency (WGEA), of all businesses, only 17.3 percent of CEOs or heads of business are women. The WGEA also identifies that, at May 2015, there was a 24.9 per cent gender pay gap between men and women who work

full time, and a 10.9 per cent gender pay gap in South Australia. My question is: can the minister tell the chamber about the Premier's Council for Women's recent 50-50 event?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:08): I thank the member for his important question. Indeed, it was an absolutely wonderful event. The government obviously has made no secret that it is passionate about ensuring equal representation of women on government boards and committees—I spoke at length about that commitment yesterday in question time—and particularly in senior positions—

The Hon. R.L. Brokenshire: What about this Legislative Council? We've only got one.

The Hon. G.E. GAGO: Well, it's more than Family First have. I would be careful, Brokey. Be very careful, Brokey; you are 100 per cent blokes. Sorry for responding to that interjection, which I know is out of order.

We have implemented a wide variety of policies to achieve this, and whilst there is still some way to go—not quite as far as Family First—we have made some remarkable gains. As at 1 September 2015, women held more than 47 per cent of government board positions and 37 per cent of chair positions. However, the private sector has a much bigger job ahead. At 31 July 2015, according to the Australian Institute of Company Directors, the percentage of women on ASX 200 boards was only 20 per cent—a fifth. A total of 31 board in the ASX 200 did not have any women at all.

Recently, the Premier's Council for Women held their inaugural 50/50 event. The council's current work plan includes a priority to promote and support women in leadership in South Australia. The 50/50 event is one of their strategies towards achieving that priority, and it is intended that this event be the first of a series introducing the businesswomen and businessmen of South Australia to each other, so that it brings them all into one room, to promote female senior executives to business in South Australia for contacts, employment and board members. It is using networking arrangements to increase the level of awareness of senior executive talent here in South Australia.

The council identified that one of the reasons that men may not place women into leadership or board positions is not so much that they do not want to, but because they do not know anyone who is suitable and who is available. By placing 50 leading businessmen and senior businesswomen into one room to undertake networking, it is hoped that in future, when businesses are looking to fill a vacancy, they will think, 'Aha! Yes, I know the ideal woman for that position', and they will consider or even recommend to others that might be looking to fill a position.

Supporting women as leaders in South Australia makes sense, not only to redress gender inequity, but for securing economic independence for women and their families and also to improve national productivity and increase South Australia's overall economic performance. A key priority of the South Australian government is that we will be a world-class business destination and South Australia will be the best place to do business. Part of this is ensuring women are given the opportunity to participate as leaders in every way, be it in business, on a board, in parliament or in the local community.

The South Australian government is committed to achieving women's equal participation in all areas of our community. On 30 July 2015, the South Australian government launched a government-wide women's policy, Achieving Women's Equality, to acknowledge the importance of the participation of women. One of the central pillars of this is to increase women's leadership. This pillar includes a commitment to improve the profile of women leaders across government, business and the community, and another is to encourage all South Australians workplaces to improve gender diversity in their workforce. As I said, I was delighted to attend the 50/50 event and look forward to future events.

MID-YEAR BUDGET REVIEW

The Hon. R.L. BROKENSHIRE (15:13): I seek leave to make a brief explanation before asking the Leader of Government Business a question regarding the dynamic Mid-Year Budget Review.

Leave granted.

The Hon. R.L. BROKENSHIRE: On Monday, we saw the greatest case of smoke and mirrors that I have seen in my 20 years here in parliament. We saw what was in real terms quite a significant loss in the budget period turned into a Clayton's, or a de facto, or a false and very misleading, profit as a result of $1.2 billion that was factored to be stolen, effectively, from MAC and the motorists of this state and put into recurrent expenditure.

As a great result of Mr Roger Cook, as chairman of the board, and the investors and executive of MAC, they now discover that they are going to receive at least $1.6 billion, and I am advised that there could be as much as $2 billion coming in to general revenue from one of the few iconic assets that South Australia did—or did until recently—own.

The Hon. K.J. Maher: You sold ETSA.

The Hon. R.L. BROKENSHIRE: ETSA was not sold, by the way. You stuffed the State Bank. Anyway, the fact of the matter is that I ask the minister these questions:

1. Does the minister agree that the truth is that this budget is in deficit and not surplus?

2. Does the minister agree that government should sell off assets that can return between $100 million and $150 million a year recurrently to go and create false, untrue budget positions for government?

3. Will the minister guarantee this chamber that, at the end of the three years after the capping ceases for CTP, motorists will not cop a hike of up to 80 per cent in CTP costs, as was the case in New South Wales with the same model?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:15): I thank the honourable member for his most important question. The short answer is, no, I don't agree at all. The Mid-Year Budget Review has generated some very important outcomes for us which I have spoken about in this place. We know that, for instance, the economic development measures were announced, which show $518 million of state-funded measures which will help drive activity.

We see that the state government is continuing to forecast a return to surplus in 2015-16 while delivering, as I said, the $518 million in economic initiatives, including, as I have already mentioned in this place today, the bringing forward of tax cuts for business to encourage investment and growth, to help grow the economy and, more importantly, to grow jobs. These build on the $985 million stimulus package of tax reforms that targeted investments in growth industries on the back of the 2015-16 state budget back in June.

Our Treasurer has indicated that the Mid-Year Budget Review meets all of the state government's fiscal targets and forecasts a $355 million surplus in 2015-16, with growing surpluses across the forward estimates. He also, as I said, has already brought forward the first third of the non-residential stamp duty and the delivery of major investments for housing and transport infrastructure to help stimulate construction. I have indicated:

- the 1,000 houses built in 1,000 days over the next three years, funded from the sale of existing housing stock;
- the $88 million over four years for measures such as the $20 million for the PACE copper initiative;
- $19.2 million for the 'last mile' road projects to improve really important freight access;
- $12 million for the new infrastructure at Tonsley;
- $10 million to further support international engagement activity;
- $6.4 million for critical bridge repairs; and
- $6.4 million of extra funding for the Regional Development Fund.

This is a raft of measures that will help stimulate business to help grow markets and help, very importantly, grow jobs. While I am on my feet, I have the TAFE SA figures that the Hon. Mr Wade referred to. I have been informed that, since November 2012, TAFE has achieved an FTE reduction of around about 500 positions, so that is a considerable downsizing. As I said, that includes part of that period of consolidation from the three corporate entities into one—certainly the tail-end of that—and the improving of particularly administrative functions across the corporation.

PINERY BUSHFIRES

The Hon. J.S.L. DAWKINS (15:19): I seek leave to make a brief explanation before asking the Leader of the Government, representing the Minister for Communities and Social Inclusion, a question regarding support for people affected by the Pinery bushfires.

Leave granted.

The Hon. J.S.L. DAWKINS: On two recent occasions I visited a number of localities in the Adelaide Plains and Lower North that were severely impacted by the terrible fire that started at Pinery on 25 November this year. I saw firsthand the incredible resilience and determination of local residents, in the face of the tremendous destruction, and the community's commitment to the recovery efforts that have started, even in the area of mitigating soil erosion.

Again, I express my personal gratitude to all those volunteer firefighters from South Australia and elsewhere, and other personnel who have assisted during and after the fires. Also, I pay tribute to the doctors and other medical staff at the Gawler Health Service, who worked around the clock for several days treating many of the people that had been impacted in the fires. Many in this chamber would have seen in the media recently the disgraceful instances of looting in and around the properties affected by the Pinery fire.

The hardships these communities are facing are bad enough, without the despicable acts that others have decided to engage in. These issues just add to the challenges that those affected by the terrible fires are facing. As members here would know, troubling times such as that can often have significant effects on the mental well-being of those affected, and support for those in need is critical to enable communities to recover. My questions are:

1. What emotional support, mental health and suicide prevention services will the government offer to those affected directly by the Pinery bushfires?

2. What emotional support, mental health and suicide prevention services will the government offer to those personnel who worked during these terrible fires, both in paid employment and as volunteers?

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (15:22): I thank the honourable member for his questions and will refer them to the minister in another place and bring back a response.

Bills

PLANNING, DEVELOPMENT AND INFRASTRUCTURE BILL

Committee Stage

In committee (resumed on motion).

The Hon. M.C. PARNELL: In relation to this amendment, I guess we were probably getting a little bit tired as we were getting towards the luncheon break, and I think the minister made the point first (and I made the point subsequently) that this was consequential on earlier amendments. In fact, none of it is consequential technically, but one aspect of it related to an issue that has been tested and defeated. My thought then was that I could move the amendment in an amended form and removed paragraph (g), which relates to the assessment of applications for planning consent. That has now gone from the charter, so any reference to that is probably redundant. That leaves paragraphs (h) and (i).

Before I formally move that, I had a brief conversation with the minister's staff, and the impression I got (and it can be corrected if I got the wrong impression) was that the government was

sympathetic to both these elements, that is, the concept of routine publication and also the concept of, where reasonable, information being free, as a general principle. It was put to me that those might be more appropriate in other parts of this bill, such as in the section dealing with the planning portal.

Having heard the Hon. David Ridgway say that the Liberals were inclined to support my amendment, I am inclined to take the bird in the hand, but on the understanding that if it does become appropriate to pull it from this part and put it somewhere else, then we could do that. But as I have hunted through my amendments, I have not actually replicated these in the other sections. I am certainly trying to be as reasonable as I can. I would like the committee to approve the insertion of these two paragraphs here, but my commitment would be that if it turns out that there is a more appropriate place to put it in the bill later on then I am happy for it to be shifted later.

Given that the Liberals, very sensibly I think, did agree that at least (h) and (i) were appropriate, then if I seek the leave of the council to move my amendment in an amended form, namely, that only paragraphs (h) and (i) be included in the amendment. By leave, I move:

To delete all paragraphs except (h) and (i).

The Hon. D.W. RIDGWAY: I would like to ask the mover a couple of questions and then, if he is unable to clarify, the government may be able to provide some clarity. I spoke earlier about the wonders of modern technology where people are listening to this in their offices and sending me messages. As we left for lunch, I received a message about this clause. They were concerned that information that would be published could possibly be commercial-in-confidence (about particular developments or subdivisions) and so they were concerned that that information should not be published.

That is why I sort of, not officially, but indicated to the Hon. Parnell a minute ago that I am uncertain about this amendment. The government is saying it is probably inclined to support it, or other parts of the bill. Given that there is some concern with some stakeholders, at this point in time I indicate that we will probably not be supporting it. Nonetheless, we are happy to work with the mover and the government when we come back to this in February. Again, this is an example of how rushing the bill this week has not been a good thing. We can actually have a look at things in a more measured time frame.

The Hon. M.C. PARNELL: In direct response to the Hon. David Ridgway's question, I absolutely understand his concern. His concern relates to the paragraph that I just deleted. I can see why people would have thought that was a problem. The paragraph that I am no longer moving be inserted talked about members of the community having access to the same information available to the relevant authorities that are making the decision. If the relevant authority has confidential information available to it, then I can understand why people might think, 'Well, maybe we don't want the community to have access to that same information.' Having removed that paragraph, that issue has now disappeared. Paragraph (i) just refers to information in its generic sense being routinely published.

I know for a fact this is the government's intention. They do want to put more stuff up on the portal so that people can take responsibility for pulling it towards themselves. I am hoping the government will create a notification service. We will come to that later on. So, there is nothing in (h) or (i) that raises the issue of confidential information because there is nothing in those paragraphs that enables or requires the publication of any information that would not have otherwise been published anyway. I think the honourable member's constituents were right, that was a concern, but having now pulled that paragraph I think it is safe for the honourable member to go back to his original position, which was that these are excellent amendments deserving of the support of the committee.

The Hon. G.E. GAGO: There are also protections in relation to clause 53 that prevent confidential information from going on the portal. We have a further amendment that reinforces commercially sensitive information not being divulged, or published, I should say.

The Hon. D.G.E. HOOD: Could I just clarify with the minister that the government is still opposing the amendment in the amended form?

The Hon. G.E. GAGO: Yes, is the advice.

The Hon. D.W. RIDGWAY: Minister, you are offering me some advice, that removal of paragraph (g) has removed the risk, shall we say, from this clause. Clearly, it will not matter whether I vote for it or against it: we are going to recommit this probably in February. Minister, you are giving me some advice, I think.

The Hon. G.E. GAGO: I am just answering your concerns about confidential information being published. I was reassuring you that, irrespective of the Hon. Mark Parnell's amendments, there are other provisions that prevent confidential information being published. I was trying to provide reassurance; I will not in future. The position in relation to the Hon. Mark Parnell's amendments is unchanged; that is, we are sympathetic to the issue but do not believe that it should be addressed here, and we are happy to look at it at recommittal or whenever.

The Hon. D.W. RIDGWAY: That is the first time I have heard the word 'recommit' come from the minister's lips, so I am pleased to hear that because, clearly, that is where we will be. I think from a safety point of view, from the opposition's perspective we will not be supporting the Hon. Mark Parnell's amendments today. Clearly, when he reads *Hansard* he will know that there is a fair level of sympathy for what he is trying to do, and if a better solution can be worked out between now and when we sit again in February, we will be happy to look at it.

The Hon. G.E. GAGO: Again, I will set the record straight. The Hon. David Ridgway is misleading the house. In part of my opening statement at the committee stage, I indicated that the government would be prepared to recommit. I made that quite clear from the outset.

The Hon. D.W. Ridgway: My apologies. I obviously did not hear that one.

The Hon. M.C. PARNELL: I do not need to delay the committee on this. I appreciate the minister's undertaking that the government is sympathetic and will look at this issue again. Whilst I have moved the amendment in an amended form, and I will vote on it, I will not be dividing on it.

The Hon. K.L. VINCENT: For the record, since the government is willing to look at this issue elsewhere anyhow, and the Hon. Mr Parnell has given some reassurances that this will not result in the revealing of confidential information, I think we may as well put it in this particular piece of legislation if the government is willing to look at the issue anyway. I appreciate that is not where the numbers lie, but I thought I would put it on the record that if we are going to do it we may as well do it now.

Amendment as amended negatived.

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

Amendment No 15 [EmpHESkills–1]—

Page 45, after line 23—Insert:

(5a) The charter must, in relation to any proposal to prepare or amend a designated instrument under Part 5 Division 2 Subdivision 5 that is relevant to 1 or more councils, provide for consultation with—

(a) if the proposal is specifically relevant to a particular council or councils—that council or those councils (unless the proposal has been initiated by the council, or those councils); or

(b) if the proposal is generally relevant to councils—the LGA.

This amendment addresses matters raised by the LGA and the opposition in another place. The effect of the amendment is to ensure that local councils, and the Local Government Association more generally, will be consulted in relation to the preparation of key instruments under the bill, including state planning policy, regional plans and the planning design code, design standards and infrastructure delivery schemes. These amendments reflect the local government sector's key role as a partner with the minister and the state government in the proposed new planning system.

The Hon. M.C. PARNELL: I support the amendment.

The Hon. D.W. RIDGWAY: The opposition will be supporting the amendment.

Amendment carried.

The Hon. M.C. PARNELL: I think this one probably does fall into the consequential category. I was keen for this citizens' charter to deal with development assessment rights as well as policy development rights, so I will not be moving this amendment.

The CHAIR: We are now on [Parnell-1] 21.

The Hon. M.C. PARNELL: This deals with the consequences of failure to comply. To a certain extent it might be consequential, and I will decide in a moment or two whether to formally move it or not. Part of the dilemma is that when it comes to public consultation—even though the minister has railed against prescriptive requirements in terms of numbers of days that notice must be given and the format of notice, and the minister has stated that it is overly technical—I think that those often numeric requirements, like number of days, are often very important.

The minister did say, when asked I think by the Hon. Dennis Hood, whether the charter was binding, the response was, yes, it was, and normally that would give people some comfort. If the charter says 'citizens must be given at least 10 days' notice of'—and then insert what it is they have to be given notice of—and the Hon. Dennis Hood asked, 'Is that binding?' and the minister said, 'Yes, it is.' But when we delved down a bit deeper the minister referred, if not by number by implication, to subclause (11) which basically says that if an entity fails to comply with the charter then there are certain things that the commission can do. The commission could do that thing itself and then recover the costs.

However, the big glaring hole through which a semitrailer can be driven is that if the failure is on the part of the commission itself—in other words if the commission fails to comply with some part of the charter—there is nothing anybody can do about it. The commission can be the cop and wave the stick over local councils if they are not undertaking consultation properly but if it is the commission itself that is at fault there is nothing anyone can do.

Having got that off my chest, my amendment No. 21 referred to 'consultation in relation to a particular matter'. There are two interpretations of that: one is that it referred to a development application, which we have now decided is not going to be part of the charter, but it is not actually confined to that: it is confined to any particular matter. What I had in mind were things like strict time limits. If there is a time limit put in the charter—for example, giving citizens a certain number of days to respond to a policy process that has been put out there—I think the government should stick to it. If we look at where that is to be inserted after clause 39, it is part of subclause (10) which basically says:

> The charter does not give rise to substantive rights or liabilities and a failure to comply with the charter does not give rise to a right of action or invalidate any decision or process under this act.

It is actually the flipside of the coin to the Hon. Dennis Hood's question 'Is it binding?' If you look at subclause (10) it says, yes, but there are no rights that attach to it. In other words, if you do not follow it then you cannot do anything about it. When subclause (10) is read in conjunction with subclause (11) you realise that the commission is actually off on its own; it does not have to comply with the charter; nothing anybody can do can make it comply with the charter. What I have tried to do in amendment No. 21 is to claw back a little bit and to add the words to the end of subclause (10) which says:

> Unless the failure is under a provision that requires compliance with the charter for the purposes of consultation in relation to a particular matter.

Maybe it is not phrased as well as it could have been, and I will take responsibility for that, but what I had in mind was that if there is a strict time limit, then that bit needs to be compulsory. Because of where it is included in subclause (10), what it means is that, if the commission, for example, was told under charter to give people 10 days' notice and it only gave them two days' notice, then this amendment would actually enable a citizen to go to the environment court, for example, and say, 'Come on, make them do it properly. They're supposed to give 10 days' notice and they've only given two days' notice. Make them go back and do it properly.' That is the scenario I am envisaging. It is basically putting a bit more grunt into this charter. It is not making every single component enforceable, but it is certainly making some of the mandatory requirements at least enforceable. Accordingly, I move:

Amendment No 21 [Parnell–1]—

Page 45, line 39—After 'this Act' insert:

unless the failure is under a provision that requires compliance with the charter for the purposes of consultation in relation to a particular matter

The Hon. G.E. GAGO: I oppose this amendment. It is fundamental to the intent of the charter that it does not become a lawyer's picnic and that is why, as we have indicated here, the charter is technically not enforceable—certainly not before a court of law—but, instead, compliance is subject to the oversight of and potential intervention from the state planning commission, and we have given examples of that previously, and the commission itself is subject to the minister's direction.

The Hon. D.W. RIDGWAY: A question to the minister: in the example that the Hon. Mark Parnell used where they were to be given, let's say, 10 days' notice and they did not comply with that, then what is the community's pathway to say, 'Hang on, this wasn't done properly'?

The Hon. G.E. GAGO: I have been advised that, for instance, if the complaint came to the commission in relation to a council the commission could then direct the council to go back and repeat the process again. If it didn't, it could conduct itself on behalf of the council and then charge the council for its efforts.

The Hon. M.C. PARNELL: To follow on from the Hon. David Ridgway's question, if it was the commission that was responsible for giving 10 days' notice and it only gave two, what could the community then do?

The Hon. G.E. GAGO: That would then be a matter for the minister, and the minister could make directions or use their powers in whatever way to overcome that problem or enforce a particular outcome.

The Hon. M.C. PARNELL: I thank the minister for her answer. I think we are struggling a bit here, because the minister does not have those powers that I can see. I do not think the minister has an overall power to—what: sack the planning commission; order them to do it? They are under the general direction and control but if they do not do it—well.

The point I am trying to make: I guess another way of looking at this amendment is that I have in mind that the charter will have optional and mandatory components to it. The optional components might be a description of best-practice consultation methods; it will offer a range of different ways that communities are best engaged in planning. In my view, I think the charter should include some things that are non-negotiable, and that might be something as basic as giving people a minimum amount of time, for example, because this committee has just agreed that the word 'timely' needs to be incorporated into the charter.

I would have expected that there will be some parts of the charter that are mandatory. Most of it, I think, will be best practice, advisory; some parts might be mandatory. The words in my amendment talk about a provision that requires compliance, and that is just another term for 'mandatory'. So, I think this amendment does some valuable work by ensuring that if something goes seriously wrong on an important matter, at least there is some comeback.

The Hon. D.W. RIDGWAY: I indicate that at this point in the debate, the opposition will be supporting the Hon. Mark Parnell's amendment. I am sure we will have some further discussions around it, but I do think it is important if the community has an expectation that things will happen in a time frame, or a particular activity will happen in a certain manner. As the minister said, of course the minister can direct or force the commission to do it, but how does the actual community get all the way to the minister to make the minister aware that they have had a brief? At this point in the debate, we will be happy to support that amendment.

The Hon. D.G.E. HOOD: We are now getting to the point in the debate where I must confess—I do lay some blame at the feet of the government for this, because we have done this in such a rush—that my preparation essentially ends at this point. We are now debating amendments in clauses that certainly I have not looked at closely—I cannot speak for others—because of the very limited time we have had to do so. As a result of that, I must say I do not have great deal of confidence about some of the underlying issues that are being presented here.

Certainly, I think at face value the Hon. Mr Parnell makes a compelling case; it does not seem unreasonable what he is asking. I have just got his hopes up and I am about to dash them. Unfortunately, we are not going to support the amendment, because—and this is where it comes back to preparation and time to prepare adequately—I do have concerns about supporting something where there are unintended consequences of it being supported and it not being in line with what we would generally support. I am not going to support this amendment, but I feel a bit uneasy about it, to be frank, because at face value it sounds okay. I only wish we had more time. We are coming back in February; we will have more time then. It sounds like we will be looking at this issue again.

The Hon. J.A. DARLEY: I indicate that I will be supporting the Hon. Mark Parnell's amendment.

The Hon. K.L. VINCENT: Dignity for Disability will also support the amendment.

Amendment carried.

The Hon. D.W. RIDGWAY: Just in relation to the subclause above the one we have just amended, (9). It says:

> The Commission, or an entity acting with the approval of the Commission, may adopt an alternative way to achieving compliance with a requirement of the charter (including a mandatory requirement or a requirement prescribed by the regulations) if the Commission is satisfied that the alternative way is at least effective in achieving public consultation as the requirement under the charter.

I am just wondering what the intent of that is. Is that to perhaps accommodate changing technology? You used to use a carrier pigeon to get messages out, then you used mail; now we use email or text messages. To me, it is a clause that actually allows for an easy way out: rough enough is near enough. Can the minister explain what the intent of that clause is?

The Hon. G.E. GAGO: I am advised that yes, you are right. It is a way of providing authority for the charter to deal with matters that may not have been considered yet.

The Hon. D.W. RIDGWAY: As long as 'the Commission is satisfied that the alternative way is at least effective in achieving'. It is like a lowest possible denominator. It is just near enough, rather than a complete consultation. I am concerned that it is diminishing the level or the requirement for consultation.

The Hon. G.E. GAGO: No, it is not diminishing. It has to be equal to or better than.

The Hon. D.W. RIDGWAY: A further point: subparagraph (6), says, 'The charter must comply with any requirements prescribed by the regulations.' If they must comply with the requirements for regulations, then in relation to a consultation with an alternative method I am just concerned that there is a problem brewing there where you will adopt another way of consultation that does not comply with the requirements prescribed by the regulations.

The Hon. G.E. GAGO: Again, this simply provides a capacity for the government to provide further boundaries over and above those that are already there, and, as I said, particularly in relation to those issue that may not have been contemplated.

The Hon. D.G.E. HOOD: I have a question on subclause 44(11). This is quite an interesting subclause. It says:

> (11) If, in the opinion of the Commission, an entity fails to comply with the charter—
>
> (a) the Commission may direct the entity to comply with the charter…

That part sounds reasonable, but it is the next part that I have questions on, specifically. It says:

> (b) if the direction is not complied with within a period prescribed by the regulations—the Commission may take any action required by its direction and recover the reasonable costs and expenses of so doing as a debt from the entity that failed to comply with the direction.

Can I ask of the minister what sort of circumstances are envisaged there? Specifically, my concern is that it sounds almost like an open cheque—'costs and expenses of so doing as a debt from the entity that failed to comply with the direction'. Under what circumstances might that be used, and what restrictions—what checks and balances—are on that not being abused?

The Hon. G.E. GAGO: They have to be 'reasonable costs', and although there is not a definition of 'reasonable', it is well established in statutes. It would be for the court to decide on a case-by-case basis what would constitute reasonable.

Clause as amended passed.

The Hon. G.E. GAGO: Can I just make some general comments in relation to comments that were made earlier on today. Earlier today the planning minister's office received a joint statement from the Property Council, the Urban Development Institute, and the Master Builders Association. I understand that the joint statement will be or has already been sent to all members of parliament.

We have heard a number of times the Hon. David Ridgway imply that there are many outstanding issues for the industry in relation to this bill, but this correspondence makes it pretty clear that this is in fact not the case. In the joint statement, industry states its view unequivocally and in one voice. As members would know, the opposition has filed amendments, as reported in yesterday's *Advertiser*, that will see elected members of councils restored to development assessment panels. This is in direct contradiction to the recommendations of the expert panel.

The government wonders who the opposition has consulted with in moving these amendments to restore elected members to councils. I wonder if they have asked industry groups if they would like to see elected members stay on assessment panels. I would love to know what the response was to the opposition from industry. I guess they will not need to keep guessing. The document puts the position very clearly:

> It is our shared view that one of the most important reforms in this Bill is the removal of elected officials from panels. We oppose any amendments to water down this principle, as it is key to professional decision making—

The Hon. D.W. Ridgway: Which page are you reading? I have got it here.

The Hon. G.E. GAGO: Well, others might not have it in front of them—

> streamlining approvals and promoting economic growth and jobs creation. Our collective members have countless examples of delayed or rejected projects that would otherwise promote economic growth, business expansion and job creation. This is a key reform for the State's economic prosperity.

The Hon. D.W. Ridgway: Where is this?

The Hon. G.E. GAGO: It is in the bottom paragraph of page 1. Yet, here we have the opposition trying not only to restore elected members to panels, but going further than even the Hon. Mark Parnell's amendment. Indeed, if we have to choose between the two amendments—and we will vote against both—the Hon. Mark Parnell's amendment at least is only a status quo.

The Liberals' amendment, however, I am advised, would wind the clock back even further by allowing councils to stack panels with a majority of elected members. The joint statement also criticises the opposition's position in relation to the Hon. Mark Parnell's earlier amendment concerning significant trees. They state:

> …if these provisions become law, it will foreseeably result in households and businesses needing to obtain costly reports from arborists to secure Council approval to prune or remove diseased trees on their own property…
>
> These types of expensive and unnecessary local government planning hurdles are exactly the kinds of reform the review into planning was aimed at addressing.

Can I say, in relation to these industry groups, they have really stepped up to the plate. Their views are clear and unequivocal. This joint communiqué makes it very clear that there are so few outstanding issues there should be no reason for this bill not to proceed with what they call 'prompt but due consideration'. If only the opposition would be willing to sit a day or so longer, we could easily address these remaining issues to everyone's satisfaction.

If not, I guess it will be the opposition who have ensured that the economic imperative industry has identified in this bill is delayed yet again. As I said, I hope that this sets the record straight. I think what the opposition have been trying to do is have a foot in both camps and be something to everybody. They have had a foot each side of the fence. My father used to proffer wonderful advice on the risks of—

The Hon. D.W. Ridgway: Your good National Party member father.

The Hon. G.E. GAGO: He was in the National Party. He was a very active and proud National Party member, as my mother has been in the past as well. I often used to help wipe the dishes on a National Party fundraising tea towel that frequented our place. Going back to my wonderful father's advice on straddling picket fences, he used to use more colourful language than I am able to in this place, but he would describe what one was at risk of, and it was about the placement of a picket in one's anatomy. I just remind honourable members that that is exactly what the Liberals are threatened with at this particular point in time.

The Hon. D.W. RIDGWAY: I just want to add to the comments. It is interesting that the minister decided to omit the little bit here about the urban growth boundary:

> …our collective position is that we do not support the inclusion of a statutory urban growth boundary in the Bill due to the inflexibility of such a mechanism to respond to future demographic and economic changes. We commend the amendments passed in the Upper House on 8 December 2015 to remove these provisions.

It is interesting. The minister is happy to quote selectively from that correspondence. We have had some discussions with the industry, and I think I said from the outset that we wanted to talk further to industry. It has been pointed out to me, of course, that the local government amendments are at clause 78. Given we have about an hour and a half left and we are only at clause 44, I will be very surprised if we get to clause 78, and that was the point we made to the minister last week and why, when two weeks ago we were told there would be no optional sitting week, we actually had much more time to consider these amendments and, if you proposed an amendment, to consult over a longer period of time.

The government chose not to do that, and that is why I am delighted that we will be back here in February so we can have a closer look at it and, if there are some unintended drafting consequences, the opposition is never too proud to say that we will not look at what we have been talking about, and if we can come up with a better solution certainly we will do that.

The Hon. M.C. PARNELL: I have just received this letter in the last couple of minutes, and like the Hon. David Ridgway I was surprised that there were a number of elements of this letter the minister chose not to put onto the *Hansard*, in particular a paragraph which recommends that the bill be substantially reformed in relation to at least a dozen sections, some of which we have already passed. Under the heading 'Empowering the State Planning Commission', the letter reads:

> As stressed in previous correspondence to Members of Parliament, it is our view that the State Planning Commission (SPC) should be empowered to have a greater role in decision making and shaping planning policy in South Australia than is currently envisaged in the Bill. We welcome a State Planning Commission that is truly independent and depoliticised. We further note that the Bill as presently drafted vests much power in the minister of the day, which runs contrary to the theme of professionalism and independence strongly proposed by the Expert Panel review. Accordingly, we recommend that clauses 17, 62-63, 77, 89, 102, 105, 106-107, 124-125, be amended.

I am thinking that maybe it is an invitation—the minister did not use the word 'invitation'—maybe she is inviting us, on the strength of this submission from these three bodies, to report progress, because clearly we have more work to do. We might get to some of these clauses and deal with them inadequately without the full wisdom of these submissions in front of us that we have only had for a short period of time.

The Hon. R.I. Lucas: Didn't the minister read that section out?

The Hon. D.W. Ridgway: No, the minister obviously forgot that section.

The Hon. M.C. PARNELL: Well, it's a long letter and maybe, to give her credit, it was probably an oversight. I don't know how many times we need to say this, but I am keen—

The Hon. D.W. Ridgway: I think that maybe the next paragraph recommends amendment as well, at clause 212.

The Hon. M.C. PARNELL: The Hon. David Ridgeway interjects that the next paragraph puts further amendments as well. So, the minister has come here suggesting that the Hon. David Ridgway has misjudged the pulse of certain stakeholders by suggesting that they are not happy. She has found a couple of provisions where they are happy, but then in the very same letter they give us this great litany of things that they are still not happy with.

Whilst we are only talking about three organisations, they are just some of the stakeholders. There is the Local Government Association and the Community Alliance. I do acknowledge Tom Matthews, who has sat through this entire debate—and all power to him—representing community groups so that he can report back to them on what has gone on. Was the minister inviting us to move a motion to report progress? If that is the minister's invitation, I would be happy to do so.

The Hon. G.E. GAGO: The government, as the Hon. Mr Parnell knows, is very keen to proceed to complete planning, and we will do everything in our power to do that. We know that the honourable members opposite and on the crossbenches do not support that, but we need to get on and make the most efficient use of the time we have left today.

The Hon. D.W. RIDGWAY: I will reiterate some of the comments I made this morning. If the minister wants to make the most efficient use of the time available, then certainly to deal with other government matters of business today, like Government House, youth justice and another couple that escape me at the moment, that would be a more useful use of the time this afternoon, given that we will probably only do another two, three or four clauses of this bill and have to come back in February to complete that business. I put on the record that I would not want the Hon. Martin Hamilton-Smith to be operating illegally as the Minister for Veterans, pushing down part of Government House and the wall—

The Hon. G.E. Gago: Concerned for his welfare, are you?

The Hon. D.W. RIDGWAY: Well, in fact it might be a good thing. What is the penalty for a minister acting illegally? Maybe we could get some recompense against him. Nonetheless, it does seem crazy that we will push through for another hour and a half or so when clearly there is some government business that some of the minister's colleagues will be disappointed does not pass this calendar year.

The Hon. G.E. GAGO: We will not be distracted from our mission. We will not be distracted from our number one priority. We will continue to try to deliver our objective, which is to complete the bill this year.

Clause 45.

The Hon. D.W. RIDGWAY: Clause 45(1) states:

Preparation and amendment of charter

(1) A proposal to prepare or amend the charter may be initiated by—

(a) the Minister; or

(b) the Commission acting on behalf of the Minister (at the direction or with the approval of the Minister).

I am just wondering—again, with the publication of directions—will that direction or the initiation, the reason for initiating an amendment, be published?

The Hon. G.E. GAGO: It would be unusual for letters of that nature to be published.

The Hon. D.W. RIDGWAY: A reason for amending, preparation and amendment of the charter, if there was a reason to amend it would that reason be made public? If it is about community engagement, the community engagement charter, then if you are going to amend the way you engage I would assume you would actually have to advise people that you are doing that.

The Hon. G.E. GAGO: The bill makes it quite clear what the process is. If the minister, under 45(1), 'a proposal to prepare or amend the charter', and it is listed there in (a), (b) and (2), the commission, after a proposal is initiated, must prepare a draft of the proposal, must consult, etc. So, the process for consultation for any amendment to the charter is clearly outlined.

The Hon. M.C. PARNELL: I do have some amendments to clause 45 and I will proceed to move and explain the amendments. I think there are two of them. I move:

Amendment No 22 [Parnell–1]—

Page 46, after line 15—Insert:

(ia) the ERD Committee; and

My amendment is quite simple. This clause deals with the preparation and amendment of the charter. In subclause (2) it mentions who the commission must consult with and consultation is to:

(i) any entity specified by the Minister; and

(ii) any other entity prescribed by or under the regulations.

I am just adding to that list the Environment, Resources and Development Committee of parliament, just putting them in there as a body. I appreciate that the government envisages that the ERD Committee will be consulted. The reason I know they envisage it is because of clause 46—Parliamentary scrutiny. Basically, it is the standard parliamentary scrutiny clause where, after a document has come into existence and come into operation (so within 28 days of adopting the charter it then goes to the ERD Committee), the ERD Committee then has the ability to object, not object or recommend changes. In other words, exactly the same mechanism that is currently used for planning schemes (DPAs).

When you look at clause 46(11) it basically says that if the minister has already consulted with the ERD Committee before it has been finalised then the committee does not have to deal with it twice. In other words, they can just accept that they have had that initial consultation and not go any further. I know that it was the government's intention to consult, but I think an important point is: when do they consult? Clause 46(11) simply talks about if the minister has consulted with the committee before the charter has been finalised—in other words, quite late in the process, not when the charter is first initiated but just before it has been finalised.

If we include a reference to the ERD Committee up-front in clause 45(2), that requires the consultation to occur after a proposal is initiated, in other words, at the very start of the process. Whilst the government intends that this committee of parliament will be involved at some level or other in the charter, either early or late, the default position is late.

The default position is that parliament gets involved a month after it has come into operation—that is the default position—but the government leaves the door open for earlier consultation. I want to make sure that the parliament is in at the ground floor, that the parliament has a chance to get involved right at the very start, and that is the purpose of my amendment No. 22.

The Hon. G.E. GAGO: The government considers this amendment to be a test clause for Parnell amendments 23 and 26, and later amendments 42 and 45, all relating to parliamentary scrutiny. We will treat it as a test, but we may need to come back to some parts of it. The proposition the government puts in this bill is to adapt the scrutiny procedures already applying to the Development Act and apply them to the charter and to each of the new statutory instruments that will replace the state's 72 development plans and planning strategy volumes.

In doing so, I note that this will see a significant expansion of what instruments parliament gets to see and, importantly, when it gets to see them. Parliament will in the new system be able to scrutinise through the ERD Committee the following matters: the community engagement charter, state planning polices, regional plans, the planning and design code, design standards and infrastructure and delivery schemes, and, of course, the environment and food production areas, which the government will be insisting on in the other place.

This is a significant expansion of the role of parliament in the system, but equally an expansion which is focused very much on the up-front end of the policy setting and planning processes. At the same time, we have also acted to ensure that the minister of the day has a distinct incentive to talk early to the ERD Committee before making instruments. All this is entirely consistent with the expert panel's recommendation and also with the submissions that the ERD Committee itself made to the panel.

The Hon. Mark Parnell wants to take this further and bypass the committee entirely. His amendments here to the parliamentary scrutiny provisions applicable to the charter and also later in relation to the statutory instruments would see the committee rendered to an afterthought and the real action devolved to the parliamentary floor. Inevitably, this will mean that decisions will be politicised, rather than the dialogue worked through between the committee and the minister. While we are willing to talk about the alternative models for scrutiny to work effectively, this is not a solution that will work in building multiparty consensus, which was one of the primary reasons the expert

panel considered greater involvement in the parliament in the up-front policy setting process must in the new planning system.

I appeal to members opposite to think carefully of the consequences of supporting this amendment and further amendments (as I said, we will be using this as a test), and vote with the government to defeat this amendment.

The Hon. M.C. PARNELL: I thank the honourable minister for putting the government's position on the table. She said that this is a test clause. I do not accept that my amendment No. 22 is a test clause, but I do accept and I will go along with my amendments Nos 23, 24, 25 and 26 effectively being dealt with as a group.

The reason I say that is that my amendment No. 22 does nothing more than say, 'When starting the process of commencing a charter that's the time to let parliament know.' It does no more than that; it just simply says, 'Consult parliament; at least get it on the agenda of the environment committee of parliament at the implementation stage.'

The government, of course, could do that if it chose to because the list of people who are to be consulted are 'any entity specified by the minister and any other entity prescribed by or under the regulations,' so it would be possible for the government to pass a regulation and say, 'Make sure the environment committee of parliament is one of those to be consulted up-front.' However, we do not have the regulations and we do not have any indication of which entities the minister is going to specify; therefore, from an abundance of caution, we put it in the bill.

Most of what the minister had to say related to the remainder of my amendments, and she used words like, 'Mr Parnell wants to bypass the committee.' I will accept that language, and I have in fact used it myself. That is not to make the committee irrelevant because the committee is the vehicle for the community to come into parliament and have their say before a group of MPs as to what they think about what the government is proposing. But where this notion of bypassing comes in is that I want to treat this important document and other important planning documents in exactly the same way that we treat delegated legislation under the Subordinate Legislation Act.

What I mean by that is that, as all members here know, if we are not happy because constituents have said they do not like a particular regulation, for example, they can urge us to move disallowance. If we agree, we stand up in this place and we move a motion of disallowance. The way the legislation works is that if this chamber agrees that the regulations are out of order and ought be disallowed, then that is what happens—it is a simple process.

What I am saying in these amendments—which we will get to shortly, Nos 23 to 26—is that that is the mechanism that should apply for the planning charter. In other words: yes, send it to the environment committee; yes, let the environment committee call in witnesses to deal with it but also give the parliament proper scrutiny by enabling any member to get up in this place and move a motion of disallowance and, if they have the numbers, then that is an effective disallowance.

I am not going to repeat what I have said in the past about the limitations on the Environment, Resources and Development Committee but, as members know, it is a government-controlled committee that has never, in its history, recommended to the parliament to disallow something that the minister wants to happen—it is that simple.

In lieu of amending the ERD Committee, which is very difficult to do in this bill because in looking at the acts that are amended by this one we see that it does not include the Parliamentary Committees Act. We do not have the ability to go straight to the Parliamentary Committees Act and fix that up, so the best that we can do for the people of this state is to make sure that we regain the ability to do what people elected us to do, and that is to scrutinise delegated legislation and planning policy and documents such as this Citizen's Charter—to give them scrutiny and, if they do not stand up to that scrutiny, then we ought be able to disallow them.

That is what the minister was talking about. It is not amendment No. 22; that is a really simple one and I think we should just be able to agree to that one. However, amendments Nos 23 to 26 are, as the minister described, a way of direct democracy influencing the outcome of these important policies.

The Hon. D.W. RIDGWAY: I indicate that the opposition party room has considered this amendment and we will be supporting amendment No. 22. However, I think the Hon. Mark Parnell is right, that amendments Nos 23, 24, 25 and 26 are a different group of amendments and we will have a different look at those when we get to them.

The Hon. J.A. DARLEY: I will be supporting the Hon. Mark Parnell's amendment No. 22.

Amendment carried.

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

Amendment No 16 [EmpHESkills–1]—

Page 46, after line 15—Insert:

(ia) the LGA; and

As flagged earlier, it is part of 44. The amendment to clause 45 inserts a statutory requirement that the LGA is consulted on any draft of a proposal to prepare or amend the charter. This follows negotiations that the government has had with the LGA.

The Hon. D.W. RIDGWAY: The opposition is happy to support the government amendment to include the LGA, so that they must be consulted.

The Hon. M.C. PARNELL: I am conscious that I am disagreeing a lot with the government, so I do want to take the opportunity to say that this is a good amendment. I am very pleased that the government has seen fit to include the LGA, and we wholeheartedly support it.

The Hon. K.L. VINCENT: I put on the record that Dignity for Disability also supports the amendment.

Amendment carried.

The Hon. M.C. PARNELL: I move:

Amendment No 23 [Parnell–1]—

Page 46, lines 31 to 34—Delete subclause (5) and substitute:

(5) A decision by the Minister to adopt the charter or an amendment cannot effect unless or until—

(a) the charter or amendment has been laid before both Houses of parliament under section 46; and

(b) every motion for disallowance has been defeated or withdrawn, or has lapsed, in accordance with the scheme set out in that section.

I gave my explanation earlier as to why I think this is important. What I would just remind members of—and the minister alluded to this—is that this model that I am putting forward, of the parliament being able to directly disallow certain documents, appears in a couple of different spots in this bill, in my amendments.

This set of provisions, 23 to 26, only relates to the charter, so all people would be voting on is this model of the parliament being able to directly disallow. In fact, the other component that I think is also in here—and I do not think the minister mentioned this—is that the charter does not come into operation until all of this scrutiny has been finished. In other words, there is none of this 'bring it into operation' and then some months afterwards ask the parliament what we think about it when it is too late because it is already in operation. That is another component of this package of measures.

The point I am making is we will revisit this question when we come to other planning policies; for example, the Planning and Design Code, where I am proposing exactly the same mechanism. But it may well be that members support this mechanism in relation to some types of documents, but not all. So, I am just making the point that this set of amendments just relates to the citizens engagement charter, but I would urge members to support it.

The Hon. D.W. RIDGWAY: I indicate the opposition will not be supporting the Hon. Mark Parnell on amendments Nos 23, 24, 25 and 26. From my quick reading of them, and from the comments that he and the minister have made, they may not be consequential—they probably

sort of are because they all relate to the same functions—so, I indicate we will not be supporting them.

The Hon. G.E. GAGO: We will be opposing this one.

Amendment negatived.

The Hon. D.W. RIDGWAY: I want to ask a question about amendment No. 25 in regard to subclause (3) and subclause (4). Subclause (3) states:

(3) The Commission must, after complying with subsection (2), prepare a report on the matters raised during consultation (including information about any change to the original proposal that the Commission considers should be made) and furnish a copy of the report to the Minister.

Subclause (4)(b) states that the minister may then:

(b) make alterations to what is recommended in the report and then proceed to adopt the charter or the amendment, as altered.

I am intrigued that the minister seeks all this information and then the minister can just alter it, if they choose. I do not understand how that makes any sense.

The Hon. G.E. GAGO: The answer to that is that if recommendations are made and the minister chooses not to adhere to those recommendations, the minister is obviously leaving themselves wide open to criticism.

The Hon. D.W. RIDGWAY: That is assuming the recommendations are made public, that the report that is furnished by the commission to the minister is made public. The minister might well be leaving themselves wide open for criticism, but it just seems strange that some of the previous clauses we have dealt with are around making sure that the community engagement charter is robust and that the charter must comply with any requirements prescribed by regulations; effective consultation.

It is, if you like, a reasonably robust process, and then we have a subclause to say that the minister can make alterations to what has been recommended in the report and then proceed to adopt the charter amendment as altered. It just seems a bit strange to have all of that framework around a really robust process and then the minister gets a report and says, 'I actually don't like that; I will just change it.'

The Hon. G.E. GAGO: It is certainly our intention that those reports would be public. I accept that there is no statutory provision for that, but that is our intention and we are happy to work towards that.

The Hon. D.G.E. HOOD: I just ask the minister, along the same lines as the Hon. Mr Ridgway, if the minister can amend the charter at his or her discretion, then is there a limit on how much can be changed? Can it be only a certain percentage? What restrictions, if any, are on the minister in those circumstances?

The Hon. G.E. GAGO: I am advised that I have just outlined that they would be subject to public criticism.

The Hon. D.W. RIDGWAY: But only if that initial report was made public. My understanding is that you say it is likely to be, but there is no requirement that it must be made public or it must be published.

The Hon. G.E. GAGO: I have indicated that that is an issue. I have acknowledged that that is an issue. I have indicated what our intention is. We have work to do between the houses. We have the second bill and we have the implementation process regulations, so we intend to make sure that we go back and pick up a range of these issues that we have not resolved as yet.

Clause as amended passed.

Clause 46.

The Hon. M.C. PARNELL: Amendments Nos 24, 25 and 26, I think are all to this clause. We have tested that issue, so I will not be moving those amendments.

The Hon. D.W. RIDGWAY: I take the opportunity to read a letter that has been provided to me from the president of the Local Government Association.

The Hon. M.C. Parnell: High level.

The Hon. D.W. RIDGWAY: Very high level. It has been written to the Leader of the Opposition:

Dear Mr Marshall

As you would be aware, the Local Government Association of South Australia has been a positive contributor to planning reform discussions for several years and has provided a comprehensive submission on the Bill currently before Parliament.

Our objective has always been to work constructively with the Government to achieve a better planning system. Recent discussions with the Minister have been productive and we have been pleased with the response to a number of key issues we have raised on behalf of the sector and communities that we represent.

However, there are a number of outstanding issues, particularly in relation to proposed infrastructure schemes, that would greatly benefit from more time and further discussion. We note that there [have] been almost 200 amendments moved in the Upper House—

I think, Mr Chair, it is even more than that now—

for debate, on top of in excess of 80 amendments the government has already made to the Bill.

Given the importance of South Australia transitioning to a world class planning system, we believe it is prudent to take the time to get the legislation right, and the consequences of poorly constructed legislation are significant.

For these reasons the LGA supports the Bill being finalised early in the 2016 parliamentary sitting schedule as this will enable all stakeholders the time for constructive input into the final Bill.

I appreciate your consideration of this matter.

Yours sincerely

Mayor Dave Burgess

President

I just put that on the record. While the minister likes to read letters that say that people want it and while the government's priority is to finish it this year, clearly the majority of stakeholders are saying that this has been rushed and it is time for us to actually take a deep breath and look towards 2016 to come back and do this job properly.

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

Amendment No 17 [EmpHESkills–1]—

Page 47, lines 20 to 24—Delete paragraphs (a) and (b) and substitute:

(a) resolve that it does not object to the charter or amendment; or

(b) resolve to suggest amendments; or

(c) resolve to object to the charter or amendment.

This is quite a minor drafting technical matter.

Amendment carried; clause as amended passed.

New clause 46A.

The Hon. M.C. PARNELL: I have an amendment that seeks to insert new clause 46A. There are two components to this amendment. The first component is consequential and it relates to the regime of parliamentary scrutiny and the charter not coming into operation until all the process was finished.

The second part of it is a different issue and it is very simple. It just says that the minister must ensure that an up-to-date copy of the charter is published on the SA planning portal and is available for inspection and downloading without charge.

I would be amazed if the government did not do that. I would have thought that it was exactly one of the things that the planning portal was designed to do. I move my amendment No.27 in an amended form, such that only the second proposed new subclause be inserted, not the original 46A(1):

Amendment No 27 [Parnell–1]—

New clause, page 48, after line 28—Insert:

46A—Publication

(1) The Minister must ensure that an up-to-date copy of the charter is published on the SA planning portal and available for inspection and downloading without charge.

The Hon. G.E. GAGO: The government is able to support this new clause in its amended fashion.

The Hon. D.G.E. HOOD: Certainly, Family First will support this as well. The most significant part about it, perhaps—correct me if I am wrong, the Hon. Mr Parnell—is the issue of keeping things up-to-date. The government does refer in the bill to including this on their portal, but I think the key aspect is keeping it up-to-date, which I think is common sense and we support it.

The Hon. D.W. RIDGWAY: I indicate that the opposition is also happy to support this amendment. I think it makes a lot of sense to keep that information up-to-date and available to the community.

Amendment carried, new clause as amended inserted.

Clause 47.

The Hon. D.G.E. HOOD: There are some interesting points in this particular clause, but I think the one that caught my attention most was subclause (3) where it talks about historical as well as current versions of documents being on the new SA planning website, and I just wonder to what extent. It really could be a terrific historical resource if the government was so inclined to invest in a substantial way.

There is no reason at all why it could not have all of the historical data, potentially back to 1836, on there, if possible. I suggest that is probably not going to be that easy, but I would just like to hear what the government's intentions are with respect to that. Was there a particular reason for including the word 'historic' in there, or is that really just to cover whatever may eventuate?

The Hon. G.E. GAGO: I thank the Hon. Mr Hood for his question about historical records. I am advised that it is because of the need to have that in response to court cases. If there is a dispute, for instance, that ends up in court, we have to apply the law as it was at that time. Therefore, it is important that we have those records. An example might be existing use rights. So, unless we have access to those historical records, we might lose the information about what exactly applied at the time.

The Hon. D.G.E. HOOD: Can I just say I think that is an excellent initiative, and I look forward to that unfolding. My next and final question on this clause is in respect of subclause (4)—I think I am asking this in the right part of this bill—which talks about all of the opportunity for feedback, etc., for members of the public by electronic means. I just want to seek some reassurance from the government that, although we are very much in an electronic age these days—and I think members in this chamber, except for the Hon. Ian Hunter, of course, are very comfortable with using the internet to express ourselves in one way or another—there will still be the opportunity for people who are not internet savvy to have those opportunities as well.

The Hon. G.E. GAGO: This is just a general provision. I refer people back to division 2, clause15 which outlines the general principles that agencies are required to work in a cooperative way with their customers. For instance, in clause 15(2) it says that a person or body performing, exercising or discharging a function has to exercise due diligence, act honestly and be accountable, etc. It is basically saying that it has to 'act in a cooperative and constructive way' in relation to its customers.

It is basically saying that, if a customer comes in and says, 'Well, I don't understand this form and I can't fill it out,' then we expect you to help them. If they are not computer literate and cannot do something online, then you are either expected to help them out online or provide an alternative. It is just that spirit of general cooperation and assistance to customers.

The Hon. D.W. RIDGWAY: I am interested in the cost of setting up and operating the South Australia planning portal. Is it just a modern website that needs to be maintained? Websites and portals are only as good as the information that is fed into them, and if they are maintained and kept up to date, so I wonder what the minister expects to be the ongoing cost of maintenance and the cost of setting it up?

The Hon. G.E. GAGO: We have made some mention of the anticipated costs, I think, in another clause.

The Hon. D.W. Ridgway interjecting:

The Hon. G.E. GAGO: Yes, it is. We have indicated that our preference is to buy an off-the-shelf package that we can then customise to meet our own needs. In relation to the set-up costs, we do not have detailed costings at this point; we will do that in future. I have indicated that it is likely that that will be the subject of a budget bid. We do not anticipate, however, that that will be hugely costly because, as I said, we hope to get it off the shelf.

In terms of maintenance costs, again we have not done any detailed costings; that will be done into the future. However, we do not believe that will be exorbitant, and we hope that will be able to be done within current budget parameters. I also bring to your attention that there is a cost recovery component, which we will deal with later in this bill. If there are large unforeseen costs, there is also the ability to make that subject of a further budget bid.

The Hon. M.C. PARNELL: I move:

Amendment No 28 [Parnell–1]—

Page 48, line 34—After 'information' insert 'and community participation in the planning system'

I have two amendments to clause 47. This first amendment adds a couple of words into subclause (2), which describes the purpose of the planning portal, and I want to include that, as well as the purpose of the portal being to facilitate the online delivery of services and information, the portal is to facilitate community participation in the planning scheme. I thought it was a fairly non-contentious additional set of words that say no more than the government says it intends to do with the portal anyway.

The Hon. D.W. RIDGWAY: The opposition will be happy to support the Hon. Mark Parnell's amendment No. 28 to this clause. I hope the minister is getting some instructions about adjourning shortly.

The Hon. G.E. GAGO: We support the amendment.

Amendment carried.

The Hon. M.C. PARNELL: I move:

Amendment No 29 [Parnell–1]—

Page 49, after line 10—Insert:

(5) The SA planning portal must also include a facility that allows members of the public to be notified directly about specified classes of matters or issues that are of interest to them (subject to any rules, requirements, restrictions or exclusions determined by the Chief Executive for the purposes of this subsection and subject to any determination of the Chief Executive as to the cost, practicality and viability of providing such a service).

I said before that it is the intention of the government, which I applaud, in the planning portal to include a facility to allow members of the public to make submissions and to provide feedback in relation to matters that are subject to consultation. That is what subclause (4) seeks to do. My subclause (5) is very similar, but different enough to warrant a separate subclause.

I guess the simplest way of describing the issue raised in my proposed subclause (5) would be that the planning portal should maintain a mailing list. That is at its most simple level. What I mean by that is that at present you go on to a website, you can find information, you can download documents, and there is often a 'make a submission' button, which you click on and you can put in your submission. That is covered by subclause (4), making a submission through the website. Often it is just a hyperlink to an email address—it is pretty simple.

But subclause (5) is a little bit different. I am asking for a facility that allows members of the public to be notified directly about specified classes of matters or issues in which they are interested. The shorthand way of that is a mailing list. A good example would be the government's own YourSAy website, where you can sign up to get an email notification that says, 'Attention: we've just added a new discussion paper onto our website.' It is really, really simple.

The current nuclear royal commission has a spot on its website where you click the button and say, 'Yes, send me email updates,' and they do. It is one of the most common methods of communication. The way I would see the portal working is that it could be something as basic as that, a single mailing list. Ideally, it would be a bit more nuanced and you could say, 'I live in the city of Unley, If there's anything that affects the city of Unley, please send it to me.' Basically, it saves people having to routinely and regularly visit websites in order to find stuff that interests them.

I do not want it to be so prescriptive that it is going to give rise to people making complaints, saying, 'Well, I subscribed to the Unley list, this came up and no-one told me.' I am not interested in making something justiciable like that, but I do think as a service for the community it would be an excellent initiative. The reason I say I am not being overly prescriptive is that this requirement for the facility is subject to any rules, requirements, restrictions or exclusions determined by the chief executive. In other words, the chief executive will determine the boundaries around which this facility will be used.

In my view, the portal is an excellent initiative, and I think it will be even more worthwhile in its objective of engaging people in the planning system if it enables people to have information pushed towards them on subjects we know they are interested in. I mentioned a geographic area; it could be to do with people interested in farming or agriculture and whether there are any changes that might affect them. I just think it is a logical extension of what the government is proposing to do, and I would urge members to support it.

The Hon. G.E. GAGO: The government agrees with this amendment. It is certainly our intent that the portal will feature a subscription alert-style service, and we think this amendment is important, as it ensures that this will be an ongoing service expected from the portal. I thank the Hon. Mark Parnell and acknowledge that this is a positive suggestion. We see it as a win for openness and accessibility.

The Hon. D.W. RIDGWAY: This is one of the amendments we had a close look at in the party room. We thought it had a lot of merit, but we were not 100 per cent certain. The minister has indicated she is supporting it; is that correct?

The Hon. M.C. Parnell: Yes.

The Hon. D.W. RIDGWAY: As I think I said earlier in the committee stage of the bill, a whole range of amendments have been put forward where we have not had the chance to have the discussion with the minister's planning staff. This was one we looked at and said, 'We think it makes a bit of sense. We're not certain.' Now that the government is prepared to support it, we will certainly be happy to support it as well.

Amendment carried; clause as amended passed.

Clause 48.

The Hon. D.W. RIDGWAY: Clause 48 relates to the planning database. It states, 'The Chief Executive is to establish and maintain an electronic database (the SA planning database).' For clarity, will that be part of the same portal we have just been talking about, a subset of it, or will it be a separate database?

The Hon. G.E. GAGO: The advice is that it will be accessible through the portal, but we cannot be completely prescriptive about exactly what elements might be available or not. It is a technical issue. There are technical requirements, so there might be some materials that do not lend themselves but, generally speaking, are accessible through the portal.

The Hon. D.W. RIDGWAY: The clause provides:

(1) The Chief Executive is to establish and maintain an electronic database (the SA planning database) that produces, by gaining access to—

(a) the state planning policies; and

(b) the Planning Rules; and

(c) any relevant land management agreements; and

(d) other instruments and documents as the Chief Executive thinks fit,

textual and spatial information that identifies the planning policies, rules and information that apply to specific places within the State under this Act.

So, I am just wondering, and it may be a bit difficult this late in the day, what do you mean that there is some technical stuff or technical limitations to what can be accessed?

The Hon. G.E. GAGO: It comes up in clause 50, so can we deal with it all then?

The Hon. D.W. RIDGWAY: Yes.

Clause passed.

Clause 49.

The Hon. D.W. RIDGWAY: They sort of all flow on, but this is around having an online atlas and search facility, again, I guess, as part of the SA planning portal. When is it envisaged that these will be operational? The portal, the database, the online atlas and search facility, will they be set there, ready to go and as soon as the planning commission and all the regulations are drafted in two, three, four years time, whatever it is, you flick the button and it is there, or will this be sort of an evolutionary thing, that that information is available over time and ultimately, when we have the planning commission and all of the regulations and rules drafted, it will already be in existence?

The Hon. G.E. GAGO: I am advised it will be staged and it will be staged parallel with the other implementation tasks.

Clause passed.

Clause 50.

The Hon. D.W. RIDGWAY: This is the clause, obviously, that I asked some questions about the technical issues around the state planning policies. Under 'Standards and specifications' it states:

(1) The Commission may prepare and publish standards and specifications that are to apply to or in relation to—

(a) the SA planning portal; and

(b) the SA planning database; and

(c) the online atlas and search facility.

What do they mean by 'standards and specifications that are to apply'? I would have thought they would be universal standards and specifications, they would not have to be peculiar to this.

The Hon. G.E. GAGO: Subsection (2) outlines the types of things that a standard or specification can cover, and it is true that we will not have to reinvent the wheel: rather, we will select the appropriate technical standard so that there are common operating protocols for everyone who wants to access the portal. The government already has an open data policy and, therefore, we are likely to be using the policies already developed for the portal.

The Hon. D.G.E. HOOD: I have a question on section 50(4) and relating to subsection (5) as well. I will start at subsection (5). It reads:

A person must not breach, or fail to comply with, a condition under subsection (4)(a).

Subsection (4)(a) talks about the chief executive having the authority to grant authorisation to a person to, essentially, amend documents. There is a very substantial penalty of up to $20,000 associated with a breach. Can the government outline the thinking behind that? It seems to be an extraordinarily harsh provision.

The Hon. G.E. GAGO: I am advised that the clause outlines the offence for false and misleading information, which is currently set at $20,000. This amount comes from the existing Development Act, so it is consistent with that. This section simply reflects a similar standard, in terms of the quantum, for a similar sort of offence—and that is altering documents that could result in misleading the public. It is an attempt at consistency across legislation and within this particular bill.

Clause passed.

Clause 51 passed.

Clause 52.

The Hon. D.W. RIDGWAY: I have a couple of questions relating partially perhaps to clause 51 but more importantly to clause 52. In relation to the delivery of online planning services, a couple of the questions that industry, the ones that the minister has selectively quoted from their letter—

The Hon. G.E. Gago interjecting:

The Hon. D.W. RIDGWAY: No. They have said that they are not clear who is responsible for that service and they understand that, unlike the planning portal—this is the delivery of online planning services—they understand that it is likely to be managed by local councils. Is that the case for the delivery of online planning services?

The Hon. G.E. GAGO: All that this particular clause does is allow the government to make regulations on how these work. The chief executive is responsible for the online planning service and councils then have to comply with the regulations re the use of the portal.

The Hon. D.W. RIDGWAY: Industry has raised some concerns that it needs to be, if you like, obviously centrally coordinated, but it has raised concerns that many councils do not meet the current requirements for the provision of online services. The question posed is that industry thinks that it would be much better if there was consistency across councils. Again, it is not so much about red tape but the use of a system where all councils are operating under the same system. If you are lodging an application and documents in one council then the exact same system is used in another council.

The Hon. G.E. GAGO: That is exactly what this clause seeks to do: to bring consistency across councils. So there will be one single portal and it will send out data and information to each council. There is one portal and one central, consistent body of data and information.

The Hon. D.W. RIDGWAY: For example, if I live in Mitcham and my builder is lodging an application in Mitcham and, if somebody who lives in another council area has the same builder and they want to lodge an application for a development in another council, will it be consistent from the practitioner's point of view? Will it be simple for them to do that, because that seems to be one of the problems at the moment?

The Hon. G.E. GAGO: I am advised that you will go to one website irrespective of which council.

The Hon. D.G.E. HOOD: I think the minister may have answered this in that answer but, to be clear about what she said, does the government envisage that people will no longer go to their local council website for this sort of information but, rather, they will go to this website? Is that the intention?

The Hon. G.E. GAGO: That is correct.

The Hon. D.W. RIDGWAY: So it will not be a link through your local council website?

The Hon. G.E. GAGO: I am advised that local councils can choose to do that. They can set up links if they want, but they will not need to do that. There will be one consistent portal that individuals can access from their home. I move:

Amendment No 18 [EmpHESkills–1]—

Page 50, line 36—After 'planning' insert 'and assessment'

This is a technical amendment that clarifies the intended operation of the portal in delivering online planning services.

Amendment carried; clause as amended passed.

Clause 53.

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

Amendment No 19 [EmpHESkills–1]—

Page 51, line 3—After 'Gazette' insert 'and on the SA planning portal'

Amendment No 1 [EmpHESkills–3]—

Page 51, after line 6—Insert:

(ab) commercial value or sensitivity; or

As the SA planning portal will be the primary mechanism for disseminating information relating to planning matters, it is appropriate that this clause be amended to ensure any directions related to protection of particularly sensitive or commercial-in-confidence information are published on it. I thank the LGA for that particular suggestion. As a consequence of discussions with both the LGA and industry groups, the government has moved in a number of locations to provide for the publication of reports provided by the state planning commission to the minister on the planning portal.

This is an important transparency measure and applies to any instance where the portal is furnished to the minister ahead of parliamentary scrutiny of the minister's decision. Of course, any such reports should be published, subject to the kind of appropriate redactions necessary to meet confidentiality standards usually expected. To do this, we propose this amendment to clause 53, which already governs protected information that is not to be published on the portal. This form of protection will perform the same task as the protections under the Freedom of Information Act.

Amendments carried; clause as amended passed.

Clause 54.

The Hon. M.C. PARNELL: I move:

Amendment No 30 [Parnell–1]—

Clause 54—This clause will be opposed.

This amendment is to delete clause 54, and this is one of those issues that could become very technical and complex, but I will explain my thinking. I think I am right, but the government may not. This clause has only two lines and states:

The Freedom of Information Act 1991 does not apply to or in relation to a document (within the meaning of that Act) that is received, created or held under this Division.

When you look at the debate in another place, as I have done, the original reaction of Vickie Chapman, the member for Bragg, was exactly the same as my original reaction. That is, those of us who have had a bit of dealing with the Freedom of Information Act know it reasonably well, and we know that there is a special exemption in the act which says, in colloquial terms, that if you can get the document somewhere else you do not go through FOI. That makes sense; it is a logical provision. Section 20 of the Freedom of Information Act states:

(1) An agency may refuse access to a document—

(b) if it is a document that is available for inspection at that or some other agency (whether as part of a public register or otherwise) in accordance with Part 2, or in accordance with

> a legislative instrument other than this Act, whether or not inspection of the document is subject to a fee or charge;

That is a complex form of wording, but what it means is that if you can get the document somewhere else, such as online and you can just download it, then the agency can refuse to deal with your FOI request. Members may have received responses from agencies where the agency says, 'What are you asking for this for? Just download it off the website.' So, there is already a protection within the FOI Act.

There was then some discussion in the lower house to the effect that if stuff that is on the portal is effectively exempt from the FOI Act, what is the need for this clause? That is when it starts to become a little bit tricky to understand, but I have narrowed it down to a basic principle: that the standard that should apply is the Freedom of Information Act standard, and the standard for nondisclosure in this bill may well be a different standard.

We have just been considering a clause called 'Protected information', which says that the minister can direct that certain information relating to confidentiality, for example, must not be put on the portal. I know that many of us here have had the experience of lodging FOI applications and the determination has come back saying, 'Well, that's confidential.' If you read the Ombudsman's findings and the Ombudsman's reports, one of the things the Ombudsman has been saying for years is, 'You can't hide behind claims of confidentiality or business interests, or any of the others, unless they really are confidential.' The Ombudsman is very often overturning decisions to refuse access and forcing agencies to allow access.

Whilst clause 54 purports to be limited to documents that are received, created or held under this division, that does not give me enough comfort that, if the agency unreasonably withheld a document from the portal, I could not go chasing it under FOI if I thought it were appropriate. My gut feeling would be that the agency would point to clause 54 and say, 'No, FOI doesn't apply.' I would then say, 'But the document is not on the portal,' and they would say, 'No, no, we determined not to put it on the portal,' and I would say, 'But I think I've got a right to access it under the Freedom of Information Act,' and we get this circular argument happening.

So the safest course of action is to say that the Freedom of Information Act does continue to apply to those circumstances where the document is not otherwise available. I agree; if it is on the portal then get it off the portal. We should not be lazy about accessing documents; if you want an annual report or something and a few clicks of the mouse would take you to it on their website, then of course you should not go through FOI. However, as I said in my second reading speech, there are a number of quite important documents that the government may or may not decide to put on the portal.

I am thinking, for example, of responses that government agencies make to rezoning applications, or even individual development applications. The ones I mentioned in my second reading contribution were SafeWork SA, which made some comments about whether it was a good idea to build houses next to a fertiliser plant; similarly, the health department about Dock One; and the EPA, for example, putting in a submission saying that building houses too close to the Adelaide Brighton Cement factory was not such a good idea. I do not have confidence at all that these documents would find their way to the portal, and I do not have confidence that agencies would not try to hide behind clause 54 by saying, 'Well, actually this document was received for the purposes of the portal but we decided not to put it on, and therefore you can't have it.'

I am trying to avoid an argument down the track. The safest thing to do is to remove clause 54 and let section 20 of the Freedom of Information Act do its work. I hope it does not arise, but in the rare situation where important information that should be on the portal is not, you have at least got the FOI regime and external review. It means going to the Ombudsman, but it gives us the chance to at least argue the toss. With this clause in here we might not even get to that point; the Ombudsman might not feel that he or she has jurisdiction. So I think removing clause 54 is the best option.

The Hon. G.E. GAGO: The government opposes this amendment. The concerns I have with the Hon. Mark Parnell's opposition to this clause are well documented in my second reading summation and in detailed committee deliberations in the other place on this particular clause.

Basically, this clause ensures that information that is gathered in the planning system is subject to its own disclosure and access regime in lieu of the usual rules that apply under the Freedom of Information Act.

This is because information provided as part of a development application is often far more sensitive and deserves stronger protections. Moreover, such information is often held for longer periods of time than apply under the State Records Act. In fact, as the Hon. Mark Parnell knows, this clause merely restates what is already existing in law under the Development Act, whereby because of stronger statutory protections for certain types information the regime of FOI is already effectively displaced from the planning system.

In reality this is a no-change clause. It is basically continuing with the existing provisions. I confirm, as I did in my second reading summation, that this exclusion applies only to matters required to be published on the portal and not to any other advice or information that may from time to time inform the choices of decision-makers such as the minister and the state planning commissioner, amongst others, in terms of the decisions they might make.

The Hon. R.I. LUCAS: This is probably a good time to be nearing the end of the parliamentary debate in relation to this particular clause. I think this is a difficult clause. I must admit that my natural inclination is to support the position that the Hon. Mr Parnell has put, and the fact that we are not going to conclude the debate on the bill now, and hopefully have time between now and February 2 to reconsider our position, it may well be the safest position for the committee to adopt.

I have to say I am unconvinced by the minister's response thus far in the debate, in both her earlier contribution and that one, as to why this particular provision is needed. That does not mean that between now and February minister Rau and the government might not be able come up with persuasive arguments as to why we should agree with the government's position. Personally, I would leave myself open to being convinced. I guess all of us who have had experience with the freedom of information legislation have learnt, perhaps to our cost, that if a government wants to fight and fight hard to stop information getting out, they have plenty of flexibility within the freedom of information legislation to do that.

There are limited examples where after long battles of a year, two years or three years, opposition or non-government members have been successful in getting beyond that first boundary of how this is commercial-in-confidence or it is confidential or we do not want to release it for whatever reason it might happen to be. I am unconvinced that the freedom of information legislation does not have enough teeth to assist governments to stop information getting out, if that is their predisposition.

I guess the minister's argument is that it is not strong enough and we need an even stronger regime in relation to this new planning regime to protect information. As I said, I think the onus is really on the minister and the government to convince us of that case. I am open to being convinced but at this stage I have heard nothing that convinces me that what is already an extraordinarily tough regime to get through in terms of getting documents and getting information is not strong enough and tough enough for a government to manage its processes in terms of commercial confidentiality or privacy reasons or whatever else it might happen to be.

Personally I am predisposed, at this stage anyway, to supporting the Hon. Mr Parnell's position. I conclude by saying, if minister Rau and the government can provide the opposition and non-government members with persuasive examples as to why the already tough FOI regime is not sufficiently strong enough to protect the confidentiality of documents, then let's get that advice in detail rather than the abstract, give us some examples and then we will all be in a position to further consider it. My view would be that it would be sensible to allow this debate to continue and put the onus back on the government to convince us as to why they need this particular clause.

The Hon. D.G.E. HOOD: I concur with the comments of the Hon. Mr Lucas. If this amendment was to come to a vote now, we would be inclined to support it. I have heard nothing that convinces me not to support it, but if we were to adjourn at this point then obviously the government would have an opportunity to convince us otherwise over the break. That is a matter for the government, of course. If you are good at your maths, you can work out there are eight Liberal votes, two Greens and two Family First which where I come from is probably enough to get it through.

The Hon. G.E. Gago: Alright. I'll report progress.

The Hon. D.G.E. HOOD: There you go.

The Hon. S.G. WADE: In the context of the minister's earlier comments that clause 54 maintains the status quo, would she be able to advise us whether that exemption exists in the Freedom of Information Act or in planning legislation or where it has its force?

The Hon. G.E. GAGO: I have been advised that it is a complex set of interactions between regulations in the Development Act and various schedules in terms of freedom of information.

The Hon. A.L. McLACHLAN: I would like to add to those comments from the Hon. Mr Lucas and the Hon. Mr Hood. In my mind when the government is considering its response in the New Year, we have a new regime protecting information which is in the preceding clause 53, so I would be interested in the structure of appealing or challenging where information can be released. It may appear elsewhere in the bill or it may be appearing in the regulations, so that when information is being declared protected, what is the process subsequently to challenge that decision? On the face of this page, once it is protected here under clause 53, it is protected without challenge and then at clause 54 with its interplay, it means there is no mechanism for its release. I do not seek an answer today, but I put that in the mix for the government to consider over the coming months before we resume our labours in this chamber.

Progress reported; committee to sit again.

LOCAL GOVERNMENT (BUILDING UPGRADE AGREEMENTS) AMENDMENT BILL

Final Stages

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

Adjournment Debate

VALEDICTORIES

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (17:31): I seek leave to make some Christmas comments.

Leave granted.

The Hon. G.E. GAGO: There will not be any Christmas presents, but there are some Christmas comments. As we draw near to the end of another very busy parliamentary year, I believe it is useful to reflect on the nature of the work that we collectively undertake in this place. I am very pleased to say that to date 46 bills have been passed by both houses during this year, and this number includes two private members' bills passed by both houses. Since February this year, around about 80 government or private members' motions have been moved in the Legislative Council, so if you are feeling a little weary, that is the reason why. The remaining motions have not yet been resolved or remain on the *Notice Paper*. We look forward to dealing with them at our next day of business.

This outcome has been achieved by the airing of many debates and opinions, many voices being raised and many ideas and policies considered. It is the hurly-burly of democratic government, or an example of Sir Winston Churchill's famous saying: 'Democracy is the worst form of government, except for all the others that have been tried.'

To make the fundamental proposition of democratic government work requires a sense of shared purpose, an unstinting work ethic, and the personal attributes of generosity of spirit to keep all working together.

Fortunately, for the elected members, our parliamentary staff have these qualities in abundance. This year, the wisdom and guidance of the Clerk and the Black Rod have once again made our task as legislators easier and, perhaps even more importantly, constitutional.

With their technical expertise and impartiality, parliamentary counsel has continued to play a pivotal role in supporting the creation of effective and enduring legislation. I particularly want to acknowledge the immense contribution of Richard Dennis, the retiring parliamentary counsel.

Richard joined the office of parliamentary counsel in 1982 and was appointed the head of the office in 2006 and has done—

The Hon. J.S.L. Dawkins: He's been here longer than Rob Lucas.

The Hon. G.E. GAGO: No-one has been here longer than Rob Lucas, I don't believe it! Richard, it is a remarkable achievement and a remarkable contribution and you have set the bar very high for others to follow in your footsteps. Over the course of a magnificent career, he became a leading national figure in the field of parliamentary law and its processes. Richard's work ethic is prodigious. He drafted many of our state's most important and complex pieces of legislation. I am sure that I am joined by all elected members and parliamentary staff in wishing Richard Dennis all the very best in whatever field he chooses in the next phase of his life.

Honourable members: Hear, hear!

The Hon. G.E. GAGO: Other parliamentary staff—the whips, table staff, messengers, Hansard and chamber attendants, who are ever-present, always polite, always willing—have all undertaken their roles with customary skill and diligence, providing us with both tremendous support and courteous service. This is hungry work for the whole parliamentary team, so we must gratefully acknowledge the parliamentary catering staff, who have always provided us with excellent sustenance in the Blue Room, at parliamentary events and, of course, in the dining room. I also acknowledge the office staff, library staff and building and security staff—everyone who works in this place. Once again, you have earned our profound gratitude for the consideration you bring to the machinery of parliament.

On behalf of all members, I would also like to acknowledge our staff who, day and night, bring their very best efforts and their amazing talents to the work that they perform in an environment that can be very stressful. We thank them for the deep personal commitment that is required for their jobs. We also benefit from the excellent work of agency officers and ministerial liaison staffers in our offices—the quiet achievers. They are not often seen in the chamber—sometimes around the parliament—but their work is pivotal to us being able to continue our work. I know from working closely with my own staff how tireless they are in their efforts and diligence in their day-to-day work.

I particularly want to acknowledge my parliamentary adviser, Gillian Hewlett, for her unflagging dedication and commitment. She is the one who is always darting about: everyone knows Gillian. She is everywhere all the time. She knows the answers to everything and she is fast as lightning. We are all very grateful for the endless advice and order that Gillian helps us keep. I also particularly want to acknowledge my Chief-of-Staff, Ann Barclay, for her endless hard work, devotion and support. You could not do the job we do here without that sort of endeavour. I want to express my deep gratitude to them and my other advisors.

Finally, I thank all my parliamentary colleagues for another year of service. No parliamentary year is ever easy and 2015 certainly was not. It has had its share of controversy, but we have managed extremely well to still be on very cordial terms with each other and we have been able to maintain our sense of humour as well as our sense of endeavour.

I particularly want to welcome our newest member, Peter Malinauskas, to the Legislative Council. With a strong union background and an understanding of the issues facing working South Australians, I am confident that Peter will bring many fine qualities and an assertive presence to the deliberations of this chamber and I look forward to seeing him in action throughout 2016.

I wish all members and parliamentary staff a very happy Christmas and New Year. I hope you spend it in the good company of family and friends. I hope you have a healthy and safe Christmas and holiday period and that you have time to relax and have a bit of a break and return revived and re-energised for the 2016 year.

The Hon. D.W. RIDGWAY (Leader of the Opposition) (17:39): I rise to endorse most of the comments made by the Leader of the Government. I am not sure I am wishing our newest member such a bright 2016.

The Hon. P. Malinauskas: Come on!

The Hon. D.W. RIDGWAY: Your maiden speech is over now; we can have a crack! Anyway, it is good to see a new, fresh face in the Legislative Council broader team. On behalf of the opposition, I would certainly like to thank the Clerk, Black Rod and all of the staff here in the Legislative Council. They make our job much easier. Jan, of course, leads that team, and it makes this job much simpler to undertake.

I also thank Hansard, sitting up there diligently as ever. They are a group who I think protected me with my very first speech and looked after me. Some 14 years later, they are still looking after me, so I really do appreciate that, as I think we all do today. They are very good at recording what is said in this place.

I also thank parliamentary counsel, and I want to add my congratulations to Richard Dennis for his many, many years of service, and to the team that he leads. I remember that, when I was first elected, the Hon. Caroline Schaefer said to me, 'If you ever need anybody to talk you through a bit of legislation and help you interpret it, there is a guy called Richard Dennis. Give him a call, and get him to come to your office.' I have had a reasonable amount of interaction with Richard and his team over these 14 years, and it has always been a pleasure to work with you and the rest of your team. On behalf of the opposition, we really appreciate your contribution and wish you all the best in the next phase of your life.

I also thank Creon Grantham and his team. As the Leader of the Government said, this is sometimes a pretty hungry job in here. Of course, the team he leads are the ones we see in the parliamentary bar, the dining room or the blue room. It does not matter where you go, you get good service, friendly service, polite and prompt service, and they do a great job, so I really do appreciate the work they do.

The library staff, of course, are always willing to help us and provide information at a moment's notice, so I certainly thank them for their continuing support of the parliamentary team and also our staff, who I think are using them more and more. They really do appreciate it.

I thank all the security people and the building attendants. Maybe some of you do not see them, but a lot of us who are coming into this building early and late do see them. They do a great job as well to keep us safe and secure.

I thank, obviously, my staff, but also the Legislative Council members' staff. Our staff have interactions with you, we have interactions with your staff, and I think they make the job that we do here much easier. When we can have cordial relationships with those staff and have an exchange of information, I think that is really important as well.

It is also an opportunity to thank all of you in the government. While we might not agree on a lot of things, I thank you for the way that we have conducted business this year. It has been a bit spirited at times; nonetheless, it is what you would expect in an adversarial sort of democracy that we have, although we do not get quite as carried away here as perhaps they do in the green room. I would like to think the egos are not as great in this place as they are perhaps in the one downstairs.

I thank the crossbenchers, too. I think we have a unique relationship here where we have, if you like, a third are government, a third are opposition and a third are from the other group. While we all come from different backgrounds and represent different groups of people in the community, we interact extremely well, and I think we should all be congratulated for that because it makes this place function a lot better.

I suspect this last week has caused frustration for the Minister for Planning. He perhaps does not understand that, while we represent a constituency in the community, there are several other constituencies who are represented, who have the right to have their say and to debate important bits of legislation, as we have seen today.

Also, Mr President, I would like to thank you for the way you have conducted yourself this year. You have mostly kept control of things. Every now and again, it has got a little rough and a little woolly, but I am sure you are learning as you go, and I hope that you have a good Christmas.

Finally, I am not sure, but speculation abounds that minister Gago may not be the minister after Christmas. If she is no longer Leader of the Government when we resume in February, I would like to take this opportunity to thank her for the way she has interacted with me. Obviously, we are

on different sides of the political spectrum, but she has been a pleasure to work with. If she is no longer Leader of the Government, then that is a matter for the Labor Party to deal with, but I thank her for her interaction with me as Leader of the Opposition. With those few words, I hope you all have a very merry Christmas and a happy and safe New Year. I will see you back here next February to do the planning bill all over again.

The Hon. M.C. PARNELL (17:44): On behalf of the Greens, I rise to endorse all of the comments and the thankyous that have been put on the record by the Leader of the Government and the Leader of the Opposition. I will not go through them all again, but this place does not run without the concerted effort and dedication of a lot of people, whether front of house or behind the scenes, and so the Greens join in thanking them.

I also mention Richard Dennis who, I guess, as one of his final acts, has helped us get through this planning bill. I think his colleague, Mark Emery, might end up with the baton and they are going to be big shoes to fill, so thank you Richard for all your dedication.

I also welcome Peter Malinauskas. One of the first things I said to him was to apologise for the week he was about to have. I did anticipate how this week would go and, Peter, it is not typical; we do things differently in other weeks, but this was probably an example of some of the hardest work that you might see in terms of early starts and late finishes, but you are more than welcome and I look forward to debating with you over the coming years.

The Leader of the Opposition and the Leader of the Government referred to the interactions across the chamber. As members know, the proceedings of the Legislative Council are streamed live. My wife was listening the other day, and I received a text message from her along the lines of, 'I can't believe how civilised you people are,' and that was during what I would have thought was a testy period, but I guess, compared to the Senate and some of the strong personalities that are there, I think we are civilised.

I would like to finish this by thanking my staff, Kate and Samantha in particular, but also I have had a number of temporary and casual staff who have come in, so Emily and Rachel thank you for your help in allowing the Greens to continue our representation of South Australians in this place.

The Hon. D.G.E. HOOD (17:46): I rise very briefly to support the comments as well and, like the Hon. Mr Parnell, I will not go through all of the various thankyous that the Leader of the Government and the Leader of the Opposition did, but I do associate myself with those remarks and I thank all of the staff. We are absolutely wonderfully looked after in this place, and it makes our job so much easier, and it would be impossible without them, so I sincerely thank them and hope that in my dealings with them I treat them with the respect that they deserve; I certainly try to.

Can I just very briefly as well commend the minister on the way in which she has conducted herself this week. I think it would have been a difficult week to be Leader of the Government in this place but she really has handled herself with good humour in what were no doubt difficult circumstances, so thank you minister.

I would also like to make brief mention of Richard Dennis's contribution to this place. I think there really is no way to do justice to his contribution. It is very, very substantial indeed, and all of us have relied on you at times, Richard, and have been grateful for your wisdom and your assistance in numerous ways, so I sincerely thank you.

In fact, a very brief story, which no other member in this place would know concerning Richard Dennis, is that he is the only person in the last 20 years, I would suggest, or perhaps even longer than that, who has seen me anywhere close to getting into a fist fight with someone, about three years ago at the Hyde Park Tavern.

Members interjecting:

The Hon. D.G.E. HOOD: Well, I am sure you are relieved to hear that no punches were thrown, but it was a very tense situation. Anyway, I will leave it there and perhaps you can buy Richard a beer and hear his account of it. Whatever he says I am sure will be at least partially true—but, anyway, it was an interesting evening.

I would also like to thank you, Mr President, and especially for the wonderful dinner that you hosted about six weeks or so ago. As I say to my wife, it is always the best meal of the year—except for every meal that she cooks, obviously. But it was a terrific night, thank you very much.

To my colleagues, thank you. It has been another good year. As the years go on and we get to know each other a little better it gets harder and harder to fight you, I must say, but we manage to find a way.

The Hon. G.E. Gago: We seem to manage.

The Hon. D.G.E. HOOD: We seem to manage; that's right, we find it within ourselves. I would like to welcome formally, as I have informally, the Hon. Peter Malinauskas. I think he will be a good addition to the Legislative Council and I look forward to watching your career flourish in the years ahead.

Perhaps some final words: if I have offended you, I am sorry; if you have offended me, I forgive you. It is that season, and I trust that you will have a wonderful time with your families, that you will pause to remember the reason we have a season at all, and that you have a chance to rest and refresh yourselves for what no doubt will be another big year next year.

The Hon. J.A. DARLEY (17:49): I rise to support the comments, and I wholeheartedly endorse the comments of the Leader of the Government and the opposition. I would like to say something special about Richard Dennis. I happened to be around in 1982, and a long time before that, but in another place, and I must admit that Richard Dennis was most helpful in my previous career in the Public Service, as he has at this time.

I thank all the staff members in this place. I certainly want to thank my staff—Connie, Jenny, Madeline and Junia. I welcome Peter Malinauskas to this place. I happened to meet Peter when we were dealing with the two half-day holidays, and we took a bit of a battering on that, but I think it has worked out very well in the long term. With that, I wish everyone a happy Christmas and a safe and prosperous new year.

The Hon. K.L. VINCENT (17:51): Briefly, on behalf of Dignity for Disability, I endorse the comments and echo all the sentiments expressed. I particularly thank my staff Anna, Cathi and Lucy (our trainee), as well as the casual staff who have helped us out throughout the year, Amy, Allison and Ian. I particularly thank Ian for the work he has been doing in the past few weeks on the planning bill. He has been down there on the lower ground level with pencil and paper in hand, dutifully scribbling away as we pass or defeat certain amendments, crossing them off and ticking them. So, thanks to Ian for that enormous task he has undertaken so well.

I also thank all members with whom we have worked constructively throughout the year—I think that is all of you, in some way or another—the Clerk, yourself, Mr President, all the table staff of course and all the chamber staff, particularly people like Mario, Todd, Leslie and Guy. I particularly thank and acknowledge Leslie as a staff member of this chamber but also as secretary of the committee on access to education for students with disabilities.

I have just had a note flash up on my screen which says 'Anna?' I think I said 'Anna' first of all, but just in case, Anna, Cathi, Lucy, Amy, Ian and Allison: thank you all very much, particularly Anna, since I have been pulled up, my chief of staff, because on more than one night a week I have to remind Anna to go home. So, thank you, Anna, for all you have done.

I thank all members and organisations with which we have worked constructively throughout the year, and all the other parliamentary staff who have been mentioned. I also thank Hansard for their unenviable task of having to write down everything my machine gun mouth says. It is a challenge at times, so thank you for that. I also acknowledge parliamentary counsel for the work they put in drafting the bills and the policies we put forward throughout the year. I particularly acknowledge Richard Dennis as he embarks on his retirement. I wish him all the best, as I am sure we all do.

It has been another great year for Dignity for Disability. I have been sitting here thinking, as I have been listening to other members, that I wanted to highlight a few achievements very quickly. We have had the disability justice plan pass into law via the vulnerable witnesses bill earlier in the year, which will give more and more people with disabilities a voice in court and in police interviews, and thereby hopefully, if nothing else, see more cases going to court, particularly where abuse and

neglect of people with disabilities is alleged, so it is an enormously important change, and one of which I am very proud.

I acknowledge that we have a way to go in the implementation of that law, particularly around the communication assistance in court, and I particularly thank the Law Society and Speech Pathology Australia for continuing to work with us on getting that right, and I look forward to doing that in the new year coming.

We also have the consistency in the provision of AUSLAN (Australian Sign Language) in emergency services announcements, which was implemented following a push by Dignity for Disability following the Sampson Flat bushfires. It has certainly been a pleasure to see more sign language used in the announcements around the Pinery fires as well. Of course, it would be much more of a pleasure if we did not have to make those announcements but, given that they have to happen every now and again, it is good to see more and more steps being taken to make them accessible to everyone.

Again, there is a way to go on that particular measure, especially around the use of captioning, but it is a success nonetheless. As I mentioned, we also have the education committee now looking into the very important issue of enabling equal access to students with disabilities to an equal education. Those are just a few of the things that came to mind as I sat here listening. Certainly, there are a number of things that still labour for us for the new year.

I do not want to get too off topic and too serious here because I know I am supposed to be jovial, but I think one of things will be that all members, I hope, in this place staunchly defending the Legislative Council. I think particularly this year the Legislative Council has been brought into a fair bit of disrepute. Some members may have seen my rather public Twitter stoush with David Bevan when he alleged that upper house members did not have any constituents. So, we are going to have to defend this place yet again, and I hope we all band together to do that successfully.

The Legislative Council is vital to democracy and to ensuring that laws that are passed in this state go through the right checks and balances. I hope that we will continue to defend the Legislative Council together in the coming year. I am sure that the people who will now be able to have a voice in court, thanks to the Disability Justice Plan, and the police force, of course, with recent measures under return to work, are very glad to have a Legislative Council because those are two very important measures I can think of just off the top of my head that originated here in this chamber.

I hope we will come together in the new year refreshed and energised and ready to resume our important role and defend our ability to undertake that role. Having undertaken that homily, can I again thank all members and all staff for your work throughout the year and wish you all a very merry Christmas and a great season. I hope you get a great rest and some quality time with your friends and family and whomever and whatever is important to you, and I look forward to seeing you all in the new year. I am sure I will see many of you before that, but see you all in 2016.

The PRESIDENT (17:57): I will say just a brief word. I would like to echo the sentiments that have been mentioned here about our staff. We are very lucky in this parliament to have such conscientious, courteous and very skilful staff. It makes our lives much easier. I would like to also say, Richard, good luck. I have been here for 10 years and I have never heard a negative word about you, so that is a very significant factor. Good luck with your retirement.

I would like to thank the whips for the work they have done. They do a very good job in ensuring the smooth running of our day-to-day workings. Jan and Chris: some of you members might not realise the amount of work they do here. I can see it from here constantly, and we would not run efficiently at all without their expertise. I would also like to thank security. They have not been mentioned today, but our security have been trained to put their lives on the line to protect us. Hopefully, you never have to put that to the test, but thank you very much.

Also, to the members here, I must say as President that from my point of view you actually behave in a very civil manner. I will not make any comment about the other house, but it does make the life of a president much easier with the behaviour and integrity you have all shown during the last 12 months. So, thank you all very much. Have a great break. I look forward to next year, and all the best for the festive season.

Parliamentary Procedure

SITTINGS AND BUSINESS

The Hon. G.E. GAGO (Minister for Employment, Higher Education and Skills, Minister for Science and Information Economy, Minister for the Status of Women, Minister for Business Services and Consumers) (17:59): I move:

That the council at its rising do adjourn until 10.15am on Friday 11 December 2015.

The council divided on the motion:

Ayes 5
Noes..... 12
Majority..... 7

AYES

Gago, G.E. (teller)	Kandelaars, G.A.	Maher, K.J.
Malinauskas, P.	Ngo, T.T.	

NOES

Brokenshire, R.L.	Darley, J.A.	Dawkins, J.S.L.
Hood, D.G.E.	Lee, J.S.	Lucas, R.I.
McLachlan, A.L.	Parnell, M.C.	Ridgway, D.W. (teller)
Stephens, T.J.	Vincent, K.L.	Wade, S.G.

PAIRS

Gazzola, J.M.	Franks, T.A.	Hunter, I.K.
Lensink, J.M.A.		

Motion thus negatived.

At 18:03 the council adjourned until Tuesday 9 February 2016 at 14:15.